

**NORMAN PLANNING COMMISSION  
REGULAR SESSION MINUTES**

**DECEMBER 8, 2016**

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 8<sup>th</sup> day of December, 2016. 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 Andy Sherrer called the meeting to order at 6:30 p.m.

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Item No. 1, being:

**ROLL CALL**

MEMBERS PRESENT

Sandy Bahan  
Chris Lewis  
Andy Sherrer  
Lark Zink  
Dave Boeck  
Tom Knotts  
Neil Robinson

MEMBERS ABSENT

Nouman Jan  
Erin Williford

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  
Leah Messner, Asst. City Attorney  
David Riesland, Traffic Engineer  
Drew Norlin, Asst. Development Coordinator  
Ken Danner, Subdivision Development  
Manager  
Terry Floyd, Development Coordinator

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Item No. 4, being:

**R-1617-55 – 800 WEST LINDSEY, L.L.C. REQUESTS AMENDMENT OF THE NORMAN 2025 LAND USE AND TRANSPORTATION PLAN FROM LOW DENSITY RESIDENTIAL DESIGNATION TO COMMERCIAL DESIGNATION FOR PROPERTY LOCATED AT 800 W. LINDSEY STREET.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. 2025 Map
2. Staff Report

AND

**O-1617-17 – 800 WEST LINDSEY, L.L.C. REQUESTS REZONING FROM C-1, LOCAL COMMERCIAL DISTRICT, AND R-1, SINGLE FAMILY DWELLING DISTRICT, TO PUD, PLANNED UNIT DEVELOPMENT, FOR PROPERTY LOCATED AT 800 W. LINDSEY STREET.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Location Map
2. Staff Report
3. PUD Narrative
4. Pre-Development Summary
5. Greenbelt Commission Comments
6. Excerpt of November 10, 2016 Planning Commission Minutes

**PRESENTATION BY STAFF:**

1. Janay Greenlee reviewed the staff report, a copy of which is filed with the minutes. Protests were filed on this item which represented 33.2% of the notification area.
2. Mr. Boeck – You talk about it being pedestrian friendly, but I don't see any sidewalks.
3. Ms. Greenlee – There are not currently sidewalks there. They have moved forward with a request for partial exemption to City Council, which – several things I can go through on that from the current standards. Right now the roadway is accepted, both Lindsey and Lahoma. The public infrastructure is in place. There are currently no sidewalks right now on the north side of Lindsey Street a half block east of this site to Berry Road – no sidewalks on this side. So they are asking for an exception from the sidewalk, however, they had stated if Council decides to require the sidewalk, that they would install that. And they are considering it. But just because there are no connectivities on that north side currently, they're requesting exemption for that.
4. Mr. Boeck – I know the City, to upgrade things, will often with a new project require sidewalks.
5. Ms. Greenlee – Yes. And it is, because they're going to, at the same time, they're going through a short form plat to combine both lots. But the exemptions move forward at the same time that the zoning request and land use amendment move forward to City Council. Let me back up and just one more thing. The site plan that is in your packet had the proposed sign at this corner. It is now out of the sight triangle and at this location. The current sign that's there has been there since that original building has been there. They may or may not decide to keep it, depending on the development of the project. But they have moved the – if they put in a proposed sign – out of the sight triangle. And this site plan reflects that, and you do have a copy that was provided for you this evening.
6. Mr. Robinson – Does this include curb and gutter along Lahoma and Lindsey Street?
7. Ms. Greenlee – It does not. There is no curb and gutter.
8. Mr. Robinson – And they're not going to put curb and gutter in?

9. Ms. Greenlee – They have asked for – there is no curb and gutter on Lindsey Street and Lahoma. There's on Lindsey what's currently and it's all the way down Lindsey. And on Lahoma, this is the existing curb; it's kind of deteriorated. This is part of their partial exemptions that they're requesting.

10. Mr. Robinson – Is this a rezoning of the Lot 1? Is this what this is?

11. Ms. Greenlee – It is to a PUD – to a Planned Unit Development.

12. Mr. Robinson – It's effectively a rezoning, in other words, so that lot is no longer going to be a residential lot. It'll be a commercial lot.

13. Ms. Greenlee – That is correct, as an accessory use only for parking for that building. Meaning they won't be able to expand that building beyond what is proposed on that site plan. The parking has to be available for the new developed building.

**PRESENTATION BY THE APPLICANT:**

1. Sean Rieger, representing the applicant – First, let me respond to the Commissioners on a couple of those questions. They were somewhat related – curb, sidewalks. We are happy to do, on either of those points, what the body wants to do. We were encouraged, however, to basically fit what is already there. And on Lindsey there are no curbs. On Lahoma there's the one. And there are no sidewalks. So it was encouraged of us to not show sidewalks. We are happy to put in a sidewalk. In fact, the original site plan had it in there; we were asked to pull it off. So we're happy to put it in. I think the concern is that, if you had sidewalks that lead to nowhere and somebody's front yard, and there's no other sidewalk for quite a long way, and that was the concern, and that's why we were asked to take it off. So happy to put it back on if you want. And the curbs – Lahoma has one; Lindsey does not. So we're happy to align with those conditions.

As to the question of Commissioner Robinson, I'll get into the specifics, but the zoning is not to change it to C-1; the zoning is to change it to a PUD, and we'll talk about that in just a moment as to what that means.

But you might ask, why are we rezoning, if it is already C-1? If it's already C-1 and a grocery is already allowed under C-1, why are we here tonight? Well, it's pretty simple. Because, when you want to go for a building permit in the City of Norman to enlarge a building, they're going to make sure you have parking, and they're going to make sure that it's in designed parking space and the site plan works, and things of that nature. To enlarge this building means, if we want to build a 3,200 square foot building, we have to go for a building permit and we have to show that we have parking spaces that accommodate that. So, while we can expand the building entirely on the site that is already zoned C-1 and we can fit within the uses that are already there, and we're not changing any of that, we can't fit the parking lot and the building all on the C-1. So the proposal was to come forward and, through extensive discussions with staff and others, is to do it through a PUD and to finite that. I'll get into that in just a moment, but I want to take you through another few slides to show you this.

First, let's be clear again, this is already C-1. This is already a liquor store; it has been there as a commercial use since 1954, I believe – 62 years this has served as a commercial site. I come to Planning Commission and City Council a lot. I've never heard anybody here at this podium that I can recall complaining about this site as a commercial site or C-1 zoning. Maybe they have; I don't know, but I've not heard it. Sixty-two years it's been there in that situation. The proposal tonight is to expand it and bring in a neighborhood market. I go to a lot of planning meetings and a lot of meetings where I hear a constant drumbeat of let's bring back the mom and pop market; let's bring back the neighborhood market; let's provide a walkability chance to go get a bottle of milk. Let's provide an experience where neighbors can walk down the street, shop at a little market, and see each other and interact. I hear that all the time at

Planning Commission meetings, planning meetings, 2025 update meetings, Porter Corridor that came up a lot, Center City we hear those things a lot. We hear it all the time. Tonight you have the chance to make it happen. That's very rare. Usually we're standing here in front of you with big boxes, with large out-of-state developers that come in and do their projects. It's very rare for us to stand here with a neighborhood market on a site that's already zoned for a neighborhood market, and ask you to approve a project that is effectively adding five parking spaces and about 1,600 square feet to a building. That's the essence of what you're being asked to do tonight, in a more aesthetic condition than what is there currently, on a street, mind you, that has 14,000 cars a day going down it.

Nobody anticipates turning this into Ed Noble Parkway. Nobody is here asking for that. Nobody wants that. What we're wanting is to do a neighborhood market in that location. And so that's the site. Janay showed it to you. It already has conditions that basically bleed asphalt out into Lahoma and Lindsey. And when you look at this, I've heard a lot of folks say they want to maintain the residential character – there's nothing residential about asphalt that goes all the way out to the street and has no front yard or anything like it. We seek to change that. We seek to improve that. We seek to put tables of people eating and talking to each other out near the street where we have that kind of an event happening.

This is the view from the street. This is what we seek to change. The asphalt goes straight out into the street, goes straight over to Lahoma. You see on the right is the lot we're talking about. When you add up the parking spaces that are around that building right now, you get to about ten. You see four in the front, you see about five or six on the side, and then on each side you have a couple more. So roughly you could park about ten cars there right now. In the plan before you tonight we're seeking to park sixteen. So we're roughly adding six cars onto a street that travels 14,000 a day – minor and insignificant in the terms of traffic and all those things you've heard people talk about. A tiny speck in the street of 14,000 cars a day.

Again, that building is considerably old. Now right now, as your staff report said, the zoning allows us to do C-1 uses in that building. As your staff report says, we could do a 24-hour tattoo shop. We could do a vape store right now. Your staff report talks about that. We could do a 24-hour coffee shop and drive-through. Everything right there. It's all right there. But we cannot go get a building permit to go beyond the C-1 site and do those things. That's what we seek to do, is get a building permit to build a bigger building – a much nicer building – only about 3,200 square feet – and I'm going to show you in just a moment what we anticipate – an imagery of what it might look like, and the site plan. But we seek to change that condition and make it a much more appealing presence on the street and as a streetscape. I don't think anybody would suggest to you that that streetscape is something that I've heard us talk about in the Center City or North Porter or any other plan say that's what we want. But I think what I will show you is aligning with what I've heard many times people say what we want as a streetscape experience.

That's another view of it. Again, it is a sea of asphalt and a rather old building. As Janay said, that sign – we're not sure yet if we can reuse that. If we can, we probably will. If not, we'll put up new signage that complies with City code.

This is the site plan; 3,200 square foot building, 16 parking spaces. We're going to improve the street edge. You see it right here basically. This is all green out here – I'm sorry it's not in color, but this is all green space – all of this out here. Landscaping around it. You see a portico. I'm going to show you a building in just a few minutes that basically the imagery would be what we anticipate. So we see a porch around it. We see seating areas around it. We see the building about 3,200 square feet. We see the parking over on that lot that is really the focus tonight – the lot that would allow for the 16 cars and we see some parking in the back. Access would now become defined – as to before there is no definition – we don't have any definition of where people come on and off of this property – it's however they want. Now we will have a definition. They come on and off here and they can leave the site over here as well.

This number of 55 feet is fairly significant, in that that space is what the current lot is, and so the current lot that is zoned R-1 is 55 feet wide. As you can see on the site plan, we do not anticipate – we will not allow – the PUD will not allow any vertical structures within that 55 feet.

All that will be allowed, to answer Commissioner Robinson's question, is that parking lot. That's it. The PUD is written very specifically with tight language that says that west 55 feet – the lot that is not zoned C-1 right now, will only be allowed for the uses of R-1 or a parking lot to accommodate that use. That's it. It's not going to allow for C-1. It's not going to allow for vertical construction. And even buffer it even more, to make sure that still can't be done, we put in the 25' building setback line on that side, which is applicable to what you see in R-1 front yards. That's how big a 25' setback is. So we've made it very extensively restrictive on that west side to make sure that there is no C-1 use, other than the parking lot that will satisfy the neighborhood market on the other existing C-1 site.

We hope to create that pedestrian edge again. We were happy to put sidewalks in if people want them; that's not a problem for us, it's not an objection from us. We can carry those sidewalks around the edge – they wouldn't go anywhere, but we seek to create that edge experience – that neighborhood market experience on a pretty busy street, but we think we can accomplish it even still because it's surrounded by the residential.

We have solid 6' decorative cedar around the perimeter, landscaping around the perimeter. We would meet the City code that says we have to have a tree every 20'. I'm sorry it's not shown like that on the screen, but we would have to do that so there would be significant landscaping around that site.

And this, again, shows you the current zoning. It's really kind of odd, actually. This site is one ownership. It's a one ownership site, but as we see a lot of times in older Norman, sites that are actually one assessed lot are actually multiple lots from original town, as we call it. This was one of those situations, where there's actually two lots – it's one assessed parcel; it's one ownership; it's two lots.

And on that note, actually there is a vehicle within your ordinances that says we could have gone to the Board of Adjustment. There's actually a vehicle – it's been done before – where, when you have that situation of one lot and only half of it is zoned one way and half of it is zoned the other, you do have the right to go to the Board of Adjustment and ask for them to basically make it one zoning across that lot. But, to do that, we would have had to say we want it all to be C-1. We didn't want to do that, because we do not want – do not anticipate – do not need – the west half to be all C-1. It would have been an overreach. We chose not to do that. It would have been much easier; it's one hearing. It's about four weeks. Show up, have your hearing, you're done. But it would have been an overreach; we chose not to do that. We chose to come here, through a much more extensive process – a much more expensive process – and ask for a PUD – a PUD to lock in that all we want on that west side is the parking that will allow us to do the neighborhood market on the side that already allows for a neighborhood market. That was the path we chose. It's been there for 62 years. We anticipate it will be that way a lot longer.

Again, it could currently be many different uses on that site. This is C-1. C-1 actually – there's an argument to be made – maybe we should have gone to the Board of Adjustment and asked for the whole thing to be C-1. I don't think we should have, and we didn't. But, C-1 is actually a neighborhood commercial zoning. This is right out of your code, and this is what it says. It says, "This commercial district is intended for the conduct of retail trade and to provide personal services to meet the regular needs and for the convenience of the people of adjacent residential uses." Those aren't our words; those are yours in your code. ". . . these shops and stores may be an integral part of the neighborhood closely associated with residential . . ." It's intended to be adjacent to residential. It's intended to be a part of the neighborhood. We want to be that part. We want to be the neighborhood market. We just simply need a parking lot, by code – we can't do it otherwise. I could have shown up tonight with a PUD that says we want very little parking – that's been asked before in some PUDs. We didn't do that. We're fine to accommodate the parking as per code, but we don't want anything more. That's all we want. And C-1 – it fits this area per code exactly. It's been there for 62 years.

Again, within the PUD, we retain the existing zoning of C-1 on the existing east side, but we actually further restrict it. The PUD does actually change the zoning on the east side, because it becomes one PUD. And currently under C-1, C-1 actually allows you to do two and a

half stories, 35' in height. It allows some different setbacks. We actually have said this PUD will only allow one story, for instance. We've actually said that this PUD will have to have full cutoff fixtures, will have to submit a photo-electric plan that shows that there's absolutely zero spillover, and we would have to submit that prior to the building permit. If I did straight C-1 zoning, you don't have any of that – you have the commercial lighting ordinance and it has some of those controls, but we've written it beyond those controls. Commercial lighting ordinance has some things – it says architectural lighting can be used. This just flat out says full cutoff fixtures everywhere. Period. And photometric plans. We said in the PUD it has to be a residential scale building. C-1 doesn't give you that. C-1 could be flat out full industrial – however you want to show it – kind of architecture. We've said it must be a residential scale. We've restricted it further. Said it had to be one story. We've put in setbacks that are far in excess of anything in C-1, and we've done that voluntarily. And so the PUD zoning is the perfect tool to give you those kinds of restrictions. And we appreciate staff and legal opening up on those issues to say that PUD is the perfect use for this kind of a site – to give us the ability to firmly restrict – I always say confine and define – what the zoning is. C-1 open-ended zoning, as we call it, does not allow you to do that; a PUD does. And we're happy to do that.

So a walkable market. Gosh, we hear it all the time – I hear all the time Midway Grocery is so beloved in this town, and they call him Midway Bob Thompson – he has the moniker of his building. Right? Of his business. That's how beloved it is, and Midway Bob sat right here for years as a Council member and he still is on that site. Now, that's not on a 14,000 car a day street; that's not on a main arterial. That is truly tucked within a neighborhood. They even have festivals there – June Bug Jam – they have all kinds of things and it's loved. We seek to do the same thing on a 14,000 car a day arterial where there is already C-1 zoning, where there is already a liquor store, where there is already uses that say it could happen. We simply need a parking lot. Now I love Midway Bob – I'm not trying to throw arrows, but he doesn't have the parking and that really is needed and I'm sure he wants more and I don't think it has been a problem, but we're going to put in the amount of parking.

This is the imagery of what the client wants to do. Residential scale. In fact, I hadn't shown this, and I feel badly – I hadn't shown this, I don't think, at the Pre-Development hearing and I got a little bit scolded by my client. Said, "Why didn't you show them that? Why didn't you show them that?" I didn't bring it with me. But that's the scale and imagery that they want to put onto this site. Residential scale, one story neighborhood market. And that's the imagery they want to go for. Again, that's an existing building somewhere else – that's not exactly what they would build, but that is what I've been told repeatedly is the style they want to do. That's the interior I have been provided of what they want to do on the inside. Neighborhood grocery, neighborhood market within 3,000 square feet right there on that corner with that exterior style.

And so that's what you're being asked to do tonight. Change from what's on the left to what's on the right. Not exactly, again – stylistically. But what's on the right could be done right now on C-1 zoning, be it not for the parking lot. That's the only challenge before us – make sure we can provide the parking lot. That's the only reason we're here. But we've done it in a way that strictly confines the use, the style, the effects, the access, the setbacks, the landscaping – all of that. Far beyond what is already zoned to allow to happen. We think it's a tremendous improvement. We think it's something we've heard many times people want – a walkable neighborhood.

I can recall – I will share with you – one time I had a Council member say to me, "When can you bring us a neighborhood market?" and they had sought out a notable grocery store chain in Oklahoma who has a small market concept to get them and they were trying very hard to bring it into Norman, into these areas, and that was around the time Sprouts came in and some other uses up in that area. But they were looking for something down in this area. Now, you know, I haven't talked to him since that point, and haven't presented this. I usually wait until Planning Commission is over before I approach them, but I'll be excited to bring this to them and show them and say, "You have it."

So, with that, we have support. Staff supports it, which I'm not surprised since we hear at meetings all the time that they want it – that people want it. That they want these

neighborhood markets. They want these pedestrian walkable locations. As staff said, this will create a defined corner with a landscaped buffer and driveway approaches. This will bring back the local market, like Amspatcher's that was right down the street, back into this area. And this will significantly improve the existing access to this site.

So that's the request. It's really very straightforward. It's really very simple. It's a site that already allows C-1, but we need a parking lot. We're not asking to not fulfill our requirement of the parking lot; we're asking to allow us to fulfill our requirement of a parking lot and to do it under a constrained PUD zoning. I hope you will see the merit in that. I'm happy to answer any questions you have. Mr. Tom McCaleb is here to discuss the short form plat issues, the engineering, if you have any questions about that. He can discuss that as well. With that, we would ask for your support tonight and I thank you very much for your attention.

2. Mr. Knotts – I think you mentioned an eating area. So is this a restaurant, also?
3. Mr. Rieger – They do hope to have a deli bar inside. What's been described to me would be kind of like a Midway Deli – probably more grocery store, though, than Midway Deli – more grocery and market, than deli, but they do hope to have sort of a deli counter.
4. Mr. Knotts – Casual dining?
5. Mr. Rieger – I don't foresee extensive dining table areas, from what I've been described. I think it would be more of a walk-up sort of walk and go take-out deli. But I think they envision tables around the outside.
6. Mr. Boeck – Like Amspatcher's.
7. Mr. Rieger – Probably.

#### **AUDIENCE PARTICIPATION:**

1. Larry Naifeh, 818 W. Lindsey – You've seen my house on the pictures. It's two doors away. Really appreciate the staff's review of this. Actually appreciate Mr. Rieger and the approach that he's outlined for you. Who wouldn't? I mean, what a lovely story. Unfortunately, we're going to be stuck with whatever you decide to do when you double the commercial footprint that sits on that corner, because that's what they're really asking you to do. They're also asking you to have a parking lot next to a residence – probably be up against Theodore's bedroom back there is where they want to park. That's not what is on that site now. That's not what's been on that site for 62 years. That site has been so limited by its size and the uses that are available on that site that the City has missed it twice on the 2020 plan and the 2025 plan. Missed it twice. We can't be now looking at a circumstance where we've decided that we want to double the size of the commercial footprint. Dress it up. Talk nice about it. Appreciate all those things, but that's, in essence, what it is. And Mr. Rieger – his clients – appreciate them greatly, but there's nothing in this PUD that says that's what it's going to be. There's nothing in this PUD that says it's limited to the wonderful neighborhood market. The PUD said – the only limitation in the PUD is that you have a parking lot – limited to a parking lot. Thank you, but that's really not much. Doesn't say that it will be limited – could be a restaurant. They say they're not going to do that, but the PUD doesn't say that. It could be 24 hours a day in our neighborhood. They say they weren't going to do that, but the PUD doesn't say that. I mean, if it's going to be a PUD, make it a PUD and put things on it that would make this actually be a neighborhood market. They can do everything that they've asked to be done on the footprint they have – it'll just be smaller. It'll just fit in the neighborhood. It'll just be something that is consistent with the lives all these people here have made for themselves for more than 62 years. So it's really important that we understand that's what it is. We've asked – had a meeting with them. I've asked for those simple things. Put your money where your mouth is – tell us it will only be a deli. Tell us you're not going to cook in a restaurant. Tell us you're not going to have on-site consumption of alcohol. Tell us it's going to be a grocery and not a 7-Eleven. Tell us it won't be a drive-thru.

2. Stephen Ellis, 633 Reed Avenue – Ward 4. The site in question looks like it's only .35 acres, so roughly a third of an acre. So I was wondering how this could even be a possible PUD. I'm

sure you're familiar with, but for anybody who isn't, Section 22, the Zoning Code of Norman, section 240 (3)(b) talks about minimum district area and it says that, "Eligible properties must normally be two acres or larger in size (gross acreage). Slightly smaller parcels may be eligible, provided the applicant can show that the proposed Planned Unit Development can meet the intent and regulations of this article without injury to the public health, safety and welfare." So 18% of the normative size is not slightly smaller. If you go look at the preamble to the PUD regulations, you'll see that this is really actually supposed to be all about innovative design, where you're giving someone more leeway in return for something special. And what I want to suggest is that we don't really have a need there. They have another access to provide these things. There's no reason to give the special design leeway. You know, maybe this is a good idea. Nobody loves Mom and Pop Switzer more than I do. But it isn't allowed by our current code and, even if it's a reason to change our current code, that's not a reason for you guys to adopt this PUD. And just to sort of be really clear about that, if you have been paying attention at all, you know that the City of Norman has been having a lot of credibility problems after the stormwater utility vote. And this sort of skirting around the rules, especially when the rules are stated pretty explicitly, just doesn't help. And it's really not sufficient to just ask the City Attorney, who I see is sitting in the back of the room. Her job is to provide cover for whatever the City staff decides to do. What your job is is to look at the rules and see what a citizen can reasonably expect is allowed to be possible. I mean, you have an independent role here. So this is not merely a question for will the City Attorney check off on this. I think you have an independent reason to want to defend the zoning code, because your job in many ways is to be the first sieve for the kinds of things that get passed on to the City Council in Norman. So let me suggest to you that, whatever the City Attorney has to say about this, you have independent reason to reject it, because it doesn't meet the standards of the code – it's not two acres, it's not slightly smaller, it doesn't really do anything special.

3. Cynthia Rogers, 633 Reed Avenue – I would like to, I guess, just reiterate what the gentleman over there said. I think a blanket zoning change that allows anything in the future – I think that's a concern for neighbors and I think that's definitely a concern for people that have invested in their neighborhood and they have their homes and they've been there a long time. My real question, though, that I wrote on the paper had to do with what impact this would have on stormwater runoff in the neighborhood. Is that an area that floods? I appreciate that there'll be – I don't know if there'll be more greenspace or not. But is it going to be better? Obviously, the sea of asphalt was terrible and we know better than that now. And since we know better, I hope that what we get there – or whatever happens there actually has more slowing down the water and affects water quality and storage and all those sorts of things that we're talking about with the stormwater utility. Thank you.

4. Ken Danner – Engineer for the applicant will have to provide a drainage report when the short form plat comes in.

5. Blaine Nice, 100 N. Broadway, Oklahoma City – I don't want to reiterate and repeat what everybody said, but I do want to say – and Mr. Rieger was very kind. We sat down with him, Mr. Naifeh and I, to try to answer some of these questions. And, as Mr. Naifeh said, they can do all these commercial uses on the existing lot but by doubling the size of their footprint – Mr. Rieger tells you that they came forward with this PUD. I think staff suggested they do that. We sit here and Ms. Connors – we tell people PUDs are a great thing because you can do things out of the box. You can do things normally you couldn't in zoning and you can restrict things. And all we said to Mr. Rieger is this PUD, the beauty of it – you're not going to have all these other uses. You're going to double the footprint, well then limit some of the uses. They're going to have a liquor store in here that has limited hours – that's what it has now. So these people, if they do a 24-hour store, they're going to have college students in there buying beer and things, you know, up 'til 2:00 in the morning, and that's what I think the citizens are asking. The concept of a neighborhood market – they accept that and they agree with that. And some of these things



will certainly be an improvement. But we're just asking you to urge the applicant to sit down with the neighbors and say, okay, the beauty of the PUD is we can put some restrictions in there we couldn't in the straight zoning. You're asking to double the size of the footprint. Well, in exchange for that, give up some of these uses. And one of them is hours of operation. The neighborhood market – grocery store – doesn't need to be open after 10:00 or 11:00 at night. I understand under straight commercial it could do that. But we're saying you're coming in here asking to put this parking lot over here and double the size of the footprint – limit outside cooking or what type of – don't have a fast food or a quick trip there. The applicant, they've been here a long time. Those people are vested in the community. But what happens when this PUD gets approved and then they sell it to somebody else that comes in from out-of-state and puts a different use there? That's our concern. So we're asking you to maybe urge the applicant to go back and sit down and put some reasonable restrictions and limits of hours and things like that in this, and work with the neighbors so we would have a neighborhood grocery that could be in harmony with the neighborhood. Thank you.

6. Emily Cunningham, 814 W. Lindsey Street – I live in the little blue house directly next door to the vacant lot. I just wanted to bring up a couple points. The no sidewalk – that sidewalk is going to be my front yard, which it already is. We had no problems with the liquor store being there until Eric Patron sold to Switzer Liquors. Now there's constant trash in my yard. I do not feel safe with Theodore having his room right there. I've had to call the liquor store and let them know that people are drinking outside of the store, sitting against that big beautiful tree that they're going to cut down, staring right at my house. Everyone that lives near has seen me walking up and down. I walk every day with our son. Lindsey is not a safe street. Yes, 14,000 cars travel up and down that street. It is not safe. I never walk up and down Lindsey because there are constant crashes, there are kids constantly texting. People fly up and down Lindsey. There are semis. It is not a safe place for people to be walking up and down. It just isn't. If there were sidewalks, maybe. But, again, where is that going to come from? The Naifeh and I's front yard? I mean, it's just ridiculous. Thank you.

7. Lee Krumholz, 832 S. Lahoma Avenue – It appears that this is trying to be a neighborhood market with as much bicycle/pedestrian access as possible, and yet there is very little. In a typical neighborhood market, we would have people walking up and yet, as one of your committee members mentioned, there's no sidewalks. There's no sidewalks on that part of Lahoma. There's no sidewalks on Lindsey. Although you can ride your bike there, it's kind of a round – you'd have to avoid Lindsey, because nobody rides their bike on Lindsey. So I think that if there's going to be some changes that they need to incorporate bicycle/pedestrian access plan.

#### **DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

1. Mr. Boeck – Of course, that brings up a lot of comments. It's not this project's purpose to put in sidewalks, because I've been in neighborhoods where you have one sidewalk in front of one house and then no other sidewalks. So that's a City deal. And we talk about being a walkable city, and that has nothing to do with even the zoning. That's a whole other issue – is when is Lindsey going to become an accessible, walkable, bike-rideable street? We're spending a lot of money redoing Lindsey Street and that bridge. And that's neither here nor there. That's what I want to see happen there.

I guess the question I have – the big concern for me is, as I've talked to Sean about this, is PUDs have purposes and it's there to get benefits from both sides. But I have an issue if it's going to be a convenience store that's open all the time. I would like to see some more specifics in the PUD that – 'cause I lived on College Street and walked Lindsey Street, rode my bike on Lindsey, got hit by a car riding my bike on Lindsey Street when I was in school, and shopped at Amspatcher's all the time. When we talk about a neighborhood market, I talk about Amspatcher's as being the place that I loved to go to get my groceries and to get food, get sandwiches. They didn't have any alcohol at the time. And they're going to have the potential

to have alcohol with our new laws. So I guess – I personally want to see this happen, but I feel like I need to see more restrictions as to what exactly – what it is, what kind of store it's going to be. I don't even have a problem with a restaurant. But, again, I keep thinking of Amspacher's, which is a neighborhood grocery store, and how that can happen. How we can ensure that it stays what it is meant to be – what it's said to be as a neighborhood market?

2. Mr. Lewis – I do have one for our City Attorney, Ms. Messner. During the comments, one gentleman brought up the concerns about the PUD falling under our current ordinance. I'm hoping you can clarify and expound on that just a little bit, and where this falls. The next thing is, in Mr. Rieger's presentation, this is going to be a neighborhood market, and I would assume with the current legislation that was passed that allows now grocery stores to have wines and beers potentially in the future in them, would that fall under the 2:00 a.m. closure of a liquor store, or do you have any idea, that would prevent the store being open 24 hours, I would think, if that were the case?

3. Ms. Messner – As to your second question, I'll take that one first, I don't know the answer to that, Commissioner, about the 2:00 a.m. closing. I assume it would be the same as the liquor stores, but I don't want to go out on a limb and say for sure, because I do not know the answer. I apologize.

As to the first question, the PUD ordinance is designed to give maximum flexibility on a development site, with the compromise of additional conditions or restrictions or things that make something that might normally be an unusual development work in an area because you are able to very narrowly tailor that to what's going to be built. You can argue that, depending on how the PUD is written, it could be the most restrictive piece of zoning in the City of Norman, or the least, depending on what the language of the PUD itself says. Our office did advise that we felt like this was an appropriate use of the PUD ordinance. It allows the applicant to request that parking, while still putting some restrictions on what can happen on the part of the site that is currently residential. I do agree that additional conditions could be – you could recommend additional conditions to even more narrow what's going to be occurring on that site. And that's the benefit of a PUD at this location.

4. Mr. Robinson – Does the 2 acre limit apply in any case? I mean, is that just something that's ...

5. Ms. Messner – It does say 2 acres or less.

6. Ms. Connors – It says normally be 2 acres.

7. Ms. Messner – Normally 2 acres. Council, in the past, has approved PUDs smaller than 2 acres. It would not be out of conformity with the ordinance.

8. Mr. Sherrer – I'll make one comment myself, and Commissioner Boeck, I think you kind of stole some of the words I was going to use. I'm going to support this tonight. But I would say this, that is a very challenging thing for me because I like the spirit of it, but I do think that the manner which the PUD has been presented is, without some restrictions and some things that I would certainly feel like would be appropriate to talk and have further discussion with those neighbors, whether that be for outside activities, depending upon the walkability, the approaches, what we're trying to accomplish and understand what that needs to be and what that needs to occur and look like. I'd like to see that before it goes before Council so that Council could then have an idea of what that really needs to be. Because as it stands right now, again I'm in favor of the spirit of it and will vote accordingly, but I do have some real concerns about the fact that the PUD is pretty wide open as it stands right now.

9. Mr. Robinson – I would like to echo you. I agree. I kind of agree with the spirit of it. I'm a little concerned about the traffic issues. I mean, Lindsey Street is ridiculous. It's not that this is necessarily going to make it any more ridiculous, but it's a problem. Lack of a sidewalk is a problem, but putting a sidewalk on a little piece of this is – it looks a little silly, but on the other

hand, the City, at some point, needs to make a move and say we're going to make it walkable. We're going to do something with this intersection. I wouldn't want to walk up to this place on a sidewalk and then try to cross Lindsey Street with no light. It's just not safe. And I think just riding a bike down Lindsey Street is not safe. Putting curb and gutter here might actually make it less safe, because you're running along without curb and gutter and suddenly curb and gutter is there. It's just not a good situation any way around. But there doesn't seem to be a policy that says positively when we develop parcels, that we're going to require these things, and then plan your arterials and your roadways accordingly. But, again, I think in the spirit of what's proposed, I think it's appropriate and it's probably going to be a benefit to some people, except those who live next door. It's a difficult thing.

10. Mr. Boeck – I've got a question, and this gets into procedure and how we, as a Planning Commission, can work, because I'm a firm believer in mixed use and neighborhood walkability and stuff like that. But what can we as a Commission do? Do we either just approve it and say we'd like these restrictions to be added before it goes to City Council? And what does that get us? Versus saying we can't vote for it right now because it's too unrestricted – or too open and you need to come back and get some more restrictions in there. I'm for minimizing the amount of work that it takes, but I want to make sure we're doing the right thing.

11. Ms. Connors – The Commission has the authority to approve this, to deny it. They can postpone it, although there's often developers who say that that's inappropriate. You can approve it with conditions, because this is a planned unit development. You can add conditions to this PUD. So you have that authority.

12. Mr. Rieger – I would encourage you to give us feedback on what you want, as to those restrictions. And the neighbors did. We did meet with Mr. Nice. We heard those specifics and we'll consider those as well. But I would encourage you, as well, to give the developer that feedback, and then we can go on to Council with that feedback, and that gives Council some instructions.

13. Mr. Sherrer – Mr. Rieger, I'll tell you I did not hear, in my opinion, either one of the two neighbors adjacent that I thought that they were inappropriate in their requests. So just have that as a general overall, rather than going and listing each individual one. That would be my quick answer to that. Other Commissioners may have some restrictions as well.

14. Mr. Boeck – I thought Mr. Nice did a pretty good job of at least listing my concerns of what I'd like to see in the PUD. I don't know if that's all of them. I thought he was representing some people in that group, and those were the kind of things that I wanted to personally see in the PUD in order to approve it.

15. Mr. Nice – Before we start, and I appreciate – I'm not trying to slow them down, but as I understand it, one of the reasons that they've come forward with this is because of the proposed changes in the liquor laws and what they want to do, and that's not going into effect for a while. So I might ask if they would agree to postpone this to let us sit down again, rather than try to come up with everything tonight. I understand that's up to them. They can ask that you vote on it the way it is. I appreciate that. But I don't think this is something that time is of the essence and it's got to be done tonight. So, in that regard ...

16. Mr. Rieger – I am rarely open to a postponement. I hesitate – my client is not with me tonight. I have been texting him – I will share that with you. He has agreed to limit hours of operation to midnight and closure at midnight to 6:00 a.m. is what we talked about in our office. That's one concession that the client will do. I think there's some other things we can talk about. I am concerned when I hear you're going to limit down to just a neighborhood market. That's

unreasonable. That's unreasonable. When you get down to that issue, that level that you have one use and only one use, there's no way you can.

17. Mr. Sherrer – I guess the answer at this point is you'd like us to move forward.

18. Mr. Rieger – I would, with feedback.

19. Mr. Naifeh – The element there that is of concern is that – I've been speaking to you as myself. And to presume that I speak for everybody else that has spoken is probably not fair. And they may have vastly different ideas, including whether there should be a damn parking lot there at all. That's really concerning. And it's also concerning ...

20. Mr. Sherrer – Let me ask you, then – excuse me for interjecting there, but I guess my point on those, if you would list those five or six things, then that allows us as a Commission then to make those recommendations or not, depending upon our vote, with the idea we're not postponing, and then certainly you have the right, and as your neighbors do, to follow up with any sorts of comments with the Council, who ultimately makes the vote. But are there four or five things that you would like very specifically for us to consider tonight in any recommendation made to Council? I want to make sure those get noted for the record. Otherwise, it's fine. We can move forward and go to Council.

21. Mr. Naifeh – Understood. So in the listing of that, we think that the applicant should be limited to what the applicant has presented to you, and that is a wonderful neighborhood market. We didn't do that – that's what they listed. That's one. Limit it to a wonderful neighborhood market. We think that – while we believe that it's clear that the uses that are proposed don't allow the onsite consumption of alcohol, we'd want that listed in the PUD so there's no doubt now and forever after that there'll be no onsite consumption of alcohol on that piece of property. We clearly think that having restrictions with regard to a restaurant are very reasonable. Now, I don't know the code well enough to know what I just said. But if you're cooking and you have to have grease traps and you have to have vents and your smoke is coming out the building and it's that type of establishment, that's not the neighborhood market that was presented to you. You saw pictures. We're talking about Midway Grocery. Those don't have those types of things. No outdoor cooking, either, in that regard. We'd love to keep the trees; there are two huge trees there, but I don't know that that's within our purview but that parking lot kills two gigantic character trees in that neighborhood. It's tragic – absolutely tragic. They should figure out a way to – even if they have two less parking spaces and can keep those trees, they should have two less parking spaces and keep those trees. Hours of operation – there's no reason that a neighborhood market needs to be open past 10:00 at night. Liquor store can happily stay open 'til midnight, if that's what the law allows. That's a limited use. But having a neighborhood market that includes a deli need not have folks eating outside while we're trying to sleep – while Theodore is in his bed – while I'm in my back yard. I don't need to hear them. We don't now – the liquor store doesn't have anything like that.

22. Mr. Sherrer – Thank you. That's very helpful. We appreciate you giving those. I think that will be helpful for the applicant as well.

23. Mr. Knotts – I just don't feel like this program for this building – this PUD – has been sufficiently explored. And rather than trying to hurriedly put conditions on it, I would like to offer a motion to deny, with the idea that that time would allow the residents and the proponents to get together and come up with a reasonable program solution that takes all of these factors into their program.

*Tom Knotts moved to recommend denial of Resolution No. R-1617-55 and Ordinance No. O-1617-17 to City Council. Neil Robinson seconded the motion.*

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

YEAS	Lark Zink, Tom Knotts, Neil Robinson
NAYES	Sandy Bahan, Chris Lewis, Andy Sherrer, Dave Boeck,
MEMBERS ABSENT	Nouman Jan, Erin Williford

Ms. Tromble announced that the motion, to recommend denial of Resolution No. R-1617-55 and Ordinance No. O-1617-17 to City Council, failed by a vote of 3-4.

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