
CERTIFICATE OF SURVEY
COS-1920-2

ITEM NO. 7

STAFF REPORT

ITEM: Consideration of **NORMAN CERTIFICATE OF SURVEY NO. COS-1920-2 FOR JOHN DANIEL ACRES.**

LOCATION: Generally located on the east side of 36th Avenue S.E. and one-half mile south of State Highway No. 9.

INFORMATION:

1. Owners. John Daniel.
2. Developer. John Daniel.
3. Surveyor. Mark Deal and Associates

HISTORY:

1. October 21, 1961. City Council adopted Ordinance No. 1318 annexing this property into the City of Norman Corporate Limits without zoning.
2. October 30, 1961. Planning Commission recommended to City Council that this property be placed in A-2, Rural Agricultural District.
3. December 12, 1961. City Council adopted Ordinance No. 1322 placing this property in A-2, Rural Agricultural District.

IMPROVEMENT PROGRAM:

1. Fire Protection. Fire protection will be provided by the Norman Fire Department.
2. Sanitary Sewer. Individual septic systems will be installed in accordance with City and Oklahoma Department of Environmental Quality standards. Lots 1 and 2 have existing private sanitary sewer systems.
3. Water. Individual water wells will be installed in accordance with City and Oklahoma Department of Environmental Quality standards for Lot 3. Lots 1 and 2 have private water well systems.

4. Easements. Thirty-sixth Avenue S.E. is classified as a minor urban arterial street. The owner will dedicate a 17' roadway, drainage and utility easement. Subject to the submittal of WQPZ documentation drainage easements will be required.
5. Private Road. There is a proposed private road serving the property. City Standards requires a private road with a width of twenty-feet unless serving four (4) lots or less. The surveyor has requested a variance in the 20' width to a 12' width private road since it will serve only three (3) lots.
6. Acreage. Lot 1 and lot 2 are 10 acre lots. Lot 3 consists of 17.68 acres. There is a total of 37.68 acres.
7. WQPZ. Water Quality Protection Zone (WQPZ) is located on all three lots. The owners will be required to protect these areas.
8. Covenants. Covenants addressing the WQPZ are being reviewed as to form by City Legal staff. However the WQPZ has not been accurately displayed on the drawings to properly protect the WQPZ

SUPPLEMENTAL MATERIAL: Copies of a location map, Norman Rural Certificate of Survey No. COS-1920-2 for John Daniel Acres, a letter of request for a variance in the minimum width requirement for a private road and a letter of request for a variance in the Water Quality Protection Zone (WQPZ) requirements are included in the Agenda Book.

STAFF COMMENTS AND RECOMMENDATION: The lots will be served by a private road. The developer is requesting a variance in the private road width based on the fact it is serving four lots or fewer. Staff recommends approval of a variance in the private road width requirement from 20' width to a 12' width; however, staff cannot support a request for a variance in the WQPZ and as a result cannot support Certificate of Survey No. COS-1920-2 for John Daniel Acres based on the following facts:

Code Section 19-411.B - WQPZ Design Standards states that the required base width for all WQPZ's shall be equal to the greater of the following:

- a. 100 feet in width measured from the top of the bank on either side of the stream,
OR
- b. The designated Stream Planning Corridor as delineated on Exhibit 4-4 of the Storm Water Master Plan accepted by City Council on November 20, 2009, OR
- c. The FEMA floodplain, OR
- d. An alternative width equal to 25 feet, measured from the top of bank, on either side of the stream when a reduction in nitrogen of at least 75% and a reduction in phosphorus of at least 58% is achieved through the use of an "engineered solution" process that is certified by a licensed Professional Engineer.

In order for the applicant and staff to determine the extent of steep slopes and stream top of bank, a cross section of the topography every 100 ft. along the stream shall be prepared and utilized by the applicant.

In this particular case, staff is unable to determine the 100 feet in width measured from the top of the bank on either side of the stream because the applicant has failed to provide cross sections as required by Section 19-411.C of the Code.

Code Section 19-601.A allows the applicant to seek a variance to the WQPZ requirements. Occasionally the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in substantial hardship or inequity. The City Council may vary or modify, except as otherwise indicated, such requirements of design, but not of procedure or public improvements, so that the subdivider may develop the subject property in a reasonable manner. At the same time, the public welfare and interests of the City must be protected and the general intent and spirit of this chapter are preserved by granting such variance. Such modification may be granted upon written request of the subdivider or the subdivider's engineer, stating the reason for each modification, and may be approved by vote of the regular membership of the City Council, with the recommendation of the Planning Commission, subject to the acceptance of the plat and the dedications thereon by the City Council; provided, however, that a variation based on unique condition(s) shall not be granted when the unique condition(s) was created or contributed to by the subdivider.

Code Section 19-601.B WQPZ Averaging - The width of the WQPZ may be reduced in some circumstances to accommodate unusual or historical development patterns, shallow lots, stream crossings, or storm water ponds. Any averaging of the WQPZ must be done in accordance with the following:

An overall average WQPZ width of at least the base width as determined in [subsection]19-411(B) must be achieved within the boundaries of the property to be developed. The WQPZ on adjoining properties cannot be included with buffer averaging on a separate property, even if owned by the same property owner.

The average width must be calculated based upon the entire length of stream bank that is located within the boundaries of the property to be developed. When calculating the WQPZ length, the natural stream channel should be followed.

WQPZ averaging shall be applied to each side of a stream independently. If the property being developed encompasses both sides of a stream, WQPZ averaging can be applied to both sides of the stream, but must be applied to both sides of the stream independently, unless the natural topography of the stream makes one side of the stream not conducive to the establishment of a WQPZ and in that event, averaging using both sides may be utilized.

WQPZ averaging is prohibited in developments that have, or will have after development areas that have slopes greater than fifteen (15) percent that are located within fifty (50) feet of the stream to be buffered.

Appeal from Decision of Public Works Director. If the applicant desires to appeal from the decision of the Public Works Director or his or her designee made in accordance with this subsection, the applicant may file such request, and any documentation supporting said appeal, with the City Clerk. The City Clerk will place the appeal on the agenda of the next available regular City Council meeting. The decision of the Public Works Director, or his or her designee, may be upheld or overturned by vote of the regular membership of the City Council.

The applicant has submitted a variance request letter asking for a reduced WQPZ because he feels dedicating the WQPZ as required by the Code would result in a substantial hardship and inequity for his COS. Although staff concurs that engineered solutions and/or WQPZ averaging may be an option to reduce the size of the WQPZ buffer on this COS, staff recommends denial based on the following:

1. Staff is unable to determine the required WQPZ buffer width because the applicant has failed to provide cross sections as required by Section 19-411.C of the Code.
2. No proposed engineered solutions have been submitted by the applicant to potentially reduce the required WQPZ buffer width as required by Section 19-411.B of the Code.
3. The WQPZ buffer areas the applicant has shown on the COS are based on where he thinks they should be and are inadequate to meet the Code.

ACTION NEEDED: Recommend approval or disapproval of a variance in the private road width from 20' to 12', a variance in the Water Quality Protection Zone (WQPZ) and recommend approval or disapproval of Certificate of Survey No. COS-1920-2 for John Daniel Acres to City Council.

ACTION TAKEN: _____