

**NOTICE & AGENDA (AMENDED)**  
**BOARD OF ADJUSTMENT REGULAR MEETING**  
**CITY OF PRYOR CREEK, OKLAHOMA**

**MARCH 7TH, 2016 AT 7:00 P.M.**

AS REQUIRED BY THE OKLAHOMA OPEN MEETING ACT, NOTICE IS HEREBY GIVEN THAT THE BOARD OF ADJUST OF THE CITY OF PRYOR CREEK, OKLAHOMA WILL MEET IN REGULAR SESSION AT 7:00 P.M. ON THE ABOVE DATE IN THE COUNCIL CHAMBER UPSTAIRS AT CITY HALL, 12 NORTH ROWE STREET IN PRYOR CREEK, OKLAHOMA. ANYONE NEEDING SPECIAL ACCOMMODATIONS TO ATTEND SHOULD CALL 825-0888.

1. Call to Order, roll call and declare a quorum.
2. Discussion and possible action to approve minutes.
  - a. January 4, 2016 regular meeting.
3. Public Hearings.
  - a. Applicant: Rise Broadband; The South Half of U.S. Government Lot Three (3) and the North Half of the North Half U.S. Government Lot Four (4), of Section Eighteen (18), Township Twenty-one (21) North, and Range Nineteen (19) East of the Indian Base and Meridian, Mayes County, State of Oklahoma, LESS AND EXCEPT that part occupied by Railroad right-of-way, AND LESS AND EXCEPT one-half acre in the Southeast corner of said tract reserved for cemetery purposes, Pryor Creek City, Mayes County, Oklahoma, has requested a special exception for a Telecommunication Facility use within a General Agricultural (A-G) District (Sections 10-8A-2, of the *Pryor Creek City Code*) and from the zoning code height regulations of the General Agricultural (A-G) District (Sections 10-8A-3 B4, of the *Pryor Creek City Code*).
  - b. Applicant: John Stanford Architect; a tract of land that is the East 200 feet of Lot Six (6) of Block One (1), "Wal-Mart Supercenter #22-01" an addition to the city of Pryor Creek being a part of the N/2 of the NE/4 of Section 36, T-21N, R-18-E of the Indian Base and Meridian, Mayes County, State of Oklahoma, said tract of land being more particularly described as follows: Point of Beginning at the Northeast corner of said Lot 6; Thence S01°36'11"E a distance of 413.75 feet to the Southeast corner of Lot 6; Thence along the South line of Lot 6 N88°30'55"E a distance of 200.00 feet; Thence N01°36'11"W a distance of 413.78 feet to the North line of Lot 6: Thence S88°30'21"W a distance of 200.00 feet to the Point of Beginning. Having an area of 82753 square feet or 1.8998 Acres, has requested a special exception from the zoning code height regulations of the Automotive and Commercial Recreational (C-A/R) District (Sections 10-10D-3 B4 of the *Pryor Creek City Code*).

AGENDA – CITY OF PRYOR CREEK BOARD OF ADJUSTMENT

All items are for Public Hearing unless the item is otherwise worded.

Anyone needing special accommodations to attend should call the City Clerk's office at 825-0888.

4. Old Business.
  - a. Rise Broadband request for a special exception for a Telecommunication Facility use within a General Agricultural (A-G) District (Sections 10-8A-2, of the Pryor Creek City Code) – Discussion and possible action.
  - b. Rise Broadband request for a special exception from the zoning code height regulations of the General Agricultural (A-G) District (Sections 10-8A-3 B4, of the Pryor Creek City Code) – Discussion and possible action.
  - c. John Stanford Architect request for a special exception from the zoning code height regulations of the Automotive and Commercial Recreational (C-A/R) District (Sections 10-10D-3 B4 of the Pryor Creek City Code) – Discussion and possible action.
  - d. Appeal request from decision of Building Inspector – Discussion and possible action.
5. New Business.
6. Adjourn.

FILED MARCH 3, 2016 - BY: DOUG MOORE



---

**MINUTES  
BOARD OF ADJUSTMENT  
REGULAR MEETING  
CITY OF PRYOR CREEK, OKLAHOMA  
THURSDAY, JANUARY 4, 2016 AT 7:00 P.M.**

AS REQUIRED BY THE OKLAHOMA OPEN MEETING ACT THE BOARD OF ADJUST MET IN REGULAR SESSION IN THE COUNCIL CHAMBER, 12 NORTH ROWE ON THE ABOVE DATE AND TIME.

**BOARD MEMBERS:** GERALD CLACK, DARRELL MOORE, TRAVIS NOLAND, HARRIETT DUNHAM, CONNIE MUSGRAVE

**1. CALL MEETING TO ORDER, ROLL CALL AND DECLARE A QUORUM.**

At 7:00 p.m. Board Member Darrell Moore, acting as Chairman in Gerald Clack's absence, called the meeting to order and declared a quorum.

Members present in addition to Moore were: Harriett Dunham, Travis Noland and Connie Musgrave. Members absent: Gerald Clack. Others Present: Staff Secretary Nena Roberts, Building Inspector / Code Enforcement Officer Doug Moore, Mayor Jimmy Tramel, Councilman Randy Chitwood, Councilman Houston Brittain, Tamara Carter – Atkins with N2N Solutions, Rustin Dalton with N2N Solutions, Monica Bagell with N2N Solutions, Hoyit Bacon with N2N Solutions, Bobbie Wolf with N2N Solutions, Bridges Kucinski, and Cydney Baron with the Daily Times.

**2. SWEARING IN OF BOARD MEMBERS.**

Acting Chairman Darrell Moore swore in Travis Noland and Connie Musgrave as Board Members.

**3. DISCUSSION AND POSSIBLE ACTION TO APPROVE MINUTES OF THE FEBRUARY 2, 2015 REGULAR MEETING.**

Motion was made by Dunham and second by Darrell Moore to approve minutes of February 2, 2015 regular meeting.

Minutes approved with Moore and Dunham voting yes; Noland and Musgrave abstaining.

**4. PUBLIC HEARINGS**

- a. **Applicant: N2N University (an entity of the Eastern Shawnee Tribe of Oklahoma); Pryor acreage sec 7-21-19 per survey all of nwnwse lying east of rr & w of hwy less comm at a pt of insection of center line of nw second st and rr then n15°18'26'e 175', s74°41'34'e 75' to pob then 15°18'26'e 314.33', n74°41'34'e 125', s15°18'26'w 314.33' n74°41'24'w 125' to pob Pryor City, Mayes County, Oklahoma, has requested a special exception from the zoning code uses permitted requirements Light Industrial (I-L) District (Sections 10-11A-3, of the *Pryor Creek City Code*), allowing for an educational use.**

**1. FOLLOWING PUBLIC HEARING – DISCUSSION AND POSSIBLE ACTION.**

Explanation to Board Members by Building Inspector Doug Moore of special exception request and to state the school was in conjunction with Grand Gateway. Two N2N Solutions representatives approached the podium and answered questions presented by the Board. N2N University to be held in back of Cooper's Tire shop to teach tire shop skills. This is the first school of this kind for the Shawnee Tribe/N2N Solutions. Maximum 12 students, 3-6 students to start.

Motion was made by Dunham and second by Noland to approve special exception from the zoning code uses required for Light Industrial (I-L) District allowing for an educational use. All voted yes.

**5. OLD BUSINESS.**

No old business.

**6. NEW BUSINESS.**

No new business.

**7. ADJORN.**

Motion made by Noland and second by Dunham to adjourn from the Board of Adjustment Regular Meeting at 7:20 p.m. All voted yes.

# Staff Report

**City of Pryor Creek Board of Adjustment  
12 North Rowe  
Pryor, OK 74361**



**Special Exception [X]      Variance [ ]      Appeal [ ]**

---

Hearing Date:            March 7, 2016

Project Name:            Rise Broadband Special Exception Request

1. Request for a Telecommunication Facility use within a General Agricultural (A-G) District (Sections 10-8A-2, of the Pryor Creek City Code)
2. Request for relief from zoning code height regulations of the General Agricultural (A-G) District (Sections 10-8A-3 B4 of the Pryor Creek City Code)

Address or Descriptive Location:  
The South Half of U.S. Government Lot Three (3) and the North Half of the North Half U.S. Government Lot Four (4), of Section Eighteen (18), Township Twenty-one (21) North, and Range Nineteen (19) East of the Indian Base and Meridian, Mayes County, State of Oklahoma, LESS AND EXCEPT that part occupied by Railroad right-of-way, AND LESS AND EXCEPT one-half acre in the Southeast corner of said tract reserved for cemetery purposes.

Applicant information:  
Rise Broadband  
600 SE 49<sup>th</sup> Street  
Pryor, Oklahoma 74361  
580-745-4196

Owner information:  
Eddie Peters  
330 South Mill Street  
Pryor, OK 74361  
918-527-9006

Current Zoning:            A-G General Agricultural District  
Present Use:                Agricultural use

---

**LOCATION MAP:**



**Applicable City Plans/Policies**

**Telecommunication Facilities:**

**10-15-1: PURPOSE AND INTENT; GENERAL PROVISIONS:**

A. Purpose and Intent: The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the development and installation of telecommunication and related facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of city of Pryor as set forth within the goals, objectives and policies of the zoning regulations, to encourage managed development of telecommunications infrastructure, while at the same time not unduly restricting the development of needed telecommunications facilities.

B. General Provisions: It is intended that city of Pryor shall apply these regulations to accomplish the following:

1. Minimize adverse visual effects of telecommunication towers, antennas and related facilities through design.
2. Maintain and ensure that a nondiscriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the federal telecommunications act of 1996 are provided to serve the community, as well as serve as an important and effective part of the city of Pryor's police, fire and emergency response network.
3. Provide a process for obtaining necessary permits for telecommunication facilities while at the same time protecting the interests of the city of Pryor.
4. Protect environmentally sensitive areas of city of Pryor by regulating the location, design and operation of telecommunication towers, antennas and related facilities.
5. Encourage the use of alternative support structures, collocation of new antennas on existing telecommunication towers, camouflaged towers, and construction of towers with the ability to locate three (3) or more providers.
6. Encourage the placement of towers in nonresidential areas, in areas where adverse impacts on the city of Pryor are minimized.
7. To minimize the total number of towers within the community necessary to provide adequate personal wireless services to residents to the city of Pryor.

Furthermore, this chapter is not intended to regulate residential satellite dishes or residential television antennas that are used privately. (Ord. 2009-6, 10-6-2009)

#### 10-15-3: AREAS LIMITING TELECOMMUNICATION FACILITY LOCATIONS:

Telecommunications facilities may be permitted, subject to review and approval by the city of Pryor board of adjustments but are subject to review and approval of the federal aviation administration (FAA), Oklahoma bureau of aeronautics and other appropriate agencies, if applicable.

- A. One mile radius from heliports.
- B. One mile radius from private airport runway(s).
- C. Three (3) mile radius from public use airport runway(s). (Ord. 2009-6, 10-6-2009)

10-15-4: AREAS PROHIBITING TELECOMMUNICATION FACILITY LOCATIONS:

No telecommunications facilities, except exempt facilities as defined in section [10-15-2](#) of this chapter, shall be permitted within historic sites, natural areas and critical species habitats, wetlands, floodplains, floodways and any areas not zoned A-G. (Ord. 2009-6, 10-6-2009)

**General Agricultural District Area and Height Regulations:**

10-8A-3: AREA AND HEIGHT REGULATIONS:  

A. Table: The following area and height regulations apply:

Min. Lot Area	Min. Lot Frontage	Max. % Coverage	Max. Height	Min. Front Yard Setback	Min. Side Yard Setback	Min. Rear Yard Setback
5 acres	330'	10%	35'	50'	30'	50'

B. Requirements: All lots and improvements within the A-G district shall meet the following requirements:

1. Lot Area; Principal Building: All lots shall have not less than five (5) acres of land, including abutting street dedications, and not more than one principal building shall be placed on any one lot.
2. Frontage: Each lot shall have a frontage of not less than three hundred thirty feet (330'), including street right of way.
3. Coverage: Not more than ten percent (10%) of the lot area shall be covered with improvements. Paved areas are not considered improvements within the meaning of this provision.
4. Height: No improvement or structure shall exceed thirty five feet (35') in height above the mean elevation of the lot, except on special permit from planning commission.
5. Front Yard Setback: All structures shall have not less than a fifty foot (50') front yard setback.

6. Side Yard Setback: All principal structures shall have not less than a thirty foot (30') side yard setback. Accessory buildings may have side yards of not less than ten feet (10').

7. Rear Yard Setback: All structures shall have not less than a fifty foot (50') rear yard setback. (1988 Code § 12-243)

**Discussion/Review/Findings:**

An existing tower is located approximately 1,000 feet to the north of the proposed location. The City Code provides provisions for collocation to help reduce visual impacts on the community and surrounding property owners.

10-15-5: APPLICATION AND REVIEW PROCESS:

Locating ...

... A. Submittal Information:

B. Collocation: All tower owners shall make available unused space for collocation of other telecommunication facilities, including space for those entities providing similar, competing services.

1. For towers up to one hundred fifty feet (150') in height, the structure and fenced compound shall be designed to accommodate at least two (2) providers.

2. For towers greater than one hundred fifty feet (150') in height, the structure and fenced compound shall be designed to accommodate at least three (3) providers. Collocation is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go offline. All collocated and multiple user telecommunication support facilities shall be designed to facilitate site sharing.

C. Technical Review: The board of adjustments, upon direction of the building inspector, may recommend an independent technical expert, agreed upon by both the board and the applicant, to review materials submitted in those cases where a technical demonstration of unavoidable need or unavailability of alternatives has been determined necessary by the board based upon substantial evidence. The applicant shall pay all the costs of said review. Proof of payment of all invoices, fees and charges accumulated for the technical review must be paid in full prior to the issuance of the building permit. ...

10-15-8: PREEXISTING TELECOMMUNICATION TOWERS: ...

... B. Existing Use Review:

1. Existing Use Review For Those Towers Structurally Capable To Collocate: Beginning November 11, 2009, all telecommunications tower owners, applicable to the requirements of this chapter operating in city of Pryor prior to the adoption of this chapter, shall provide the information required under section [10-15-6](#) of this chapter (except proof of bond and proof of insurance), and submit documents that confirm the tower is capable of collocation and pay an annual fee as established (see appendix A of this code) per tower site to the city clerk, city of Pryor. Failure to provide this information shall result in a fine per subsection [1-4-1A](#) of this code.

2. Existing Use Review For Those Towers Structurally Incapable For Collocation: Beginning November 11, 2009, all telecommunications tower owners, applicable to the requirements of this chapter, operating in the city of Pryor prior to the adoption of this chapter, shall provide the information required under section [10-15-6](#) of this chapter (except proof of bond and proof of insurance), and submit documents that the tower is structurally incapable of collocation, and pay a onetime fee as established (see appendix A of this code) per tower site to the city clerk, city of Pryor. Failure to provide this information shall result in a fine per subsection [1-4-1A](#) of this code. (Ord. 2009-6, 10-6-2009)

**Recommendation(s)/Requirement(s):**

1. Request for a Telecommunication Facility use within a General Agricultural (A-G) District (Sections 10-8A-2, of the Pryor Creek City Code)  
Staff recommends that the Board either:
  - a. Tables their decision until their next regularly scheduled meeting, allowing time for the applicant to obtain documentation that the proposed facilities cannot be collocated on the existing tower in the area.
  - b. Denies the request based on the findings of collocation.
  
2. Request for relief from zoning code height regulations of the General Agricultural (A-G) District (Sections 10-8A-3 B4 of the Pryor Creek City Code)  
Staff recommends that the Board either:
  - a. Tables their decision until their next regularly scheduled meeting.
    - a. Approved the request contingent on all conditions of Title 10, Chapter 15 of the City of Pryor Creek Code being met prior to issuance of a building permit by the City.

# Staff Report

City of Pryor Creek Board of Adjustment  
12 North Rowe  
Pryor, OK 74361



**Special Exception**  **Variance**  **Appeal**

---

Hearing Date: March 7, 2016

Project Name: Patel Hotel Special Exception Request  
Applicant requests a special exception from the zoning code height regulations of the Automotive and Commercial Recreational (C-A/R) District (Sections 10-10D-3 B4 of the Pryor Creek City Code).

Address or Descriptive Location:  
A tract of land that is the East 200 feet of Lot Six (6) of Block One (1), "Wal-Mart Supercenter #22-01" an addition to the city of Pryor Creek being a part of the N/2 of the NE/4 of Section 36, T-21N, R-18-E of the Indian Base and Meridian, Mayes County, State of Oklahoma, said tract of land being more particularly described as follows: Point of Beginning at the Northeast corner of said Lot 6; Thence S01°36'11"E a distance of 413.75 feet to the Southeast corner of Lot 6; Thence along the South line of Lot 6 N88°30'55"E a distance of 200.00 feet; Thence N01°36'11"W a distance of 413.78 feet to the North line of Lot 6; Thence S88°30'21"W a distance of 200.00 feet to the Point of Beginning. Having an area of 82753 square feet or 1.8998 Acres.

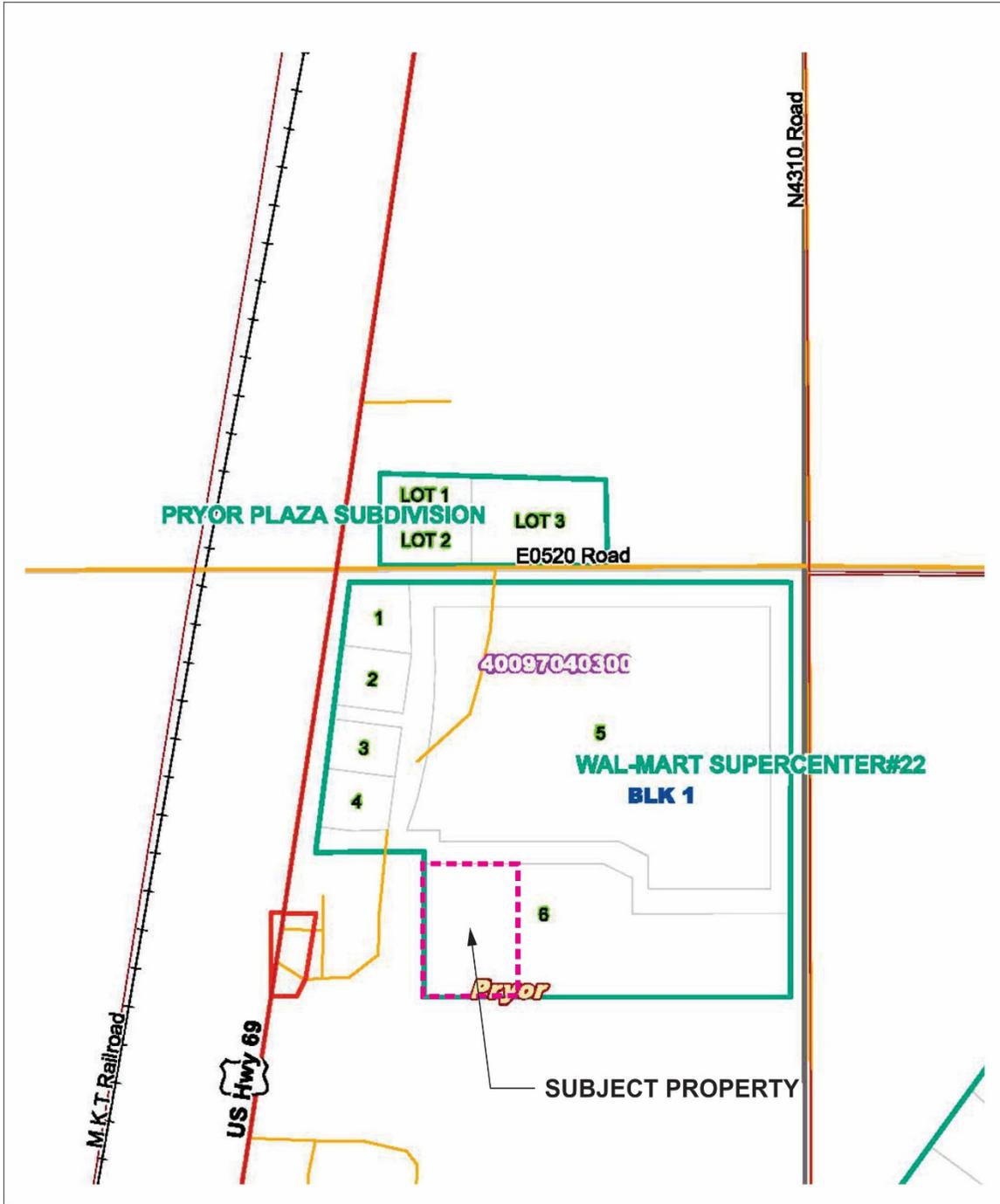
Applicant information:  
John Sanford Architect  
9726 East 42<sup>nd</sup> Street, Suite 153  
Tulsa, Oklahoma 74146  
918-640-6800

Owner information:  
Vipul Patel  
918-490-1348

Current Zoning: Automotive and Commercial Recreational (C-A/R) District  
Present Use: Vacant/Undeveloped

---

**LOCATION MAP:**



**Applicable City Plans/Policies**

**Automotive and Commercial Recreation District Area and Height Regulations:**

10-10D-3: AREA AND HEIGHT REGULATIONS:

A. Table: The following area and height regulations apply:

Min. Lot Area	Min. Lot Frontage	Max. % Coverage	Max. Height	Min. Front Yard Setback	Min. Side Yard Setback	Min. Rear Yard Setback
12,000 sq. ft.	100'	30%	35'	50'	5' within C-A/R District and 2'/1' adj. to res. dist.	20'

B. Regulations: The following area and height regulations apply:

1. Lot Area: The parcel of land on which any commercial use is located shall not be less than twelve thousand (12,000) square feet.

2. Frontage: Each lot shall have a frontage of not less than one hundred feet (100').

3. Coverage: Not more than thirty percent (30%) of the lot area shall be covered with improvements. Paved areas are not considered improvements within the meaning of this provision.

4. Height: No improvement or structure shall exceed thirty five feet (35') in height above the mean elevation of the lot.

5. Setbacks: It is intended that the commercial uses and parking areas within a C-A/R District be designed to protect, insofar as possible, adjacent residential areas. In no case shall the development have less than the following standards:

a. All buildings shall be set back from all street right-of-way lines not less than fifty feet (50').

b. On the side of a lot within the C-A/R District, there shall be a side yard setback of five feet (5') and on the side of a lot adjoining a residential district, there shall be a side yard setback of two feet (2') for each one foot (1') of height.

c. All buildings shall be set back from the rear lot line not less than twenty feet (20').  
(1988 Code § 12-302)

**Discussion/Review/Findings:**

The Board has the authority to grant the request. The applicant has requested a change from 35 feet to 50 feet.

**Recommendation(s)/Requirement(s):**

Staff recommends approval, but suggests that the Board allow for a height of greater than 50 feet (example 55 or 60 feet). This provides flexibility to adjust for minor field corrections or architectural/mechanical elements if needed.

# Staff Report

**City of Pryor Creek Board of Adjustment  
12 North Rowe  
Pryor, OK 74361**



**Special Exception [ ] Variance [ ] Appeal [X]**

---

Hearing Date: March 7, 2016

Project Name: Moffett Sidewalk Appeal  
Applicant requests an appeal from a decision of the Building Inspector

Address or Descriptive Location:  
118 North Coo Y Yah

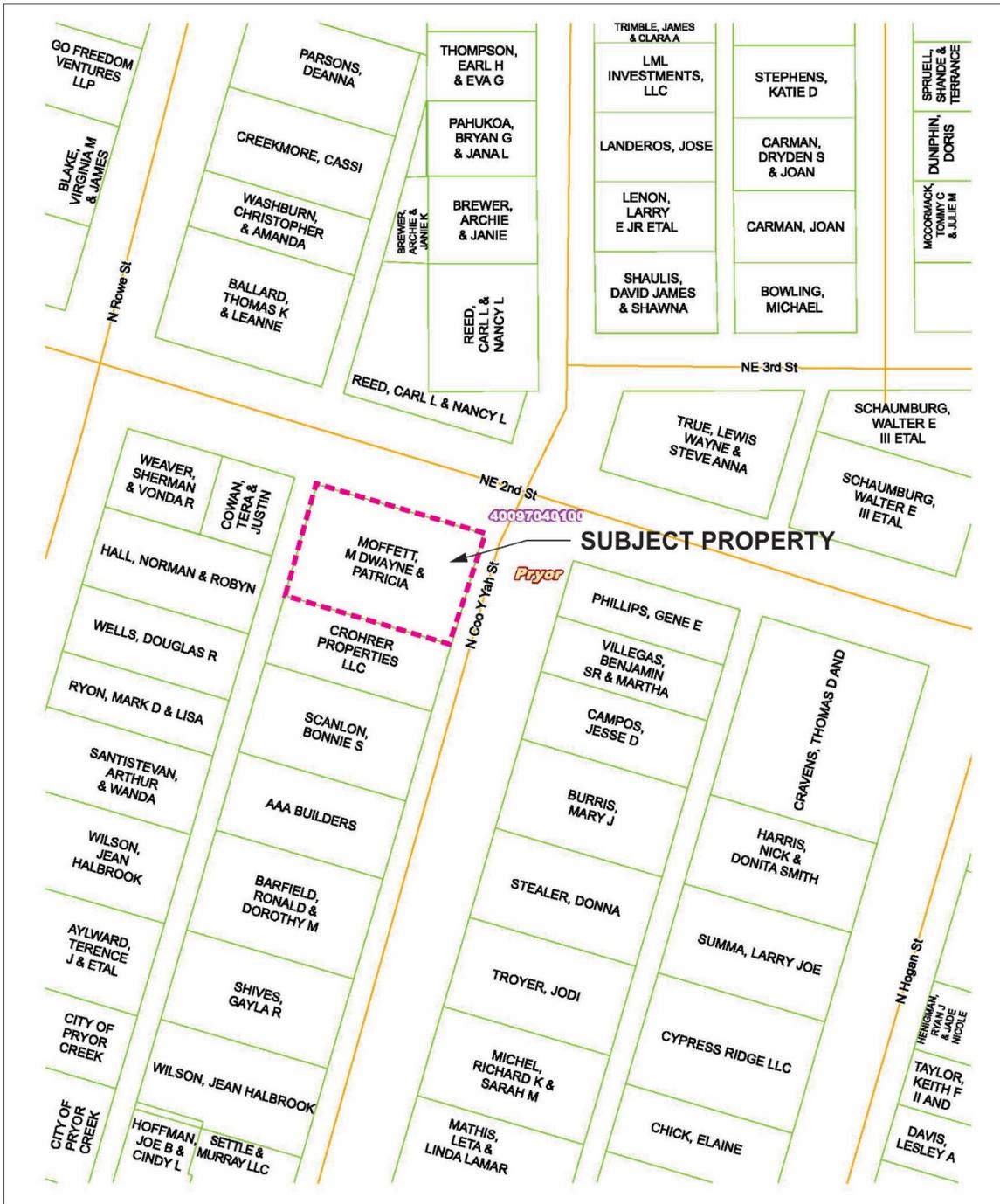
Applicant information:  
Patricia A. and M. Dwayne Moffett  
4545 E 480  
Pryor, OK 74361

Owner information:  
Same as applicant

Current Zoning: General Residential (R-G) District  
Present Use: Residential Duplex

---

**LOCATION MAP:**



## Applicable City Plans/Policies

### **Subdivision Regulations – Improvements Required:**

#### 11-5-4: SIDEWALKS:

A. Specifications: Sidewalks may be required along officially designated major streets. Sidewalks may be required along any minor streets where deemed essential for public convenience or safety by the Planning Commission. All required sidewalks and crosswalks shall be paved and shall be constructed in accordance with standards established by the City Council. Construction shall be under the supervision of the Street Department Superintendent or his designee, and shall be subject to his inspection and approval. (1988 Code § 12-427)

B. Easements: Any person subdividing into lots or lots and blocks for use as a residential area any land that is within the City or desiring annexation thereto, shall be required to make provision for an easement or easements for continuous public sidewalks, four feet (4') in width, along or near any streets within such addition or subdivision or lying adjacent to any lots therein. No plat of any such addition or subdivision shall be approved by officials of the City unless this requirement is met; except that sidewalks in rural estate subdivisions shall not be required on all or any street, except as the Planning Commission may require for adequate pedestrian circulation. (1988 Code § 12-428)

C. Required Prior To Building Permit Issuance: Before any building permit is issued for any lot in any addition or subdivision coming within the provisions of this Title, a sidewalk must be constructed or arrangements made to construct the same on said lot and within the easement dedicated or provided for, in accordance with the requirements and specifications for sidewalks within residential areas as set out in this Code. Any failure to construct or complete said sidewalk in accordance with the provisions hereof, shall be a violation of and a failure to comply with the Building Code of the City. It shall be the duty of the Building Official to enforce the provisions of this Section as a part of the Building Code of the City and to prosecute violations thereof as in other cases. (1988 Code § 12-429)

#### 7-1-1: TREES AND SHRUBS:

A. Definitions: For the purposes of this section, the following words and phrases shall have the meanings given herein:

**ABUTTING PROPERTY OWNER:** Any person, firm, partnership or nonmunicipal corporation owning property abutting a public right of way.

**ARTERIAL STREET:** A street with direct access to abutting property designed to

accommodate medium to heavy traffic moving between areas in the city or across the city.

**CITY:** The city of Pryor Creek, Oklahoma, a municipal corporation.

**CODE OFFICIAL:** The person or persons designated by the mayor to implement the provisions of this section.

**COUNCIL:** The governing body of the city of Pryor Creek, Oklahoma.

**EXPRESSWAY:** A divided highway for through traffic with full or partial control of access.

**FREEWAY:** An expressway with full control of access.

**MAYOR:** The mayor of the city of Pryor Creek, Oklahoma, or his or her designated representative.

**PARK TREES:** Trees in designated public parks or in any area owned by the city to which the public has free access.

**PERSON:** Every natural person, firm, partnership or nonmunicipal corporation.

**PUBLIC LAND:** Any real property within the corporate limits of the city in which the city has any ownership interest.

**SHRUB:** A low, woody plant, usually multistemmed.

**SIGHT DISTANCE TRIANGLE:** The area within an imaginary triangle formed at a street corner as follows: Extend the curb lines (or the edge of the pavement where no curbs exist) into the street to a point where those lines intersect; from that point of intersection measure along both curb lines (or edges of pavement) to two (2) points, each of which is thirty five feet (35') from the point of intersection; the connecting of these three (3) points shall form the sight distance triangle.

**STREET TREES:** Trees within the entire width of every public way or right of way when any part thereof is open to the use of the public for the purpose of vehicular and pedestrian traffic.

**TREE:** A woody perennial plant having a well-defined stem or trunk and a definite crown, which attains a mature height of at least eight feet (8').

## B. Street Trees/Shrubs:

1. **Approved Street Trees:** The mayor shall adopt, subject to the approval of the council, and file with the city clerk an official list of approved street trees/shrubs designating small trees, medium trees and large trees. No species other than those included on the official list of approved street trees/shrubs may be planted as street trees/shrubs unless permission to do so is given by the mayor.

2. **Spacing And Clearance:** Spacing requirements for street trees are as follows:

a. No tree on an arterial street shall be planted closer than seven feet (7') from the face of the street curb or closer than four feet (4') from a sidewalk, except that in the central business district, street trees may be planted two feet (2') from the curb; provided, that where no curb exists, the measurement shall be taken from the edge of the paving;

b. At the intersection of any arterial street with any other street, no abutting property owner shall allow any tree or shrub to exceed a height of thirty inches (30") above street grade within the "sight distance triangle" as defined herein;

c. No tree or shrub planted closer than fifty feet (50') from the end of any arterial street median shall be allowed to exceed a height of thirty inches (30") above street grade; trees on arterial street medians should be spaced no closer than thirty feet (30') from each other;

d. At the intersection of any arterial street with any other street, no abutting property owner shall allow any tree within fifty feet (50') of the intersection, measured from the point of intersecting curbs or curb lines or from the edge of the paving where no curbs exist, to have any branches within five feet (5') of the street grade;

e. Tree plantings on freeways and expressways shall be no closer than thirty feet (30') from the edge of the outside driving lanes and twenty feet (20') from any fencing and spaced no closer than twenty five feet (25') apart; provided, however, that trees may be planted in a cluster and mulched so that mowing between the clustered trees is not required; and

f. No tree or shrub shall be planted within fifteen feet (15') of any fire hydrant so as to obstruct the fire hydrant when viewed from the street.

**C. Trees In Public Utility Easements:** No trees or shrubs may be planted under or within thirty (30) lateral feet of any overhead utility wire or over or within ten (10) lateral feet of any underground public utility line, meter or utility boxes.

#### D. Care Of Trees/Shrubs On Public Land:

1. The city shall have the right to prune and remove trees, plants and shrubs within the right of way lines of all streets, alleys, avenues, lanes, squares and public grounds and sidewalks as may be necessary to ensure public safety, to preserve or enhance the symmetry and beauty of the public area, or to protect public utility facilities thereon. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than fifteen feet (15') above the roadway of a street or alley, nor lower than ten feet (10') above the sidewalk and shall comply with the sight distance triangle.
2. The city may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to public, emergency, or maintenance vehicles, sewers, electric power lines, gas lines, water lines or other public improvements, or is infected with any injurious fungus, insect or other pest.
3. This section shall not prohibit the planting of street trees by abutting property owners, providing that the selection and location of such trees is in accordance with the provisions hereof.

#### E. Removal Of Trees Which Obstruct Light Or View:

1. Owner's Responsibility: Notwithstanding anything herein to the contrary, the owner of any tree overhanging any street or right of way within the city shall prune the branches so that the branches shall neither obstruct the light from any street lamp nor the view of any street intersection.
2. City Right To Prune: The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or street sign or public, emergency, or maintenance vehicles.

F. Dead Or Diseased Trees: The code official shall have the right to cause the removal of any dead or diseased trees on private property within the city.

G. Interference With City Personnel: It shall be unlawful for any person to prevent, delay, or interfere with city personnel while they are engaged in planting, cultivating, mulching, pruning, spraying or removing any street trees, park trees, or trees on private grounds as authorized by this section.

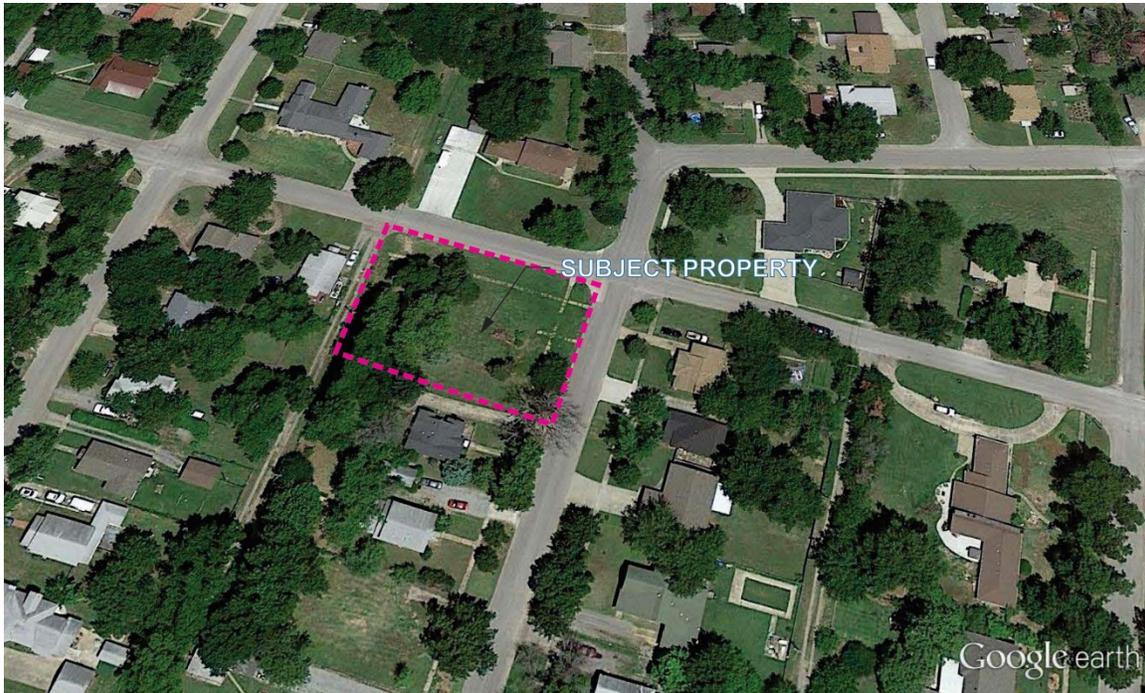
H. Review By The Council: The city council shall have the right to review the conduct, acts and decisions of the code official. Any person may appeal from any ruling or order

of the code official by filing a written complaint with the city clerk. The city council shall hear the appeal at its earliest available meeting.

I. Penalty: Any person violating any provision of this section shall be guilty of an offense and, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00) plus court costs. (Ord. 2008-1, 2-19-2008)

**Discussion/Review/Findings:**

A sidewalk was previously located on the property as depicted below. It was in disrepair and received additional damage during construction of the new duplex. The building inspector has required the applicant to replace the sidewalk prior to the issuance of a Certificate of Occupancy for the property. The property presently has a temporary Certificate of Occupancy.



**Recommendation(s)/Requirement(s):**