



To: Planning Commissioners;
Honorable Mayor and City Councilmembers

From: Beth Muckala, Asst. City Attorney *Bel*

Thru: Kathryn L. Walker, City Attorney

Date: September 28, 2020

Subject: Petition for Detachment by 34th Street Partners, LLC

BACKGROUND:

The City of Norman has not adopted a procedure or ordinance directly addressing a process for consideration of detachment petitions; thus the process is largely dictated by state law set forth in Oklahoma Statutes, Title 11 §§ 21-110, 21-111 and 21-112. However, in addition to this state law, City Code Section 4-1201, does provide that the Planning Commission “shall” review all “deannexation ... petitions.”

On July 30, 2020, 34th Street Partners, LLC submitted its unsigned petition requesting detachment of approximately forty-two (42) acres, over three separate parcels of property located in the northernmost municipal limits of Norman located along I-35. Per state law, the unsigned petition was published twice, was circulated and signed, and the signed petition was provided to the City, received on August 27, 2020.

Following Planning Commission review, an ordinance granting the petition will then proceed to City Council for consideration. Pursuant to state law, the City must publish notice of the petition within ten (10) days of City Council consideration. Per § 21-110(C), the City Council may approve, deny or defer its decision on the petition.

DISCUSSION:

Considerations Regarding the Parcels in Question

Two of the three parcels included in the Petition, legally addressed as 2900 and 2910 Bethel Rd., amount to a combined thirty-eight (38) acres mol, the tracts being approximately 9.8 and 28.4 acres in size. They are zoned A-2 Rural Agricultural and are subject to a Norman Certificate of Survey identifying them as Tracts 1 and 2 of “Shelley Acres.” The was accepted by the Norman City Council on March 28th, 2006 and filed on March 30, 2006 with the Cleveland County Clerk. Though portions of both Shelley Acres tracts fall within identified Stream Planning Corridor boundaries, the COS was adopted more than five years in advance of the adoption of Norman’s Water Quality Protection Zones (via O-1011-52 on 6/28/11), so the WQPZ is not applicable. This combined 38 acres mol is owned by the Petitioner, 34th Street Partners, LLC via a Warranty Deed dated March 25, 2020.

office memorandum

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The third parcel included within the Petition consists of more than four (4) acres and is zoned I-2 Heavy Industrial. It is undeveloped and classified “Vacant, Rural” by the Cleveland County Assessor. The current owner purchased the property in 1992 via Warranty Deed. This property lies on the easternmost portion of Norman’s municipal boundaries in this area; thus, if not included in this petition, detachment of the remaining property would result in this parcel become an “island” of Norman.

The owner of the I-2 parcel has not joined in the Petition for Detachment; however, Petitioner 34th Street Partners, LLC has represented to the City that the owner of the I-2 parcel has been made aware of the Petition. State law and Norman City Code requires various notices to be published, all of which notice provisions have been satisfied prior to public hearing.

Considerations Regarding Applicable Law

The Oklahoma statutory procedure for detaching territory from municipalities by petition is limited to “land which is within the limits of the municipality and upon its border and not laid out in lots and blocks.” *See* § 21-110(A).

The Norman Public Works Department has confirmed that all three parcels subject to the detachment Petition currently lie within Norman municipal boundaries. Though the two Shelley Acres tracts are subject to a City of Norman COS, this land is not recognized as being “platted” in lots and blocks according to state law. The remaining I-2 parcel is undeveloped. With the inclusion of the I-2 parcel, City Staff agrees that the proposed detachment property lies “upon [Norman’s] border.”

Oklahoma law also requires that the Petition be “signed by at least three-fourths (3/4) of the registered voters and by the owners of at least three-fourths (3/4), in value, of the property to be detached.” *See* § 21-110(B)(1).

The Norman Public Works Department and City Attorney’s office have evaluated the properties subject to the detachment Petition and have confirmed that this requirement appears to have been met by Petitions, as more than 3/4 of the property, in value (according to Cleveland County Assessor values), is owned by the Petitioner, as well as 3/4 in size. The Petition is signed by John Special, the Managing Member of 34th Street Partners, LLC.

The City Clerk has reviewed the Petition and finds that it appears to be sufficient in form and as to the signature by 34th Street Partners, LLC. Norman’s Public Works Department has reviewed the legal descriptions and confirmed that the parcels are correctly identified within the Petition. The City Attorney’s office has verified compliance with state law, City Code and valid execution of the Petition in accordance therewith.

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Finally, “[a]ny lands detached from a municipality and the owners thereof shall be liable to the municipality only for the cost of public improvements which may have been constructed on the detached lands at the expense of the municipality.” *See* § 21-111.

The Public Works Department and Norman Utilities Authority (“NUA”) have reviewed the parcels and verified that none of the three benefitted from infrastructure improvements constructed at the expense of the City of Norman. The NUA generally does not favor a loss of service area; however, the property at issue is unlikely to be served anytime soon without significant capital upgrades due to the geographic separation from other City of Norman incorporated areas by the stream to the south and west and the City of Moore boundary to the north and east. Thus, the NUA states no objection to the requested detachment on that basis.

Upon approval of an ordinance detaching municipal property, the mayor of said municipality “shall file and record a duly certified copy of the ordinance ... together with an accurate map or plat of the territory, in the office of the county clerk of the county in which the territory, or the greater portion of it, is located and with the Ad Valorem Division of the Oklahoma Tax Commission.” *See* § 21-112.

CONCLUSION

All city departments have reviewed the Petition for Detachment and have verified that all requirements have been met and that this matter is ripe for consideration by City Council, which may approve, deny or defer its decision on Ordinance No. O-2021-17. In the case of approval, City Staff recommends the filing of O-2021-17, and the map exhibit attached thereto, with the Cleveland County Clerk and the Ad Valorem Division of the Oklahoma Tax Commission.

Reviewed By: Darrel Pyle, City Manager
Brenda Hall, City Clerk
Kathryn Walker, City Attorney
Jane Hudson, Director of Planning and Community Development
Shawn O’Leary, Director of Public Works
Chris Mattingly, Director of the Norman Utilities Authority