

CITY COUNCIL
COMMUNITY PLANNING AND TRANSPORTATION
COMMITTEE MINUTES

December 17, 2012

The City Council Community Planning and Transportation Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:38 p.m. in the Multi-Purpose Room on the 17th day of December, 2012, 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 Gallagher, Jungman, Williams, and
Chairman Griffith

ABSENT: None

STAFF PRESENT: Councilmember Robert Castleberry
Ms. Susan Atkinson, Planner I
Mr. Jeff Bryant, City Attorney
Ms. Susan Connors, Planning and Community
Development Director
Mr. Ken Danner, Subdivision Development Manager
Mr. Terry Floyd, Development Coordinator
Mr. Jane Hudson, Principal Planner
Mr. Steve Lewis, City Manager
Ms. Leah Messner, Assistant City Attorney
Mr. Shawn O'Leary, Director of Public Works
Mr. Scott Sturtz, City Engineer
Ms. Karla Chapman, Administrative Technician

DISCUSSION REGARDING A DRAFT ORDINANCE ESTABLISHING A HIGH DENSITY RESIDENTIAL ZONING DISTRICT.

Ms. Susan Connors, Director of Planning and Community Development, said Staff presented a draft outline of a High Density Residential (HDR) zoning ordinance for review at the October 22, 2012, Community Planning and Transportation Committee (CPTC) meeting and said the ordinance is being drafted in response to community interest in the question of whether or not to allow higher density residential land uses in Norman. She said the draft was based on input gathered at recent high density community discussion series and the Committee requested Staff develop an ordinance that could achieve the following:

- Allow construction of higher density housing than current ordinances allow, with the possibility of mixed commercial/office/residential land uses, which will broaden the range of housing options available to current and future residents;
- Require new development to be compatible with the existing community character of adjacent development, particularly in Norman's Core Area; and
- Respond to a growing demand among a diverse group of people for housing in the City's urban areas with walkable access to daily needs, services, and entertainment.

Ms. Connors said the Committee requested Staff create a single zoning district that would regulate high-density residential land uses in a variety of settings throughout Norman. After reviewing the outline of the proposed HDR zoning ordinance at the November 26, 2012, CPTC, the Committee requested Staff proceed with a fully developed ordinance to be reviewed and discussed at the December CPTC meeting.

Ms. Connors said Staff emailed Committee members an article entitled "Beyond the Density Standard," by author Norman Wright, AICP, who recommends an approach to regulating higher density residential development that focuses on the physical characteristics, which makes each environment unique, instead of struggling with vague ideas such as "quality of life." Mr. Wright describes the physical traits of a place which must be measured in order to understand the "DNA" of that environment, adding "these values are not based on vague concepts or arbitrary desires about what looks good and are rooted in plain, detailed numbers that measure the environment a city wants to replicate." Mr. Connors said the article

includes a list of physical traits that must be evaluated in order to ensure that new higher density development is compatible with the existing environment. The proposed HDR ordinance includes the list of elements which focus on the importance of compatibility when blending new development into an existing neighborhood to include:

- Building Setbacks – How far is a building set back from the front property line and/or sidewalk?
- Building Height – How tall or how many stories? What is the height of the street wall? Is additional height allowed?
- Block Length – How long is the block where a building is/will be situated?
- Street Width – How wide is the street? How many lanes of traffic?
- Lot Coverage – How much of a lot is covered by the building and pavement?
- Density – Highly controlled by all of the above factors.

Ms. Connors said Staff identified a number of issues where it could be feasible to apply one set of regulations throughout all districts in Norman where high density may be feasible and desirable.

Issues that can be addressed through a Single District.

There is a general agreement on the following:

- ***Permitted Uses*** – Apartments, condominiums, retail sales and service, offices, mixed use buildings and restaurants with no drive-through or drive-in service.
- ***Building Coverage*** – People are seeking housing near community destinations and amenities; therefore, allowable building coverage is recommended to be very urban – 80%, with usable open space requirements such as rooftop gardens, patios, pools, balconies, plazas, etc., and an intent by the City that all new development will reinforce a street character that is typical of traditional commercial districts such as Downtown and Campus Corner.
- ***Open Space and Landscape Standards*** – Intended to promote development patterns that anticipate and can accommodate high levels of pedestrian activity. A 20% open space requirement is recommended to provide “breathing room” for residents in the form of outdoor living areas such as individual balconies, as well as commons areas to include patios, pools, plazas, and landscaped walkways. A landscaping requirement provides relief, scale, interest and overall quality to the living environment and landscape standards encourage the addition of shade, color and texture, and the development of features such as rooftop gardens, plaza areas, and amenities such as swimming pools.
- ***Pedestrian Standards*** – These standards ensure that the HDR district accommodates pedestrians both on site and on the street and connects new developments with the existing sidewalk network in that area.

Architectural Standards

- ***Building Materials and Their Application*** –The HDR ordinance proposes the requirement of 80% masonry minimums, which is consistent with current regulations, with an emphasis on the use of brick, stone, stucco, and synthetic stone on building facades.
- ***Roofs and Parapet Walls*** – Allowable forms will be consistent with those used in traditional commercial districts: flat roofs with parapet walls, single, double or asymmetrical gable, and hipped roofs. Allowable roofing materials should include concrete, slate, asphalt shingles, ceramic tile, or metal.
- ***Windows/Doors/Porches*** – Front entries will be among the most prominent features on the building and high quality design and materials, along with forms that are proportional with both the building itself and surrounding buildings are important.
- ***Screening of Mechanical/Service/Trash Areas*** – All mechanical, electrical, and trash areas will be required to be screened using landscaping, architectural screening walls, roof enclosures, parapets, or other full screening materials which is similar to current requirements for modern commercial and residential development throughout Norman.

Issues that can be addressed with Existing Regulations.

Staff feels that several issues can be adequately regulated by current standards in use in Norman, i.e., lighting, signage, grading, stormwater, and traffic studies.

Issues that Need to be Discussed Further.

The following issues that are most critical in determining the overall compatibility of new development within the existing urban fabric still need to be discussed.

- **Building Height and Stepbacks** – These two factors are inextricably linked to each other and to the settings where HDR is being considered and have a large impact on the feel of an urban district and the relationship of a new building to its neighbors.
- **Building Setbacks** – Refer to the placement of a building on a parcel. Traditional commercial districts often have a front setback of zero. Setbacks that offer some flexibility but still promote a compact urban form of development are included in the HDR ordinance.
- **Density** – Research suggests that establishing a maximum density does not ensure compatibility between new and existing development, however Staff has suggested options to discuss.

Councilmember Jungman felt the C-3 Special Use zoning category can continue to be a loophole where a high density projects can be presented through a different avenue because there are essentially no requirements and said discussion at the October 2013, CPTC meeting determined that could be accomplished by changing language in the HDR ordinance to address that issue, i.e., so that a developer can not request a C-3 Special Use zoning when submitting an application for a large apartment building simply because it would not have as many requirements and/or regulations. Ms. Connors said that can certainly be done but Staff was asked to create a single zoning district that would regulate high density residential land uses in a variety of settings throughout Norman.

Councilmember Jungman said another concern is that a high density category currently exists within the 2025 Land Use and Transportation (LUP) Plan and he would like it to be made clear that particular category would not be a consideration for new high density projects. Ms. Connors said new high density projects would not be considered in that particular category and the C-3 Special Use zoning would not be appropriate in a lot of locations in Norman, so to a certain extent, that would not be a widespread problem; however, because C-3 Special Use Zoning exists in the downtown and Campus Corner areas, any new applications requesting C-3 Special Use Zoning within those areas would be appropriate. Councilmember Jungman would like developers to utilize the high density options rather than bend or skirt around them by using C-3 Special Use Zoning and Ms. Connors said Staff would research this issue.

Councilmember Jungman said input gathered from citizens who attended the high density dialogues was they preferred the maximum stories allowed in the Campus Corner area be no higher than three (3) stories and up to five (5) stories could be allowed in Downtown Norman. Councilmember Castleberry disagreed and felt the ordinance should be left more open to allow the Council to look at the overall quality and compatibility of proposed high density projects. Councilmember Jungman said compatibility is the factor and on Campus Corner compatibility means staying at three (3) stories or less. He felt the height of Sarkey's Energy Tower and other sizable buildings on the University of Oklahoma (OU) campus were not relevant because Campus Corner has a totally difference sense of place. Councilmember Jungman felt Campus Corner should be treated differently because of the public input that was gathered and a high density ordinance needed to reflect the values of the community. Chairman Griffith agreed and said the desires of the citizens regarding high density should be considered when moving forward with a high density ordinance.

Councilmember Castleberry asked how long and/or big is the Campus Corner area and Ms. Connors highlighted the area(s) for Campus Corner. Ms. Connors said Staff looked at the Campus Corner area and tried their best to designate the commercial area from the residential in order to come up with the proposed map/lines. Councilmember Castleberry felt the Campus Corner area needed to be defined and high density should be in walking distance to Campus Corner.

Councilmember Gallagher agreed and said walkability is a major role of high density, stating the Downtown Norman area is too far. Councilmember Jungman said a high density ordinance needed to maintain a sense of place on Campus Corner and should give the community the assurance that it will do so. Chairman Griffith requested Staff bring back Campus Corner parameters and Ms. Connors said Staff will research to bring back alternative maps that would reflect a more definite Campus Corner area.

Councilmember Jungman felt a seven (7) story height is possible for downtown Norman and Councilmember Gallagher said the downtown skyline deserves consideration. Councilmember Gallagher said each section of the City should be looked at when considering high density and felt downtown Norman is different than Campus Corner, stating downtown Norman should have more height considerations than Campus Corner. Chairman Griffith and Councilmember Jungman agreed. Councilmember Williams felt decisions needed to be made regarding the high density topic, although complex and difficult and said change is not easy for anyone. He suggested using public input gathered during the high density discussions to move this topic forward.

Mr. Dave Boeck, Norman Planning Commission member, said scale is a key factor and it is important not to overshadow significant landmarks in the Campus Corner area such as McFarlin and Whitehand Hall. He said alumni and professors also enjoy living near Campus Corner, possibly more than students might, and felt the Committee should consider the circulation of traffic in determining the amount of density to allow in any area of town.

Developers told the Committee that height restrictions proposed by some for the Campus Corner area is not economically viable. Mr. Chris Elsey, Elsey Partners, felt that an actual height limitation, rather than stories, is needed, stating 75 feet is consistent with recommendations in the International Building Code.

Mr. Sean Rieger, Attorney for Builders Association of South Central Oklahoma (BASCO), said marketing in the Campus Corner area is different than the Norman downtown area and said in theory, story height can mean/be anything. He urged the Committee to consider a 75 feet height limit. He said in reference to the density measurement, BASCO would prefer the Committee look at floor area ratio (FAR) which is a more holistic way of looking at a density than dwelling units per acre.

Ms. Cindy Rogers, 633 Reed Avenue, said she appreciates Mr. Rieger's comments regarding marketability and felt Campus Corner will still be marketable to OU students. She said the City needed to accommodate the traffic regarding high density and felt traffic can be regulated by controlling the Campus Corner parameters.

Ms. Barbara Fife, 323 West Boyd Street, said she is a Campus Corner business owner and felt high density will not help Campus Corner businesses. Councilmember Williams asked Ms. Fife if she felt high density projects would bring more people into the Campus Corner area and therefore provide more customers. Ms. Fife said although students are important to the businesses in the Campus Corner area, it is the non-student citizens, as well as out of town people who are most viable to the Campus Corner businesses.

Ms. Tessa Breder, Norman Chamber of Commerce, felt the overall point is that Norman should not limit itself to a high density ordinance that will not be economically feasible and each proposed high density project should be looked at on its own merits. She felt the ordinance should be broad so that Norman does not lose out on great projects.

Ms. Joy Hampton, The Norman Transcript, felt that the Norman downtown area is less protected than the Campus Corner area and Councilmember Jungman said buildings in the Campus Corner area are different than in downtown Norman.

Mr. Evan Dunn, 1014 Missouri Street, agrees with Ms. Hampton and said OU is not being held to municipal guidelines and felt the City should collaborate with the University to determine and/or conform the building standards.

Ms. Jamileh Wilcox, 322 South University Boulevard, felt hard guidelines should apply to the areas and/or residential neighborhoods around proposed high density and Chairman Griffith agreed, stating surrounding areas where high density is proposed is and should be a primary concern.

Mr. John High, 1705 Dakota Street, said Council should add American Disability Act (ADA) compliance to the ordinance and said ADA compliance is federal law and Staff said they would research this topic.

Mr. Mark Campbell, P.O. Box 3503, asked about underground parking and felt steel construction would be better than wood construction. He said the need to expand the affordable housing and/or public housing in the Campus Corner area needed to be expanded and should be addressed in the high density ordinance.

Chairman Griffith said it is clear that further discussion is needed to determine the appropriate cap on height in various areas of Norman, but felt that there is a consensus on floor area ration (FAR) and architectural guidelines.

Items submitted for the record

1. Memorandum dated December 17, 2012, from Ms. Susan F. Connors, AICP, Director of Planning and Community Development, to Chairman and Members of Council Community Planning and Transportation Committee, with Attachment A, High Density Residential Zoning District Draft 1, dated December 17, 2012
2. Map of Norman 2025 Land Use and Transportation Plan and maps reflecting possible High Density Residential boundaries for Downtown East and West, Porter Corridor, Campus Corner, and Campus Corner Neighborhoods
3. Sign In Sheets for the Community Planning and Transportation Committee meeting dated December 17, 2012

DISCUSSION REGARDING SELLING SURPLUS PROPERTY THAT WAS INITIALLY ACQUIRED BY THE CITY OF NORMAN AS PART OF THE ROBINSON STREET GRADE SEPARATION PROJECT.

Mr. Shawn O'Leary, Director of Public Works, said Staff from Public Works, Planning, and the City Attorney Office reviewed the surplus property from the Robinson Street Underpass Project. He said Staff also consulted with the private land acquisition firm originally hired by the City, Smith-Roberts, L.L.C., to acquire the 53 parcels of property needed to complete the Robinson Street Grade Separation Project. Mr. O'Leary distributed an aerial photograph of the project area, illustrating Surplus Property Parcels A, B, and C; legal descriptions and drawings for Parcels A, B, and C; and the City Attorney legal opinion regarding the following three (3) key questions:

1. ***Are there any federal or state statutes that impact whether the City of Norman may sell any surplus property initially acquired as part of this project?*** The federal Uniform Relocation Assistance and Real Property Acquisition Act of 1970 does have provisions that would limit the sale of surplus property and there are state laws, most generally, 11 O.S. § 22-101, that impact whether the City may sell any surplus property initially acquired as part of the Robinson Street Grade Separation Project. More specifically on the issue of the sale of surplus property initially acquired for public purpose, 27 O.S. § 17(A), states property taken by eminent domain may be offered for resale if it is not used for the purposed under which it was condemned, however, it must be first offered to the person from whom the property was taken or to the heirs of that person at the appraised value or the original price, whichever is less. Notification shall be sent by certified mail, return receipt requested, to the last known address and if the mail is returned, notice of the right of first refusal shall be provided by publication in a newspaper of general circulation in the community where the property is located. If the offer is not accepted within 90 days from the date of notice, the property may then be sold at public sale. An appraisal of the parcel and notice of sale in a newspaper of general circulation in the county where the property is located must be completed before the sale of the property by public auction or by accepting sealed bids can be executed. The property must then be sold to the highest bidder if that bid is for at least ninety percent of the appraised value.
2. ***What are the City of Norman Charter and Code of Ordinance provisions that impact whether the City of Norman may sell any surplus property initially acquired as part of this project?*** The City of Norman Charter states that the City shall have the power to "hold, lease, mortgage, convey or otherwise dispose of any of its property within or without the limits of said city." The Charter permits the sale of real property but does not provide a procedure for doing so; however, Chapter 8 of the Code of Ordinances does have a procedure for declaring property to be surplus and for selling such surplus property. Under Chapter 8, § 8-301, Council must declare "any supplies, materials, or equipment" as surplus prior to the sale of such items if their value exceeds one thousand dollars (\$1000.00) and the property may then be sold through competitive bidding at a public auction either in person or online. Chapter 8, § 8-303 also requires the City Manager and/or his designee to advertise the property to be sold in a newspaper of general circulation in

Norman or to give notice in another manner as he deems necessary. The Code provisions do not specifically list real property as an item that Council must declare surplus prior to the sale of that property, in *State ex rel. Remy v. Agar*, the Oklahoma Supreme Court ruled that real property owned by the municipality for the public use of its citizens must be declared to be surplus by the City Council as a prerequisite to the sale of such real property. Therefore, as Title 27 of the state statutes requires a public sale, using the process in Chapter 8 of the Code would be a way to comply with Title 27 and case law and use an established City process to do so.

3. ***Are there any restrictions in either the purchase agreements for the acquired parcels or in the grant of federal funds that impact whether the City of Norman may sell any surplus property initially acquired as part of this project?*** The City Attorney's Office reviewed deeds provided by the Public Works Staff and the deeds do not contain any provisions that would limit the City's options with the subject properties. As to the grant of federal funds, Mr. John Clink, Capital Projects Engineer, advised the City Attorney's Office that the federal funds were allocated through an earmark contained within the Federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Bill, and, as such there is not a grant application or document to review. Legal Staff also reviewed the Right-of-Way (ROW), § Public Utility, and Encroachment Agreement between the City and the Oklahoma Department of Transportation (ODOT) for the Robinson Street Grade Separation Project and under Section 4(e) of that Agreement, the City may sell any lands which were acquired for highway purposes so long as such sale is conducted in accordance with 69 O.S. § 1001 and § 1004. In addition, prior written permission for the sale is required from the ROW Division Chief for ODOT. Under 69 O.S. § 1001(C), any surplus property, leaving no abutting remainder, shall be sold for cash to the highest and best bidder after notice by publication in a newspaper in the county where the property is located and the notice must be published in two (2) consecutive weekly issues. If the land to be disposed of originally comprised a total taking of less than one (1) acre leaving only one abutting property owner of record, then prior to conducting advertisement and solicitation of bids for the sale, the Commission shall notify the sole abutting property owner of record. 69 O.S. § 1001(D)(2). Legal Staff said there are no abutting parcels to the properties to be potentially declared surplus as all the neighboring parcels are across the street from either of them, and they do not share a border. Therefore, these properties are not required to be offered to abutting owners prior to offering them at public sales.

Legal Staff recommends the following steps if Council chooses to sell property that is no longer needed for the Robinson Street Grade Separation Project in order to comply with pertinent statutes and ordinances as follows:

1. Acquire written permission for the sale from the ROW Division Chief for ODOT as required by the ROW, Public Utility and Encroachment Agreement.
2. Prepare an item for Council to declare the property surplus pursuant to Chapter 8, § 8-301 of the Code of Ordinance.
3. Once Council declares the property surplus, offer the surplus property to the person from whom the property was taken or those persons' heirs pursuant to 27 O.S. § 17(A).
 - The offer should be for the appraised value of the surplus property or the original prices at which that portion of the property was purchased, whichever is less.
 - Notification shall be sent by certified mail, return receipt requested, to the last-known address of the person as provided by the person. 27 O.S. § 17(B).
 - If the mail is returned, notice of the right of first refusal shall be provided by publication in a newspaper of general circulation in the community where the property is located.
 - If the offer to repurchase is not accepted within 90 days from the date of the notice, the property may then be sold at public sales.
4. Sell the property for cash to the highest and best bidder after notice by publication in a newspaper in the county where the property is located pursuant to 69 O.S. 1001(C). The notice must be published in two (2) consecutive weekly issues.
 - Under Chapter 8 of the Code of Ordinances, this sale could be through competitive bidding at a public auction that is conducted either in person or online. However, Legal Staff recommends conducting a public auction as that method is more consistent with 69 O.S. § 1001.

Legal Staff also recommends using the process for a public sale in Chapter 8 of the Code of Ordinances, rather than the Title 74 process that the State of Oklahoma uses, as it is simpler and most likely more familiar to both Council and Staff.

Mr. O'Leary said there are zoning issues and infrastructure/platting issues to consider for the parcels and discussed those with the Committee. He discussed the issues and provided the zoning, estimated value, and Smith-Roberts, L.L.C.'s, recommendation for each parcel as follows:

- Parcel A: 0.93 acres; R-1; Low Density Residential; \$40,630.00 – dispose property as is; the buyer should be held responsible for any rezoning, replatting, relocation of utilities or other necessary public improvements.
- Parcel B: 0.35 acres; C-1 and C-2; Commercial; \$34,675.00 – dispose property as is; the buyer should be held responsible for any rezoning, replatting, relocation of utilities or other necessary public improvements.
- Parcel C: 0.15 acres; R-1; Institutional; \$6,230.00 – dispose property as is; the buyer should be held responsible for any rezoning, replatting, relocation of utilities or other necessary public improvements.

Councilmember Gallagher asked if it would be practical to make parcel A into a small park and Mr. Steve Lewis, City Manager, felt most cities do not want “pocket” parks because they are inefficient. Mr. Lewis said resources such as maintenance and funds should go towards existing parks.

Councilmember Griffith asked Staff if the City would have to refund any money from surplus property sales since ODOT and federal funds were used and Mr. O'Leary said no.

The Committee discussed and requested to move forward with Legal Staff's recommendations.

Items submitted for the record

1. Memorandum dated December 12, 2012, from Mr. Shawn O'Leary, Director of Public Works, and Mr. Scott Sturtz, City Engineer, thru Mr. Steve Lewis, City Manager, to Council Community Planning and Transportation Committee with attached Exhibit 1, March 2010 Aerial Photography of the project area, illustrating Surplus Property Parcel A, B, and C dated September 18, 2012; Exhibit 2, Legal Description Parcel A of the North side surplus property Robinson Street and BNSF Railway Underpass Improvements dated October 23, 2012; Exhibit 3, Legal Description Parcel B of the South side surplus property Robinson Street and BNSF Railway Underpass Improvements dated October 23, 2012; and Exhibit 4, Surveyor's Statement and Legal Description Parcel C
2. Memorandum dated October 30, 2012, from Ms. Leah Messner, Assistant City Attorney, to Mr. Shawn O'Leary, Director of Public Works
3. PowerPoint Presentation entitled, “Surplus Property Robinson Street Underpass Project,” presented by Shawn O'Leary, Director of Public Works, and Scott Sturtz, City Engineer, dated December 17, 2012

CART RIDERSHIP REPORT INCLUDING SAFERIDE AND EXTENDED SERVICE.

Mr. Doug Myers, University of Oklahoma (OU) Parking and Transportation Administrator, (CART), distributed the Cleveland Area Rapid Transit (CART) Ridership Report for November 2012, and said the West Norman Link continues to increase. He asked if anyone had any comments and/or question and no comments and/or questions were received.

Items submitted for the record

1. Cleveland Area Rapid Transit Ridership Totals for the Month of November 2012

MISCELLANEOUS DISCUSSION.

None.

The meeting adjourned at 7:30 p.m.

City Clerk

Mayor