

**ITEM:** Floodplain Permit application for removal of structures and the construction of a new residential structure located at 216 S. Lahoma Avenue in the Imhoff Creek floodplain.

**APPLICANT:** Glenn and Sheila Burnett

**ENGINEER:** Earl "Gary" Keen, P.E.

**ARCHITECT:** Krittenbrink Architecture, LLC

**BACKGROUND:**

The original single-story residence was constructed in 1930 on Lot 6, Block 2 of the Eagleton Addition. The entire parcel, including the structure, lies within the floodplain and floodway of Imhoff Creek, an area with a documented history of repetitive flooding.

According to Section 36-533 (Flood Hazard District) of the Zoning Code, new development within areas designated as floodway must demonstrate a zero (0.00') rise in the base flood elevation. This is typically not achieved, since any increase in volume of material in the non-improved floodway or any significant alteration of the location or number of structures in a floodway is likely to influence the base flood elevation. In addition, the floodway is considered the most significantly hazardous area of any floodplain. Serious risks to life and property are highest in these areas. However, per 36-533(e)(3)(f), existing structures built prior to adoption of Section 36-533 are allowed to remain by because of protections granted by Section 36-508 (Nonconforming Uses) of the Zoning Ordinance, but are expressly subject to the detailed limitations of that ordinance. In the context of properties in the floodplain and floodway, Section 36-508 has historically allowed existing non-conforming structures to remain in place while implementing substantial and further improvements where doing so does not increase the degree of nonconformity.

In June of 2022, City staff evaluated this structure after a flood event that caused water to rise 4-6 inches inside of the house. The owner at that time was advised that he would need to submit costs and apply for a floodplain permit for repairs of that structure. This previous owner never applied for or received floodplain or building permits, but had begun renovations of the residence before selling the property to the current owners. The current owners/applicants purchased the property in November 2022. The City was not aware of the previous renovations or sale of the property at the time.

In May 2023, the applicants submitted a Floodplain Permit application proposing improvements to the existing house. The permit was denied because records indicated the structure had met the substantial damage / substantial improvement threshold, and the application did not include any mitigation measures for a structure regularly inundated by floodwaters that would allow for further improvements. The applicants did not appeal this permit denial.

In June 2023, the applicants applied for and received a Floodplain Permit authorizing elevation of the existing non-conforming structure in order to achieve flood hazard compliance while implementing further improvements per the floodplain ordinance. The

elevation of the existing structure was proposed by the applicant as a mitigating measure for the repetitive flooding, while avoiding any increase of the existing structure's nonconformity that could violate 36-508. However, in July 2023, the structure flooded twice more. City staff sent written notification advising the applicants that it was recommended they mitigate the flood damage to prevent additional damage from rot and mold and reminded applicants that further improvements were not allowed until the elevation and the requirements of the floodplain ordinance were met according to the granted floodplain permit.

The applicant also states that during the summer of 2023, they were advised by their engineer that raising the existing non-conforming structure as previously planned was not feasible. The applicants then began discussing multiple alternatives with City officials. Many scenarios involved complete replacement with a larger, elevated building. Applicants were advised that the floodplain ordinance advised against increasing occupancy capacity in such structures, and reminded applicants of the importance of remaining within the footprint of the existing structure. Over the following two years or so, staff met with the applicant's architect to evaluate options that would not increase the structure's nonconformity and would comply with Section 36-533 (Flood Hazard District).

In September 2025, the applicant submitted a new Floodplain Permit application proposing to demolish and reconstruct the structure within the same footprint, with the same square footage, but also elevated to meet the 2-foot freeboard requirement established by the floodplain ordinance. The application, accepted by City Staff, was perceived as not increasing the degree of the structure's nonconformity. During the review of this application, however, staff confirmed that floodplain permit granted in June of 2023 had expired after more than two years of non-use, which brought to City Staff's attention that more than two years had also lapsed in the property's use and occupation, a lapse resulting in a loss of nonconforming status pursuant to 36-508(a)(2), which does not allow the status to be "[r]e-established after discontinuance for two years."

Subpart (b)(7)(c) of the floodplain ordinance requires that a 36-508 loss of non-conforming status be recognized, by requiring that the "more stringent restrictions prevail" when the reach of multiple ordinances overlap or conflict in application to a property. Therefore, loss of non-conforming status means that the City may no longer evaluate only whether an application is likely to "increase . . . nonconformity"; instead, the applicants are required to comply fully with current floodplain development standards applicable to new construction in the regulated floodway. Based on this determination by City Staff, the September 2025 permit application was temporarily withdrawn.

After a meeting with staff and City legal, the applicant decided to proceed with this application for the demolition of existing structures and the development of a new residential structure at this location. The design and engineering analysis for the proposed development are included in the application packet for review.

**STAFF ANALYSIS:**

Site located in Little River Basin or Tributaries?      yes          no ✓

According to the latest DFIRM, the entire property is located within the Imhoff Creek floodplain/floodway (Zone AE). The BFE is 1153.0' and estimated flood depth is 4.0'. The entire property is located within one of the City of Norman's repetitive loss areas. These repetitive loss areas are locations where properties have experienced multiple flood events over time.

Applicable Ordinance Sections:	Subject Area:
36-533 (e)(2)(a).....	Fill restrictions in the floodplain
(e)(2)(e).....	Compensatory storage
(e)(5)(b).....	Prohibited Uses
(e)(7).....	Floodways
(f)(3)(8) .....	No rise considerations

(e)(2)(a) and (e)(2)(e) Fill Restrictions in the Floodplain and Compensatory Storage – The use of fill is restricted in the floodplain.

The applicant's engineer has indicated that more material will be removed from the floodplain than will be brought in, therefore no compensatory storage is required. This includes the change in the volume of material from the base of the residential structure as well as a dilapidated shed and fence.

(e)(5)(b) and (f)(3)(8) Prohibited Uses and No Rise Considerations– Any encroachments, including fill, new construction, substantial improvements, and other development, within any floodway of the designated FH, Flood Hazard District that would result in any increase in flood levels during the occurrence of the one-percent chance flood are prohibited.

This project location is within Imhoff Creek floodway. The project engineer has certified that the project will not cause a rise in the BFE.

(e)(7) Floodways - Located within special flood hazard areas established in subsection (e)(1) of this section are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, encroachments are prohibited, including fill, new construction, substantial improvements and other development unless certification by a professional registered engineer is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge

This project location is within Imhoff Creek floodway. The project engineer has certified that the project will not cause a rise in the BFE.

**RECOMMENDATION:** Staff does not recommend Floodplain Permit Application #735 be approved. This location is subject to documented, frequent flash flooding (2-4 feet in depth). Considering the loss of nonconforming status, this permit requests entirely new development. Therefore, the lens through which the floodplain committee must view this application cannot lend consideration to existing structures not already complying with 36-533. The submitted application materials demonstrate reliance on removal of volume based on these illegal structures, and further make no allowance for the preservation of storage during the process of excavating and removing the illegal structure's footing. City staff's chief concern is the safety of persons and property in this area as related to sections (a) *Statutory Authorization. Description and Purpose* and (b) *Methods* of 36-533 FH, Flood Hazard District. Specifically (a)(1, 3, 10, and 11) and (b)(1). Those sections are attached to this report for review.

If the Committee approves the application, staff recommends that an Elevation Certificate and an as-built survey be required to ensure compliance with the two-foot freeboard requirement of the ordinance. This should include the structure and the electrical and mechanical components.

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