

**NORMAN PLANNING COMMISSION
REGULAR SESSION MINUTES**

APRIL 13, 2017

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 13th day of April, 2017. 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.

* * *

Item No. 1, being:

ROLL CALL

MEMBERS PRESENT

Sandy Bahan
Chris Lewis
Neil Robinson
Erin Williford
Tom Knotts
Andy Sherrer

MEMBERS ABSENT

Nouman Jan
Lark Zink
Dave Boeck

A quorum was present.

STAFF MEMBERS PRESENT

Susan Connors, Director, Planning &
Community Development
Jane Hudson, Principal Planner
Roné Tromble, Recording Secretary
Larry Knapp, GIS Analyst II
Leah Messner, Asst. City Attorney
Ken Danner, Subdivision Development
Manager
David Riesland, Traffic Engineer
Todd McClellan, Development Engineer
Carrie Evenson, Stormwater Engineer

* * *

Item No. 9, being:

O-1617-34 – AN ORDINANCE OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 429.1(3) AND CLARIFYING THE PROCESS FOR AMENDMENTS TO DISTRICT BOUNDARIES BASED ON APPROVAL BY FEMA OF LETTERS OF MAP CHANGE INCLUDING LETTERS OF MAP REVISION; SECTION 429.1(4) TO CLARIFY WHEN A FLOODPLAIN PERMIT IS REQUIRED AND WHEN COUNCIL APPROVAL IS REQUIRED; AND REMOVING REDUNDANT LANGUAGE RELATED TO SUBDIVISION STANDARDS, ALL IN CHAPTER 22 OF THE CODE OF THE CITY OF NORMAN, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Annotated Ordinance No. O-1617-34

PRESENTATION BY STAFF/APPLICANT:

1. Carrie Evenson – I will be presenting a little bit of background on floodplain history, so you kind of have an idea of what we're talking about, and then we'll go into the specifics on what the ordinance changes are that we're proposing. Just to give you a little bit of background on the floodplain, a floodplain is any land that's susceptible to being inundated by water from any natural source. We also call these flood prone areas. If it's a regulatory floodplain, then we refer to it a hundred year floodplain, or the 1% chance flood, and essentially it's any land that is subject to a 1% or greater chance of flooding in any given year. So what do we want to do with floodplain regulations? Essentially, what we want to do with floodplain regulations is reduce future flood risks to new construction in certain flood-prone areas. And as part of this, floodplain ordinances are required to participate in the national flood insurance program, also referred to as the NFIP. NFIP was created in Congress in 1968 basically to mitigate flood losses through sound community-enforced building and zoning ordinances, and then it provides affordable federally-backed flood insurance for property owners. With this, requirements for participating in NFIP, we have flood hazard identification, so we have maps, essentially, from FEMA that identify the flood-prone areas, also known as special flood hazard areas. They designate areas as floodplain. They also designate areas as floodways. Floodways, in particular, are channels of a watercourse and the adjacent land that we have to reserve, because that's where the discharge or the base flood is going to occur without increasing the water surface elevation more than a specific designated height. We don't want to make flooding any worse. It also designates the base flood elevation, which is essentially the elevation above sea level where the 1% chance flood occurs. And, basically, we make our decisions based on our local floodplain regulations and we do this to reduce flooding to property owners and the insurers. So if you're wondering where are the floodplains and floodways in Norman, these are where they're at. All of the light blue areas are floodplain; the darker blue areas, those are floodways. So those are specific areas that we want to reserve for the flow of stormwater. With our participation in the NFIP, we have 539 active flood insurance policies. 113 claims have been paid out since 1979. \$137 million in value of flood insurance in Norman. \$2.3 million paid out for flood related losses. With participation in the NFIP we also are able to be eligible for federal disaster assistance related to flood-related damages.

Just some history of Norman's participation in the NFIP. It started way back in 1975 – July 8, 1975 is when we had the first floodplain ordinance, and that's when we joined the NFIP program. Then, basically, throughout the years we've received our floodplain maps and then we've revised those floodplain maps as development changes and that affects where our floodplains are. In response to that, we've also revised our floodplain ordinance through the years, so beginning in 1978 all the way up to the most recent revision to adopt the changes in the revised digital flood insurance rate map. When we were accepted into the NFIP community rating system on October 1, 2011 we came in as a Class 5 community. It's a pretty major achievement for that. Of the 21,180 communities that participate in NFIP, only about 5% of those communities participate in the CRS program and only 12 of those communities are in Oklahoma. It's a pretty major investment of time and resources. Of those communities in the U.S., only 52 have received a CRS class rating of 5 or better, with 10 being the lowest rating and 1 being the highest rating. So it's a pretty good achievement for Norman.

So with our floodplain regulations, we regulate the floodplain through flood hazard districts in the zoning ordinance. It's an overlay district. So the underlying zoning designation still applies with floodplain restrictions. We also have a Floodplain Permit Committee which reviews floodplain applications for development in the flood hazard district. The members of that Floodplain Permit Committee include the Floodplain Administrator, which is the Public Works Director Shawn O'Leary, the Director of Planning, the City Engineer, the Subdivision Development Manager, the Principal Planner, and then we also have two citizen members of our Floodplain Permit Committee that have specialized training, so they really have to have some specialized knowledge when we're making these decisions.

So basically the general rules for our floodplain regulations you can build in the portion of the floodplain that's not floodway, which we call the flood fringe – that's that outside darker orange section – as long as the structure is elevated at least 2 feet above the BFE. You can't build anything or apply fill in the floodway. And fill can be applied in the flood fringe in limited circumstances and an engineer has to certify that there's going to be no rise in the base flood elevation downstream. We also have some requirements for compensatory storage and others.

The process for development in the floodplain – they have to submit an application to the Floodplain Committee. Floodplain Committee meetings are open meetings to consider the applications and, essentially, the committee is charged with determining the specific flood hazard at the site, evaluating its proposed use, and then issuing or denying the permit based on their knowledge of the floodplain and the potential impacts to neighboring properties.

We can change the FEMA floodplain maps in certain ways. If someone is interested in correcting a mistake in the map, if they look at their property and they think that that is just not correct, then there's a Letter of Map Amendment that can be submitted to FEMA. That comes directly from the individual whose property they believe is not in the floodplain and wants FEMA to revise, they'll send a letter directly to FEMA. The City isn't involved in that process, and it's not part of any application, unless the City is actually requesting the correction. We can also request a change to the designated floodplain on the map due to proposed or actual manmade alterations within the floodplain. There may be modification of a channel, placement of fill, construction of residential structures. With that application is made through the local community – through Norman – and then the applicant pays the fee for FEMA to review that. So when we do this before developing, the applicant can seek FEMA comments. There's a Conditional Letter of Map Amendment, where FEMA comments on the proposed structure to determine what would be occurring there. There's a Conditional Letter of Map Revision that FEMA can also comment upon. There's a Conditional Letter of Map Revision based on fill. Because it's before development, essentially they submit plans to say what they're going to do, FEMA looks at that and says yes or no we agree that that's not going to cause a rise in base flood, and then after development they have to submit plans that say okay we told you we were doing this, now here's what we actually did, and that's where the Letter of Map Revision comes into play. Then the changes on the map would occur based on that Letter of Map Revision. And that Letter of Map Revision does officially revise the map.

So the reason these ordinance amendments have come into play is really it started because of some issues with University House Norman, which occurred 2014/2015. Essentially there was an existing apartment complex there. Portions of that complex were in floodplain and floodway, and they proposed to remove those buildings. Essentially, during that review and approval process of the floodplain application for University House Norman, there were some issues with the ordinance – some language issues that were identified for clean-up. Essentially, we wanted to clarify some of the procedures in there. So there were several meetings held. There was a Council Oversight Committee that met to discuss those possible changes during 2015. In February and August of 2016 we also discussed changes at Study Sessions with City Council. And then we also sought input from the developers and the Floodplain Committee via citizen members through that process. Our current process for these things, the owner of the land requests the review of flood boundaries on his property, and then presents the info to the Planning Commission for review. The Planning Commission obtains technical analysis. The Planning Commission then recommends to Council whether the boundary should be changed

and whether the City should request a LOMR – remember that's the Letter of Map Revision. It's not based on development. If it's a LOMA, then it's correcting mistakes on the map and the City is not involved in that process. So what we're proposing to do is modify the language to clarify the process for incorporating LOMRs approved by FEMA into the floodplain ordinance, and remove the language related to LOMAs, since the City is not involved in that process – that's an interaction directly between FEMA and the individual.

So the current language related to fill is that fill is limited to elevation of individual residential and non-residential structures; construction or repair of public roads and bridges; river or stream bank stabilization or reinforcement projects, and then where authorized, fill must be the minimum necessary to accomplish the permitted development. With our proposed change, the modification of the floodplain, including fill, excavation, dredging, channelizing, and paving will be limited – again, the same language with elevation of individual residential structures and non-residential structures; construction of ponds less than 5 acres for farm and ranch activity; stabilization or reinforcement of river or stream bank; construction/repair of public roads and bridges stays the same; and then adding language on redevelopment or reclamation projects. We also will reference the LOMR process, to make sure that we are clear and consistent with those procedures.

When we look at defining the redevelopment or reclamation projects, that's specifically to address projects like University House that disturbed the floodplain more than a typical project, but through the activities that they're conducting actually serve to improve its function. It would allow projects with Floodplain Committee approval that proposed to reduce flood hazards through the removal of existing non-compliant development and which would provide beneficial improvements to the function of the floodplain. So, essentially, if we use University House as an example, they removed those structures from the floodplain and then provided compensatory storage to the southeast side of the facility through additional greenspace, essentially, so there's an improvement to the function of the floodplain with that change. We want to also with this proposed ordinance change clarify the approval process. Currently the City Council must approve floodplain modifications that change the width of the floodplain 10% or more. If there's a construction of a pond with a water surface area of 5 acres or more, that also has to have City Council approval, and they also have to approve modification of stream banks or flow line within the floodway, unless the work is done by the City itself. And then a report is made to Council with platting. If it's not done with platting, then it has to be done prior to the Floodplain Committee issuing the permit. So with the proposed change, we're looking at adding redevelopment and reclamation projects to the list of modifications that Council has to approve, and we're also looking at adding language to require a project report and recommendations of the Floodplain Committee to be provided to Council at the time of its consideration of the floodplain permit, essentially providing that information to them. There are a few miscellaneous clean-up items that also need to be done. There's some redundant language that's being proposed to be removed regarding manufactured home parks and subdivisions, and then updating FEMA's zone designations as well.

So part of the process here that we're going through, we had Council Conference on Tuesday. We are coming to you now today, hopefully with approval. Then we'll move on to first reading and second reading April 25 and May 9, respectively. And then as part of that, we'll work toward addressing the University House LOMR, which was approved by FEMA and will become effective May 31, 2017. Any questions?

1. Mr. Robinson – I've got a couple of questions. One of them is regarding the 5 acre surface of ponds. Is that at the normal pool or the spillway level, maximum pool at the top of the dam? How is that measured?

Ms. Evenson – I'm going to seek a little advice here. I received floodplain as part of my duty in January, so Todd McClellan is going to help me a little bit on this. Appreciate that.

Mr. McClellan – The section of the ordinance that talks about ponds is really related to farm ponds. So we're really not interested in the spillway and things of that nature. It's just for somebody, such as in 10 Mile Flats or out east, that wants to build a pond.

Mr. Robinson – So 5 acres at the normal pool elevation, whatever that is?

Mr. McClellan – Yes. And, of course, it goes to the Floodplain Permit Committee. They cannot cause a rise in the base flood elevation. And the other important thing is they can't cause any adverse impact on their neighbor.

2. Mr. Robinson – Another thing I'm concerned about is – and I'd really like to see added to this ordinance – and it really is sort of outside the purview of the FEMA ordinance, which I concur with all of your staff recommendations, and I also, having worked with staff on this issue, I can tell you we have a good staff. They're good at what they do; they know what they're doing and I think a lot of these recommendations are very good. But I'm concerned about one issue, of which I've been involved in some other projects, and when lakes that are on streams that have floodplains on them – if you do a dam breach analysis on some of those lakes, the dam breach inundation map that's created will frequently exceed the floodplain limits, because it's an extraordinary condition. So it's not that the floodplain map is wrong, it's just that with a dam breach analysis, the waterflow in the stream is extreme for a brief period of time. Structures that can be built outside the floodway and within the flood fringe could very well be flooded in a dam breach condition. I would like to see an amendment to this ordinance that would require a dam breach analysis when those conditions exist upstream from the development, so that the owners will know that they have potential to be flooded in this extreme case. I don't necessarily know that you need to necessarily prevent construction in those areas, but I think people who are buying those kind of properties need to understand the risk, as opposed to just having it happen.

Mr. McClellan – I think you could make that as part of your recommendation.

3. Mr. Lewis – Todd, while you're here, I do have a question also. You said that the five acre development on the ponds, which has to go through the City Council for approval, primarily is focused on rural ponds to feed wildlife. How does that affect our developments in, say, PUDs? And I'm specifically referring to if a community is built around a lake which has dams in it, and OWRB steps in and has to take over because of a flood analysis going downstream. If the City Council is approving that with this ordinance change, then – and that lake is being used for stormwater retention or detention, then does the City of Norman assume responsibility for the upkeep and maintenance of that lake that they approved?

Mr. McClellan – Well, under the current conditions, I believe the answer is no. Our current ordinance the HOA would be responsible for maintaining that lake.

Mr. Lewis – So with the new change in ordinance, has there been any consideration to, if Council is giving an approval to a body of water that requires an OWRB oversight, that that should remain in the hands of the City in regards to stormwater drainage, as opposed to being put on the management of an HOA or POA, which is not the responsibility of that entity.

Mr. McClellan – Well, that's not addressed in the floodplain ordinance or with these upcoming changes. This is just strictly if somebody is doing a pond 5 acres or more. It just requires it come before City Council.

Mr. Lewis – That's a lot of water going downstream, whoever has it.

Mr. McClellan – And to be honest with you, most people, when they bring stuff in, the ponds are less than 5 acres and they don't require City Council approval, just a Floodplain Permit Committee approval.

Ms. Evenson – And I would just like to address the dam safety issues. That is something that we are aware of and we're working toward. As part of our stormwater program, we're working toward dam safety policies and the issues that you bring up have been brought up to us before; we are aware of them and we're hoping that we can find some way to come to a resolution and address those issues.

4. Mr. Knotts – I've worked on stormwater quite a bit. Is Oklahoma Water Resources Board not in existence anymore? Or they don't have an oversight over this?

Ms. Evenson – Yes. OWRB is in existence. They do have oversight of the program. They do come in and audit our programs and review our programs.

Mr. Knotts – So they audit the City program. Is there an approval process in the FEMA LOMR/LOMA process that involves them, or are they just looking at the overall process?

Mr. McClellan – The OWRB doesn't get involved in the ponds and the dams unless they retain a certain amount of acre feet of water, or they get involved in reclassifying dams, depending on development downstream. They still are involved and they still will be. This ordinance doesn't affect anything to do with the OWRB.

Mr. Knotts – When I was at the University, I had to get OWRB approval for any construction that was even on fringe.

Mr. McClellan – That's probably because you were at OU and so any public state land is governed and regulated by the OWRB. Our floodplain regulations – we don't apply them to OU. They're state land so they can pretty much do as the OWRB regulations require – the state regulations. Our regulations in Norman – we have higher standards than just the regular FEMA regulations.

Mr. Knotts – So in the presentation you talked about, unless the work was done by City or Norman personnel. I guess I thought that Oklahoma Water Resources Board was over all the water that was being modified by agencies of the state, City, or any of the governmental agencies within the state. That's not true?

Mr. McClellan – I think there has to be a certain amount before they get involved. Like our creeks and our streams, they don't get involved in the approval process. And that part about the City crews, that was in case we had to go in there and do some maintenance work. We didn't want to slow it down by having to bring it through the Floodplain Permit Committee. It just allows the stormwater folks to get in there and fix whatever problem.

Mr. Knotts – But it wasn't an HOA, right?

Mr. McClellan – No, we're talking about like the creeks and streams – the public areas.

Ms. Evenson – And the City does still bring application to the Floodplain Permit Committee for those non-emergency type projects as well that are in the floodplain.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

1. Mr. Lewis – I would concur with Neil's comments. I would like to see more clarification in the ordinance surrounding OWRB's involvement and oversight in regards to the ponds that are being developed and approved by City Council when OWRB is basically going to have the last say in the oversight of the pond or development, and that way that will keep us out of looking proactively 20 years down the road out of the issue that Summit Lakes is in right now.

Chris Lewis moved to recommend adoption of Ordinance No. O-1617-34 to the City Council, with his stated stipulations. Tom Knotts seconded the motion.

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

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

Ms. Tromble announced that the motion, to recommend adoption of Ordinance No. O-1617-34 to the City Council, passed by a vote of 6-0.

* * *