

Case Number: BOA-23550

Hearing Date: 09/26/2023 (Continued

from 09/12/2023)

Case Report Prepared by:

Austin Chapman

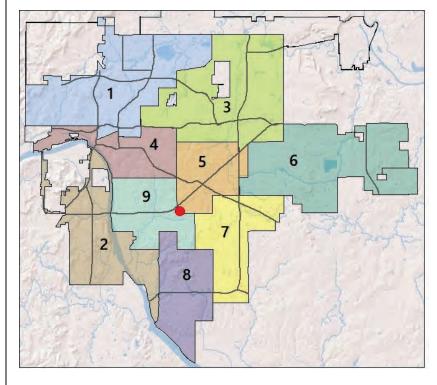
Owner and Applicant Information:

Applicant: Linda Waytula Property Owner:

Jeff McCoy

<u>Action Requested</u>: Variance to allow drive-through facilities to be located on the street- facing side of the property (Sec. 55.100-C.2)

Location Map:



Additional Information:

Present Use: Vacant lot Tract Size:

1.1 acres Location: 5115 E. 51 St.

Present Zoning: CS

Case History:

07/11/23: First appearance on agenda, Board continued item until the next hearing.

07/25/23: Board continued item until the next hearing.

08/22/23: Board continued item until the next hearing.

09/12/23: Board continued item until the next

hearing.



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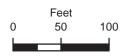
19-13 27

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: 2023









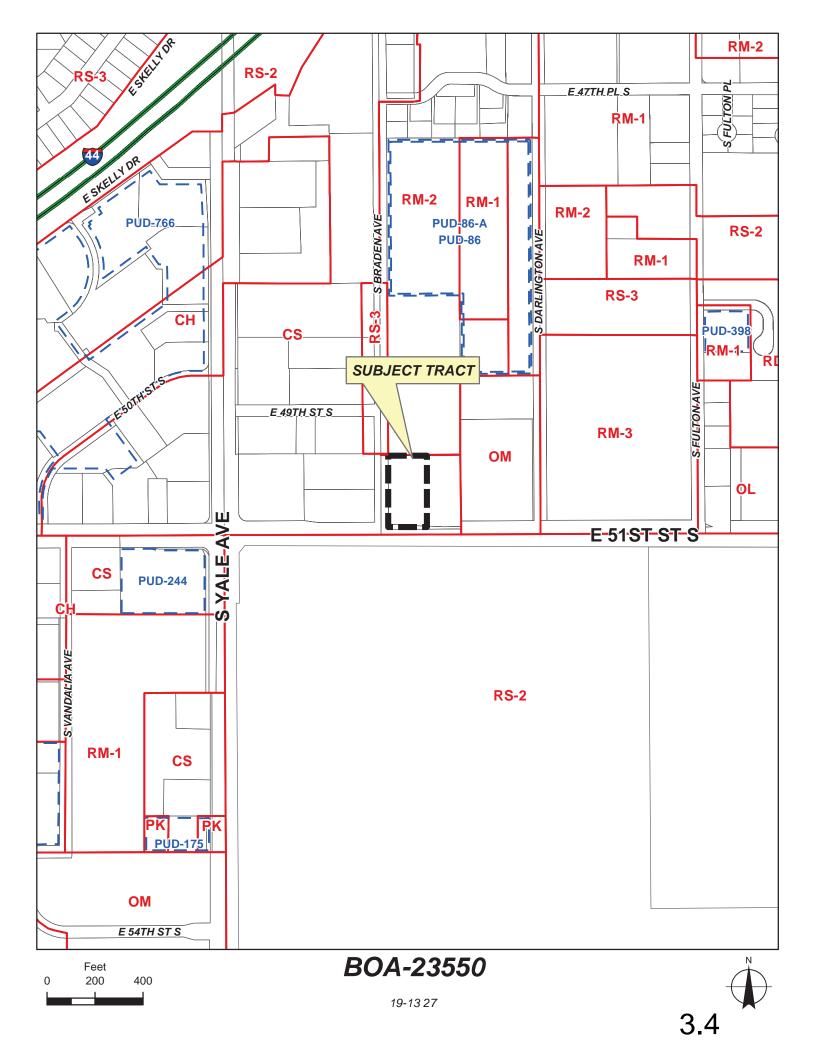
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Aerial Photo Date: 2023





BOARD OF ADJUSTMENT CASE REPORT

STR: 9327 Case Number: BOA-23550

CD: 5

HEARING DATE: 09/26/2023

APPLICANT: Linda Waytula

ACTION REQUESTED: Variance to allow drive-through facilities to be located on the street-facing side of the property

(Sec. 55.100-C.2)

LOCATION: 5115 E. 51 St. ZONED: CS

PRESENT USE: Vacant lot TRACT SIZE: 47835.61 SQ FT

LEGAL DESCRIPTION: PRT LTS 17 & 18 BEG SWC LT 18 TH N22.41 SE19.60 SE216.56 E69.07 S7.42 W304.50 POB; LTS 17 & 18 LESS PRT BEG SWC LT 18 TH N22.41 SE19.60 SE216.56 E69.07 S7.42 W304.50 POB, CANFIELD SUB CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

RELEVANT PREVIOUS ACTIONS: None.

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of a "Neighborhood" Land Use designation.

Neighborhoods are "Mostly Residential Uses" which includes detached, missing middle, and multi-dwelling unit housing types. Churches, schools, and other low-intensity uses that support residents' daily needs are often acceptable, particularly for properties abutting Multiple Use, Local Center, or Regional Center land use areas. Multi-dwelling unit housing that takes access off of an arterial is considered Multiple Use, Local Center, or Regional Center. If a multi-dwelling unit housing property takes access off of a lower-order street separated from the arterial, then it would be considered Neighborhood.

STATEMENT OF HARDSHIP: Please see attached exhibit.

STAFF ANALYSIS: The applicant is requesting a Variance to allow drive-through facilities to be located on the street-facing side of the property (Sec. 55.100-C.2)

55.100-C Location and Design

- Stacking lanes must be located on the subject property. They may not be located within required driveways or drive aisles, parking spaces or loading areas and may not interfere with access to parking and ingress and egress from the street.
- 2. All areas associated with drive-through facilities, including drive-through signs, stacking lanes, trash receptacles, loudspeakers and service windows must be located to the rear or on the non-street-facing side of the property. Drive-through lanes must be set back at least 10 feet from abutting R- or AGR- zoned lots, and a screening wall or fence must be provided along the common lot line in accordance with the F1 screening fence or wall standards of §65.070-C.

Applicant is proposing a drive through restaurant with lanes and windows facing Braden Ave.

Facts staff finds favorable for variance request:

None.

Facts Staff find unfavorable for the variance request:

- The applicant has not provided any physical constraints on the property other than it being a corner lot.
- Property is currently vacant and it is unclear why a drive-through cannot be designed to meet code.
- As of the writing of this staff report the applicant has not provided any alternative to show what hardship would be created if the drive through were to meet the zoning code.

SAMPLE MOTION: Move to	_ (approve/deny) a Variance to allow drive-through facilities to be located on Sec. 55.100-C.2)
Finding the hardship(s) to be	·
Per the Conceptual Plan(s) sho	own on page(s) of the agenda packet.
Subject to the following condition	ons

In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out:
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan."

Statement of Hardship:

VARIANCES:

The applicant must prove a hardship to the Board. The Board of Adjustment is allowed to approve variances only after determining that the following conditions exist. Please describe how your request satisfies each of these conditions at the hearing, (You may include a separate page)

- That the physical surroundings, shape, or topographic conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out:
 - The physical surroundings of our site creates a hardship and practical difficulties of laving out this site for the owner. The property is located with streets on the south and west sides of the property and a residential area to the north. This restricts being able to have a drive-thru and meet the full restrictions of Sec. 55.100-C of the Zoning Code.
- That the literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
 - Our proposed layout minimizes the impact of the existing surrounding area. We are proposing to place the quietest par of the drive-thru process to face S. Braden Ave (the pickup window) and the residential area to the north (cars idling). We feel this is a benefit to not have the order point or the pickup window facing the residential area.
- That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
 - See attached Exhibit A which contains a list of restaurants located within the City of Tulsa that are commercial properties that have a similar layout to what we are proposing that do not comply with Sec. 55.100-C of the Zoning Code.
- That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
 - While working on splitting the lot, the buyer of the East side of the property determined they wanted to be on the East side leaving us with the West portion of the property.
- 5. That the variance to be granted is the minimum variance that will afford relief:
 - We have worked on multiple site layouts to try to get this site to work. All layouts don't comply due to the nature of a drive-thru flow requiring three sides of a building to be able to complete the process. The pick-up window faces a Residential Collector. What we are proposing keeps all of the drive-thru associated services from facing any Arterial streets.
- That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property;

and

- the adjacent properties to the east/west are currently zoned Commercial. We will not impair any streets due to this layout keeping all queueing internal to the site.
- That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan.
 - We feel the proposed solution is best for the public as well as the owner.

In granting a variance, the Board may make appropriate conditions or safeguards and may require a bond or other guarantee necessary to enforce compliance with the conditions. Please sign to acknowledge that you understand the conditions that the Board must find to grant your request and that the information included in this application is truthful.

Applicant Signature:



Facing North on Braden Ave.



Subject property

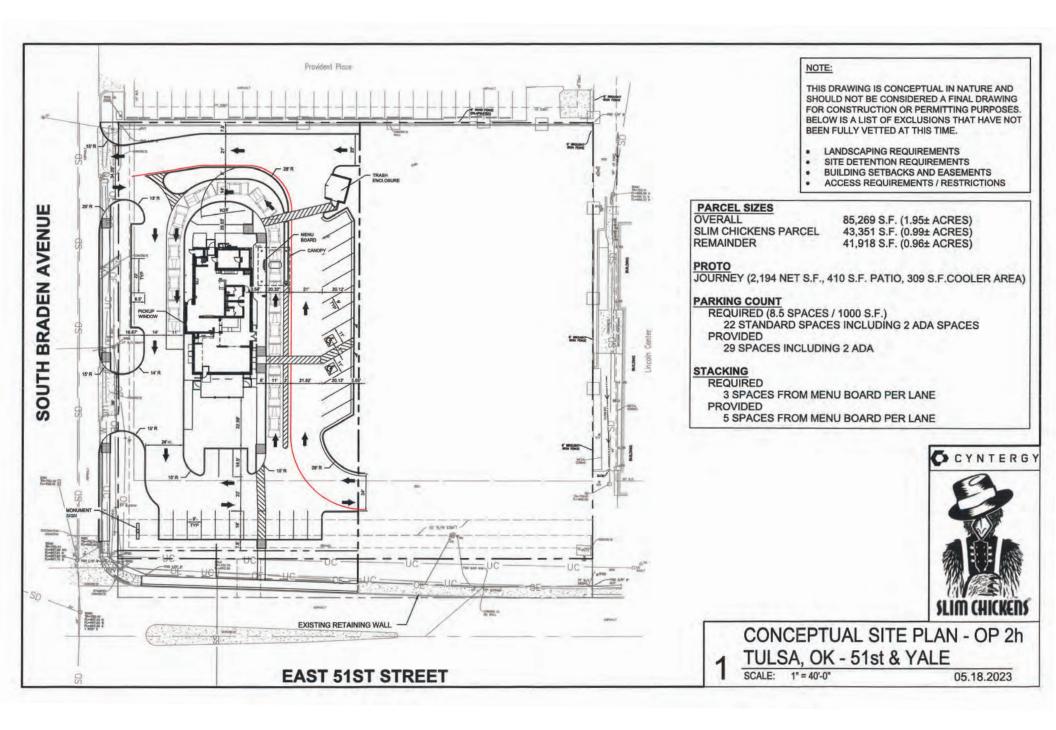


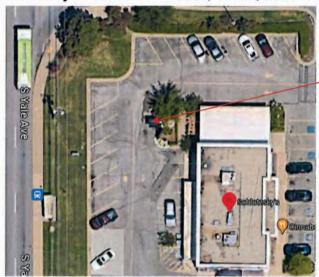
EXHIBIT A

1. Carl's Jr. - 4994 E. 41st St, Tulsa, OK 74135 (Drive-Thru window faces S. Darlington Ave)



Drive-Thru pick up window

2. Schlotzsky's - 4905 E. 41st St, Tulsa, OK 74135 (Order Point faces S. Yale Ave)



Menu board/order point

3. Wendy's - 2098 S Wheeling Ave, Tulsa, OK 74104 (Drive-Thru window faces S. Wheeling Ave)



EXHIBIT A

4. Wendy's - 1209 E. Pine St., Tulsa, OK 74106 (Drive-Thru window faces E. Pine St) 5. Popeyes - 1117 E. Pine St., Tulsa, OK 74106 (Drive-Thru window faces E. Pine St)



6. Krispy Kreme - 10128 E. 71st St., Tulsa, OK 74133 (Drive-Thru window faces E. 71st St)

7. Panera Bread - 10027 E. 71st St., Tulsa, OK 74133 (Drive-Thru window faces S. 101st E. Ave)



8. Velvet Taco -144 S. Peoria Ave, Tulsa, OK 74120 (Drive-Thru window faces E. 15th Street)

9. McDonald's - 1216 E. 15th St, Tulsa, OK 74120 (Drive-Thru window faces S. Peoria Ave)



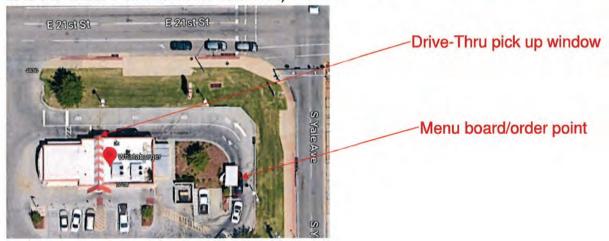


Drive-Thru pick up window

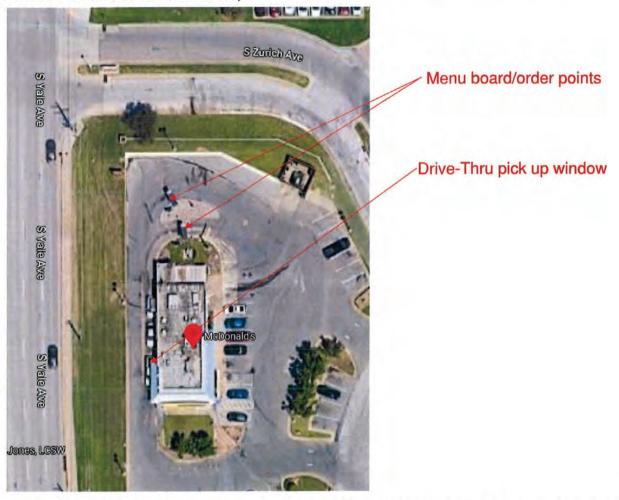
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EXHIBIT A

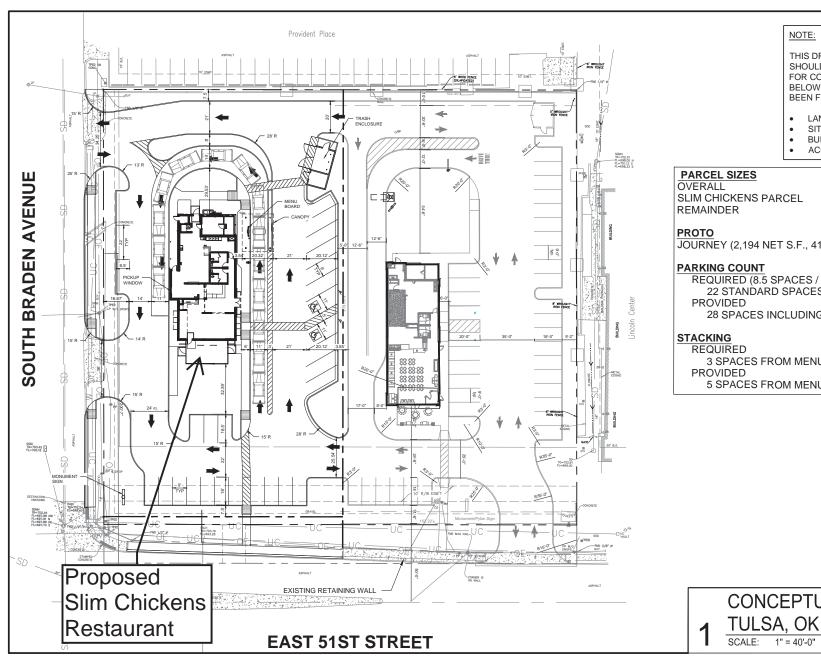
10. Whataburger – 4888 E. 21st St., Tulsa, OK 74114 (Drive-Thru window faces E. 21st St and the Order Point faces S. Yale Ave)



11. McDonald's - 7010 S Zurich Ave, Tulsa, OK 74136 (Drive-Thru window faces S. Yale Ave and the Order Points face S. Zurich Ave)



- 12. Chick-fil-A 7129 S Olympia Ave, Tulsa, OK 74132 (Order Point faces Tulsa Hills Drive)
- 13. Arby's 7117 S Olympia Ave, Tulsa, OK 74132 (Order Point faces W. 71st St. S.)
- 14. McDonald's 8952 S Memorial Dr, Tulsa, OK 74133 (Drive-Thru window faces E. 71st St.)
- 15. Freddy's Frozen Custard -10305 S Memorial Dr, Tulsa, OK 74133 (Drive-Thru window faces E. 103rd St. and the Order Point faces S. 82nd E. Ave)
- 16. Burger King 3242 E. 11th St., Tulsa, OK 74104 (Drive-Thru window faces S. Harvard Ave)



THIS DRAWING IS CONCEPTUAL IN NATURE AND SHOULD NOT BE CONSIDERED A FINAL DRAWING FOR CONSTRUCTION OR PERMITTING PURPOSES. BELOW IS A LIST OF EXCLUSIONS THAT HAVE NOT BEEN FULLY VETTED AT THIS TIME.

- LANDSCAPING REQUIREMENTS
- SITE DETENTION REQUIREMENTS
- **BUILDING SETBACKS AND EASEMENTS**
- ACCESS REQUIREMENTS / RESTRICTIONS

85,269 S.F. (1.95± ACRES) 43,351 S.F. (0.99± ACRES) 41,918 S.F. (0.96± ACRES)

JOURNEY (2,194 NET S.F., 410 S.F. PATIO, 309 S.F.COOLER AREA)

REQUIRED (8.5 SPACES / 1000 S.F.) 22 STANDARD SPACES INCLUDING 2 ADA SPACES 28 SPACES INCLUDING 2 ADA

3 SPACES FROM MENU BOARD PER LANE

5 SPACES FROM MENU BOARD PER LANE



CONCEPTUAL SITE PLAN - OP 2h TULSA, OK - 51st & YALE

SCALE: 1" = 40'-0"

07.10.2023



3.14

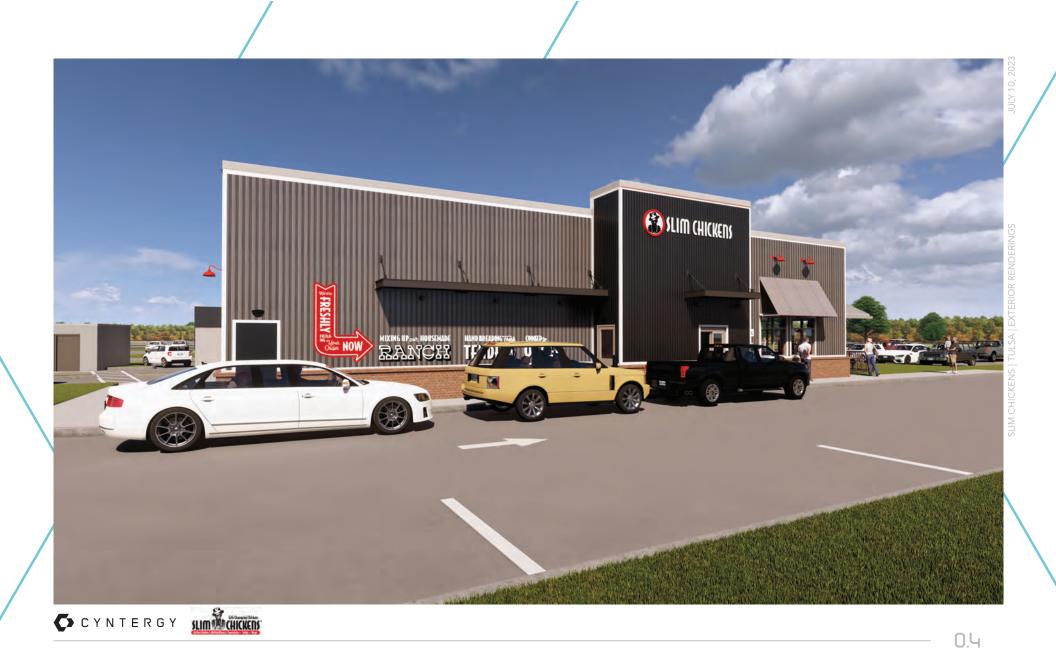


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CYNTERGY SLIM CHICKEN

03



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Drive-Thru pick up window

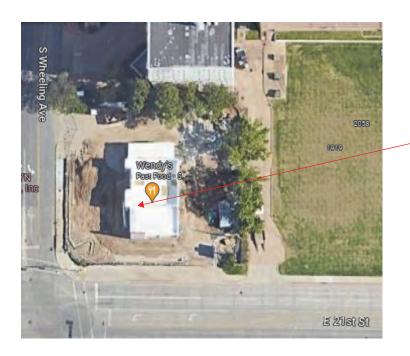
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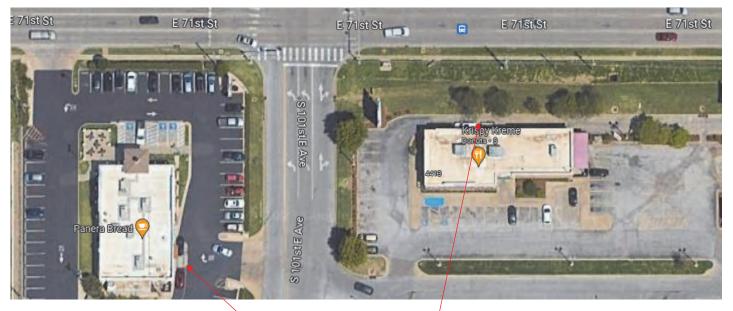


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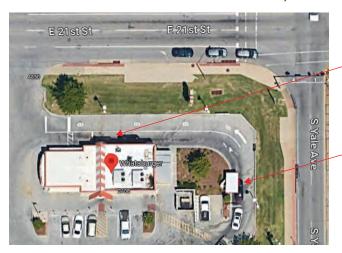
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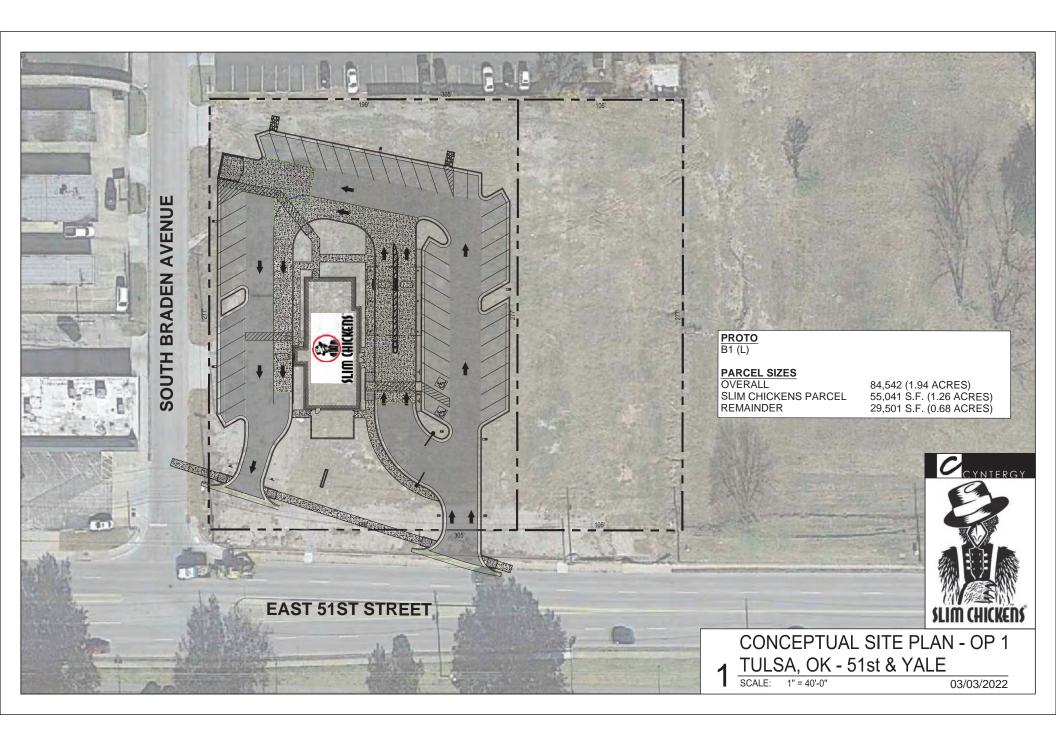
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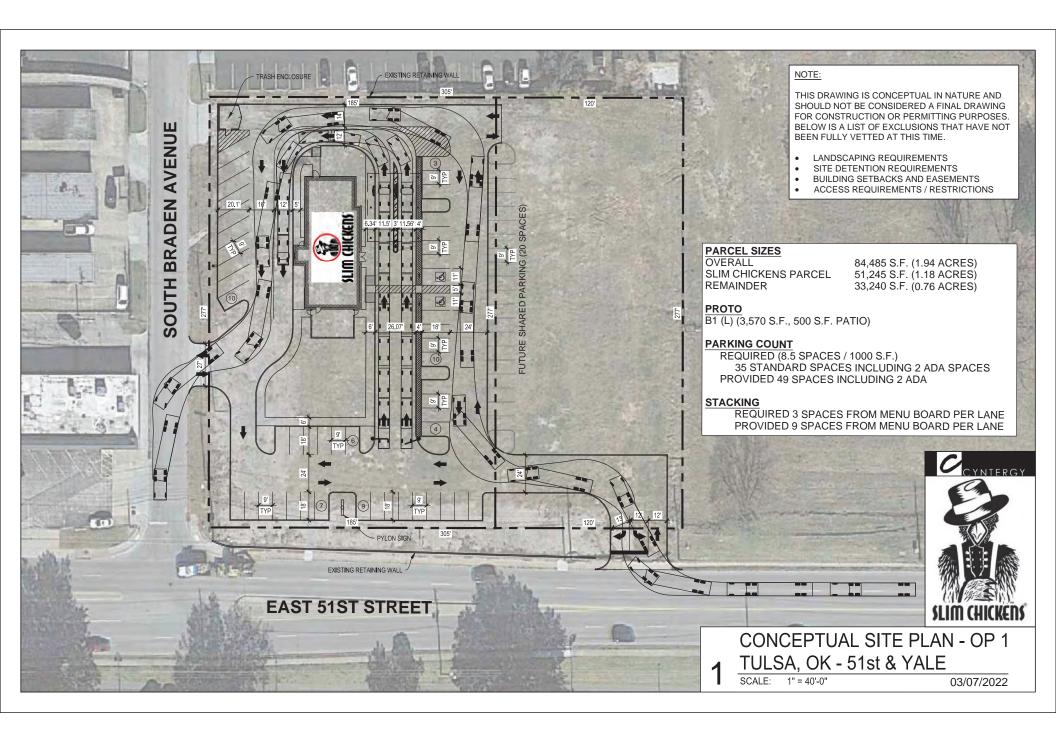
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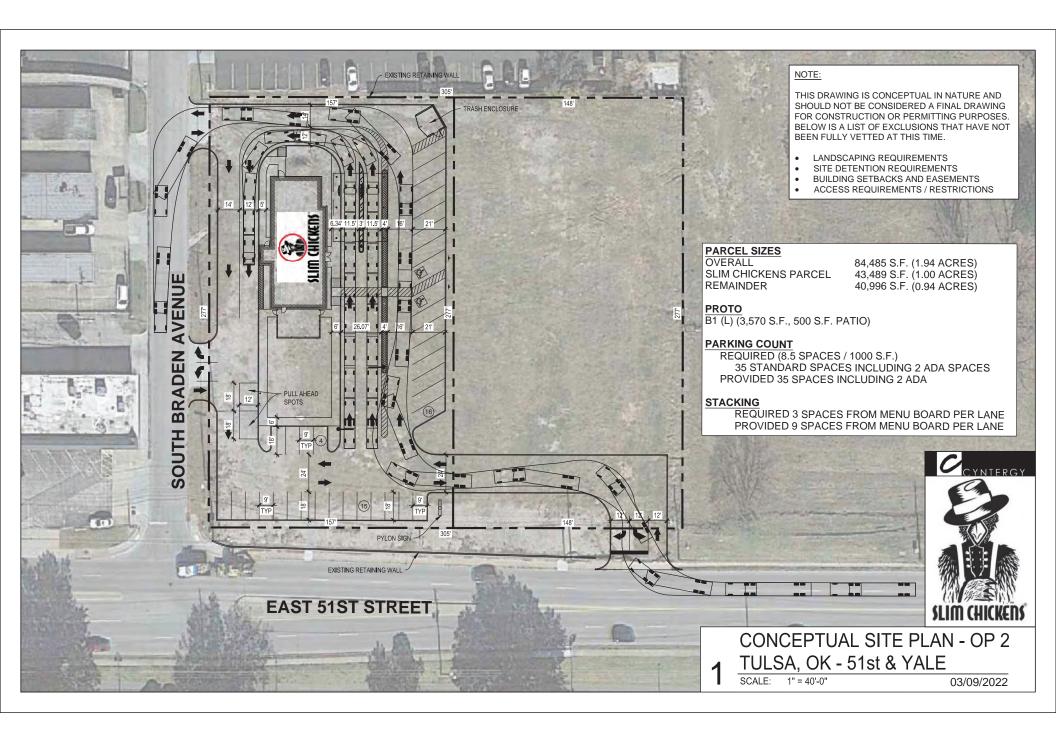


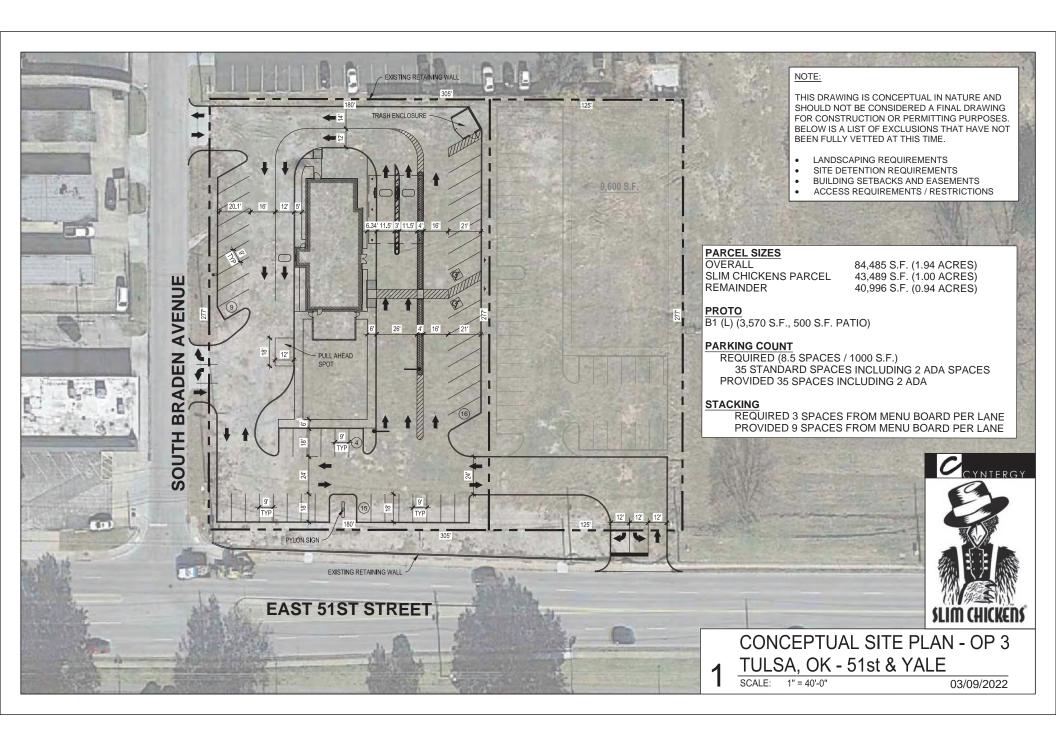
Menu board/order points

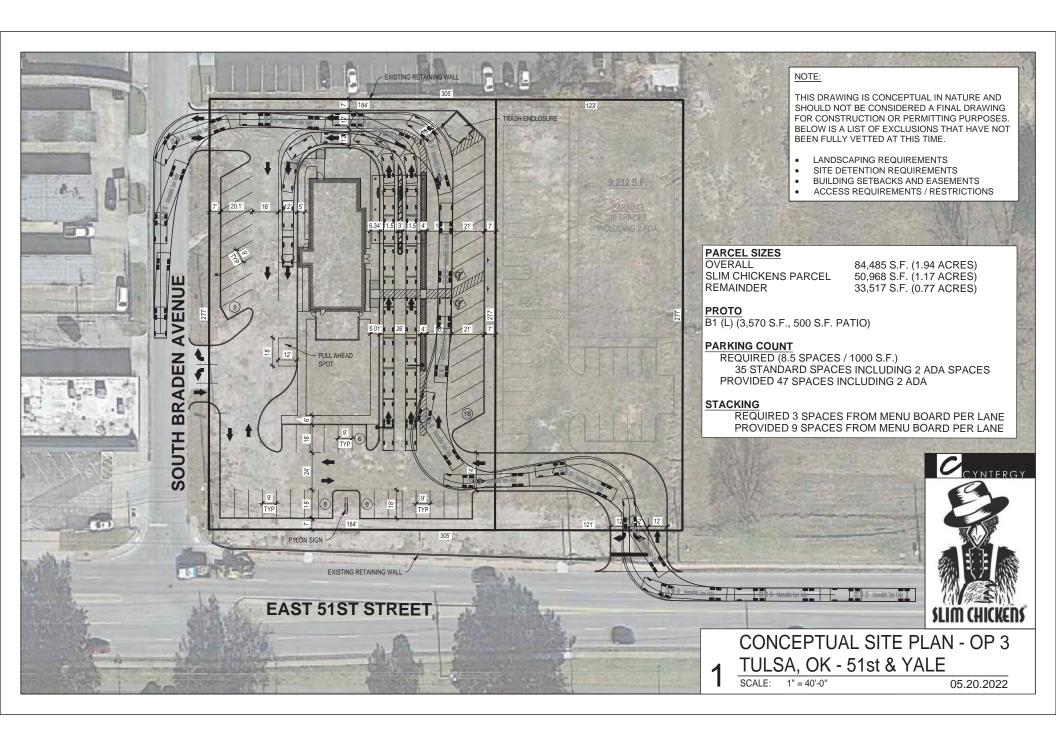
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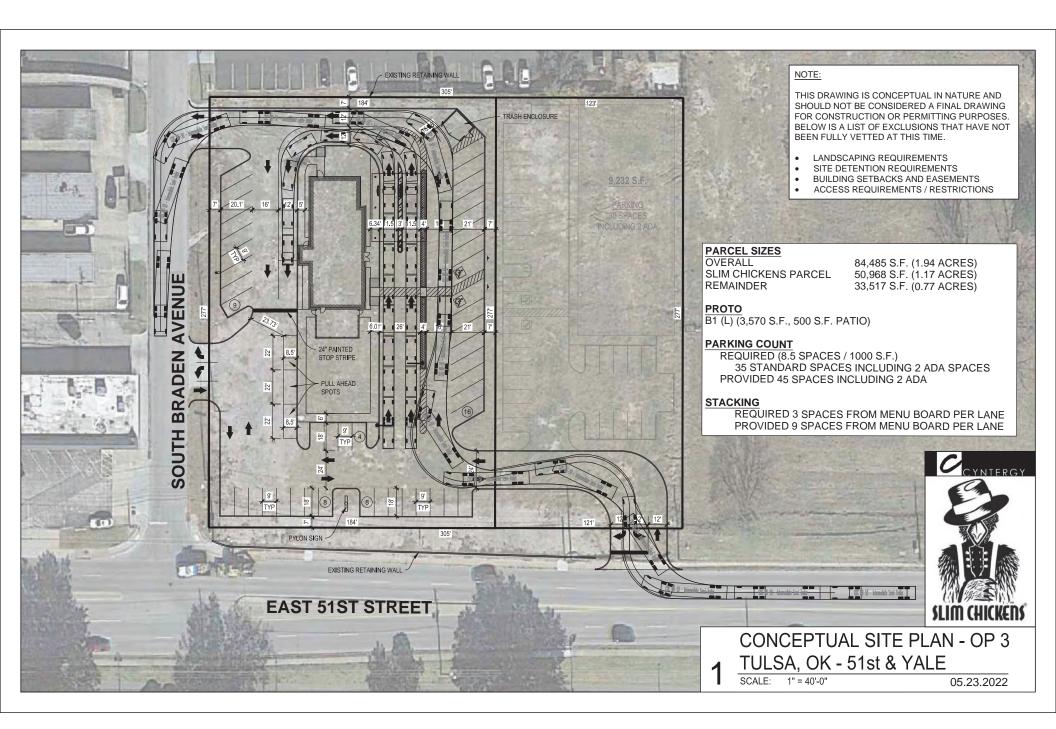


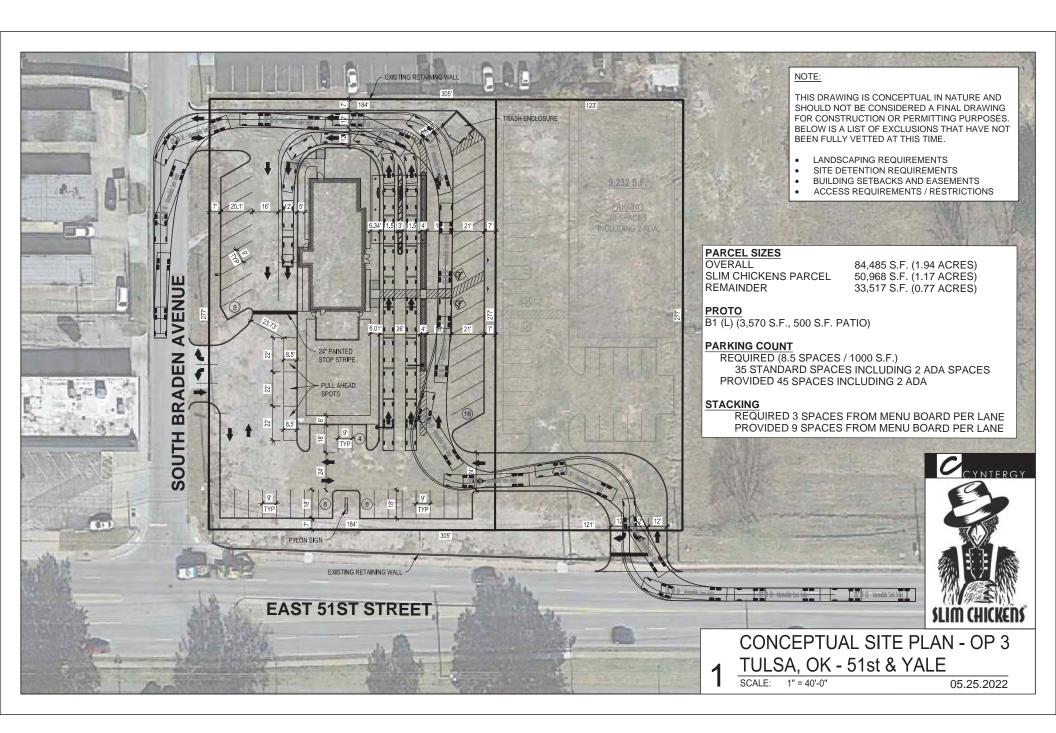


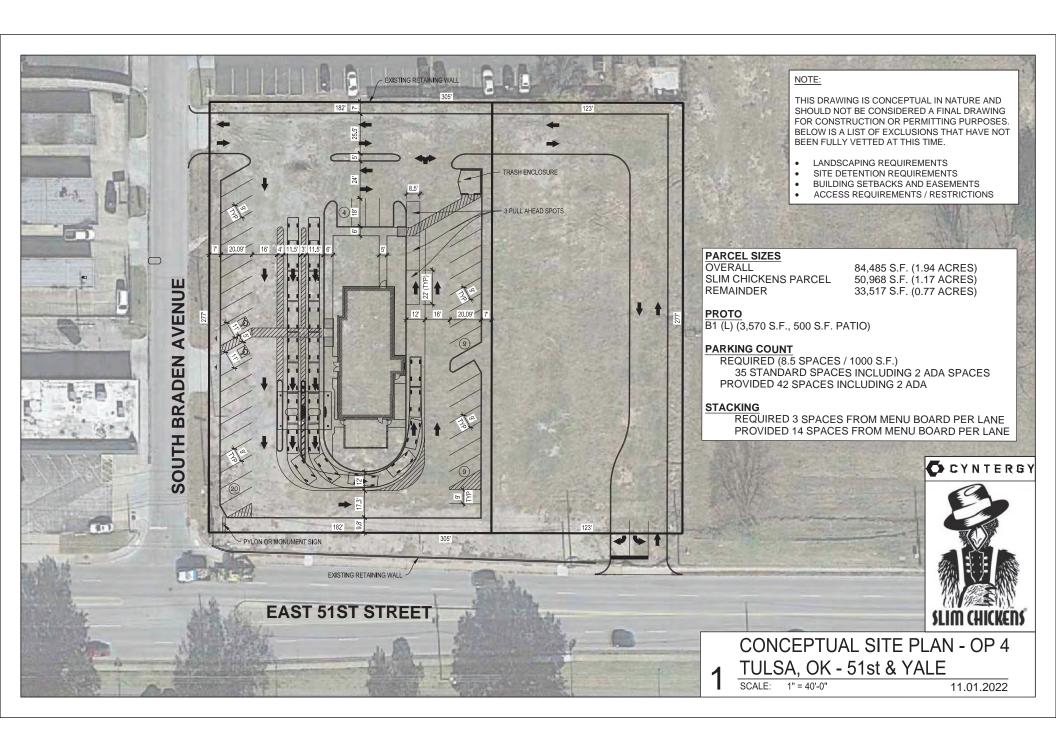


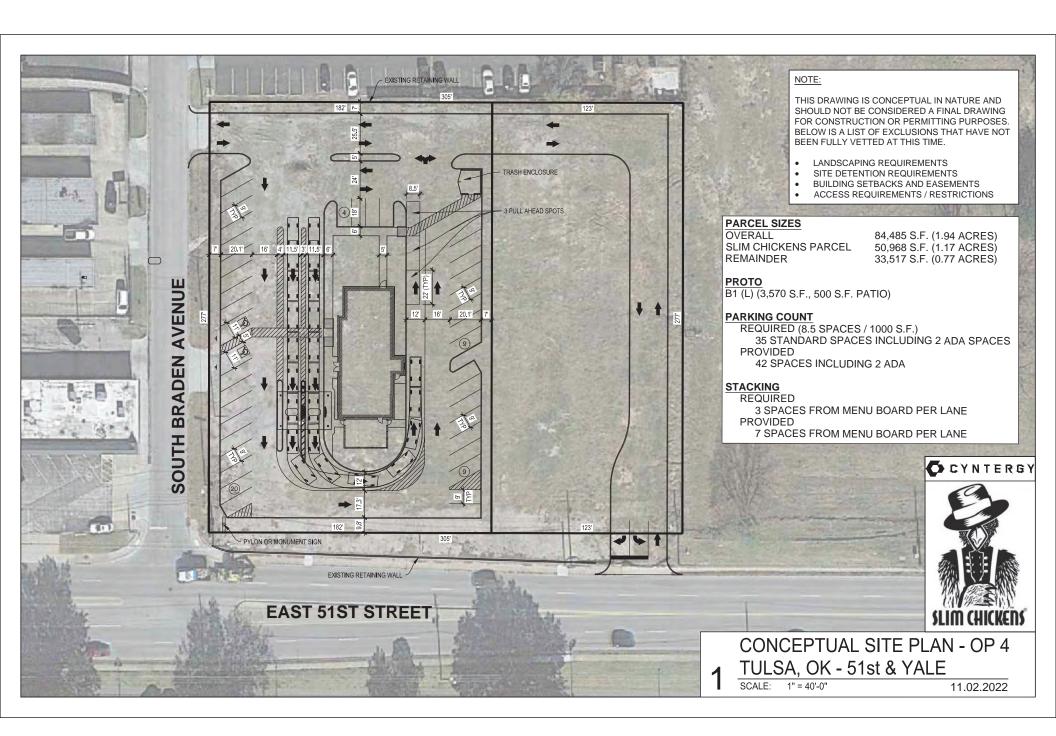


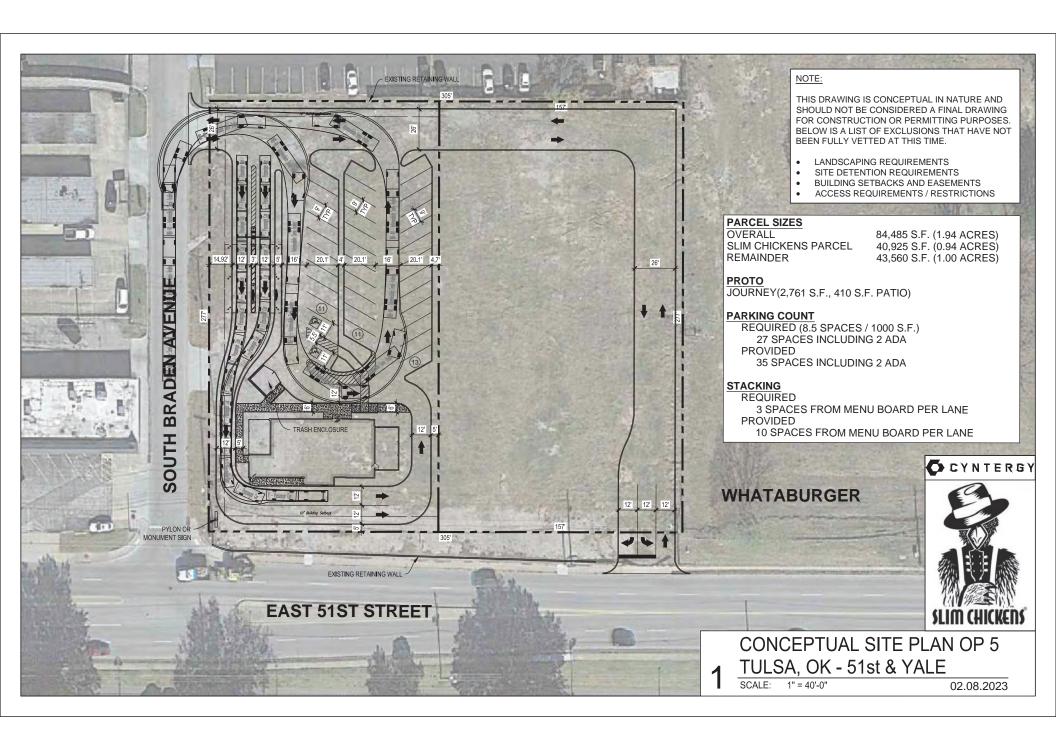














BOA-23550 Aerial Photograph of E. 51st Street Commercial Access