

**NORMAN PLANNING COMMISSION
REGULAR SESSION MINUTES**

JANUARY 12, 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 12th day of January, 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 Andy Sherrer called the meeting to order at 6:30 p.m.

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Item No. 1, being:

ROLL CALL

MEMBERS PRESENT

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

MEMBERS ABSENT

Sandy Bahan

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

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Item No. 6a, being:

O-1617-22 – SHAY DEVELOPMENT REQUESTS REZONING FROM A-2, RURAL AGRICULTURAL DISTRICT, TO R-1, SINGLE FAMILY DWELLING DISTRICT, FOR APPROXIMATELY 0.47 ACRES OF PROPERTY LOCATED ON THE SOUTH SIDE OF LINDSEY STREET BETWEEN 24TH AVENUE S.E. AND 36TH AVENUE S.E. IMMEDIATELY WEST OF STONE LAKE ADDITION.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report

Item No. 6b, being:

PP-1617-6 – CONSIDERATION OF A REVISED PRELIMINARY PLAT SUBMITTED BY SHAY DEVELOPMENT (MORRIS ENGINEERING) FOR STONE LAKE ADDITION FOR PROPERTY GENERALLY LOCATED SOUTH OF LINDSEY STREET BETWEEN 24TH AVENUE S.E. AND 36TH AVENUE S.E.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Revised Preliminary Plat
3. Staff Report
4. Preliminary Plat of STONE LAKE ADDITION
5. Transportation Impacts

PRESENTATION BY STAFF:

1. Jane Hudson reviewed the staff report, a copy of which is filed with the minutes. There was a protest received which comprised 12.3% of the notification area. Staff recommends approval of Ordinance No. O-1617-22 and PP-1617-6, the Revised Preliminary Plat for STONE LAKE ADDITION.
2. Mr. Boeck – What was the protest about? I didn't read it.
Ms. Tromble – It didn't say. It just said they protest.
3. Mr. Boeck – And they just realized they didn't own this tract of land when they did the original plat, or why did it not get rezoned?
Ms. Hudson – It's my understanding they did not know that they owned that tract. So they're bringing it forward to include it into their plat for the subdivision.
4. Mr. Robinson – So the original plat did not include that parcel of land?
Ms. Hudson – Correct.
Mr. Robinson – But the revised plat now has incorporated that into its plan?
Ms. Hudson – Correct.
5. Mr. Lewis – Do you know, have both parties – because apparently they didn't know they owned it and now they say they own it and now we're changing the plat. So it seems there's a lot of busy work going on here. From what I understood, the owners that are adjacent – it's a dispute between the two owners. Has that been settled yet?
Ms. Hudson – I don't have any information on that.
Ms. Connors – We don't believe it has been settled, but it's really a civil matter.
Mr. Lewis – Right. My point being, if we approve the plat and it goes into litigation, then what's going to happen is we're going to have to redo the plat. So it seems we're getting the cart before the horse if we know there's potential – I think there's a protest. Maybe that will clarify it for us. I just want to keep the City out of the middle of something that we don't need to be in. That's my point.
Ms. Messner – Commissioner, you're correct. If there is a dispute about the ownership of this parcel, and before this evening I was not aware that there was one. The information that I had received is that the engineering company had surveyed this and determined that the ownership was with the Stone Lake Addition developer. However, I do think there's some folks in

the audience tonight that may feel differently. It's my understanding that litigation has not commenced over quiet title over this sliver. If there is a dispute of ownership and litigation were filed, it would be my recommendation to you and to the City Council to postpone action on this until ownership of that sliver could be determined by a court.

6. Mr. Sherrer – The applicant is not here and present. They did not notify us of any request for postponement.

Ms. Hudson – No, they did not.

PRESENTATION BY THE APPLICANT:

The applicant's representative was not present.

AUDIENCE PARTICIPATION:

1. Zach Lawrence, 3025 E. Lindsey Street – I think you guys addressed all our concerns. When we met with Mr. Morris about eight or nine months ago, and he stated that this was resolved – it wasn't. I was there. Myself and Ms. Sullivan was there. And we still have concerns as far as if that 0.47 acres is actually her property or Stone Lake's. So we would like to see an updated survey and I think that's it.

2. Mr. Lewis – So you're still in contention with the applicant that's decided they own the property. Is that what you're saying?

Mr. Lawrence – Yes.

3. Mr. Knotts – So you filed the protest?

Mr. Lawrence – Yes.

Mr. Knotts – And your property is across the street?

Mr. Lawrence – We're within 350 feet.

Mr. Knotts – I understand that.

Mr. Lawrence – I have Ms. Sullivan's 10 acres there leased for the next three years and I run cattle on it.

Mr. Knotts – That's the 10 acres that is to the west of this development?

Mr. Lawrence – Yes. We have more concerns than just the rezoning. The 10 acres to the west – Ms. Sullivan's – that I use for grazing – my cattle are on there and there's a pond down there and all the runoff is going to be coming down off that development. I've been in contact with people from the University and several other people that are concerned about the way this development has been done. It's not up to par as far as the dirt work, the drainage. There's a substantial environmental impact – short-term and long-term.

Mr. Knotts – So that's really not a point of contention tonight. The point of contention is whether this piece of property should be added to this development. And the drainage and any environmental impacts are with the City now – engineering and that.

Mr. Lawrence – Can I say one more thing? When we spoke with Mr. Morris, I was standing right there and he informed us that Ms. Sullivan's land actually was possibly 8 feet to the east and then now they're coming back and they're saying they own – that actually is that 0.47 acres is theirs and they have the right to rezone it. I think, if that's the case, then I'd like to see an updated survey showing where that property line is. Because I can't imagine 0.47 acres this close to Norman just nobody knows whose land it is. I mean, that's odd to me.

Mr. Knotts – Well, that happens all the time. Somebody puts a fence line in and there are other legalities that are there. It seems to me that they've already had a determining new survey to talk about – to incorporate this piece of land and it's incorporated in the development and the drainage program.

Mr. Lawrence – But the dispute was never settled. He never showed us a survey, never – he walked off after Ms. Sullivan told him that wasn't gonna work. The drainage coming in and the neighborhood wasn't gonna work and we didn't know where the property lines were. And

until further documentation was supplied, then we weren't going to move forward on it. And then we never heard anything back from him or the developer or anybody.

4. Mr. Knotts – We've been warned not to postpone action on anything.

Mr. Boeck – Who warned us? Other than Harold Heiple. He's warned us several times.

Mr. Knotts – There are a lot of things that I would postpone because they don't seem to have worked out all of the details, but we have to move it on.

Ms. Messner – You've not been warned by me, Commissioner. It would be the position of my office that it's within your purview to postpone an item if you need more information to make a proper recommendation. It would be my recommendation that you certainly can postpone items if you need more information to make a recommendation to Council on those items. I think this is certainly a situation where a postponement might be appropriate, since both parties are not here, and really it's not the position of the City Council or the Planning Commission to be the arbiter of who owns what, so that would be appropriate in a courtroom.

5. Mr. Sherrer – As a recommendation body, we can hold up the process of a rezoning or development – not as a Council, but as a recommendation body. You're stating that we have the right under our purview to do that?

Ms. Messner – I believe so, Commissioner. I wouldn't do it every meeting.

Mr. Sherrer – I think it's a slippery slope. That's why I asked the question. Okay.

Ms. Messner – It would be my recommendation that it is more legally defensible to postpone this particular item, because we do not know who owns it, and a court has not determined that and we have two parties telling us different things. To postpone this item and let a court decide, rather than make that determination yourselves when that's not really something that's within your purview to do.

Mr. Sherrer – Okay. I understand. My question was not necessarily about this issue, just more in general, about the precedent taking place.

6. Mr. Lewis – In the postponement, because I'm going to make the motion to postpone both these items in light of we have a contention in front of us, would we postpone that indefinitely until that gets resolved, or until the next Planning Commission meeting February 9?

Ms. Messner – I would recommend that, since the other party is not present tonight, to postpone it until the February meeting, to allow the other party to come and allow them to meet and see if they can resolve something without civil action, and then bring that application before you in February, without unduly slowing down their application.

7. Harold Heiple, 218 E. Eufaula – I have no idea what this application is all about. But when I heard the business about postpone, and I just heard the recommendation that you have the power to postpone, let me assure you with 55 years experience before the Planning Commission you do not have the power to postpone, either legal or equitable, without the consent of the applicant. The applicant controls his own agenda item. If you need more information, the applicant can consent to a postponement no problem. But if the applicant says, look, I've got to go forward – I've got construction loans and everything else – I've got to get a decision out of the City Council, then your option – your availability is to vote no. Because State law requires that you have a public hearing; that's all that is required. It says nothing about your ability, because you are not the final authority. You are the only ones that make a recommendation to the governing body. If the governing body wants to postpone, they can do it *ad infinitum*. This body does not have the right to do that. Like I say, I have nothing to do with it. But if you set this sort of precedent, you're asking to be litigated. You're getting bad information. And you're totally ignoring all of the previous positions that have been taken with respect to this. So please don't vote for postponement. If you're not happy with the application and you want more, vote no and the City Council will hear that and see that and express your reasons. The City Council may look at it and say we're certainly going to postpone to do all the things the

Planning Commission wanted to do. But, Ladies and Gentlemen, in all respect, you don't have that power. Please don't purport to exercise it. Thank you.

8. Mr. Boeck – You're the only one that tells us that all the time.
Mr. Heiple – Well, and hasn't it been true all the time?
Mr. Boeck – Well, we don't know, because we've been scared to do otherwise.

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

Chris Lewis moved to recommend denial of Ordinance No. O-1617-22 and PP-1617-6, the Revised Preliminary Plat for STONE LAKE ADDITION, to the City Council. Dave Boeck seconded the motion.

1. Mr. Sherrer – With all the words that have been said as relates to the motion, I am going to vote no on this, but I'm going to vote no with the idea that – the reason I'm voting no is so that before this comes before Council I hope that the applicant, and those that are protesting, can come to a conclusion about who owns this, because I think that's an important piece of my vote. I don't know that that's for others. I guess I'm voting for the denial. Yes, I apologize. Opposite of the way that it was said. I would hope that they would reach some sort of agreement before it reaches Council.

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

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

Ms. Tromble announced that the motion, to recommend denial of Ordinance No. O-1617-22 and PP-1617-6 to the City Council, passed by a vote of 8-0.

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