



**STAFF REPORT**  
**The City of Oklahoma City**  
**Planning Commission**  
**April 14, 2022**

**Item No. IV. 22.**

**(SPUD-1399) Application by Williams, Box, Forshee & Bullard, PC., to rezone 13790 North I-35 Service Road from the C-HC Commercial Highway District to the SPUD-1399 Simplified Planned Unit Development District. Ward 7.**

**I. GENERAL INFORMATION**

**A. Contacts**

**1. Applicant/Developer Representative**

Name David Box  
Company Williams, Box, Forshee & Bullard PC  
Phone 405-232-0080  
Email dmbox@wbfbllaw.com

**B. Case History**

This is a new application.

**C. Reason for Request**

This application is to permit a pest control business and to allow an existing billboard to remain with the new development.

**D. Existing Conditions**

**1. 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.

**2. Size of Site: 1.3185 acres**

**3. Zoning and Land Use**

	<b>Subject Site</b>	<b>North</b>	<b>East</b>	<b>South</b>	<b>West</b>
<b>Zoning</b>	C-HC	SPUD-785	AA	SPUD-894	Edmond
<b>Land Use</b>	Undeveloped	Prsnl/Stor	Commercial	Res/Com	St Hwy Off

**4. Development Context:** The subject site is located at the southeast corner of the N I-35 Service Road and NE 138<sup>th</sup> Street, just north of E Memorial Road.

The property has a billboard on site but is otherwise undeveloped and zoned C-HC. To the north of the subject site is an RV and Boat Storage facility approved in 2014 under SPUD-746 and expanded under SPUD-785. The property to the immediate east is zoned AA and undeveloped. Along NE 138<sup>th</sup> Street to the east are residences, and the street dead-ends at Deep Fork Tributary / Lake Arcadia / Corps of Engineer land. Abutting on the south is SPUD-894 which was rezoned in 2016 to allow commercial and industrial uses but remains undeveloped. North I-35 is located to the west. The application seeks to rezone the site to a SPUD with a C-3 base to allow a pest control business and requests to keep the existing billboard.

## **II. SUMMARY OF PUD APPLICATION**

This SPUD shall be developed in accordance with the regulations of the **C-3 Community Commercial District** (OKC Zoning Ordinance, 2020), except as modified herein.

### **1. The following uses shall be the only uses permitted within this SPUD:**

8300.1 Administrative and Professional Offices  
8300.2 Adult Day Care Facilities  
8300.5 Alcoholic Beverage Retail Sales  
8300.8 Animal Sales & Services: Grooming  
8300.11 Animal Sales & Services: Kennel & Veterinary, Restricted  
8300.13 Automotive: Parking Lots, as a Principal Use  
8300.23 Building Maintenance Services  
8300.24 Business Support Services  
8300.25 Child Care Centers  
8300.29 Communications Services: Limited  
8250.2 Community Recreation: General  
8250.4 Community Recreation: Restricted  
8300.32 Convenience Sales & Personal Services  
8250.5 Cultural Exhibits  
8350.3 Custom Manufacturing  
8200.2 Dwelling Units and Mixed Uses  
8300.34 Eating Establishments: Drive-In  
8300.35 Eating Establishments: Fast Food  
8300.36 Eating Establishments: Fast Food, With Drive-Thru Order Window  
8300.37 Eating Establishments: Sitdown  
8300.39 Eating Establishments: Sitdown, Limited Alcohol Permitted  
8300.41 Food and Beverage Retail Sales  
8300.44 Funeral and Interment Services: Undertaking  
8300.45 Gasoline Sales, Large  
8150.6.3 Greenhouse  
8150.6.5 Hoop House

8300.48 Laundry Services  
8250.11 Library Services and Community Centers  
8250.12 Light Public Protection & Utility: General  
8250.13 Light Public Protection & Utility: Restricted  
8250.14 Low Impact Institutional: Neighborhood-Related  
8300.52 Medical Services: General  
8300.53 Medical Services: Restricted  
8300.55 Participant Recreation & Entertainment: Indoor  
8300.57 Payday or Title Loan Agencies  
8300.58 Personal Services: General  
8300.59 Personal Services: Restricted  
8300.61 Repair Services: Consumer  
8300.62 Research Services: Restricted  
8300.63 Retail Sales and Services: General  
8300.65 Retail Sales and Services: Pawn Shops  
8300.66 Signs: Non-Accessory  
8200.13 Senior Independent Living  
8300.69 Spectator Sports and Entertainment: Restricted  
8350.16 Wholesaling, Storage, and Distribution: Restricted

**2. Maximum Building Height:**

Pursuant to the base zoning district.

**3. Maximum Building Size:**

Pursuant to the base zoning district.

**4. Maximum Number of Buildings:**

Pursuant to the base zoning district.

**5. Building Setback Lines:**

Pursuant to the base zoning district.

**6. Sight-proof Screening:**

Pursuant to the base zoning district.

**7. Landscaping:**

The subject parcel shall meet all requirements of the City of Oklahoma City's Landscaping Ordinance in place at the time of development.

**8. Signs:**

**7.1 Freestanding Accessory Signs:**

Freestanding accessory signs shall be in accordance with the base zoning district.

**7.2 Attached Signs:**

Attached signs shall be in accordance with the base zoning district.

**7.3 Non-Accessory Signs:**

All current non-accessory signage shall be permitted to remain and shall be deemed to conform to all relevant regulations.

**7.4 Electronic Message Display Signs:**

Electronic Message Display signs shall be in accordance with the base zoning district.

**9. Access:**

Access to the site shall be taken from one drive off of E. I-25 Frontage Rd. and one drive off of NE 138<sup>th</sup> St.

**10. Sidewalks:**

Sidewalks shall be required, subject to the policies and procedures of the Public Works Department. In the event new sidewalks are required, they shall be 5-foot-wide, 6 foot wide if constructed abutting the street curb and meet The City of Oklahoma City requirement.

**II. Other Development Regulations:**

**1. Architecture:**

Exterior building wall finish on all main structures, exclusive of windows and doors, shall consist of a minimum 70% brick veneer, rock, or stone masonry, drivet, stone, stucco, architectural metal or other similar type finish.

**2. Open Space:**

N/A.

**3. Street Improvements:**

N/A.

**4. Lighting:**

The site lighting in this SPUD shall be in accordance with Chapter 59, Article XII, Section 59-12350 of the Oklahoma City Municipal Code, 2020, as amended.

**5. Drainage:**

Development of this parcel will comply with Chapter 16 of the Oklahoma City Municipal Code, 2020, as amended.

**6. Dumpsters:**

Dumpster(s) shall be consolidated, where practical, and shall be screened by a masonry wall of sufficient height to screen said dumpster(s) from view.

**7. Parking Regulations:**

The design and number of all parking facilities shall be in accordance with Chapter 59 Article X of the Oklahoma City Municipal Code, 2020, as amended.

**III. Supporting Documents:**

**Exhibit A:** Legal Description

**Exhibit B:** Site Plan

**III. 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**

**2. Oklahoma City Urban Renewal Authority (OCURA)**

**3. Oklahoma Gas and Electric (OGE)**

- 4. Oklahoma Natural Gas:** Please be advised ONG has an underground or aboveground facility in the area. If you need our facilities relocated to accommodate your excavation or construction, ONG will provide you a cost estimate. Prior to excavation, please contact OKIE-ONE 1-800-522-6543 a minimum of 48 hours prior for exact location of our facilities.

**5. Oklahoma Water Resources Board (OWRB)**

**6. School District(s) Edmond**

**7. Oklahoma Department of Transportation (ODOT)**

**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**

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

**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) 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.
- 5) 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.
- 6) 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.
- 7) Drainage easements shall be clearly denoted as public or private in owner's dedication, on the plat, and/or in the plat notes.
- 8) Construction within the limits of this SPUD 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.
- 9) Sidewalk 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.

10) All private roads /streets will have private storm sewer systems.

11) Engineer/developers will be contacting PW for detention determination before they submit their final plat and plans.

**c. Stormwater Quality Management**

**d. Traffic Management\***

**8. Utilities**

**a. Engineering**

**Paving**

**Wastewater Availability**

- 1) The developer will be required to extend the wastewater collection system to each lot or site within the subdivision or land improvements in accordance with City Standard Specifications and the current Subdivision Regulations.
- 2) No wastewater service is available for proposed improvements, private on-site sewage disposal systems are required in accordance to ODEQ rules and regulations. On-site sewage disposal system must be installed by an ODEQ certified installer and inspected by ODEQ.

**b. Solid Waste Management**

- 1) The City can provide solid waste collection services to commercial customers providing refuse is not excess of 270 gallons per customer per pick up § 49-30 (a). Otherwise the customer will have to utilize a private hauler for dumpster service.

**c. Water/Wastewater Quality**

**Water Availability**

- 1) No water service is available for proposed improvements, private on-site water systems are required. The developer will provide an inter (on-site) 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.

## 9. 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. No details about how the site would be developed other than the location of the existing sign were provided.*

Location: Support limited amounts of commercial in rural areas appropriate to the needs of rural residents and passersby. Commercial uses in rural areas should be located in small clusters either on uninterrupted arterials or at freeway interchanges. *The proposed C-3 District is located along the N I-35 Service Road.*

- #### 2) **Compatibility:** The comprehensive plan includes a land use compatibility matrix used to identify potential conflicts between major land use categories. When locating Medium or High Intensity Retail adjacent to existing agricultural zoning or uses, “Building Scale and Site Design”, “Traffic”, and “Operational Impact” are potential compatibility issues 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. *Lot coverage and building size may dramatically differ from adjacent agricultural zoning but are similar to the site’s existing HC zoning regulations. New development would be subject to step-downs in height, increased setbacks, screening and a landscape buffer adjacent to agricultural districts.*

Traffic: Mitigation measures should be used if the development is inconsistent with the Street Typology, or would substantially exceed the average daily traffic of existing, adjacent uses. *No triggers requiring mitigation were identified.*

Operational Impact: The comprehensive plan calls for mitigation measures if new projects propose uses that generate noise levels above those found in typical residential settings, have detectable odors, spill light above that found in typical residential settings, or operate after 10 p.m. within proximity to residential uses. When located near residential uses, the comprehensive plan calls for containing operating effects (including noise and odor) within building walls, using vertical screening to block any mechanical equipment and service areas, and directing light away from adjacent residential areas. *The subject site is located along a highway service road and already zoned for commercial uses. The land to the east is zoned AA but undeveloped and heavily forested. No triggers requiring mitigation beyond code requirements were identified.*

3) **Service Efficiency:**

- Water: *Potential Connectivity*
- Sewer: *Need for Major Investment*
- Fire Service: *Longer than Rural Service Time*

4) **Environmentally Sensitive Areas:** The following apply to the proposed development site:

- Riparian Areas: N/A
- Upland Forests: 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. *planokc originally identified Upland Forest on the majority of the site, but most trees have been cleared. The comprehensive plan recommends retention of all Upland Forest area on a site when it is less than 60 percent covered.*
- 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 is located off the N I-35 Service Rd, a Frontage Road, and NE 138<sup>th</sup> St, a Neighborhood Street, both in the Rural Low LUTA. Transit (bus) service is not available. A multi-use trail is planned to the south near the Deep Fork River, with a route to be determined at a later date.

**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)
- Support limited amounts of commercial (one to two acres per use) in rural areas appropriate to the needs of rural residents. Commercial uses in rural areas should be located in small clusters either on uninterrupted arterials or at freeway interchanges. (SU-46)
- Preserve overall landscape character and natural landforms (rolling hills, native vegetation, etc.) to the greatest extent possible. (G-4)
- 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)
- Share parking between contiguous developments. (C-31)
- Initiate new efforts to reduce sign clutter and improve the aesthetics of signs, while allowing for adequate and visible business identification (E-14)

**b. Plan Conformance Considerations**

The 1.32-acre subject site is located at the southeast corner of the N I-35 Service Road and NE 138<sup>th</sup> Street, north of E Memorial Road. The property has a billboard on site but is otherwise undeveloped and zoned C-HC (Highway Commercial). ~~planokc~~ identified the subject site as primarily covered in Upland Forest, but most trees have since been cleared.

The site is within the Rural Low LUTA where the comprehensive plan supports limited amounts of commercial uses along uninterrupted arterials or at freeway interchanges. Access to I-35 is available within 500 feet to the north. The application seeks to rezone the site for the purpose of establishing pest control business. The use unit classification needed to establish the use, *Building Maintenance Services (8300.23)*, is not permitted in the existing HC District but is allowed in the C-3 District. No new compatibility issues were identified with the requested use. No details about how the site would be developed other than the existing location of a billboard were provided.

The SPUD also requests to keep the existing 672-square-foot, 50-foot-tall non-accessory sign (billboard) when the site is developed. A billboard is a conditional use in both the existing HC District and proposed C-3 base district. The SPUD requests to vary the condition that requires the billboard to be removed if the site is developed.

Conditions that apply to a non-accessory sign in the HC District (59-9350.59.B)

- (1) Each use shall comply with all standards and provisions of the C-HC District, unless specifically modified by this section.
- (2) Property shall abut a roadway meeting minimum standards for a freeway.
- (3) Property shall be vacant prior to sign erection, or the sign shall be separated from all other uses in accordance with Non-Accessory Sign separation standards contained in the sign regulations.
- (4) The Non-Accessory Sign shall be removed prior to occupancy of any other permitted structures or uses, or said sign shall be brought into conformance with the sign regulations to serve as the permitted freestanding accessory sign.

Conditions that apply to a non-accessory sign in the C-3 District (59-9350.59.A)

- (a) The lot size is a minimum of 5,000 square feet and is not developed or used for residential, commercial, institutional or industrial purposes.
- (b) After erection of a Non-Accessory Sign, if a lot is subsequently developed or used for residential, commercial, institutional or industrial purposes, the sign shall be removed prior to occupancy or brought into conformance with the regulations for accessory signs in terms of permitted size and spacing.
- (c) The sign shall comply with all the applicable standards listed in Chapter 3 for non-accessory signs.

*Chapter 3 of the Municipal Code limits the display surface of a non-accessory sign/billboard in the C-3 District to 300 square feet, the maximum width of the sign to 60 feet, the maximum height of the sign to 35 feet, and requires a 50-foot setback from the nearest residentially zoned property.)*

The comprehensive plan calls for initiating new efforts to reduce sign clutter and improve the aesthetics of signs while allowing for adequate and visible business identification. At the time of this application, an effort was underway to update Oklahoma City's sign regulations, including the regulations and conditions for billboards.

Further, the Oklahoma City Municipal Code, 2020, Chapter 59-14100.3 states that:

- A. The PUD and SPUD are appropriately used when flexibility is required that is not allowed under the zoning code in return for a coordinated development that provides greater public benefits, as outlined in the Purpose and Intent, that are not otherwise part of the development process.
- B. The PUD and SPUD are design and planning tools that are not to be used to circumvent policies or used in lieu of seeking variances to regulations.

While the proposed use change does not trigger new compatibility issues, the request to use the SPUD process to remove sign conditions is not in conformance with the comprehensive plan that calls for, and is currently being used to, guide changes to citywide sign regulations. The SPUD should maintain the current requirement that the sign be removed or come into conformance with existing sign regulations should the site be developed, which are the same rules that would apply to other billboards within the HC and C-3 Districts across Oklahoma City.

#### **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.*

##### **Approval of the application subject to the following Technical Evaluation:**

1. Amend Section 8.1 Freestanding Signs to state “*All current signage shall be permitted to remain; however, the existing billboard shall be removed prior to occupancy of any other permitted structures or uses. In the event of a new freestanding sign, the signs will be in accordance with the base zoning district regulations.*”

*All Engineering Division and Water/Wastewater Utilities Division requirements must be met. Additional changes to the SPUD may be required during either Divisions review of construction plans and prior to City Council approval.*

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