

CITY COUNCIL
COMMUNITY PLANNING AND TRANSPORTATION
COMMITTEE MINUTES

October 28, 2013

The City Council Community Planning and Transportation Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:30 p.m. in the Conference Room on the 28th day of October, 2013, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT:	Councilmembers Holman, Miller, Williams, and Chairman Jungman
ABSENT:	None
OTHER COUNCIL PRESENT	Councilmembers Castleberry and Heiple
STAFF PRESENT:	Mr. Jeff Bryant, City Attorney
	Ms. Susan Connors, Planning and Community
Development	Director
	Mr. Steve Lewis, City Manager
	Mr. Shawn O'Leary, Public Works, Director
	Ms. Karla Chapman, Administrative Technician
OTHER GUESTS PRESENT:	Ms. Karleen Smith, Planner and Grant Specialist,
	CART
	Mr. Walt Strong, Westheimer Airport

Chairman Jungman requested that Item 2 be heard prior to Item 1, since a Cleveland Area Rapid Transit (CART) representative was not present.

Item 2, being:

CONTINUED DISCUSSION OF CITY COUNCIL DEVELOPMENT APPLICATION POSTPONEMENT PRACTICES.

Ms. Susan Connors, Director, Community Planning and Transportation, said Staff was asked to propose a policy regarding the postponement of development cases when they are before City Council. She said at the September 30, 2013, Community Planning and Transportation Committee (CPTC) meeting, Staff presented information on how other cities handle postponements, a list of City of Norman applications that have been postponed at Planning Commission and City Council since 2009, and items to consider in determining when a postponement was appropriate.

Item 2, continued:

Ms. Connors said the Committee requested Staff develop a policy at the September meeting for CPTC review. She highlighted the purpose of the policy as follows:

- All interested parties and the public should have an opportunity to participate in public hearings regarding real estate development applications for zoning amendments, land use plan (LUP) amendments, and preliminary plat approvals for Council consideration;
- Applications for zoning amendments, LUP amendments, and preliminary plat approvals periodically need to reschedule a hearing date due to unforeseen circumstances;
- Council has the discretion to postpone applications for zoning amendments, LUP amendments, and/or preliminary plat approvals to a future date to obtain additional information with which to consider an application or other valid reasons; and
- It is recognized that postponements, whether at the request of the applicant, by Staff, or by action of Council, may present an inconvenience to the public or the parties that have an interest in participating in the public hearing process; however, it is the intent of this policy to limit the inconvenience to the public that could be caused by these postponements.

Ms. Connors said postponement of development cases at City Council include:

- An applicant for a real estate development application before Council seeking a zoning amendment, LUP amendment, or preliminary plat approval may postpone that application as a matter of right no more than two (2) times. Each request must be in writing and the total postponement period cannot exceed six (6) months;
- If an application is not heard after the second postponement at Council, the application must start over; except that Council may postpone an application to a date specific with or without the consent of the applicant after considering the following factors (below). An affirmative vote of at least five (5) councilmembers shall be required to grant a postponement and the record shall indicate any stipulations and/or conditions placed on the postponement;
- If an item that is subject to a public hearing is continued or otherwise carried over to a subsequent date and the public hearing has been opened, the public hearing shall not be deemed concluded until the date on which the hearing is formally closed. If a continuance provided that date on which the matter will be heard, the re-publication of the notice is not required. If a continuance does not specify a date on which the matter will be heard, the public notice, as applicable, shall be provided prior to the date on which the matter is heard; and
- Should an applicant fail to move an application forward to the next step in the development process for a period of 12 months, it shall be considered withdrawn unless the applicant provides written reasons why the application has remained inactive, including a schedule indicating when the application will again be active.

Item 2, continued:

Ms. Connors said Council may consider the following in determining a development application postponement:

- Substantive changes in the project or the area of the project after the Planning Commission hearing;
- Major scheduling conflicts for the applicant or the applicant's representative or agent with the date of a hearing;
- Missing or incomplete information that does not allow a full review of the project;
- Whether a City-sponsored study may give an applicant additional guidance on whether a pending application is consistent with overall Council planning objectives;
- Neighborhood input or concerns; and
- Other causes for the postponement found to be reasonable by five (5) affirmative votes of Council.

Councilmember Castleberry said he did not believe there was an issue with postponements and felt there was not a need for this policy. Ms. Connors said Staff was asked to bring forward postponement information and a proposed policy for discussion.

Councilmember Heiple asked what policies or methods other metro cities follow regarding postponements and Ms. Connors said none of the cities researched have policies; however, most cities allow one or two postponements and typically the general consensus is to move the application forward.

Mr. Steve Lewis, City Manager, said it can be difficult when hearing a land use plan (LUP) zoning application because neighbors may believe the developer and/or applicant is trying to wear them down by continually postponing and visa versa. He said either way, the Council is generally blamed for the continuations. Councilmember Heiple asked whether Staff was leaning one way over another regarding a policy. Mr. Lewis said a policy would provide everyone notice of the expectations regarding postponements when bringing applications forward. Mr. Shawn O'Leary agreed and felt a policy should be reasonable and consistent with other cities.

Councilmember Miller felt a policy would provide Council guidance, especially where new Councilmembers are concerned, but still allow latitude. Councilmember Williams felt a policy may hinder applicants who genuinely need a postponement and asked if any other projects, besides the Risser project, were postponed over and over at the Council level. Ms. Connors said not to her recollection, stating applications are typically postponed at the Planning Commission (PC) rather than at Council.

Councilmember Williams questioned whether a policy was needed since there has only been one, possibly two, continuous postponements at the Council level; however should a policy be approved, he felt there needed to be language that protected citizens who neighbored the project. He was more concerned when an applicant asked for postponement and the neighbors do not come to the meeting when there is nothing in place to prevent the applicant from withdrawing their request for postponement at the meeting and moving forward without any notice to the neighborhood of the change. He said that is the part of the current process that made him more uncomfortable for the neighborhood. Councilmember Castleberry said one consideration is to add the language stating an applicant and/or developer that wishes to postpone an application must do so by the Friday before the City Council meeting.

Item 2, continued:

Councilmember Williams asked whether the same end result could be accomplished by adopting a resolution that stated after three postponements, Council may discuss how to address a particular application. He is afraid the proposed solution will have adverse effects on the applicant who really needs a postponement due to unforeseen circumstances.

Councilmember Castleberry said Council already has the ability to do the things the new policy is proposing; however, Chairman Jungman disagreed and said Council cannot create concrete timelines or a new rule such as “postponement by right” without changing the ordinance and asked for clarification from City Attorney Jeff Bryant. Mr. Bryant said it is correct that the applicant currently does not have a postponement by right. Councilmember Castleberry felt a policy could increase costs for the applicant/developer and Chairman Jungman said there are potential costs for both sides.

Councilmember Heiple said there is no perfect answer; however it provides some consistency to everyone involved and helps the process. He said it can always be revisited, if needed, and Councilmember Williams offered the same argument about implementing changes stating it has only happened once and if it came up again, Council could look at making changes at that time. Councilmember Heiple stated to say it has happened only once is not accurate and he believes it has been a long standing practice by attorneys and others to “slow walk” projects. Councilmember Castleberry said the information provided by staff for the prior five years does not support that statement.

Chairman Jungman asked if the Committee had any additional suggestions and/or changes for the proposed policy and Councilmember Castleberry said he felt a policy was not needed at all. Councilmember Holman supported adding language that would require an applicant and/or developer who wishes to postpone an application to do so by the Friday before the City Council meeting and the postponement request could not be withdrawn by the applicant. Councilmember Williams said he did not have a problem with a postponement, but felt the applicant and/or developer could not request a postponement the Friday before the City Council meeting only to withdraw the postponement at the City Council meeting.

Councilmember Miller felt the policy would reassure the public but was not sure whether it should be by ordinance or resolution. Councilmember Castleberry said if the policy is approved, he preferred a resolution. Chairman Jungman asked whether the policy language stating an application would have a six-month end date would need to be done by ordinance and Mr. Bryant said a resolution is a statement of Council intent and an ordinance carries the weight of law.

Councilmember Williams said he did not really want an overall policy, but agreed a new Council policy would give direction for new Councilmembers and assist them in handling such cases and he felt a resolution would take care of this issue.

Chairman Jungman said constituents voiced concerns regarding the timeline for a recent high density proposal on Campus Corner. He said lessons were learned and felt the high density/Campus Corner application will come forward again; therefore, he felt reasonable rules needed to be in place to help guide the process. Councilmember Castleberry questioned why Council would want to limit its ability by adding a provision that provided an applicant a “postponement by right.”

Item 2, continued:

Chairman Jungman asked Staff whether precedence has been set regarding postponements since Council has always allowed postponements and Mr. Bryant said attorneys would argue yes, precedence has been set, even though they know Council is not required to allow a postponement.

Chairman Jungman restated the proposed changes and asked that language be added requiring requests for postponements by right be submitted by the Friday before a City Council meeting and cannot be withdrawn by the applicant. Councilmember Williams asked what the next step would be and Chairman Jungman felt full Council should discuss this issue at a future Study Session. Chairman Jungman said if it is Council's desire to move it forward at that time an item could be scheduled for Council consideration.

Items submitted for the record

1. Memorandum dated October 28, 2013, from Susan F. Connors, AICP, Director of Planning and Community Development, to Chairman and Members of Council Community Planning and Transportation Committee
2. Email dated October 28, 2013, from Sean Rieger, Attorney, to Greg Jungman, Steven Holman, Lynn Miller, Chad Williams, Jeff Bryant, Steve Lewis, Susan Connors, Kathryn Walker, and Leah Messner

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Chairman Jungman announced a Cleveland Area Rapid Transit (CART) representative was present and requested Item 1 be heard at this time.

Item 1, being:

CART RIDERSHIP REPORT INCLUDING SAFERIDE AND EXTENDED SERVICE FOR THE MONTH OF SEPTEMBER, 2013.

Ms. Karleen Smith, OU Parking and Transportation, said Cleveland Area Rapid Transit (CART) distributed the CART Ridership Report for September, 2013, and the automatic passenger counters have been down for an extended period so the numbers are not reliable. She said CART has begun performing manual counts and hopes to have this problem resolved in the near future. Ms. Smith said CART will have the CART Ridership Report for both September 2013, and October 2013, at the November Community Planning and Transportation Committee (CPTC) meeting.

Ms. Smith distributed a CART flyer entitled, "Safety Concerns Prompt CART to Discontinue the Farside Stop at James Garner/Eufaula effective November 30." She said alternate stops are available at Webster Avenue and Main Street. Ms. Smith said the safety of CART's passengers necessitated this action and CART apologizes for any inconveniences.

Ms. Smith said CART will hold two public hearings to discuss proposed fare changes from 6:00 p.m. to 7:00 p.m. on Wednesday, November 13, 2013, and Thursday, November 21, 2013. She said both meetings will be held at the Municipal Building Council Chambers located at 201 W. Gray Street. She encouraged citizens to attend the meeting to provide comments or feel free to mail/email public comments. She said a comparison of the old and proposed rate increases are on CART's website at www.ou.edu/cart.html.

Item 1, continued:

Councilmember Castleberry requested CART consider moving CART stop #54 located at Brooks Street and 24th Avenue S.E., approximately 50 feet to the east on Brooks Street. He said at times, the CART stop causes traffic to jam up near Whittier Middle School and he said he is concerned the traffic jamming would cause an accident. Ms. Smith said CART certainly does not want to create any traffic problems and she would talk to Mr. Doug Myers, Director, OU Parking and Transportation, about Councilmember Castleberry's request. She said she would report any changes that are to be made at the November CPTC meeting.

Councilmember Miller said the CART Zone Two route is for the core area of Norman and asked whether the route took more passengers to/from the east side or west side of Norman. Ms. Smith said she would research and report back to the CPTC next month.

Councilmember Holman asked for an update on the Lindsey Street route located in front of Springfield Apartments, specifically the concrete for the public shelter has been poured; however, the shelter has not been installed. Ms. Smith said the University of Oklahoma (OU) students are designing the shelter and she will check on the progress.

Items submitted for the record

1. Cleveland Area Rapid Transit Ridership Totals for the Month of September, 2013
2. Cleveland Area Rapid Transit (CART) flyer "Safety concerns prompt CART to discontinue the farside stop at James Garner/Eufaula effective November 30."

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Item 3, being:

MISCELLANEOUS DISCUSSION.

Mr. Steve Lewis, City Manager, said at the June 24, 2013, Community Planning and Transportation Committee (CPTC) the Committee accepted Norman Economic Development Coalition's (NEDC) and the University of Oklahoma's (OU) request to forego any action regarding high density ordinances until a positive vision has been created for the Campus Corner and downtown Norman corridors. He said in the position statement, NEDC voted not to sell the NEDC property located at 710 Asp Avenue, in which an application for said property had, in the previous months, been submitted to the City for a high density project. The position statement indicated after careful thought and deliberation, NEDC decided a well-defined vision and comprehensive plan needs to be developed for the Campus Corner and downtown areas. Mr. Lewis said the position statement also stated that President Boren pledged to use the OU's resources and support in developing a visioning process and development plan.

Mr. Lewis said geographically the area would be bounded by the railroad tracks on the east, Gray Street on the north, Boyd Street on the south, and is still varying somewhat for the west boundary line.

Item 3, continued:

Mr. Lewis said OU is envisioning a two-phase process as follows:

- Phase 1: A visioning process with the community, which may include a very intense charrette process of up to five (5) days in length and estimated to be complete by Spring 2014; and
- Phase 2: Implementation for the guidelines, i.e., new City Codes, development guidelines, etc., and estimated completion date is scheduled six (6) months after the visioning phase.

Mr. Lewis said the University initially felt IQC could develop a visioning process and development plan; however, due to the intensity and scope of the two-phase process, the University now believes it very important to use an outside consultant. He said the University has estimated the development of a visioning process and plan for Campus Corner and downtown Norman corridors to cost \$200,000 to \$250,000 and is requesting the City to participate and pay half of the estimated costs. Mr. Lewis said there are still on-going discussions regarding the structure, i.e., who will be the chair, how many co-chairs, how big the Committee will be, who will manage the project, etc.

Mr. Lewis said this issue was discussed at the October 16, 2013, Council Finance Committee meeting and Mayor Rosenthal requested this issue be considered at mid-year budget process.

Councilmember Castleberry asked whether the Finance Committee, CPTC, or full Council will discuss and/or approve the agreement with the University and Mr. Lewis said upon Council approval, a Memorandum of Understanding (MOU) between Council and the University will need to be signed once the discussions concerning the scope, timeline, and costs have determined.

The meeting adjourned at 6:19 p.m.

City Clerk

Mayor