

**NORMAN PLANNING COMMISSION
REGULAR SESSION MINUTES**

MAY 14, 2020

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session via Video Conference and in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 14th day of May, 2020. Notice and agenda of the meeting were posted at the Norman Municipal Building and online at <http://www.normanok.gov/content/boards-commissions> at least twenty-four hours prior to the beginning of the meeting.

Chair Lark Zink called the meeting to order at 6:30 p.m.

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Item No. 1, being:

ROLL CALL

MEMBERS PRESENT
via Video Conference

Matthew Peacock
Erin Williford
Tom Knotts
Lark Zink
Erica Bird
Dave Boeck
Sandy Bahan
Steven McDaniel

MEMBERS ABSENT

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A quorum was present.

STAFF MEMBERS PRESENT

Jane Hudson, Director, Planning &
Community Development
Roné Tromble, Recording Secretary
Lora Hoggatt, Planner II
Ken Danner, Subdivision Development
Manager
Todd McLellan, Development Engineer
Bryce Holland, Multimedia Specialist
Beth Muckala, Asst. City Attorney (video)
Jeanne Snider, Asst. City Attorney (video)

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Chair Zink outlined the procedures that will be followed during this video conference meeting. Staff will read any comments received through media into the record. The time limit for public comments will be three (3) minutes; please begin by stating your name and address. If an attorney is representing a group of individuals that exceeds two (2) individuals, the time limit will be ten (10) minutes. We will strictly enforce the time limits. Commissioners will also need to state their name each time they make comments. Voting will be done by an oral roll call. There should be no communication between Commissioners that are not oral and being recorded (i.e., no texting, or chatting through Zoom).

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Item No. 7, being:

COS-1920-2 – CONSIDERATION OF A NORMAN CERTIFICATE OF SURVEY SUBMITTED BY JOHN DANIEL FOR JOHN DANIEL ACRES FOR APPROXIMATELY 37.68 ACRES OF PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF 36TH AVENUE S.E. APPROXIMATELY ½ MILE SOUTH OF STATE HIGHWAY NO. 9.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Norman Rural Certificate of Survey
3. Staff Report
4. Request for Variance to Private Road Width
5. Request for Variance to Water Quality Protection Zone (WQPZ)

PRESENTATION BY STAFF:

1. Todd McLellan reviewed the staff report, a copy of which is filed with the minutes.
2. Mr. Boeck – Why are we allowing them to come forward with this when they haven't provided the required information? It feels like I'm wasting my time.
Mr. McLellan – I think the answer to the question is that the applicant has a right to ask for a variance, so that's why this is brought forward.
Mr. Boeck – But can they ask for a variance without first providing all required information? If they're supposed to provide a certain kind of information, then they should provide that information before they're asking for a variance, so we have an intelligent process of looking at what their variation is going to be. Right now we have nothing to look at. I feel like I don't have enough information, and won't even when they do their presentation.
3. Mr. Peacock – I just think this information is incredibly critical, especially in light of the Thunderbird TMDL compliance plans. Not having all the details to make sure that is in sync with that plan, I think, is a really big overstep.
4. Ms. Bird – I want to just second some of the same comments about not being able to maybe make the adequate decision that needs to be made. I'd like to look at the placement of the trailer on Tract 1 and if that's going to be placed, or is already placed, in a flood zone. But without having the proper mapping, I don't feel like it's at a point where I could make an evaluation on that.

PRESENTATION BY THE APPLICANT:

1. Johnny Mertens, 1821 Quail Creek Drive (via video conference) – The nature of the creek that affects this property, in itself, is the reason why we're asking for the exception on this and the variance. This creek is affecting over 230 feet of a 10-acre parcel that's 600 feet wide. We think the fact that we're putting only one house on a 10-acre tract is a huge protection zone in itself. We're not asking for a plat. We're asking for one house on 10 acres. The second house is already there and it's inside of that zone; that's why we've moved the zone so that the house wasn't in it; that's been there for years. The trailer that's at the very front on Lot 1 – that someday will be removed. The land owner is going to still keep Lot 1. But we're trying to break this into three parcels. He's going to continue living in that second trailer on Lot 2. I'm personally going to be building a house on Lot 3 for my personal self. I'm just working with him to help him break his almost 38 acres up. But the fact that this land is impacted so much by the water protection zone, and what you're asking is for the land owner to give up – you're not giving up ownership, but you're giving up use of over 200 feet of that property. We did get the City the cross-sections, but they've asked us to do other – more stuff on that cross-section. They do have 100-foot interval cross-sections that go 100 feet out from each side of the creek. But the nature of the creek zig-zagging through 10 acres eats up over 200 feet right down the middle of that creek. We've put into the Certificate of Survey a single crossing that's 20' wide, as allowed, that gives you access to the other side of the 10 acres. So we're trying to at least keep these three parcels to where they're actually usable parcels. But if the City is saying we want a protection

zone that eats up so much of it, and the homeowner gets to own it – they get to pay the taxes, but they don't get enough of the land left to actually use it. So what we've done is we've gone through and said, okay, well let's still put in a protection zone, but keep in mind there's only one residence on the 10 acres – on each of those 10 acres. That's a huge protection zone when we're talking about something at 36th Avenue. We could be asking for something that's much more dense than that, but we're not. We're asking for three houses on 38 acres. That does protect the watershed in itself, because it's going to only have three houses, and one of them is already there. That's why we've requested – just because the manner of it and the language in the statute says if it affects the property in such a manner that we have the right to ask for that variance. But I don't need to do an engineering solution to say I can't give the City this much land because it kills the value of the land. It kills the use of the land. And just putting one house on 10 acres at a time is not a huge environmental impact. That's the reason that we've pushed this forward. We are currently – the City has asked for additional information regarding the cross-sections, and we're working on that. But that doesn't change the nature and the description of how that creek zig-zags back and forth through those first two lots. The second lot is – he lives in that trailer. It's not going to get moved. And we own both sides of the creek. So to give the City that much land – and, yes, they're just asking for an easement, but you're not really asking for an easement. You're asking for that land not to be touched. You're asking for us to take control, take liability, pay the taxes, but don't use it. So having one house on 10 acres is not a big environmental impact. And I think that, in itself, justifies our request for the variance.

2. Mr. McLellan – I would like to respond. We would be happy to sit down with Johnny any time and try and work this out. But, again, there is a mechanism to shrink the water quality protection zone to where he wants it, it's just we need data and the engineered solution. Like I said, we'd be happy to look at it; we just need the data.

Mr. Mertens – One of our issues is, because this is a homeowner that I'm working with, spending a lot more money on the engineering solutions and stuff is just making this cost so much more. Well, we don't even have a variation on whether or not the City is going to let us work what we're trying to do to begin with. So it doesn't make sense to hire an engineering company to come in and help with engineering solutions, when just having one house on 10 acres is a huge solution for low impact on the water quality shed.

3. Mr. McDaniel – You said you provided the information to the City. Is that correct?

Mr. Mertens – Yeah. Correct.

Mr. McDaniel – What was the additional information that was requested?

Mr. Mertens – I think Todd could probably answer that better. They're wanting us to go out further and give more detail on the elevations. We used a certain amount of elevation over the creek, is what we based our lines on. So we followed that, with the exception of where the trailers were and where the crossing was to get across to the other side of this property. We went along – and I don't remember if – I don't remember the elevation, because on the plat you don't have to require – the initial plat we put forward – or Certificate of Survey had all the elevations on it, but we had to take that off as required. So there was topography with that.

AUDIENCE PARTICIPATION:

1. Stephen Ellis, 633 Reed Avenue (YouTube Comment) – Please do not weaken the WQPZ requirements, especially if the applicant isn't even producing required information. No hardship or inequity here.

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

1. Mr. Boeck – My comments are Lake Thunderbird already has issues and it's the reason we did the WQPZ plan in the first place was because of the pollution in the lake and our desire not to get in trouble with the Environmental Protection Agency. So we spent money on the plan. So I kind of feel the same way as that person that commented. We are here to protect our waterway and our water system for the community that we live in. I understand wanting to build

a house. It's only 10 acres. But there's been absolutely no engineering provided that backs that up. I don't know if Johnny is an engineer, but all I'm hearing is, well, it can't be that bad because we've only got 10 acres and we want to build on this land. Well, we're here – at least I feel like I'm here to protect what's part of Norman – what's better for all the citizens of Norman. And I want to protect Lake Thunderbird and all its drainage systems, and that's why we don't allow any activity in those areas, is to keep it from polluting. So I'd have to say that I can't support this request.

2. Ms. Zink – I wanted to add that I share the Commissioners' concerns – Commissioner Boeck, Commissioner Peacock, and Commissioner Bird. I believe that we can't even reach the merits of this request for a variance, because the proper procedure was not followed in submitting the request. So I share the views of my fellow Commissioners who have spoken on this subject that this request was not handled appropriately.

3. Mr. Knotts – The proximity of the trailers to the stream are my concern, because, as stated, they'll have septic systems. If the water gets up, it'll flood the septic system and it will then wind up with additional pollution. So I'm joining Commissioner Boeck in resisting this.

4. Ms. Williford – As we ask public participants to do, I will not repeat all of the same words of my fellow Commissioners, but I share all of the thoughts and do not support this.

5. Ms. Bahan – I just want to say that I agree with the other three that have made comments and with Commissioner Zink that this is not a good idea to approve this without the information that was requested. I cannot approve this.

Tom Knotts moved to recommend denial of COS-1920-2 to City Council. Dave Boeck seconded the motion.

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Matthew Peacock, Erin Williford, Tom Knotts, Lark Zink, Erica Bird, Dave Boeck, Sandy Bahan, Steven McDaniel
NAYES	None
MEMBERS ABSENT	Nouman Jan

Ms. Tromble announced that the motion, to recommend denial of COS-1920-2 to City Council, passed by a vote of 8-0.

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