

**NORMAN PLANNING COMMISSION
REGULAR SESSION MINUTES**

JANUARY 11, 2018

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 January, 2018. 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 Erin Williford called the meeting to order at 6:30 p.m.

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Item No. 1, being:

ROLL CALL

MEMBERS PRESENT

Sandy Bahan
Nouman Jan
Chris Lewis
Neil Robinson
Erin Williford
Lark Zink
Dave Boeck
Tom Knotts
Andy Sherrer

MEMBERS ABSENT

None

A quorum was present.

STAFF MEMBERS PRESENT

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

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Item No. 9a, being:

R-1718-77 – WALLY & CYNTHIA KERR REQUEST AMENDMENT OF THE NORMAN 2025 LAND USE AND TRANSPORTATION PLAN FROM MEDIUM DENSITY RESIDENTIAL DESIGNATION AND FLOODPLAIN DESIGNATION TO OFFICE DESIGNATION AND FLOODPLAIN DESIGNATION FOR PROPERTY LOCATED AT 801 36TH AVENUE N.W.

ITEMS SUBMITTED FOR THE RECORD:

1. 2025 Map
2. Staff Report

and

O-1718-30 – WALLY & CYNTHIA KERR REQUEST REZONING FROM RM-2, LOW DENSITY APARTMENT DISTRICT, TO SPUD, SIMPLE PLANNED UNIT DEVELOPMENT, FOR 0.73 ACRES OF PROPERTY LOCATED AT 801 36TH AVENUE N.W.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
3. SPUD Narrative with Exhibits
4. Proposed Site Plan
5. West Elevation
6. Pre-Development Summary

PRESENTATION BY STAFF:

1. Janay Greenlee reviewed the staff report, a copy of which is filed with the minutes. Staff supports the requested change from Medium Density Residential to Office Designation; staff recommends approval of Resolution No. R-1718-77. Staff supports this request to rezone to SPUD for professional offices; with the condition the 25' platted build line is vacated, staff recommends approval of Ordinance No. O-1718-30.
2. Mr. Knotts – I read that there was a traffic light proposed at Bob White, at the entrance of this. Is that part of this project?
3. Ms. Greenlee – No, it is not. This lot is platted and it's already on an approved roadway, according to the Traffic Engineer analysis of this, but a TIA is not required because it's already an improved roadway. If the developer chooses, they can submit a traffic signal warrant study, so the developer would have to submit a study to warrant a traffic signal at Bob White. There's one at Havenbrook that just was installed, in fact Thursday they started.
4. Mr. Knotts – I was thinking it was getting kind of over-populated with those. But since the document said that there was one at Bob White, I was wondering.
5. Ms. Greenlee – They said it may be considered at Bob White, depending on that traffic signal warrant study being submitted by the developer. Then the City of Norman Traffic Engineering Department reviews that to see if it would be warranted at that intersection.
6. Mr. Knotts – Do you want to field a question on the creek and the bank stabilization there? Do you know if that's part of the project?
7. Ms. Greenlee – This project isn't going to touch the floodplain; they're staying out of the floodplain in this. Their parking lot will abut it, but they're not in the floodplain. As far as the stabilization, it's an open channel – it's not a channelized creek. All the runoff is already accounted for with that because it's already platted. So they weren't required to do onsite detention.

8. Mr. Knotts – The plan has a new tree every 15' across the parking lot on the creek site, and it appears that it's at the top of the bank, and I made the assumption that it would be all the trees along the west side of that creek would be taken out and bank stabilized.

9. Ms. Greenlee – Well, as far as the trees being removed on that site, I'm not sure how far back – they're going to not touch that floodplain in that area. So as far as what's going to be removed there and replaced, I really cannot speak to.

PRESENTATION BY THE APPLICANT:

1. Sean Rieger, 136 Thompson Drive, representing the applicant – Let me first just address those – you're right, Commissioner Knotts, there was a statement in the documents that said there would be a traffic light at Bob White, and I think that was our misunderstanding as an applicant. We had been told that before, and I think we misunderstood it was actually the Havenbrook light, and I think we confused the two. So I apologize for that. But there is no light proposed at Bob White. So that will not happen.

As to the stream bank stabilization, there is no proposal for any work in the floodplain. But, obviously, as just sheer construction goes, our parking lot will be back near that, so we would have to stabilize to make sure that we don't have erosion under our parking lot. So the extent we have to protect the parking lot, certainly we will do that through the construction. But no improvements would be planned in the floodplain at all. We have not sought, nor will we seek, any permit in the floodplain for any work. We were showing trees on the back because probably there are some trees that are going to have to go that are not even in the floodplain, so we were showing additional trees. If that's not wanted, we don't have to do that. But typically the parking lot requires additional trees around it, and we're happy to plant additional trees all along that edge to replace what, perhaps, comes out. But, again, no work of any improvements into the floodplain. That's absolute.

2. Mr. Knotts – Usually the trees that are planted around the parking lot are planted between the parking lot and the public right-of-way, and this would be away from – on the other side of that.

3. Mr. Rieger – On the back side. Yeah. I'll talk about that in a minute. Basically that's a planning approach – Center City pushed the parking lots behind and the buildings up front. That's more of a modern planning technique is to bring the buildings forward and put the parking behind. For years, we always had people say they were tired of looking at parking lots, so now the more modern movement is to put the parking lots behind. But, you're right, so then that means the parking lot is back and the trees would be on the back side, instead of what they normally were on the front side. Hopefully that answers the questions.

I have a number of slides to take us through tonight. There is a significant protest, as you saw, notably 45% -- not over 50%. So I'm going to talk at length about this one tonight. This one is one that we believe is very reasonable, and I'm going to show you how it came about. I'm going to show you examples of other office facilities in similar situations. We really were a little surprised by the amount of protest because office tends to be thought of as a very inviting and wonderful use next to residential. Office is often times a great neighbor to residential. It's one of the best, because they're gone at night and they're gone at the weekend. They don't have a high impact is typically the situation on office. So it's a little bit odd to see a protest for an office like this, although I'm going to show you another one that was approved previously. So let me take you through the slides and make sure that we're all very familiar with what this proposal is.

First and foremost, most important to understand, this is not an unplatted, unzoned, green field. This is platted. This is a legal lot. It can be built on by permit tomorrow through RM-2 zoning – legally right now. This is not just a field. So your interpretation of the scenario has to be in the mindset of RM-2, not a field. A lot of the letters focus on this being a field and focus on the impact of drainage and other things as a field. It's not a field. It's an RM zoned, platted legal lot for apartment houses, and I'm going to show you all that as we go through it. But that is the

mindset of what you have to think about, is a comparison of what we've proposed as opposed to RM-2.

There's the existing GIS. The floodplain, which is the light blue, just barely comes into it. We are not going to propose any improvements in the floodplain; we will stay out of it entirely. The floodway very minorly touches it just barely right there. But, again, the floodplain and the floodway are along all of this edge. So if you're going to have concerns about us being next to it, well that is all up and down the entire Brookhaven Creek existence, all the way from the Canadian up. So everybody is next to the Brookhaven Creek. We will do it properly and through all building permits.

This is a site plan. So the site plan, as we just talked about, brings the building forward and puts the parking behind, which is what we often hear nowadays in planning, that people prefer. People prefer the building up and the parking in the back so we're not just looking at cars all day. Actually, in this scenario, that actually is probably even better because across the street is the residential and to the right is the park. So if we did have the parking in the front, then actually the cars and the noise of cars and the lights of cars would actually be on the side where the houses are. Typically you want those cars away. We often see that in zoning, when we see a parking lot next to a residential use, people get concerned about is there going to be a wall there? Is there going to be some buffer there? Well, in this situation, we're putting the parking lot behind. The site, again, is this triangular site right here. You see the floodplain in the back right there. That's the trees that Commissioner Knotts was mentioning right there. There is one entry point, right here right in line with Bob White, exactly the way you want to do it. Only one entry point. The building, brought to the front, right here. The footprint of the building is about 5,557 square feet. To put that in perspective, the house directly across the street – its entire pad of enclosed space and porches is about 4,540 square feet – so actually pretty similar in pad. This is proposed as a two-story model – actually, just part of it is two stories; part of it is one story. So really a very modest office when you look at the grand scheme of things, and you look at the residential structures all around it. Massing wise and footprint wise, this is really not that much different than the houses that are across the street from it. I'll show you a little closer on the site plan, but that generally is the massing of the property on the site.

This is the site plan in more detail. You see Bob White, again, lines up right here. We come into the property with the parking all along here – the cars focused toward the back where there is no adjacency. This is another thing kind of unique to this property. Often times we're showing you offices or structures that have adjacencies. Here we don't. Here we have the adjacency is the creek – is a park farther away. There isn't an immediate adjacency that we need to buffer, which we often times do. Here we don't. Instead we have 36th Avenue on the left, the creek on the right, and the property in the middle. So really pretty unique design in bringing the parking all along the back here, the property in the front, and then I'm going to show what the front looks like along the left edge here. A small marquee sign right there. You see landscaping all around it. The dumpster they put at the far end here, subject to Sanitation. The actual square footage is about 9,242 square feet, or actually, I think, about 9,400 now. First floor, again, about 5,500; second floor about 3,600. Really, again, not a very big office when you think about it. Four suites is what they're looking at. The anchor tenant would be an architect – it would be the architect that drew this up, actually. So the architect would be the anchor tenant and parking would be per the code requirement of about 32 spaces. Parking is for office pretty minimal in the sense of 300 square feet for one space. I guess compared to retail and restaurant you get a lot more parking; for office you have a lot less. So really a fairly straightforward, small, intimate scale design. The proposal is for two stories only. I'm going to take you through more of that detail in just a minute.

This is the elevations. The elevation is more of a modernistic approach. The architect is here tonight if you want to hear more about it. I'm going to show you some imagery that was where this was brought from. Again, kind of a residential scale with some articulated roofs and really broken up nicely. This is not just a box office; this is one that is intended to be broken up quite a lot, and really bring in some concepts that we're starting to see, such as on 23rd Street in

Oklahoma City, such as on Gasoline Alley, such as The Plaza District. Some of that feel is what they would like to do on a project like this. Those are the north elevation, the south and the east.

This is kind of the flavor or the imagery of what they drew from. This is the west – this is the 36th Avenue elevation. Second story is right here. First story is across the bottom. Four units. These areas are the second story over here. But this is kind of the inspiration you can see, and there's a lot of imagery that was provided to me, but you can kind of see the articulated roofs, the mix of materials of stone and wood, the mix of glass across the frontage. Really pretty intimate scale. Breaks it up nicely. Doesn't just have one mass of a project there. So this is the proposal. They really want this to be for a young professional appeal. That's the desire for this. They would have a little balcony up at the top here that would be similar to something like that. So a nice appeal.

I want to show you, again, the choice. This is really important, as I talk through all of these slides, that you think about this. The choice tonight is not between a current field of grass and an office under broad CO zoning. I want to show you what the difference is there. Instead, your choice tonight is between RM-2, Low Density Apartment District open district zoning, and a SPUD that just allows offices. I'm going to show you exactly what we have proposed to allow. That's the choice.

So what is RM-2 zoning? What is allowed right now? If I wanted to go pull a building permit tomorrow across the parking lot, what could I get? That's a screen shot from the RM-2 zoning right now. You see at the top – a lot of people think of RM-2 zoning as just duplexes. Well, it's not duplexes. RM-2 zoning is actually apartment buildings containing four or fewer units. Now, if you'll bear with me for a minute, when you run the math on all this and you look at all of that that's in front of you and you break it all down, we can actually probably get about nine units on this property total if we preliminary platted to three lots. Right now it's one lot. This basically allows up to four or fewer units per lot. There's some intensity requirements in here that limits you as to how many units you can put on a property. But roughly, if we revised the plat to be three lots, without changing the zoning, without changing the use allowances, we could get about nine units on this property. You're always allowed to preliminary plat, as long as you meet the subdivision regulations of the City. I know that your City Attorney has told you that many times, that as long as we've met those subdivision regulations, they have to be approved. So right now, from a use standpoint, we could probably do about nine units of residential on this property. It allows for three stories in height. It allows for 65% impervious coverage. Allows you to do that right now as a matter of right. It's not been done, and we're going to talk about why it's not been done – probably because it fronts on 36th Avenue in a thin site that would face out onto 36th Avenue, not in an ideal location for residential. So that's the situation right now. If I wanted to build out tomorrow, that's what I could do.

So what would that look like? Well, here's just one example of what that could look like. I could do three stories. There's no masonry requirement. There's no aesthetic requirement on residential in Norman. This isn't zoned as a SPUD or a PUD or anything like it. It's just simply zoned open district residential RM-2. I could do three-story buildings of siding of any material I wanted and put it on that property. I could face them on 36th Avenue. I really would have to face them on 36th Avenue. I don't know how else they would really function. I could do accessory buildings, such as a laundry facility or anything like that. I could do basketball courts. I can do anything like that right now as a matter of right on that property. So is that the best use? Is RM-2, which has not been used in 30 years on that site, the best use?

Well, what has progressed on this project is that it has sat there for many years. A property owner bought it, initially wanted to do an office on it, didn't work out, and so what has happened in the past year is we've come back with a different proposal two times now. The first time was about a year ago and this is the notes from it. The first time was back in 2017 and a proposal came forward for basically a commercial strip center on this site. It was the opposite of what we've talked about tonight – to put the building in the back and the parking in the front, and you can see the kind of sketched out site plan of it there. It was your traditional commercial strip center, basically that you see garden variety everywhere. Came forward in 2017 in February. We went to a Pre-Development hearing and that Pre-Development hearing was

heavily attended – it was probably about 30 people. It was intense; it was loud; it was angry – I think that's fair to say. It was not well-received. It had comments – and that was the notes. Janay was kind enough to provide me with her notes. It did not get written up because it got withdrawn. So it didn't get written up into a report, but Janay was kind enough to hand me her notes and show me what they said and so I just took some quotes from it. The neighbors said PUD specific uses; they did not want retail; the retail not wanted to live behind; no liquor; no pot shops – these are from her notes. Basically the retail was extreme anxiety on this neighborhood. That project was proposing retail. It was proposing C-1 full-blown open district commercial through a PUD, but it was not confining those uses. It was probably going to be a coffee shop. It was going to be a roofing contractor for his office. They were worried about his roofing trucks; were they going to be parked there all day? Was there going to be roofing materials – there couldn't have been that, but they were worried about all of those things, and they were worried about the commercial. So the project was withdrawn. So then comes this project, and before this got filed they came to me and we talked about that Pre-Development hearing. We said, okay, you're not going to get any commercial. Forget about it. It's not going to happen. We're not going to put restaurant; we're not going to put retail; we're not going to put any of those uses. So what do you want? So the applicant was pretty clear. Well, what I want is an office. That's it. I just want an office, and so is there a way to do that? Well, yes, we could do that through a SPUD. What you saw just now was the imagery of what they want to build.

We rethought the project in a different proposal and came forward with it. When we said we want to limit it down – we did actually file for CO, Suburban Office Commercial District, which is take away the red, and it's all those uses. Through this process, the protest sparked again. So staff asked me, would you limit it down just to office – I mean, as tightly as you can take it. We said yes; the applicant immediately said yes to me. I asked them that question and they said yes. The SPUD before you tonight is that. It's not even full-blown CO; we eliminated everything but just what we call section 8 under CO. Only that is what you're being asked to approve tonight, which is only office. We took out libraries. We took out art gallery. We took out apartment hotel. We took out child care center. We took out trade school, churches, all of that. It's gone. The only thing as a matter of right before you is office; that is it. Nothing else would be allowed on this site by a matter of right through this SPUD.

The staff received all this and it was well-received. You have the reports in front of you and I don't usually read from staff reports, because I know that you have, but I do when I think it's a compelling and important point for everybody to hear. So I want to read a couple excerpts from the staff report. I think this is important for everybody to hear. The reception was positive. The staff said this site has never been developed. It was replotted and rezoned RM-2, Low Density Apartment District with permissive use for office in 1984. Apparently, it was actually approved previously for office on this site in 1984 as a special use. The way special uses work, if you don't do it, you lose it as a matter of time – two years. So the staff report goes on, offices were never developed on this site; therefore, the permissive use for offices expired because it was not enacted within two years. The applicant is requesting the same type of use with this SPUD proposal that was adopted 30 years ago on this site. There are several existing offices on 36th Avenue a quarter mile to the south of this site: a bank, insurance agency, and professional offices. Within a third mile to the north, at the intersection of Robinson and 36th, are many types of retail and major commercial corner. This proposal is similar to other office uses currently allowed on 36th Avenue.

One other thing I want to make sure you're aware of in the staff report, they go on to say this rezoning request to SPUD will allow only professional offices and uses incidental to the allowed office. The request can potentially have a lesser impact on the surrounding area due to the fact offices usually conduct business during regular business operating hours and not during weekends and evenings, such as residential would. So, whereas a low density apartment development could potentially have a greater impact on the surrounding area because of the nature of the use: residential use will have activity during all times of the day, every day, every week, every year. Offices don't. This parcel can be developed under RM-2 zoning without any public hearing. Total impervious coverage in the RM-2 regulations is the same within this SPUD

proposal – actually, that's not quite accurate; we are proposing 64% impervious; RM-2 allows 65. Actually took it down 1%. This development proposal is not requesting an additional more intense use of land, but a change from the allowed uses only. But not a more intense use. That's staff.

Then you start asking, if office is an appropriate use on 36th Avenue, what about residential? Is residential an appropriate use on 36th Avenue? Look at the corridor, and this is the zoning map. If you just look at the 36th Avenue corridor right down that line, you can see it's a pretty intense corridor. It's a section line. It's a four lane major artery. This site is right now zoned RM-2 – residential apartment buildings. It would be the only site that has residential fronting – facing – 36th Avenue anywhere in that corridor. In fact, I don't know many anywhere in our city that have residential on a narrow site fronting a section line corridor like that. Now, there is residential in the area, but it is all obviously on side streets. The frontage of all those residential properties in this area front the side streets. Only their side yards impact 36th Avenue. Nowhere in this corridor do we have residential facing and fronting 36th Avenue. It would be highly irregular – highly inappropriate. That's why it probably hasn't been developed in 30 years. But do we have office? Absolutely – a lot of it. We have office a lot of places all around the city on major arterials across from residential, just like we're proposing. Very common.

On 36th Avenue you can see them right here. This is 0.2 miles south of our site. This is our site in red over on the right. If you go 0.2 miles south just down the street, you have the State Farm office and a dentist office right next to – not even across the street like we're proposing – but right next to residential, immediately next door. This is Sussex Place – Sussex Court, I believe it's called. Very high-end homes, very nice homes, wonderful little street, a great neighborhood, and these offices are right next to it. Been there for many, many years. This is the condo development right here. Our development is in red. Right on the other side is an office use – it's a bank – it's not an actual office, but a bank right there. It, too, is right next to the floodplain – that is floodplain wrapped all around it, tight to it. It, too, is an office use. That's 0.1 miles south fronting 36th Avenue. I would note, too, that I said nothing was fronting 36th Avenue. This is all a walled complex. This condo unit is a walled complex basically, you can see. So it is internal focus. Again, these residential properties all focus the internal streets; none of them face out onto the street. Then 0.1 miles north is another office, right at the corner of Havenbrook, and it also fronts 36th Avenue. Actually, that office is a good example of how they're empty at night, because I can tell you many times I've seen that parking lot full when there are events such as Jazz in June or the Brookhaven Run or things like that over in Brookhaven Village; that office's parking lot gets used a lot – not for the office users, but for the people that are using the facility next to it. They're gone. They're gone at night. They're gone on the weekends. So it becomes a wonderful user as a neighbor.

We see this all over town. These are overlapping, so forgive me – don't get confused by the overlapping. Here's another example – one on 24th Avenue. This is really very similar to the arrangement we're proposing tonight in a lot of ways if you think about it. This is Fairway Court right here. This is 24th Avenue N.W. Off the screen up to the right is Westwood – the park. This is 24th Avenue N.W. right here; this is Fairway Court side street coming right out and right across the street is professional office buildings. Very common. Major arterial. Here's another one down on the Trails. That is the Trails at South Berry and Meadow. There is professional offices all filtered within that space and homes all around them. Then again on 36th Avenue just north is Greenway Park, another very similar condition. In fact, it too abuts directly onto the creek and Brookhaven Creek behind it and across the street is residential – professional office buildings. So this is a very common condition and very appealing to a lot of people. It does not have a negative impact. It's very common.

In fact, we have a scenario where we had one before you, very similar to a protest like this. This was back in 2011. This was the Tecumseh Office Park up on Tecumseh Road. I'm sure some of you remember this. I remember it well. Susan is nodding her head. This was a very intense zoning. This was an intense battle. This had hundreds of protest signatures against it. It was probably the only time that I have ever faced the priest that gave me my second communion protesting a project that I had in front of you. It was Father Boyer, who was St.

Mark's Church, came to this podium and protested. Very intense protest with this project on Tecumseh Road, right across from St. Mark's Church. The neighborhood went very negative on this – fought it. The original zoning was R-1. It was intended to be R-1, Single Family. The neighborhood fought a professional office park put on that site – a much bigger professional office park. A much deeper professional office park than what's proposed tonight. But we went through that process. We made virtually the same arguments we're making to you tonight, and the neighbors made many more. We were here a long time that night, I think. Many neighbors spoke against it. We went through that process, and a number of the Commissioners – Commissioner Gasaway, Commissioner Knotts, Commissioner Roberta Pailes – all listened very carefully, all studied it, and they came back with unanimous vote by this Commission in support of that rezoning in the face of hundreds of protest signatures, in the face of a large super-majority protest. They supported it unanimously, and I want to read some of those comments. Commissioner Knotts, you may recall, but it really doesn't have a negative impact. The fact that Tecumseh is going to a higher traffic area just pushes me toward keeping residential away. Commissioner Pailes, who I think it's fair to say – when Commissioner Pailes saw a neighborhood in revolt, I think most of the times Commissioner Pailes sided with that neighborhood – pretty commonly. Commissioner Pailes voted for this office park, and she said because I'm not sure that this is the greatest place to live if it was to be residential next to a major artery like this. So we have precedent, clearly, to even overcome large protest rates. We've seen it before when people protest an office next to residential, but it is very, very common.

Another comment that's been made in the protests repeatedly is traffic, and they argue that this is going to be a large traffic impact. This is a really small project, first, let me make sure you understand that. This is about a 9,000 square foot office building. That's it. So it's such a small project in that we didn't have to do a TIA – a traffic impact analysis. This was really me kind of hacking together some figures with the help of staff, and I greatly appreciate their help to do this in the last few days. We tried to come up with what is the likely impact of traffic on this scenario. With the help of staff, looking at the engineering manuals that they have, it looks like the current RM-2 zoning, which if you did nine units, if you take the traffic count from that, it is likely about 178 trips a day. If you look at this project as proposed, it's likely about 220 trips a day. So the difference of RM-2 zoning versus what we're proposing tonight, is about 42 trips a day additional. That's it. That's the change – 42 trips a day. So what does that mean in perspective? How much more traffic is that on this site? Well, this site is pretty large – 15,286 cars a day. That screen shot is from ACOG – the Association of Central Oklahoma Governments. They maintain the traffic counts for all of central Oklahoma, and they maintain the traffic counts for the City of Norman. Those are live figures that you can go in any time and pull them off. If you look at this screen, that is 36th Avenue right there – 15,286 vehicles a day. Now, I would note, that actually that number is the lowest of any of these section lines that go around this section – Robinson – 20,000, 25,000. 24th Avenue – 20,000, 19,000. Main Street – this is the largest traffic count in Norman right there at 32,000 cars a day. Then you get over here at 28,000 and 19,000. It is the smallest traffic count that you will find of these four locations on a four-lane road. So it actually can take great capacity. If you look at ACOG, they say a four-lane road can carry about 22,000 cars a day – it only carries 15,000 – for a level of service C, which is a really good level of service. So, basically, RM-2, once it gets built out, could probably impact by about 1.2% increase on traffic on this site. This proposal would be a 1.4% increase, so we're adding a 0.2% increase in traffic from what is already allowed as a matter of use. Negligible. Not even noticeable. Still within level of service C – just really not even impactful at all.

So what about storm water? You'll see a lot in the letters about storm water. I'm sure you're going to hear tonight from people that say this is a storm water impact. I hope you will ask your staff – I hope you'll ask Mr. McLellan to come up and talk about it. I hope you will ask your professionals to tell you if there's a storm water impact, because there's not. Right now, as a matter of right, we could build this out to RM-2 to 65% impervious – right now. It's already allowed for that. So the impact has to be taken from that benchmark. Have we changed that? No. The SPUD we wrote, because the site plan works for it, allows us to do all of this within a 64% maximum impervious. We're actually decreasing impervious – 1%, but it's a decrease. Cannot

factually say that we're increasing impervious on this ground. We're not. The matter of right is 65% impervious; we're restricting it legally down to 64. No impact. We're proposing nothing in the floodplain, nothing in the floodway. There is no WQPZ here. This is the Canadian watershed, not the Thunderbird. The same storm water solutions that are already legally allowed as a matter of right on this property would be the same ones we would do here. There is no storm water impact. To those who say that there is, because we're turning a green field into impervious, then you would have to say there's a storm water impact on every single project that ever gets permitted and built in the City of Norman. Every single one of them. So that's not an argument that works. I guess we could just shut down the city, if that's your goal, but that's not the goal that I think anybody has, and so we work within standards. We work within benchmarks. The benchmark and the standard on this site was 65% impervious and we have decreased it. So we do not have a storm water impact.

Now, don't take my word for it. Let's look at your word. Let's look at the Council's word. What has happened previously in recent months when we have done projects on the Brookhaven watershed and the 36th Avenue corridor, as we're doing tonight? Well, we know what happened only about three months ago – four months ago. In October we brought the Warwick project. Brookhaven watershed – 36th Avenue. A large project. A large green field. A large agricultural A-2 zoned space – not RM-2 zoned. We didn't already have the right to do 65% impervious. We didn't have the right to do anything. We had the right to put one house per ten acres. That was it. We didn't have the right to pave that to 65%. But we brought it in front of you and we asked you if you would approve commercial – C-1 and CO across that site. This is the site – you're familiar with it – Warwick. This was just in front of you previously. It's only 1.4 miles north of this site. It drains to the exact same creek – Brookhaven Creek – same watershed. Same water flowing to the same spot 1.4 miles north. What happened there was that was zoned A-2. Our request was a full change in zoning to a much more intense use – obviously, A-2 zoning to C-1 and CO is what we asked for, and you approved it unanimously. You went to allow – and I appreciate it very much – but there was no discussion as to oh, my gosh, we're going to impact storm water by putting on this amount of pavement – this amount of impervious. We dramatically changed the impervious allowance on Brookhaven Creek on this site – that would flow to Brookhaven Creek from this site. We allowed 200,000 square feet of pavement. We allowed 71% impervious. All of that approved in the recent months on the same watershed. We are proposing 64% over 19,000 square feet. So in the same watershed in recent three months, you improved a storm water impact ten times what this would be in square footage, but actually with ours really not being an impact because we already have that right. This one did not.

So what about traffic? What did we do on Warwick with traffic? 36th Avenue – it's 1.4 miles north of this. Very similar traffic count – 15,000 cars a day up there – it was 15,000 cars a day in front of us – four lanes. What did we do up there? We approved it. What was the impact there? Well, it was going from A-2 zoning – one house per ten acres – to C-1 and CO – full-blown retail, full-blown office, full-blown commercial. We added 4,800 cars a day – not 42 – 100+ times different that we added to that street – the same street, and that was approved without any concern – without any protest – without any negative.

So what is the choice? Is the choice to do what's on the left, which is RM-2 apartment buildings with 65% coverage and a 1.2% added traffic load, three stories, no masonry requirement? Or is what we're proposing better for the area and appropriate for 36th Avenue corridor? Which is office use only, 64% impervious, 1.4% added traffic. We think it's very obvious and very clear. We think obvious is the office. It's been tried and true in many places. It's been a good neighbor. It's been an outstanding neighbor to residential uses all over the city. We hope that you'll make that same decision tonight.

Staff supports this. It's been supported and you've read the reports, but it basically says this will potentially have a lesser impact, and I hope that you have seen that tonight. I hope that you will see that the precedent is that this type of use has been approved many times.

With that, I'll stop. I'll answer any questions that you have. I appreciate very much your consideration.

4. Mr. Lewis – Because erosion is such an issue with clay soil, am I understanding that the impervious surface – the parking lot on the east side – does it come close or abut to the creek there?

5. Mr. Rieger – It gets very close to the floodplain, yes.

6. Mr. Lewis – My question there is, in the design of this, will there be any riprap or any kind of enforcement to make certain that soil doesn't erode in under that parking lot?

7. Mr. Rieger – I don't have the details yet of the design. We're not at that level. But, again, I would assure you that if you're going to build a parking lot, you have to deal with erosion for that parking lot from an adjacency like that. It will have to deal with that, construction wise.

8. Mr. Lewis – So erosion is something at the top of your mind?

9. Mr. Rieger – Absolutely. Yes. It would destroy the parking lot if you don't deal with that from an erosion standpoint.

AUDIENCE PARTICIPATION:

1. Ken Dragg, 717 36th Avenue N.W. – I am the person who rezoned the property 30 years ago and asked for the permissive use for an office building. I then let it lapse because I realized that an office building was not the best use for the property. So that's why there's not that zoning on there now. I think the best use for the property is RM-2. It's been that way for over 30 years and it should remain that. I don't have the concerns that anybody does as far as the creek and the traffic and all of that. I just think that's the best use for the property. That's what it was zoned; that's what the City Council zoned it for, and that's the way it should stay. As far as the proposed building, you know we talk about the bank to the south. We talk about across the street – the office building that's there. But none of those buildings are trying to do what this developer is trying to do, which is do away with the setbacks. He wants to bring the building all the way forward on 36th Street. It will be the only building that sits on the front of 36th Street. He wants to bring it almost right to the sidewalk and then he wants to put the back of it facing 36th Street. This is going to be unattractive, block the view – whatever. So I just think that we should just leave it the way it is for right now. Thank you.

2. Sherri Stansel, 608 Shadow Crest Court – I have a couple of maps that, if you will each take one and kind of see what I'll be addressing this evening. The first one I want to talk about is this one that's in yellow, and that is the watershed of Brookhaven Creek. As Mr. Rieger has brought up in his information – and by the way, this is a very great tool. I didn't even know it was available. It's available on all the different creeks in Norman and, like I said, it's got some really great information here. If you'll note the area of this particular development is shown as BHC-4 on your map. This shows an impervious surface of 56.2%, or you can see that is the largest impervious surface within the Brookhaven Creek watershed. Also note that it shows that this is based on a 2015 aerial photograph. Since that time there's been built the Legacy Trails apartments and office complex that's located east of the Walmart market on Rock Creek Road. You have the Brookhaven Subdivision that's been extended to Rock Creek. There's currently under construction a CarMax that's located just north of the Chuck E. Cheese. You'll also notice that there's part of the University North Park that's in this watershed. Then, as Mr. Rieger just indicated this evening, the Warwick area is going to be extended. There may be others that I've missed. You'll notice there's quite a few additional empty spaces on this map. That's things you need to consider because this will eventually be part of this watershed. He stated that they're going to have 19,972 square feet of impervious surface or this 63 or 64%. Like I said, you add this already to the largest impervious surface that's within the Brookhaven Creek watershed.

The other map that I've shown you shows the floodplain and the floodway and the location of this development. You can take the little shape of that and you notice the little point over there and you can put that development onto that floodplain map.

3. Robert J. Huskey, 3615 Chatham Court – Mr. Rieger mentioned other approvals that the Commission had made that greatly affected the drainage – Warwick and the others. My feeling is that whatever you did in past doesn't necessarily say, oh, well, that's a precedent for doing something else in the future. So that part of his argument doesn't go. It strikes me, as I understand this building, there will have to be some fill added to the property in order to bring the elevation up so that it can be done. Either that, or they're going to have to dig a bunch of it out. That says to me there's going to be some problems relative to the drainage part. They're going to build right up to the edge of the bank there. You've already mentioned that there's a problem with stabilizing it. You got assurances from Mr. Rieger, yes, that will be taken care of. We already know how much water volume goes down that to Brookhaven Creek from a couple of years ago when it pretty much washed out a bridge over Havenbrook Road and cost the City quite a bit of money. We're increasing the amount of water that's coming down Brookhaven Creek with every new development in that watershed, including University North Park, where there's going to be a lot of housing and other stuff put up there. So my feeling is that there's a real problem there and it means that in the future probably Brookhaven Creek is going to have to be dealt with in a way that Imhoff Creek is being dealt with, with concrete embankments – another big cost for the City. So I'm really concerned about all that and how this is going to add to that problem, especially since it's sitting right on it. I would assume that at some point there'll be a few cars from that parking lot in the creek.

4. Raymond R. Anders, 3600 Bob White Avenue – Right across from where they're planning on putting this building. My biggest objection of it is the fact that, other than the fact that I'd be living right across the street from this, but is the back of the building is facing 36th Avenue, and that's not going to look good. They talk about what is put on the front of the building; we won't see it. The people going up and down the street – how are they going to know what offices are in there, other than maybe a sign that's on the outside, or by the building itself? It just doesn't seem feasible to build anything on that piece of property; we're talking less than ¾ of an acre. How are they going to have 30-something cars parking out there, getting in and out, backing in and out? If you look at the distance between where the parking is to the front of the building, which is facing the drainage ditch out there. It just doesn't look feasible. Also, I'm not just looking at what they're planning on putting in there now as far as offices go, but there's a number of office spaces that are empty all up and down 36th Avenue, and why can't they put those offices in those areas and fill those areas before they start building other buildings and having offices that possibly could not be filled and then five, ten years from now they rezone again and you have pot shops, liquor shops, tattoo parlors put in those vacant buildings because they couldn't rent them. I just don't understand why anybody would want to put their office in something that's facing the drainage area out there, as opposed to facing 36th. But that doesn't mean that I would still agree with it regardless of the situation. I just very much oppose it, and if it hasn't been built on in the last 30 years, there has to be a reason for that. Again, you're only looking at ¾ of an acre or less, and it just doesn't seem feasible to have a building like this put there. They say, yes, we can put apartments in there. Well, why haven't they done it? Because it's not feasible to put apartments in there regardless.

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

1. Mr. Sherrer – I have a question for the staff. I know there's been some questions about the floodplain. I don't know if this is Todd. The RM-2 zoning versus the Commercial Office seemingly would be equal impact, I believe – what would be the impact on storm water with this project, compared to what is already zoned?

2. Todd McLellan, Development Engineer – To answer your question, Commissioner, we look at the amount of impervious area, so it doesn't matter if it's office or it's residential. We look at the amount of rooftop and parking lot and add that up and determine the amount of impervious area.
3. Mr. Sherrer – So basically neutral.
4. Mr. McLellan – Right.
5. Mr. Robinson – Todd, in terms of that bank stabilization discussion that we've had here, do you review that kind of thing in your plans that are submitted by the applicant?
6. Mr. McLellan – Yes, we'll review those at the building permit stage. But, again, this is going to be a private parking lot. It isn't something that we would periodically go out there and inspect. It would be up to the owner to make sure that there's no problem with the parking lot. Now, we do inspect the creek and the channel, so if there's any impact on that, then we would be involved.
7. Mr. Knotts – I'd like to ask Sean a few questions, if you don't mind. Sean, beginning to worry about the cars that were talked about winding up in the creek. I don't see any barriers along the creek side. What's the plan?
8. Mr. Rieger – I believe it would be curbed or we'd put stop blocks. I'm not sure if Will has thought about that yet. There would have to be a stop block or curb situation. Absolutely.
9. Mr. Knotts – So if it's stop block, it looks like everything drains to the creek.
10. Mr. Rieger – Correct.
11. Mr. Knotts – So if it's stop block, the stabilization outside the paved area could be a problem all along there, and if it's a curb you channel it to a certain location and that might be a better solution controlling it at a specific and taking a pipe down into the creek bottom rather than having it drain across the surface of the bank.
12. Mr. Rieger – In fact, you have a good opportunity for that right down here, and if you look at the site, you have a location that is not in the floodplain so you could actually do a pretty good project right there and bring most of it down into this area, and that way it wouldn't go directly into the floodplain before you could divert it a little bit.
13. Mr. Boeck – That brings up a question of detention. The project I was involved in, we have detention. Sometimes there's projects where they've already calculated runoff and the owners have paid for detention issues and streets, storm water systems, or whatever else. I haven't heard a thing discussed here about detention, because my understanding is it's runoff before is the same as runoff after.
14. Mr. Rieger – I want to address a couple points in that if you would let me. I would love for Mr. Danner to come up and talk, because we talked at length about this over the last day or so and he knows the history of it. But it's my understanding – or you can just correct me if I'm wrong – but it's my understanding that detention was actually provided in the creek at the time that this was platted. But that has been handled when this lot was platted 30-some years ago – that there was actually dirt work done, and so the drainage plan for this site has already been accommodated in the creek off the edge. Much like you just said, sometimes the developer has already paid for it and done it. In essence, that's, as I understand it, what has happened on this property. It has already been accommodated.

I would say one other point, though, and I don't know if this is in that basin. But I know many times in developments I've heard when you're lower in the basin, they don't want to detain. When you're up in the basin they do want to detain. I don't know if this is low enough in the basin for them to not detain or not. But the foremost question is the detention has already been accommodated on this property when it was platted, is my understanding.

15. Mr. McLellan – Sean is correct. Back in 1984 we allowed in-channel detention to handle the runoff from this site.

16. Mr. Boeck – So you did some kind of calculations of future – 20, 30, 40, 50 year development as to what the total runoff would be into that creek and accommodated it?

17. Mr. McLellan – Keep in mind that was 1984, so the drainage ordinance and the floodplain ordinance were not near as strict as they are today. I, personally, wasn't here in 1984. We got our first floodplain maps in 1979, so I don't imagine the standards were near what they are today. But they met the standards at the time it was platted. So that's why we're saying today that the detention has already been accounted for when they widened the creek there.

18. Mr. Knotts – So there's no opportunity to revisit that?

19. Mr. McLellan – That would be a legal question, but I don't believe so because it's already platted.

20. Kathryn Walker, City Attorney's Office – As I understand the question, the question is whether or not with the change to a SPUD they would have to then follow the drainage requirements as they are required now. I'd have to do some research into that, and I don't know the status of the previous development that was approved. But if they did some improvements to widen the creek to address the RM-2 zoning designation, that should be sufficient for a less intense designation.

21. Mr. Rieger – It's my understanding, and has always been my understanding, that only when you are platting do you have to do the public improvements and those issues, not when you're rezoning. So it would be my understanding that's what I've always understood from Public Works as well, is that since we're not platting, we're not obligated to do that.

22. Mr. Boeck – Well, that just brings up the question of storm water. We're dealing with storm water right now and all the issues of storm water. In my mind, shouldn't you revisit that every once in a while and reestablish what frugal or prudent runoff requirement are?

23. Mr. Rieger – As a percentage of impervious – that's how we've always standardized that. That's how we've always had the benchmark. We are the same. We're actually 1% less.

24. Mr. Knotts – Since 1907 or ...

25. Mr. Rieger – I don't know when the impervious amounts came back. Actually, the zoning ordinance deals with many of them back in 1954. But I believe Center City, and even recent developments – I think the MUD – I haven't seen any different standardization as far as the 65% goes. So I don't know that we've changed that. That's the issue is to how much impervious runoff you're going to have is that percentage and we are actually 1% less than what is required here. I haven't heard in any Planning discussions or Public Works discussions to change that percentage amount.

26. Mr. Knotts – I don't disagree with that. What I disagree with is that an accommodation that was made in '84 and now changing the designation of this area doesn't open the

opportunity to revisit that situation. I'm told it's not, but it seems to me that, if we're going to protect the City, we need to be some flexibility in that.

27. Mr. Rieger – I understand that. I've had applicants many times look at if there's some way to do it, I think. You understand legally, though, that right now they could build this to 65%.

28. Mr. Knotts – I've got that. I've heard that too many times tonight.

29. Mr. Rieger – Alright. But I've got to remind you, that's where we're at. It's something you could look at and see if there's an opportunity for that. I don't know. It hasn't been discussed.

30. Mr. Knotts – So I'd like for you to think about the possibility of putting a curb in with – not detention – a collection basin at that south end with a pipe to the floor of the creek, so that you save the bank. You take care of the water, and you shoot it down to that bank down there.

31. Mr. Robinson – I would suggest that you consider breaking that up into several smaller pipes instead of a large single pipe. Probably be a little better off on the bank.

32. Mr. Rieger – I think likely you're going to have to have an engineer on this project when you get into the issue of that edge. I think very likely. It's not a platting project right now, so we don't have a civil engineer on board. That cost, obviously, will come upon approval and then you get into the engineering of that edge. No question that edge will have to be engineered when we do it. I don't think there's any doubt about that, or we'll have a parking lot that will be junk in no time. I thank you for your comments.

Andy Sherrer moved to recommend adoption of Resolution No. R-1718-77 and Ordinance No. O-1718-30 to City Council. Chris Lewis seconded the motion.

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

YEAS	Chris Lewis, Neil Robinson, Erin Williford, Dave Boeck, Tom Knotts, Andy Sherrer
NAYES	Sandy Bahan, Nouman Jan, Lark Zink
MEMBERS ABSENT	None

Ms. Tromble announced that the motion, to recommend adoption of Ordinance No. O-1718-24 to City Council, passed by a vote of 6-3.

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