

**THE CITY OF OKLAHOMA CITY
OFFICE OF
THE MUNICIPAL COUNSELOR**

Council Agenda
Item No. IV. A
11/5/2024

TO: Mayor and City Council

FROM: Kenneth Jordan, Municipal Counselor

1. Resolution authorizing the Municipal Counselor's Office to initiate an action in the District Court of Oklahoma County for Declaratory Judgment that the activities at 12240 North Sooner Road violate SPUD-1385 and seeking an application to temporarily and permanently enjoin the unlawful use of the property;

AND/OR

2. Enter into executive session on advice of the Municipal Counselor to receive confidential communications from its attorney concerning the above case, as authorized by 25 O.S. (2023 Supp.) §307(B)(4), because disclosure would seriously impair the ability of the public body to conduct the litigation in the public interest.

Councilmember Nice

According to the application for SPUD rezoning (Simplified Planned Unit Development District), the Summary Purpose Statement/Proposed Development for the property located at 12240 N. Sooner Road was for processing and selling firewood. The SPUD required screening along Sooner Road and NE 122nd Street, among other Special Conditions. A Notice of Hearing was sent to residents in the area, indicating that the proposed use would be to change the existing commercial-based zoning to an agricultural-based zoning that would permit the use and development of a firewood processing and sales facility on the site.

A hearing on the SPUD application was held on February 10, 2022, before the Planning Commission and was ultimately approved by City Council on March 29, 2022.

Since approved City staff have received numerous complaints and petitions from residents near the location, which include but are not limited to the property not being screened along Sooner Rd and NE 122nd Street, as is required by SPUD-1385, and that the property is being operated beyond the SPUD's limitation of splitting, storage, delivery, and sale of firewood from the site, with display of junk on the site – including discarded household materials, broken down vehicles, motor homes, and boats, rolls of carpet/turf, etc.

City Code Enforcement has issued four (4) citations for Planning and Zoning Code Violations regarding the site. The total amount now due for the four citations is \$742, according to Municipal Court records.

In light of the foregoing, the Municipal Counselor requests authorization to initiate an action pursuant to 12 O.S. § 1651 in the District Court of Oklahoma County against the property owner and all who might claim an ownership interest and/or operational interest, for a declaratory judgment that the activities occurring at the Subject Property violate SPUD-1385, and to temporarily

and permanently enjoin the unlawful use of the property at 12440 Sooner Road in accordance with 11 O.S. § 43-107, 12 O.S. §1384.1 and 12 O.S. § 1382.

Councilmember Nikki Nice requested the initiation of an action in the District Court of Oklahoma County for a declaratory judgment that the activities at 12440 N Sooner Road violate SPUD-1385, and to temporarily and permanently enjoin the unlawful use of the Subject Property.

A Resolution authorizing the Municipal Counselor's initiation of such an action is submitted herewith.