



## Legislation Text

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**File #:** R-1617-99, **Version:** 1

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**RESOLUTION R-1617-99:** A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA APPROVING AN APPEAL OF THE TEMPORARY ADMINISTRATIVE DELAY TO ALLOW THE SUBMITTAL OF A PERMIT APPLICATION FOR NEW PAVING FOR AN EXPANDED DRIVEWAY. (1209 DUSTIN DRIVE)

**BACKGROUND:** City Council adopted Resolution No. R-1617-72 on January 10, 2017, creating a six-month Temporary Administrative Delay for residential building, demolition, paving, platting or rezoning applications within the Central Norman Study Area. Further, R-1617-72 allows for an appeal process, which is the purpose for these two resolutions. Application for new paving to expand an existing driveway located at 1209 Dustin Drive was submitted on March 27, 2017 and denied by staff due to the property being located within the Temporary Administrative Delay area.

**DISCUSSION:** The subject property is located at 1209 Dustin Drive, in the Bel-Aire Addition, Lot 8, Block 3; at the northwest corner of East Boyd Street and 12<sup>th</sup> Avenue N.E., as shown on the location map. This lot is zoned R-1, Single Family Dwelling District.

Per the applicant's request submitted to the City Clerk, the applicant stated their neighbor received approval from the HOA to expand their driveway and decided to expand their driveway at the same time. The applicant wanted to alleviate on-street parking demand and due to neighbor complaints of parking on the street and to avoid parking on the grass decided to expand the driveway, not aware that a building permit is required for new paving and/or expanding an existing driveway. The applicant used the same paving contractor as his neighbor at 1205 Dustin Dr. to install the additional paving for the driveway. The applicant's submittal states they were under the impression that no additional permits were needed once they received approval from the HOA.

When work began on the paving expansion a citizen complaint was received that additional paving was being installed at this address. A Public Works' inspector was sent to the site to investigate the work. The inspector told the property owner they needed to obtain a paving permit from the City of Norman for the additional paving. Once the property owner knew a permit was required they submitted the application for the additional paving, though the paving had already been installed.

The paving permit application submitted for the additional paved area for the expanded driveway is approximately 100 square feet. Per the Zoning Ordinance, in R-1, front yard impervious surface cannot exceed 50%. The total front yard impervious pavement surface with the additional paving is 47%, this meets the requirements of the Zoning Ordinance.

When City Council considered and then approved the appeal of the permit application for similar activity at 1205 Dustin Dr., a question was raised by Council whether the administrative delay applied in this circumstance since "Driveway - new, modified or replacement, residential" is allowed with a Permit under Exhibit B attached to Resolution R-1617-72, but is not otherwise subject to the administrative delay. Legal Staff has looked at this issue and has concluded that an ambiguity exists in the attachment in that "Pavement - residential - new" is listed as subject to the administrative delay.

A rule of statutory construction is to construe language so as to give meaning to all parts of the language utilized by the enacting body. An interpretation of Exhibit B to give meaning to "Pavement - residential - new" that is subject to administrative delay, while also giving meaning to "Driveway - new, modified or replacement, residential" that is not subject to administrative delay, is to consider the driveway provision to only apply to new residential driveway material that only modifies or replaces the existing driveway. Pavement material that is new that is applied to a residential lot that expands the driveway, as opposed to only modifying or replacing the existing driveway material, could be construed as subject to the administrative delay which could then be appealed to Council.

Since the administrative delay provision had been only recently enacted by Council, Planning Staff believed the most conservative approach in attempting to apply the administrative delay regulation would be to resolve the ambiguity by submitting the issue to Council for consideration using the administrative delay appeal process. Legal staff concurred

with that approach.

Consistent with how the permit application for 1205 Dustin Drive was handled, this request is submitted to City Council for their consideration in accordance with the appeal process approved in R-1617-72.