

Planning Commission Minutes

October 13, 2022

(The agenda was filed with the City Clerk of The City of Oklahoma City at 9:38 a.m. on October 10, 2022.)

32. (PC-10842) Application by Kruger Real Property, LLC, to rezone 20990 SE 104th Street from the AA Agricultural District to the RA-2 Single-Family Two-Acre Rural Residential District. Ward 4.

Applicant was present. There were no protestors present.

**RECOMMENDED APPROVAL.**

MOVED BY Privett, SECONDED BY Powers

AYES: CLAIR, POWERS, FRALEY, PRIVETT, PENNINGTON,  
NOBLE; NAY: GOVIN

ABSENT: HINKLE, LAFORGE



**STAFF REPORT**  
**The City of Oklahoma City**  
**Planning Commission**  
**October 13, 2022**

**Item No. IV. 32.**

**(PC-10842)** Application by Kruger Real Property, LLC, to rezone 20990 SE 104<sup>th</sup> Street from the AA Agricultural District to the RA-2 Single-Family Two-Acre Rural Residential District. Ward 4.

**I. GENERAL INFORMATION**

**A. Contacts**

**Applicant's Representative**

David M. Box  
Williams, Box, Forshee, and Bullard P.C.  
(405) 232-0080  
dmboz@wbfbllaw.com

**B. Case History**

This is a new application.

**C. Reason for Request**

The purpose of this request is to change the existing agricultural based zoning to a residential based zoning that will permit rural residential development.

**D. Existing Conditions**

**1. Size of Site (80 Acres)**

**2. Zoning and Land Use**

	<b>Subject Site</b>	<b>North</b>	<b>East</b>	<b>South</b>	<b>West</b>
<b>Zoning</b>	AA	RA	AA	AA / RA-2	AA
<b>Land Use</b>	Undeveloped	Residential	Residential	Undeveloped	Residential

**3. Comprehensive Plan Land Use Typology Area: Rural – Low Intensity (RL)**

Rural – Low Intensity applies to areas where large-lot neighborhoods and residential acreages/estates may remain with no expectation of urbanization or provision of urban infrastructure such as water or sewer. RL areas are predominantly composed of residential and agricultural uses but may support commercial and light industrial uses provided they do not negatively impact the rural residential character.

4. **Development Context:** The subject site is located at the southwest corner of SE 104<sup>th</sup> Street and S Harrah Road, in far southeast Oklahoma City. The site is undeveloped, forested, and zoned AA. Abutting on the west is a 5-acre subdivision (platted as H&L Tract 7). Across the street to the north is a 2-acre lot subdivision zoned RA (Dobbs Estates). The northeast corner of the intersection is also zoned RA, with 3 to 5-acre parcels along S Harrah Road and a subdivision with lots averaging one acre behind them to the east ("The Landing"). Across the street to the east are residences on 5- to 25-acre parcels along S Harrah Road, and PUD-1454 behind them, which was approved in 2012 for mining and one-acre tract residential. A request to rezone the land adjacent on the southwest from AA to RA2 was recently approved (July 2022). This rezoning application seeks the RA2 District in order to develop a rural residential subdivision.

## **II. REVIEW COMMENTS**

This application was submitted to the following agencies, departments, and/or divisions for review and comment. An asterisk indicates that the agency, department, and/or division responded with no adverse comments.

### **A. Outside Agencies**

1. **Oklahoma City-County Health Department (OCCHD)**
2. **Oklahoma City Urban Renewal Authority (OCURA)**
3. **Oklahoma Gas and Electric (OGE)**
4. **Oklahoma Water Resources Board (OWRB)**
5. **School District (McLoud)**
6. **Oklahoma Department of Transportation (ODOT)**
7. **Oklahoma Natural Gas (ONG)**
8. **Oklahoma Electric Cooperative (OEC)**

### **B. City Departments**

1. **Airports**
2. **Central Oklahoma Transportation and Parking Authority (COTPA)**

- 3. Fire \***
- 4. Information Technology/Geographic Support**
- 5. Parks and Recreation**
- 6. Police**
- 7. Public Works**
  - a. Engineering**

**Storm Sewer Availability**

- 1) The Public Works Drainage Division staff has reviewed the subject application. All development, new construction, and/or substantial improvements planned within the proposed area shall be subject to chapter 16 of the Oklahoma City Municipal Code.
- 2) Storm sewers in accordance with the City's Drainage Ordinance will be required. Development abutting section line roads with drainage flows that exceed the capacity of OKC standard ditch detail (D-100) will necessitate the installation of enclosed storm sewer and/or concrete channel. These improvements shall be placed to provide a minimum of 35' clearance distance from the centerline of the section. Concrete channels must be entirely outside public right-of-way.
- 3) A flood and/or drainage study will be required to establish finished floor elevations, common lot areas or private drainage easements. A final plat should not be submitted until the study has been reviewed and approved by the Public Works Department.
- 4) Flood Study will be required to show no rise in FEMA Q 100 and the City of Oklahoma City Q 100 water surface elevation, compared pre-and post-development.
- 5) A portion of subject property is situated within a F.E.M.A. Flood Plain. Therefore, the establishment of Minimum Finish Floor Elevation for each lot within the flood plain will be required (100-year) frequency plus 1'. The Public Works Department Engineering staff shall approve these elevations prior to the filing of the final plat.

- 6) A floodplain activity permit must be submitted for any work contemplated in The Waters of the United States.
- 7) A Corps of Engineers 404 permit must be submitted with plans for any work contemplated within the floodplain, creek, or channel (waters of the United States) included in the case limits.
- 8) Plans for drainage improvements within the private drainage reserves and/or common areas must be submitted for review, and payment of inspection fees shall be made prior to construction. Building permits will not be issued until construction is complete. If a subdivision abuts a stream, the private drainage easements and/or common area along stream shall extend to flow line of stream at a minimum.
- 9) Place the following note on the plat and construction plans: Maintenance of the Common Areas and/or Private Drainage Easements shall be the responsibility of the property owner. No structures, storage of material, grading, fill or other obstructions, including fences, either temporary or permanent shall be placed within the common areas and/or drainage easements shown.
- 10) Drainage easements shall be clearly denoted as public or private in owner's dedication, on the plat, and/or in the plat notes.
- 11) Construction within the limits of this PC will require an erosion control plan in accordance with EPA Storm Water Discharge permitting: CFR Vol. 57, No. 175, September 9, 1992. A copy of the EPA Notice of Intent (NOI) will be required prior to the issuance of work orders or permits for construction activities disturbing an area of 1/2 acre or greater.
- 12) Sidewalks shall be installed for all new construction and/or at the time of a residential use to a more intense use on all lots having frontage on public streets classified as a major or minor arterial.
- 13) All private roads /streets will have private storm sewer systems.
- 14) Engineer/developers will be contacting PW for detention determination before they submit their final plat and plans.

**8. Streets, Traffic and Drainage Maintenance**

**9. Stormwater Quality Management**

## 10. Traffic Management

## 11. Utilities

### a. Wastewater Comments

- 1) No wastewater service is available for proposed improvements, private on-site sewage disposal systems are required in accordance with ODEQ rules and regulations. On-site sewage disposal system must be installed by an ODEQ certified installer and inspected by ODEQ.

### b. Water Comments

- 1) No water service is available for proposed improvements, private on-site water systems is required. The developer will provide an internal (on-site) private water distribution system capable of supply water to each lot or tract within the proposed subdivision or land development in accordance with City Standard Specifications and the current Subdivision Regulations.

### c. Solid Waste Management

No Solid Waste Management services needed.

## 12. Planning

### a. Comprehensive Plan Considerations

#### 1) LUTA Development Policies:

##### Site Design:

- Design new buildings to compliment the character of surrounding areas and not detract from the open character of the landscape.
- Utilize Best Management Practices (BMP) for stormwater whenever possible.

*National, state, and local permitting require basic best management practices for stormwater management.*

Density: The Rural Low LUTA outlines a minimum lot size of 5 acres (gross density of 0.2 du/acre) for residential. *The site's existing AA District requires a minimum lot size of 5 acres and is consistent with the comprehensive plan. The proposed RA2 District allows a density of 0.35-0.45 du/acre, which is not consistent with the comprehensive plan. Lot sizes were unknown at the time of review and cannot be stipulated in a base zoning request. Without public water and sewer, lots will need to be at least ¾-acre.*

- 2) **Compatibility:** The comprehensive plan includes a land use compatibility matrix used to identify potential conflicts between major land use categories. When locating low intensity residential development adjacent to existing low intensity residential development or agricultural uses, “Building Scale and Site Design” is a potential compatibility issue identified by the comprehensive plan.

Building Scale and Site Design: The comprehensive plan calls for mitigation measures for new projects if the setbacks are significantly deeper or more shallow than the predominant character of adjacent development; the building’s orientation to the street differs from the predominant character of adjacent development; building size or street frontage dramatically differs from that of adjacent uses, the lot coverage (including buildings and paved areas) dramatically exceeds that of adjacent uses, or if buildings within 40 ft. of a single-family residential structure exceed a 3:1 ratio in height. *The RA2 District is intended for rural subdivisions. Lot coverage for residential uses is 30% compared to residential uses in the AA District. Building heights and setbacks are similar to the AA District.*

- 3) **Service Efficiency:**
- Water: *Not Served*
  - Sewer: *Need for Major Investment*
  - Fire Service: *Rural Service Level*
- 4) **Environmentally Sensitive Areas:** The following apply to the proposed development site:
- **Riparian areas:** Riparian areas are vegetated areas adjacent to streams, lakes, ponds, and wetlands that are composed of a mixture of trees, shrubs, and grasses. These areas may also contain floodplain. The comprehensive plan recommends a 100-foot buffer from stream banks. *Riparian area is identified in the form of an intermittent stream within eastern portion of the property. Floodplain may be present. Riparian area protections cannot be stipulated in a base zoning request.*
  - **Upland Forest:** The subject area is within the upland forest ESA. The comprehensive plan directs to preserve the Cross Timbers and upland forests, including native understory, to the maximum extent practical. When new-growth or re-growth upland forest trees are removed during construction, trees and other native plants should be replanted on-site. New trees should be planted in clusters that mimic the original tree canopy. The comprehensive plan defines mitigation hierarchy in the following priority: 1) Avoidance and minimization, 2) Restoration, 3) Offset. *Upland Forest is identified on the entire site.*

*When 90-100 percent forested, the comprehensive plan as a preservation goal of 60 percent. Tree preservation cannot be stipulated in a base zoning request.*

- Vulnerable aquifers: The aquifer in this area is considered moderately vulnerable to depletion. The comprehensive plan recommends preserving natural open spaces and utilizing low impact development techniques whenever possible in new developments in order to maintain water quality and allow for the infiltration of stormwater onsite.

5) **Transportation System:** This site has frontage on SE 104<sup>th</sup> Street and S Harrah Road, both Minor Arterial Streets within the Rural Low LUTA. Southeast 104<sup>th</sup> Street terminates east of Harrah Road. Transit (bus) service is not available.

6) **Other Development Related Policies**

- Ensure that development in rural areas is consistent with local design and scale and does not detract from the open character of the landscape. (SU-45)
- Preserve overall landscape character and natural landforms (rolling hills, native vegetation, etc.) to the greatest extent possible. (G-4)
- Incorporate natural features (such as ponds, lakes, streams, rock outcroppings, stands of mature trees, and/or sizable individual trees) into the design of all residential, commercial, and industrial projects rather than eliminating, hiding, or limiting access to those features. (E-31)
- Preserve mature, healthy trees and incorporate them into the design of new development or redevelopment projects to the greatest extent possible. (G-26)
- Limit driveways on arterials and collectors and increase connections between uses to improve safety and traffic efficiency. (C-30)
- Ensure proper access to and between subdivisions in order to offer a choice in routes for residents, multiple access points for emergency responders, and to reduce vehicle congestions at arterial intersections. (C-32)

**b. Plan Conformance Considerations**

The subject site is located at the southwest corner of SE 104<sup>th</sup> Street and S Harrah Road, in far southeast Oklahoma City. The site is undeveloped, forested, and zoned AA. The subject site is within the Rural Low Intensity Land Use Typology Area which calls for a minimum lot size of 5 acres. The subject site's existing AA District is consistent with the comprehensive plan.



A request to amend the comprehensive plan was not submitted; however, the Planning Commission recently considered a request to change the LUTA from Rural Low to Rural Medium on the 64 acres of land abutting the site on the southwest (CPA-22-00004) and denied the application on June 23, 2002. The associated rezoning to the RA2 District was approved on July 5, 2022. The proposed RA2 District is consistent with the zoning recently approved to the south and with the zoning to the north, but is not consistent with the density and lot sizes called for by the comprehensive plan. If approved, plan conformance would be strengthened with a subdivision design that places larger lots on the west and south, provides connections to both minor arterial streets, and preserves the Upland Forest to the maximum extent possible.

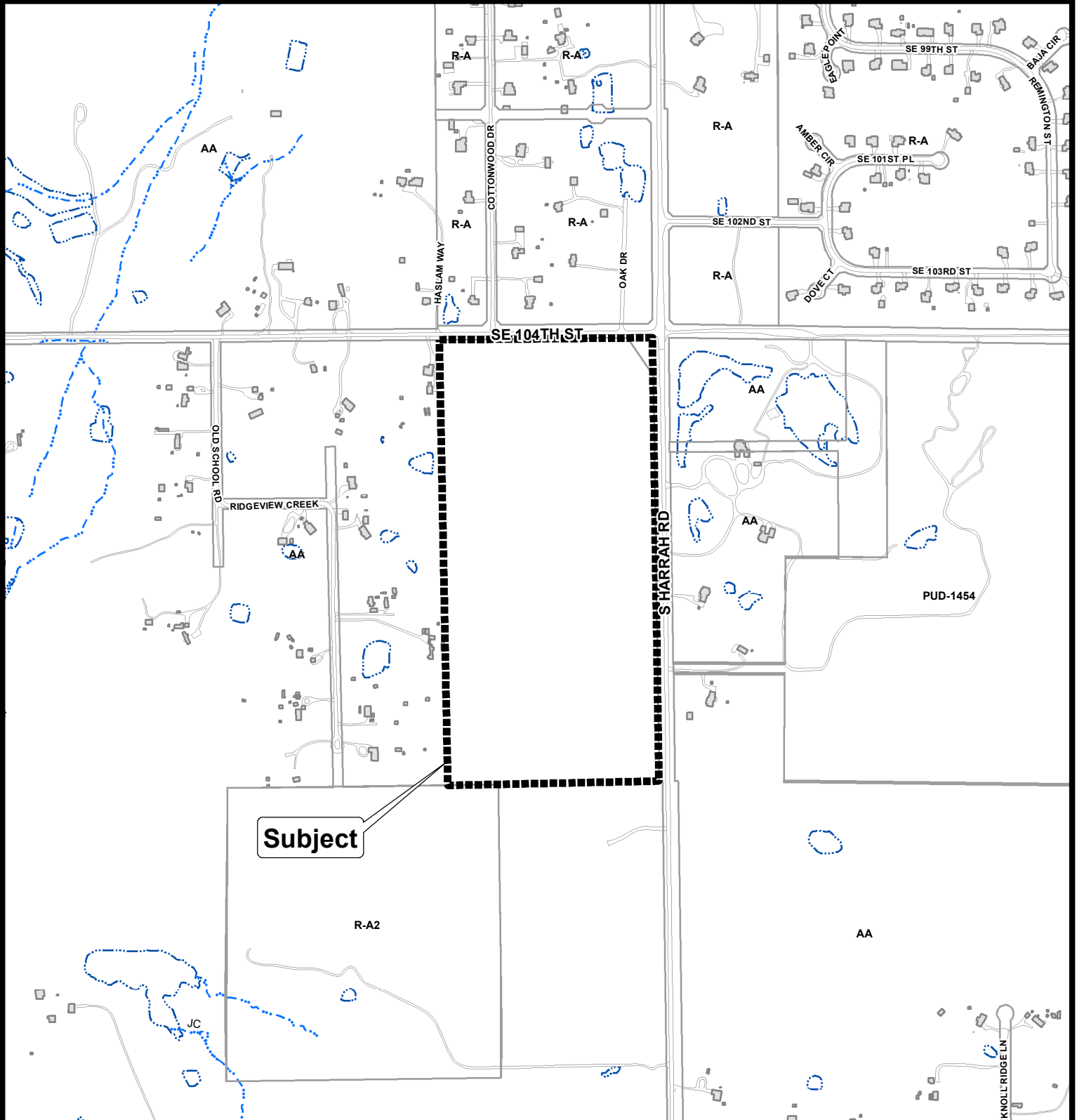
#### **IV. STAFF RECOMMENDATION**

*Staff recommendations are advisory only and do not constitute Planning Commission decisions. Staff recommendations are based on a technical evaluation of information submitted at the time of review. Determination of conformance with policies contained in the comprehensive plan is the purview of the Planning Commission. Planning Commission decisions require a vote of five members to approve or deny an item. The Planning Commission may consider in its decision-making process any additional relevant information presented at the public hearing by the public, applicant, and/or City departments.*

##### **Denial of the application.**

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Case No: PC-10842    Applicant: Kruger Real Property, LLC  
Existing Zoning: AA    Proposed zoning: RA-2  
Location: 20990 SE 104th St.



The City of  
OKLAHOMA CITY

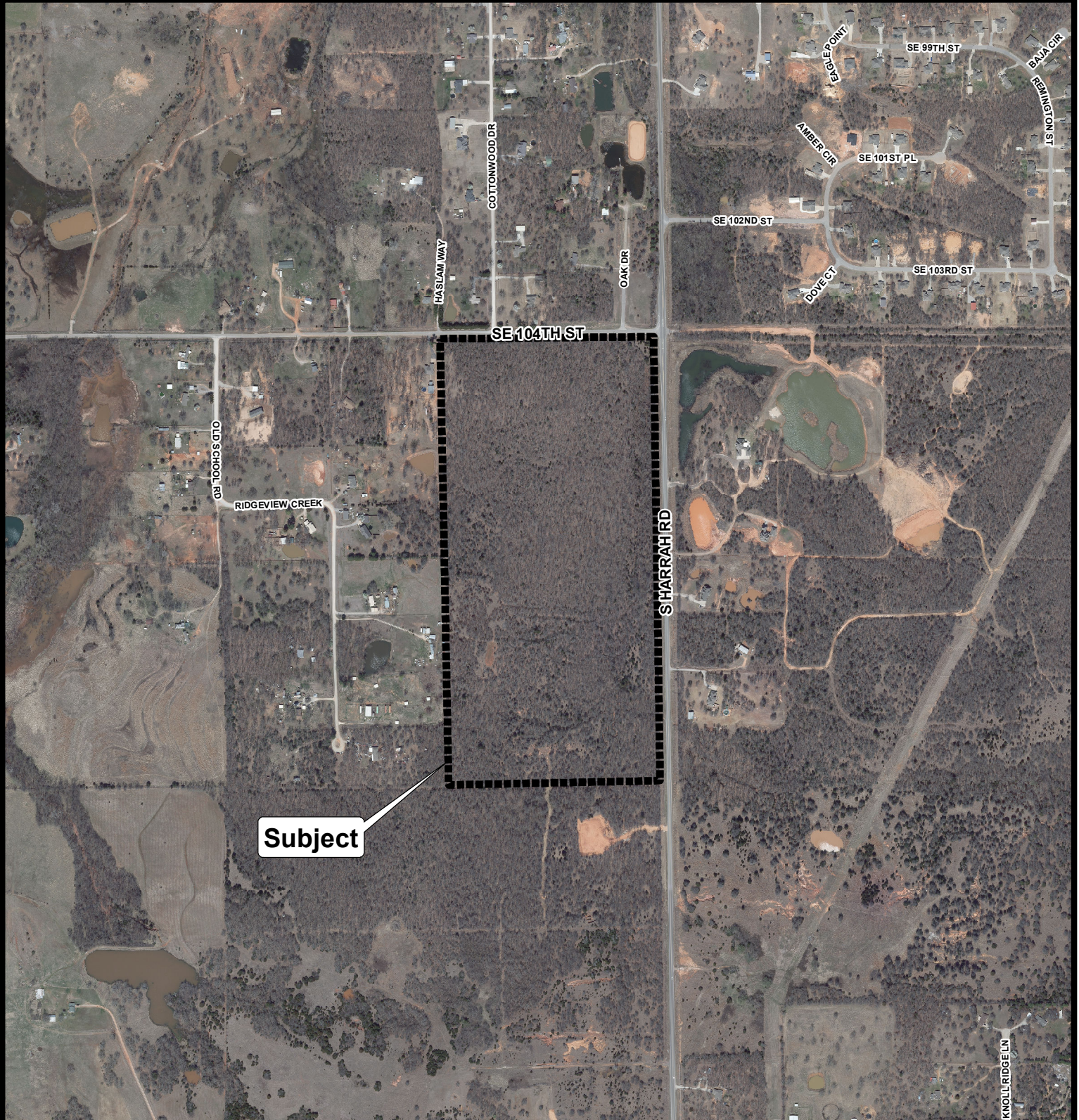
## Rezoning Application



0 400 800  
Feet



Case No: PC-10842      Applicant: Kruger Real Property, LLC  
Existing Zoning: AA      Proposed zoning: RA-2  
Location: 20990 SE 104th St.



Aerial Photo from 2/2020



The City of  
OKLAHOMA CITY

## Rezoning Application



0 400 800  
Feet