


# **Recoupment: Historical Basis and Application**


July 17, 2018 Council Study Session





# Okla. Stat. tit. 11 § 45-104(C)

The municipal planning commission may . . . adopt regulations governing the subdivision of land . . . [which] shall be approved by the municipal governing body . . . [and] may include provisions as to the extent to which streets and other ways shall be graded and improved and to which water, sewer, and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of the plat.



# Police Power and Public Policy





- Avoids “gaps” in street improvements necessitating “gap” projects.
- Addresses public safety and welfare as well as corrects costly and inefficient implementation of street improvements where development does not occur all at once.




# Police Power and Public Policy



- Public Perspective: Improvement to both sides of street and for the length of road actually affected by the development, not just the portion abutting the developing parcel.
  - Private Perspective: enforces equitable considerations, is designed to “level the playing field” and prevent one parcel from taking advantage of road improvements financed by another, or paid for by the City.
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“A property owner[] is responsible for all costs of improvements to all arterial streets abutting his property . . . .”

- Applicability to all parcels:
    - This provision contains no exceptions, whether for type of use, or based upon whether the parcel is already constructed upon.
    - Limits are imposed, but chiefly within Chapter 19.
  - Applicability to “all costs of [street] improvements”:
    - Construction costs are set out specifically in 16-603 and applied pro rata based on linear foot of abutting parcel.
    - Where ROW and easements are not donated, that cost is directly recovered against parcel (is removed from pro rata calculation so that no donating parcel owner pays when another does not donate)
  - Administered with a process that has been carefully tailored over time.
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# The Process

- 16-602: City empowered to identify and declare boundaries of recoupment project.
  - 16-603:
    - Complete street improvements;
    - Perform calculations of “eligible” costs and file against map and list publicly;
    - Entire abutting parcel subject to a recoupment obligation that will vest in City’s favor upon “development” (sale alone does not trigger obligation)
  - If development within 15 years, 100% of eligible costs may be recovered: (a) as inflated/deflated according to 16-603; and (b) plus a 2% administrative fee.
  - Decreases thereafter, with complete waiver of right to recoup after 20 years.
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# “Development”




“The erection, construction, or change of use of buildings; or the erection or construction of any additions to existing buildings where outer walls are added or altered as to location . . . .”






# Platting

- 19-901: “This chapter intends to require that all land located in City of Norman be platted in conformance with these provisions prior to the actual accomplishment of development . . . .”
  - 19-310: Before final plat can be accepted, public easements and rights of way must be dedicated and street improvements completed.
  - Platting’s Connection to Recoupment:
    - Directly referenced in two places within 16-603, coordinating the two processes where they overlap.
    - Platting acts to: (1) identify parcels not subject to recoupment project; and (2) vest the City’s interest in the recoupment obligations of a parcel within a declared project.
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# Intentional Limitations to Recoupment Applicability

- Expressly based upon Chapter 19, which defines jurisdiction in Section 19-103, reaches all except agricultural parcels and parcels over 40 acres.
  - Other “Variations and Exceptions” are set forth in Article VI of Chapter 19.
  - Among these are:
    - Exemption from platting for particular parcels based on size and lot amount, as set forth in 19-604; and
    - Exception of street improvement costs for residential estates as set forth in 19-607.
  - Latest amendment to 16-603: specified that construction costs paid with bond or federal funds could not be recouped.
    - This amount removed from calculation following completion of project;
    - City of Norman passes to private parcel owners the benefit of its efforts in obtaining alternative sources of funding.
  - Vesting of recoupment obligation entirely within the control of the parcel owner, they do not have to develop within 20 years, can choose to entirely avoid the program and take advantage of City-funded improvements to their parcel.
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# Recent Residential Recoupment




- Cedar Lane Road Bond Project (4/9/13)- Three Unplatted Residential Parcels
- 12<sup>th</sup> Avenue SE Bond Project (2/14/17) - One Unplatted Residential Parcel
- 24<sup>th</sup> Avenue East Bond Project (4/10/18) - Eight Unplatted Residential Parcels
- \*36<sup>th</sup> Avenue NW Bond Project (TBD) – Three Unplatted Residential Parcels

\*Future Recoupment Project





# Marr Property: Rock Creek Road Recoupment Project

- Two issues raised: (1) applicability of ordinance; and (2) history of parcel.
  - Applicability:
    - Question: Should Recoupment Ordinance apply to residential parcels or parcels that are not “vacant”?
    - Answer: Yes, to avoid a “free ride” for later development. Large residential estates prime candidates to sell to a later developer and accommodate a more intense use as city develops.
  - History of Parcel:
    - Question: Why subject to recoupment when certificate of survey filed and rights of way/easements already dedicated?
    - Answer: Not a COS, was a short form plat, which did require dedication; however, these dedications were never received and due to passage of time and lack of record, consultant understandably identified as a recoupment parcel.
    - Research indicates: once corrected, this parcel can be removed from the recoupment project.
    - This does not impact other unplatted residential parcels in project, three remain.
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# Cedar Lane Road Recoupment

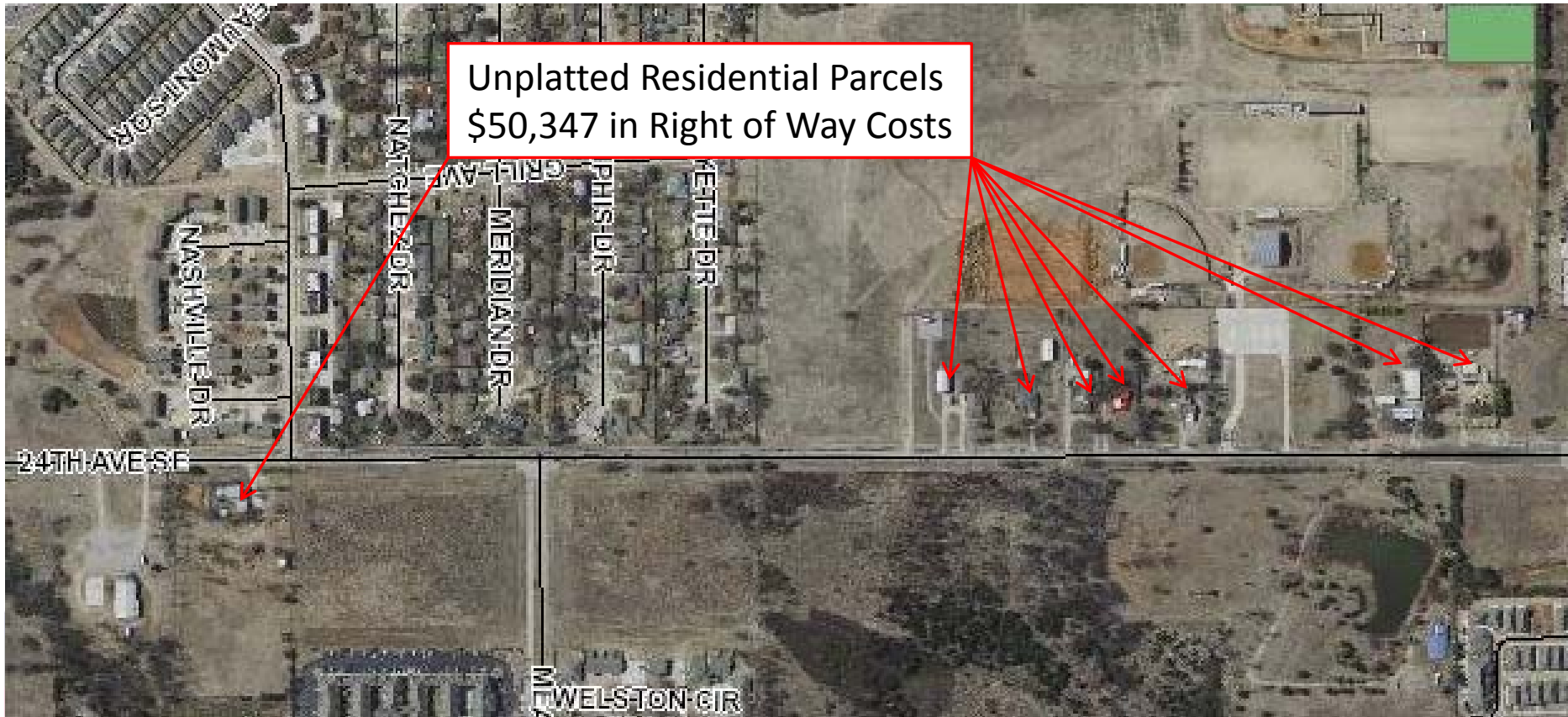




# 12<sup>th</sup> Avenue SE Recoupment



# 24<sup>th</sup> Avenue East Recoupment



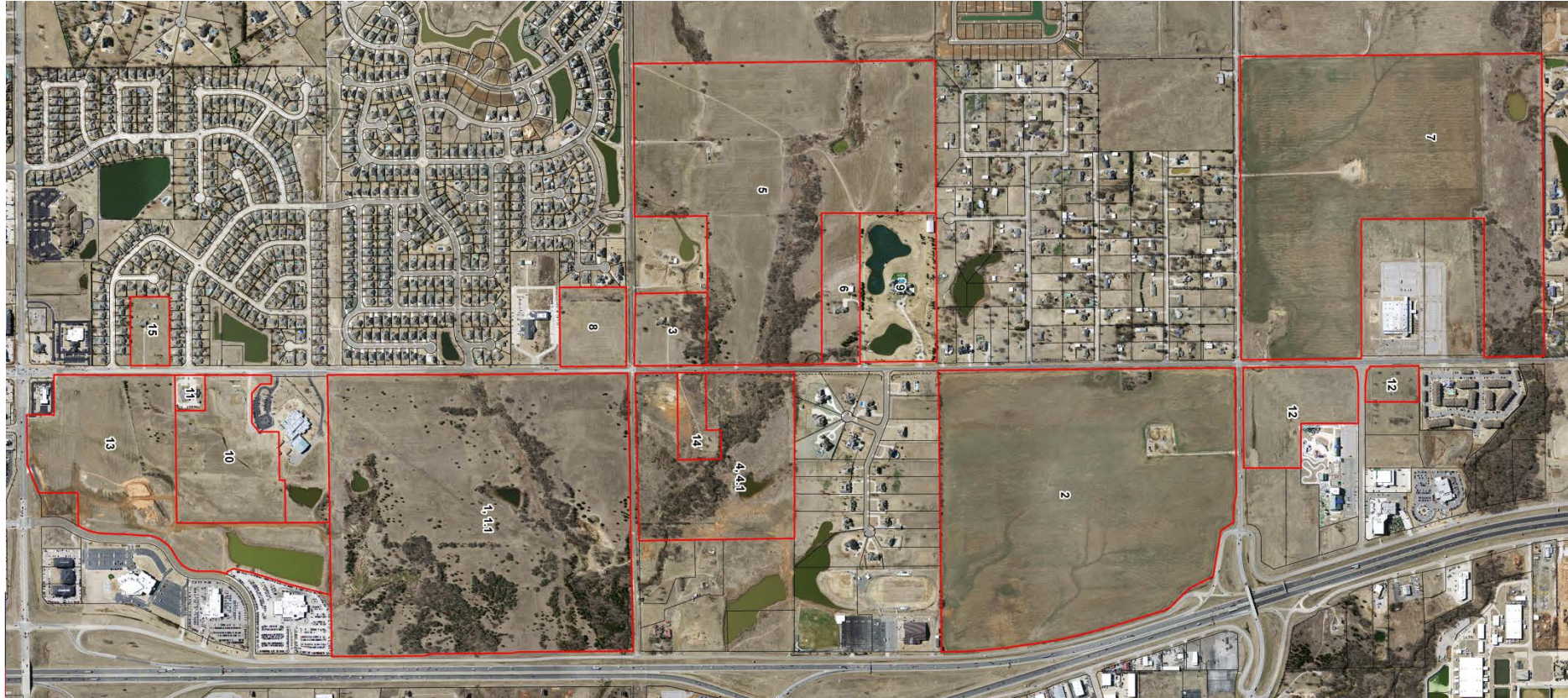


# 36<sup>th</sup> Avenue NW Recoupment





# 36<sup>th</sup> Avenue NW Unplatted Parcels





# Rock Creek Road Residential Recoupment





# Staff Recommendations as Follows:

- Council to resume consideration of Recoupment Resolution No. R-1718-115 for the West Rock Creek Road Project on August 14, 2018
    - Remove Marr Property from Recoupment District provided the City receives dedicated easements as promised with Short-Form Plat on March 13, 2008
    - Three unplatted parcels to remain in Recoupment District
  - Council to consider Recoupment Resolution No. R-1819-12 for the 36<sup>th</sup> Avenue NW Bond Project on August 14, 2018
    - Fifteen unplatted parcels in the Recoupment District
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