

**NORMAN PLANNING COMMISSION
REGULAR SESSION MINUTES**

JULY 11, 2013

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 11th day of July 2013. 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.

Chairman Chris Lewis called the meeting to order at 6:30 p.m.

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Item No. 1, being:

ROLL CALL

MEMBERS PRESENT

Jim Gasaway
Andy Sherrer
Cindy Gordon
Sandy Bahan
Tom Knotts
Chris Lewis

MEMBERS ABSENT

Curtis McCarty
Roberta Pailes
Dave Boeck

A quorum was present.

STAFF MEMBERS PRESENT

Susan Connors, Director, Planning &
Community Development
Jane Hudson, Principal Planner
Janay Greenlee, Planner II
Ken Danner, Subdivision Development
Manager
David Riesland, Traffic Engineer
Roné Tromble, Recording Secretary
Leah Messner, Asst. City Attorney
Larry Knapp, GIS Analyst II
Terry Floyd, Development Coordinator

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Item No. 11, being:

RESOLUTION NO. R-1314-7 – 1217 SOUTH BERRY, L.L.C. REQUESTS AMENDMENT OF THE NORMAN 2025 LAND USE AND TRANSPORTATION PLAN (LUP-1314-2) FROM LOW DENSITY RESIDENTIAL DESIGNATION TO COMMERCIAL DESIGNATION FOR PROPERTY LOCATED AT 1217 S. BERRY ROAD.

ITEMS SUBMITTED FOR THE RECORD:

1. 2025 Map
2. Staff Report
3. Pre-Development Summary
4. Greenbelt Commission Comments

ORDINANCE NO. O-1314-3 – 1217 SOUTH BERRY, L.L.C. REQUESTS REZONING FROM R-1, SINGLE FAMILY DWELLING DISTRICT, TO C-2, GENERAL COMMERCIAL DISTRICT, FOR PROPERTY LOCATED AT 1217 S. BERRY ROAD.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
3. Site Plan

PP-1314-2 – CONSIDERATION OF A PRELIMINARY PLAT SUBMITTED BY 1217 SOUTH BERRY, L.L.C. (ARC ENGINEERING CONSULTANTS, L.L.C.) FOR LINBERRY CORNER EXPANSION ADDITION FOR PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF WEST LINDSEY STREET AND SOUTH BERRY ROAD.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Preliminary Plat
3. Staff Report
4. Transportation Impacts
5. Site Plan
6. Request for Alley Waiver

PRESENTATION BY STAFF:

1. Jane Hudson – The applications before you are a Land Use Plan amendment as well as the rezoning. Current site is low-density residential. It's directly south of the corner of Lindsey and Berry Road on the east side. If approved, it would pull the commercial designation for land use as well. For the rezoning, the current zoning for the site is R-1 and they are requesting C-2. They would like to use it for a parking lot, is their proposal. Existing zoning is R-1 to the south and east. We've got C-2 and RM-6 to the west. The existing land use, you've got the single-family to the south again and multi-family to the west as well as the commercial. This is a proposal of the site plan itself. Here's the site. The old Texadelphia restaurant is to the north of this site directly adjacent. This is a shot of the lot that is to the east of the parking lot as well as the restaurant. This is the far east side of the lot. This is looking south. Again, south southwest with the multi-family. This is again west. This is a small little strip mall there that's currently in business and then the gas station. The photo I showed you a moment ago of the lot to the east is the subject tract that did have the protest on there. I need to make one correction in your Planning Commission agenda. On the site plan they had showed landscaping on the south side, the east side. They did not show landscaping on this north portion here. That was brought to my attention and they would be required to buffer that parking area against the single-family use with additional trees. I'd be happy to answer any questions. Staff does support these two requests – Ordinance No. O-1314-3, Resolution No. R-1314-7. The applicant's representative is here to give you a presentation or answer any questions as well.

2. Mr. Knotts – If we approve the C-2 on this lot, do they have to build the parking lot?

3. Ms. Hudson – It's my understanding that what is approved by Council – the site plan that you see which has the parking lot on it – should they decide to vary from that, they would have to revisit.
4. Mr. Gasaway – Kind of along the same line, if it does become C-2 and it's a parking lot for a few years, is there any protection afforded the neighbors that it couldn't automatically become something else legal in a C-2?
5. Ms. Hudson – Well, again, if it varies from the approved site plan that Council approved, then it's my understanding that they would have to come back and make those changes and those requests to that site plan.
6. Ms. Connors – Leah and I are trading looks. I don't agree with that. I think that the zoning allows a list of permitted uses, and any use within that, whether we have an approved site plan or not, and I'm going to let Leah finish that.
7. Leah Messner – I agree with Susan as to the zoning. If we rezone it to the requested zoning, they can do any use that they would like within that zoning category. However, I spoke with Mr. Danner earlier. The site plan is something that is part of the platting, and so Mr. Danner advises that if they show on the site plan that's a part of the platting of the lot that it's going to be a parking lot, that they would need to come back, at least to City staff, to revisit what the site plan is and how they can use the site, if they put on the site plan that it's all parking. Is that helpful, or more confusing?
8. Chairman Lewis – It was confusing to me. Let me ask a question. So in that case, knowing that there's an easement that runs through there and it would be difficult to build on top of it, my understanding from what you said is if they wanted to raze the current Texadelphia, or the building that's there – excuse me, not the business – and move it over to the parking lot, all they would have to do is come to the Planning Department and make that application?
9. Ms. Messner – I think I'm going to ask Ken to speak to that a little bit, because that's a platting issue that he's handled here for many, many, many years.
10. Mr. Danner – With the platting the site plan is specific. And a revised site plan could be submitted to staff. Normally, if it is a venture that is not part of what has been previously approved, we will more than likely send it back through for approval through the bodies.
11. Ms. Messner – Terry has been nice enough to open up the section of Chapter 19 that applies. And it says in such cases where a site plan has been required – so in this instance – and you want to file an amended site plan, it has to conform to all the code requirements and it may not deviate by adding more than 5% to the gross building area or 5% to the parking area. And, if it does, it's no longer an administrative process that staff could approve, and it comes back through.
12. Mr. Knotts – In some of the comments that were in the packet, there was a discussion that they haven't decided what the footprint of the restaurant is going to be, or what it's going to be. Would that current footprint of the building be part of this platting process and, therefore, if they increased it by 5% it would come back through?
13. Ms. Hudson – On the north side? That's not part of this plat, though.
14. Mr. Knotts – So they could actually build a significantly larger building on the existing.

15. Chairman Lewis – My understanding is that, unless they submit a new preliminary plat, anything that changes on the current preliminary plat greater than 5% -- that would have to come back through the Commission as a separate item. Correct?

16. Mr. Danner – The existing restaurant site is not part of this process. And at the time that was platted, the standards and regulations weren't the same. More than likely, a site plan was not specific back at that time.

17. Mr. Knotts – They have stated – it's in the packet, not sure if the existing building would be enlarged or what kind of restaurant it would be.

18. Mr. Danner – They would have to do it on that property.

19. Mr. Knotts – There would not be any kind of approval process for that.

20. Mr. Danner – More than likely not under the circumstances of when that was platted.

21. Ms. Connors – That lot is zoned and platted. They would go through a building permit process to change anything and they would have to meet the standards of the zoning – so all the setbacks and the parking requirements -- the current standards of the zoning if they were going to amend that building.

PRESENTATION BY THE APPLICANT:

1. Steve Rollins, Arc Engineering Consultants, 150 Deer Creek Road, Edmond, representing the applicant – This is a 0.49 acre site that we are proposing a parking lot. The developer is purchasing the existing Texadelphia restaurant site, so this is specifically to add parking to that restaurant. There will be 42 new parking spots added, in addition to the 23 parking spots that currently exist on the Texadelphia restaurant site. There have been many restaurants and businesses in this existing building that haven't worked and we believe that one reason for that is the lack of parking on the site. This will allow the developer to put in a successful restaurant and a nice concept for this area that will work and we won't have an empty building sitting at the corner of Lindsey and Berry Street. Also, as you probably know, Lindsey Street will be widened in a few years, and this will also take additional right-of-way along the north side of the existing Texadelphia restaurant site, again affecting parking and possibly taking even more parking at that time. This is a need for the business to make it successful. Detention is being provided within the parking lot. The stormwater will not affect any of the properties around us and we are requesting that the zoning be the same as the restaurant currently exists. If there are any questions or comments, I'd be happy to address those.

2. Ms. Gordon – I have a couple of general questions. What currently are the parking requirements – what would they have been for Texadelphia? Did they meet parking requirements with the 23 or whatever they had for that size restaurant?

3. Ms. Hudson – Currently the sit-down restaurant requires one space per 50 square feet of the customer service area, not the entire building. So it would just be based on where the customers would be sitting.

4. Ms. Gordon – My other question was, when they're widening Lindsey, how far are they going to widen that? Are they going to go all the way through, or are they going to kind of stop at Berry? Does anyone know that?

5. Mr. Riesland – The widening will extend to the bridge to the east of Berry. The bridge over Imhoff Creek. It's not all the way to Pickard, but it is across the frontage of the property. It's to get the drainage taken care of.

AUDIENCE PARTICIPATION:

1. Kelly Work, 105 N. Hudson, Suite 304, Oklahoma City – I'm here representing Mr. Hugh Ledbetter, who owns the property that is immediately to the east of the subject property. Mr. Ledbetter is present here tonight. That is his home. He resides there and has for many years. That property is addressed as 1104 West Lindsey. It is 1.5 acres in size and the drive, as was shown earlier in one of the aerial photos – his access is taken from Lindsey. I do have an aerial photo that I would like to pass around that I think gives you a good idea of what the existing uses are and how they're situated. One thing, while that's going around, that I just want to get some clarification on. The staff report makes reference to the applicant having purchased this property, but I don't think that is a correct statement. As I understand it, the applicant may have entered into a contract to purchase these two properties, probably contingent on getting the necessary approvals from the City of Norman, but at the present time those properties are owned by two other parties – by separate parties, so I just wanted to provide that clarification.

What I've done on the aerial photo is we've outlined in red the rough boundaries of Mr. Ledbetter's property and in black to the west there is the boundary of the subject property that is under consideration today. The request is to rezone the property from R-1, Single Family, to C-2, General Commercial, and we are opposed to that request to rezone the property to the general commercial zoning district. If that is to be done, or were to be done, it would significantly increase the amount of commercial zoning on this corner – C-2 zoning – that would allow the expansion and intensification of commercial use into the residential area and would extend, as you can see from the map and from the aerial photo – it would extend the commercial property into the area where Mr. Ledbetter lives. The property that is the subject of the rezoning extends at least another 50% into Mr. Ledbetter's property, which borders on the north. The C-2, General Commercial, we would submit, is just not compatible with R-1, Single Family residential use. There are many uses in the C-2 district that would be harmful and have adverse impact on single-family residential use, and it is just generally not considered to be desirable to have general commercial use adjacent to single-family residential.

And I know you all are familiar with this, but I just wanted to provide you with a copy of the uses permitted under the Norman ordinance in the C-2. If the C-2, General Commercial zoning is allowed to be expanded, you're going to have more noise, more odors, more trash, and more adverse impact on the residential property. And I want to address some of the comments just real briefly. The decision that is being made here today – if the C-2 zoning were to be approved – you are going to be allowing all of the uses that are allowed as permitted uses in the C-2 district. If they want to use the property as a gas station – if they want to use it as a dry cleaners – if they want to use it as a convenience store, they will be permitted to do so under the C-2 district. The only issue would be, as I understand it, whether or not a site plan would comply with the code requirements in terms of setback and other issues. So you are making the decision as to what the uses are that would be allowed.

If the intended use is a parking lot, they don't need C-2. They could do a parking lot in CO, Suburban district with a special use permit. They could do it in C-1. So there's no need to have the extreme measure of having C-2 extend into this residential area in order for a parking lot to be allowed. We would ask that you give it careful consideration as to the impact that may be. There have been several restaurants, it's been mentioned, that have gone in and out of that location. If this one is attempted and fails, it's going to be another C-2 use that goes in there. Thank you. We ask that you deny the application.

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

1. Ms. Gordon – Can I ask another quick question of the applicant? I'm sorry to be harping on this parking thing. So it says in here that you're going to be losing 17' due to the widening. How much parking would that take?

2. Steve Rollins – There are four parking spots along the north side and then there's parking along the east side. So 17' is going to take probably three spots here and then there will be

some sort of grass buffer between the street. So it may take three – four – five spots, just estimating.

3. Ms. Gordon – So you've clearly been in the Texadelphia restaurant, I'm assuming. Right?

4. Mr. Rollins – I actually have not been inside. No.

5. Ms. Gordon – So you do not know how much patron square footage there is.

6. Mr. Rollins – I do not. I'm sorry. No.

7. Mr. Gasaway – Let me ask a question of staff. Since it sounds like the primary objection is the concern over C-2, what other zoning categories with special use for parking lot could be considered?

8. Ms. Connors – I need to ask one question before that. The preliminary plat is only for this lot and is not incorporating the two lots into one. Is that correct? So it will be a separate platted lot. I'm seeing the staff shake their head yes.

9. Mr. Rollins – Okay. Yes. And the existing Texadelphia lot is already zoned C-2, so we already have C-2 zoning there.

10. Ms. Connors – So the question here is, though, if they're not incorporated into a single lot, which would protect this as only being a parking lot into the future. So to answer your question, Commissioner, R-2 is the first zoning district that would allow a parking lot for C-2 uses that are adjacent as a special use. The R-2 zoning district allows parking lots for C-2 uses as long as they're adjacent.

11. Mr. Gasaway – If that's the case, maybe I should ask the applicant why they chose C-2.

12. Mr. Rollins – To match the existing restaurant. It is already zoned C-2, so we matched that. That's what worked with our project. City staff also agreed and approved that. That's the reason.

13. Mr. Knotts – I understand the problem of not being able to get enough patrons in. I also look at this as commercial creep into residential. I feel like the most limiting zoning change would be the most appropriate for this, because I can – some corners have curses and if it went out of business we wouldn't have a whole lot of opportunity to correct this residential creep.

Tom Knotts moved to recommend denial of Resolution No. R-1314-7, Ordinance No. O-1314-3, and PP-1314-2, the Preliminary Plat for LINBERRY CORNER EXPANSION ADDITION, to City Council. Cindy Gordon seconded the motion.

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

YEAS	Jim Gasaway, Cindy Gordon, Sandy Bahan, Tom Knotts, Chris Lewis
NAYS	Andy Sherrer
ABSENT	Curtis McCarty, Roberta Pailles, Dave Boeck

Ms. Tromble announced that the motion, to recommend denial of Resolution No. R-1314-7, Ordinance No. O-1314-3, and PP-1314-2, the Preliminary Plat for LINBERRY CORNER EXPANSION ADDITION, to City Council, passed by a vote of 5-1.

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