



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: PP-1516-2**

**File ID:** PP-1516-2

**Type:** Preliminary Plat

**Status:** Non-Consent Items

**Version:** 2

**Reference:** Item 33

**In Control:** City Council

**Department:** Public Works  
Department

**Cost:**

**File Created:** 06/10/2015

**File Name:** Neely Acres Preliminary Plat

**Final Action:**

**Title:** CONSIDERATION OF A PRELIMINARY PLAT FOR NEELY ACRES ADDITION AND WAIVER OF THE DEFERRAL FEE FOR STREET IMPROVEMENTS FOR FRANKLIN ROAD. (GENERALLY LOCATED ON THE SOUTH SIDE OF FRANKLIN ROAD APPROXIMATELY ONE-FOURTH MILE WEST OF 48TH AVENUE N.E.)

**Notes:** ACTION NEEDED: Motion to approve or reject the preliminary plat for Neely Acres Addition and waiver of the deferral fee for street improvements for Franklin Road.

ACTION TAKEN: \_\_\_\_\_

**Agenda Date:** 10/13/2015

**Agenda Number:** 33

**Attachments:** Traffic Impact, Location Map, Preliminary Plat, Staff Report, Transportation Impacts, Pre-Development Summary, 7-9-15 PC Minutes, Neely Letter to Mayor Council Members.pdf, Minor Arterials

**Project Manager:** Ken Danner, Subdivision Development Manager

**Entered by:** rachel.warila@normanok.gov

**Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	07/09/2015	Recommended for Adoption at a subsequent City Council Meeting	City Council	08/25/2015		Pass
	<b>Action Text:</b> That this Preliminary Plat be Recommended for Adoption at a subsequent City Council Meeting. to the City Council due back on 8/25/2015 by consent roll call						
1	City Council	08/25/2015	Postponed				Pass
	<b>Action Text:</b> A motion was made by Council Member Williams, seconded by Council Member Heiple, that this Preliminary Plat be Postponed until October 13, 2015. The motion carried by the following vote:						

### Text of Legislative File PP-1516-2

body

**BACKGROUND:** This item is a preliminary plat for Neely Acres Addition and is generally located on the south side of East Franklin Road and approximately one-quarter of a mile west of 48th Avenue N.E. There is an existing residential structure on the property. The owners intend to keep their parcel intact, demolish the existing house, and construct a new single-family structure. However, a building permit for this demolition and

construction activity could not be issued because the property had not been previously platted. The owners have brought forward this item through the platting process in order to be eligible for a building permit.

Planning Commission, at its meeting of July 9, 2015, recommended to City Council that this property be placed in A-1, General Agricultural District and removed from A-2, Rural Agricultural District. At its same meeting, Planning Commission recommended approval of the preliminary plat for Neely Acres Addition. The preliminary plat process is being used rather than the certificate of survey process because the lot is less than 10 acres in size. The property was less than five (5) acres in size prior to June 29, 1973. Prior to June 29, 1973, the subdivision regulations did not discuss the required size of rural agricultural property. With the adoption of the subdivision regulations in 1973, the minimum acreage requirements for properties adjacent to a section line road was five (5) acres. A "grandfather" clause was included in the 1973 subdivision regulations relative to parcel size. However, after June 29, 1973, the property was subdivided by previous owners and reduced to its current size of 3.29 acres. That transfer of property occurred in 1975. No platting process was utilized with that subdivision. The current owners took ownership of the property on April 9, 2003, also as recorded in the County Real Estate records.

**DISCUSSION:** Although the owners do not intend to further subdivide their parcel, the platting process for a new development is being required because the original parcel had been previously subdivided without platting. The City's Code of Ordinances, Subdivision Regulations, Chapter 19, addresses the requirements for public improvements for all new developments. Public improvement requirements are imposed as a function of the Final Plat. In the case of Neely Acres Addition, the developer or landowner is utilizing private water systems and private sewer systems. Public sidewalks are not required because the zoning is remaining Agricultural (A-1). Storm water improvements are not required because an existing home is being replaced with a new home with minimal changes to impervious cover. The only public improvement required of Neely Acres Addition, to be administered by Council through the platting process, is public road improvements for Franklin Road.

As noted above there is an existing residential structure on the property. The owners intend to demolish the existing house and construct a new single-family structure. As such, no new trips will be generated by the addition. Clearly, the trip generation potential for this development is well below the threshold for when a traffic impact study is required. Traffic capacities on nearby arterial roadways exceed the demand for existing and proposed trips as a result of this development. No negative traffic impacts are anticipated.

East Franklin Road is designated as a Minor Rural Arterial in the CTP (Comprehensive Transportation Plan). As a result, the owners would normally be required to improve Franklin Road to the centerline of the road for the length of the frontage and add a six-foot (6') wide paved shoulder or to defer the improvements with the final plat in accordance with Section 19-602(B) of the City Code. Because the City of Norman 5-Year Capital Improvement Program does not include improvements to Franklin Road at this location, Staff would not recommend construction of the additional shoulder, rather that the cost of such construction be deferred by payment of the construction estimate over to the City upon final platting. Under 19-602(B)(7), "if construction of the deferred facility has not commenced within ten (10) years from the date of deferment, then the cost paid or the certificate of deposit may be returned upon action of the Council upon written request of the payor."

Additional seventeen-foot (17') of public street right-of-way for Franklin Road will be dedicated with a final plat. The owner will access Franklin Road with the existing driveway. There is existing water well and a private sanitary sewer system located on the property.

The applicants, Joseph and Taya Neely, have requested a waiver of the public road improvements in a letter dated September 22, 2015. The applicant has suggested that the Franklin Road improvement costs are estimated to be \$50,000, however the cost estimate was not submitted or certified by a licensed civil engineer as required by city policy. City Development Engineer, Mr. Todd McLellan, prepared the attached cost estimate of \$15,158.85 for improvements to Franklin Road (Attachment A).

Chapter 19, Section 19-502 reads as follows:

The development plan for required public improvements shall be approved by the City only after it is found that a proposed development, when considered in conjunction with

the entire subdivision and the areas surrounding or adjacent to it, will contain public utilities and improvements which will be consistent and compatible in structure, quality, construction, performance and appearance and *will constitute logical and orderly extensions of existing public improvements, as well as future improvements* to be installed within and without the boundaries of the subdivision.

The Legal Department has advised that this Section grants Council some discretion to consider the Neely's request that the widened shoulder improvement cost associated with the platting process be "waived". Because of this property's rural location, because the plat does not divide the parcel into additional lots (therefore no increase in density), because the City of Norman's 5-Year Capital Improvement Plan does not include road improvements to Franklin Road, Council could find that the requirement of payment of the road improvement cost (a deferral fee) for Franklin Road improvements does not appear to be a 'logical extension of existing or future public improvements'. This consideration is supported by the Code imposed time limit for the City to hold deferral fees under 19-602(B)(7). If a Franklin Road widening project were not commenced within ten years after payment of the estimated improvement cost, then the owner could request a full refund or release of the posted deferral costs.

The following paragraphs discuss facts that Council may want to consider when evaluating whether to grant such a waiver.

- The Norman Utilities Authority anticipates the construction of a new water line along Franklin Road, near the Neely Acres plat, to deliver untreated groundwater from new water wells expected to be constructed within the next three to five years. The water line would most likely be used to deliver water from these wells to a groundwater treatment facility in NE Norman. Although property owners adjacent to the water line could potentially connect to it, its primary purpose would be for delivery to the treatment facility and not as a potable water supply.
- The Planning Department advises that it is unlikely that development, with accompanying increased density and traffic, will reach this area within the next ten years. Also, because of the location of the Little River, there are significant areas of stream planning corridors in this area. However, because there is not a lot of floodplain, it is likely that development will eventually occur in this area. With the future adoption of a new land use and transportation plan, plans for this area may become more concrete.
- The City Public Works/Street Division reports that this portion of Franklin Road is likely to be included in the City's Street Maintenance Bond Program within 5 to 10 years based upon the City's current Pavement Management System. The proposed road maintenance will likely include the rehabilitation of the existing asphalt pavement (mill and overlay) and the construction of asphalt shoulders on both sides of Franklin Road. Whenever a rural road receives major maintenance of this type in Norman, staff tries to upgrade the roadway to current City standards. In the case of Franklin Road, the addition of shoulders will meet the City's current Rural Arterial Road standards. Shoulders are important safety features on rural roads as well as serving as a place for bicyclists. While this type of project may occur in the next five to ten years, it is not a project that typically includes contributions from neighboring property owners or with deferral fees collected as a condition for acceptance of a final plat, instead, it is usually completed with bond funds.
- Staff has searched their records to determine if other cases involving a minor arterial roadway abutting property zoned agricultural exist in which development improvements or deferral fees were waived by Council. A recent final plat for Canaan Acres was approved by Council in May 2010 that required a similar road improvement deferral fee of \$19,073.50, but that case involved the subdivision of a parcel into two separate tracts. There is a case where Council waived development costs involving Milligan Trucking when an industrial parcel was developed next to the railroad tracks by Rock Creek Road and Flood (Hwy 77) in 2012. The Milligan waiver request also had some unique circumstances involving that tract.

In the current waiver request, because of the unique nature of this parcel, beyond the community separator, on a rural arterial not identified for improvements in the City's 5-Year Capital Improvement Program, and with no

increase in density, it does not appear to City Staff that a waiver of the deferral requirement would create a difficult precedent, should a Council opt to grant the waiver request. For that reason, Staff can support Council's waiving the deferral fee for Neely Acres provided Council believes a shoulder widening project on Franklin Road at this location will not occur within the ten years after payment of the deferral fee. This is because the owner could then request a full refund of the improvement cost of the shoulder widening at this location, and so there would be no need to collect funds for a future project that with little or no chance to occur within ten years after payment of the deferral fee. Conversely, if Council believes such a Capitol Improvement project could be commenced within the next ten years, then Staff would support denial of the waiver request and require the deferral fee be paid to secure the cost of improving the shoulder of Franklin Road at this location.

**RECOMMENDATION:** Based upon the above information, Staff recommends approval of the preliminary plat for Neely Acres Addition and can support Council's decision on the waiver of the deferral fee request depending on Council's view of whether a shoulder widening project on Franklin Road at this location will or will not occur within the ten years after payment of such a deferral fee.