



CITY OF NORMAN, OK

FLOODPLAIN PERMIT COMMITTEE MEETING

Development Center, Conference Room B, 225 N. Webster Avenue,
Norman, OK 73069

Tuesday, September 3, 2024 at 3:30 PM

MINUTES

The Floodplain Permit Committee of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in Conference Room B at the Development Center, on the 3rd day of September, 2024, at 3:30 p.m., and notice of the agenda of the meeting was posted at the Norman Municipal Building at 201 West Gray, Development Center at 225 N. Webster and on the City website at least 24 hours prior to the beginning of the meeting.

ROLL CALL

The meeting was called to order by Mr. Sturtz at 3:30 p.m. Roll was called and all members were present. Others in attendance included, Todd McLellan, Capital Projects Manager; Jason Murphy, Stormwater Program Manager; Kim Freeman, Staff; Mary Eva Cook, Resident; Gary Keen, Keen Engineering; Chris Anderson, SMC Consulting; Donnie Broms, Resident; Diana Broms, Resident; Lindsay Flesher, CEC; Brandon Perez, Norman Regional Health.

MINUTES

1. Approval of minutes from the August 19, 2024 meeting

Mr. Sturtz asked for any comments, questions or corrections on the minutes from the meeting of August 19, 2024. Mr. Sturtz asked for a motion from the committee to approve the minutes from the meeting of August 19, 2024. The motion was made by Mr. Scanlon and seconded by Ms. Stansel. The minutes were approved 7-0.

ACTION ITEMS

2. Floodplain Permit No. 699

Mr. Sturtz said the Application for Permit 699 is for the proposed excavation of material from the Little River floodplain for the development of Flint Hills Section 2. Mr. Sturtz asked Mr. Murphy to present the staff report. Mr. Murphy said the Applicant is IH Development and the Engineer is SMC Consulting Engineers, P.C. The applicant is constructing Section 2 of the Flint Hills Addition located approximately at Tecumseh Rd. and 12th Ave. NW. The location of the development is entirely outside of the regulatory floodplain, but they are requesting to excavate approximately 14,880 CY of material from the floodplain adjacent, as shown on the plans in your packets, for fill to use for the development. The plans indicate that the area will be graded with an approximate 5' wide ditch being left to facilitate drainage from the borrow area towards the Little River to prevent ponding.

Mr. Murphy reviewed plans and aerial maps of the project location provided to members in their packets.

Mr. Murphy confirmed all ordinance requirements have been met and said staff recommends Floodplain Permit Application No. 699 be approved.

Mr. Sturtz asked for any comments from the Applicant. Chris Anderson, SMC Consulting, said no comments, just needed some more dirt.

Mr. Sturtz called for any questions from the committee. Mr. Danner asked what are you allowed as far as grading in the WQPZ. Mr. Murphy said my understanding is you are not allowed to develop there, but as far as grading out for a road, that's actually a good question and not something I considered for the floodplain permit. I know that you can do grading for roads and utility installation, but does that create a problem for excavation for a borrow pit. I'm not sure of that answer. Mr. Sturtz said that is a concern I have but it doesn't really fall to this committee. We need to have further discussions with staff. WQPZ Ordinance does allow for there to be grading done within the WQPZ with the initial work, but the question is what's initial. We need to have further discussions before the work begins, but I don't know that it impacts the floodplain permit directly. Mr. Sturtz called for any other questions or comments.

Mr. Sturtz called for any questions or comments from the public. Hearing none, Mr. Sturtz brought it back to the committee. Mr. Scanlon asked Mr. Danner if he had an opinion. Mr. Danner said on the preliminary plat it stated there would be no grading in the WQPZ as a note. Ms. Hudson asked if this changes the covenants. Mr. Danner said I don't know about the filed covenants. Mr. Scanlon said if this is a legal issue, should we be given counsel on what our legal position might be. Ms. Hudson said the WQPZ is separate from what this request is. I don't know if our motion is the floodplain permit is approved based on negotiations for the work in the WQPZ. Mr. Danner said if you approve the floodplain permit, they are going to have the opinion that they can violate the WQPZ. Ms. Hudson said legal is not here so I can't speak, but my understanding is we have always kept them separate. Mr. Danner said I don't think we have ever had this come up. Ms. Hudson said not necessarily this one. Mr. Scanlon said he would like to table this until we get a legal opinion or approve contingent upon legal approval. Ms. Hudson said she thinks it should be contingent on. Todd McLellan, Capital Projects Manager, said he thinks they would need to turn in a drawing that would have the WQPZ shown and show the limits of where the trees are, to show that they are not getting into any trees. Mr. Sturtz said that's part of the trouble I'm having, we have drawings and aerials but we don't have anything that's put together to get a good feeling of location. I agree the two options are to postpone or to approve contingent on further discussions with staff and legal on WQPZ.

Mr. Scanlon motioned to approve Permit 699 contingent upon approval of the WQPZ by staff. Ms. Hoggatt seconded the motion. The committee voted to approve the application 7-0.

3. Floodplain Permit No. 700

Mr. Sturtz said the Application for Permit 700 is for the proposed medical office building at 2361 36th Ave NW in the Brookhaven Creek floodplain. Mr. Sturtz asked Mr. Murphy to present the staff report. Mr. Murphy said the Applicant is Terri McMahan and the Engineer is CEC/Lindsay Flesher, P.E. The applicant is constructing a medical office building at 2361 36th Ave. NW. The office building and parking lots will be located out of the regulatory floodplain, but reconstruction of storm sewer outlet into Brookhaven Creek will be necessary. As shown in the plans specifically C-402, the existing drive along the creek on the eastern side of the lot will be cut and a 15" HDPE storm sewer line will be installed and integrated into the existing drain outlet. A 15" HDPE end section will be installed and rip rap placed to stabilize the outlet structure and creek bank. There

is an existing concrete culvert that drains from a curb cut at this section as well as rip rap used to stabilize creek bank.

Mr. Murphy reviewed plans and aerial maps of the project location provided to members in their packets.

Mr. Murphy confirmed all ordinance requirements have been met and said staff recommends Floodplain Permit Application No. 700 be approved.

Mr. Sturtz called for any questions from the committee. Mr. Sturtz asked Mr. McLellan if 15" is the minimum allowed or if it was 18". Mr. McLellan said 18". Mr. Sturtz said we need to require 18". Lindsay Flesher, CEC, said it's not a problem. Mr. Sturtz said it's a minor change, just brings it into compliance with the subdivision regulations of the EDC. Mr. Scanlon asked changing from 15 to 18. Mr. Sturtz confirmed. Mr. Sturtz called for any questions or comments.

Mr. Sturtz called for any questions or comments from the public. Hearing none, Mr. Sturtz asked for any comments, questions or a motion from the committee. Mr. Scanlon made a motion to approve Permit 700 with the change from 15" to 18". Mr. Danner seconded the motion. The committee voted to approve the application 7-0.

4. Floodplain Permit No. 701

Mr. Sturtz said the Application for Permit 701 is for 3124 Meadow Ave. in the Canadian River floodplain. Mr. Sturtz asked Mr. Murphy to present the staff report. Mr. Murphy said the Applicant is Holly Hawk and the Engineer is Gary Keen, P.E. The applicant owns a condo that is one of four units in the same structure on the fringe of the Canadian River floodplain. Ms. Hawk replaced the masonry blocks that composed her patio with a pour-cast concrete pad and replaced a wooden fence. This work was completed without a floodplain permit as the applicant wasn't aware that one was needed. There is a FEMA approved LOMA on the structure itself but it does not include the backyard. Staff has reviewed the engineer's report which is provided in your packets, that was provided by the applicant's engineer and staff agrees with the findings based on the evidence Mr. Keen and Ms. Hawk provided. The replacement fence is constructed with wood slats and has approximately an inch of clearance from the ground to bottom of the panels. Based on images provided, the concrete porch slab was poured at grade so no new fill was added as a result of this project.

Mr. Murphy reviewed plans and aerial maps of the project location provided to members in their packets.

Mr. Murphy confirmed all ordinance requirements have been met and said staff recommends Floodplain Permit Application No. 701 be approved, but the fence may require modification. The fence meets ordinance because there is a gap and water can flow, but it isn't exactly there.

Mr. Sturtz called for any questions from the committee. Ms. Hudson asked Mr. Murphy if the fence meets definition. Mr. Murphy said it has to be able to allow flood waters to enter and exit without restriction. If this were something on Imhoff Creek, absolutely no way. In this case, if you are expecting water to rise as more of a ponding and its ability to come in and out of the yard, I don't think it would be restrictive. I agree with Applicants Engineer and his assessment, but the fence isn't modified how we would normally expect it on something that is more volatile. Ms. Hudson asked if there is separation on all sides. Mr. Murphy reviewed photos provided to the committee in their packets on the sides where the separation could be seen. Mr. Murphy

reviewed the plans and said on the south side, immediately adjacent to the golf course, a lot of that is above the BFE. If you look at the east side, you've got about 3-4 inches that the fence is technically below the BFE. A fence is allowed. The idea is that is not going to cause something that's so restrictive that it would cause a rise in the BFE.

Gary Keen, Keen Engineering, said most of the area shown in the photo is above the BFE, so water can't flow in there. On the right side, and beyond the right fence, there are other restrictions to flow. There's another yard, another fence and a sidewalk. Beyond that, is another yard with a lot of other obstructions. My opinion, there will be no flow across that yard, but there is storage volume within that yard. I think the thing that's needed here is for water to be able to flow in and fill that yard to avoid losing storage and then flow back out. There's about an inch under that fence, which I think is adequate to flow in and flow out. The fence on the left, the way the fence is built, it would be easy to cut a little bit off the bottom of the fence. It would be difficult to cut off of the other fences because the rail is lower and it's a double panel fence. This one could be done if you think it's necessary, but I think it's not.

Donnie Broms, resident, said he owns the adjacent property at 3122. Mr. Broms pointed to an area in the photo being shown to the committee, identified as common space up to the patio line. Although, there was a fence when Holly moved in, a small fence with open grate, that was really just to protect from one of the animals the neighbor had bought. We've always had good run off and I've never had a problem in the 12 years that I've lived here with pooling. This unit (3124) has always had a problem with pooling. What's been described here is not entirely accurate. This fence was added and included beds that are lined with metal that prevent what normally was the flow from west to east. This fence also blocks the normal flow, which was out to the parking lot at Trails Golf Course. There was a pipe in between the 2 units, that routes out to the Trails Golf Course parking lot that has been damaged in part of the construction. Part of this is HOA banter. Whether we treated that as common space or not, is a civil matter. The part that I'm really concerned about, and what I want this committee to understand, is that since she has put up the fence, it has caused pooling in my backyard that I've never experienced before. The manhole is sump pump that Ms. Cook put in years ago when she was the owner of 3124. Pooling used to exist over behind 3124 and she has now regraded that up a little bit in my opinion. I'm not an engineer, but she extended the patio, regraded the entire lawn, put sod in, raised her lawn and now I got the pooling issue. The fence does not allow proper drainage. The old fence was a picket fence. The fence and flower bed fixture, which basically creates a barrier to any water that could go across this yard like it used to, has created a problem for me at 3122. Ms. Stansel asked if it was her property line. Mr. Broms said the way the covenants and restrictions are written, that she agreed to when she purchased the house, says that this area is all common space. Mr. Scanlon said one thing is an HOA concern, how they did it, is ours. Mr. Broms said he's not trying to exacerbate the two, one is civil matter and one is floodplain matter. Mr. Scanlon said we can't get involved in the common area, but we can if there are impediments to flow. Mr. Broms said that's the main concern. Even though she says there's an inch underneath here, that's closed up now. There's only one area with a manhole that is used to fish out the pipe that went out to the parking lot. We left that there and she built the fence just high enough over it so we could pull that manhole cover off and fish that pipe out. I had a plumber out and to fish that out and it's blocked. So we're having to come up with another solution. Mr. Scanlon said the application reads, there is about a one inch gap under most areas. That's pretty flaky wording as far as I'm concerned. Mr. Scanlon asked Mr. Keen about the potential remedy for the fence. Mr. Keen said the remedy would be to cut off the bottom of the boards. The owner is concerned that if too much is removed, her dogs might get out. I don't think we need very much, probably just 2 or 3 inches would be adequate. Mr. Sturtz said we still have a landscape border that's going to stop that

from being fully effective. My big concern is, we have no idea what the ground elevation was prior, and I can't tell you if there's been fill added or not. Mr. Keen said he spent a lot of time looking at this and fortunately I was able to get these before photographs from the owner. Mr. Sturtz said you can't tell from a photo if that's 4 or 5 inches higher. Mr. Keen said I looked at the brick lines on the wall. I was able to enlarge them and get a real good view. By counting the brick lines, I could tell you the new slab is the same elevation. I also used the manhole cover as a reference point. I believe they took out a bunch of trees. Mr. Broms said the area was a flower bed that we maintained as a common unit by the HOA. The whole area is mound and there's a manhole cover that we surrounded with crepe myrtles. She wanted to take over that flower bed which wasn't a concern unless she actually changed the grade of the flower bed. She took all that out, I don't know if that affects the grade.

Mr. Scanlon asked if the main concern is the flow from west to the east. Mr. Broms said what would happen in the past, in a torrential rain, water would flow and pool at 3124 and flood the home. So a sump pump was installed and that helped to drain all of that water out in torrential rains.

Mr. Sturtz said the issues as far as floodplain goes are, one is the fence proper and, two is there fill added in the floodplain.

Mr. Keen said there was another reference he used to figure this out, the brick around the manhole cover have been there a long time. Mr. Broms said no, they were not around the manhole cover.

Mary Eva Cook, resident, said I lived there in 7, 8 and 9. When I lived there my downstairs vents were full of water. I spent thousands of dollars to coat the pipes, then I put a sump pump in there and there were no bricks. I never had a water problem. The engineer can say what he wants, but I know I spent thousands of dollars to get that fixed. Mr. Keen said the floor of that house is six tenths of a foot above the hundred year floodplain. If they have vents in the floor, that would be below the floodplain and that's a miserable situation to be in.

Mr. Sturtz asked for any comments, questions or a motion from the committee. Ms. Hoggatt asked if that is plated open space, can they split it up like that. Mr. Danner said they're not splitting it off, it's how they're using it. Mr. Murphy said there is an open Notice Of Violation on this. It is pending a floodplain permit. Ms. Hudson said the other part of it is, there's a lot of steps here, but any paving requires a permit and there's no permit for the paving that was done here on this property. That would be another issue as far as Permitting and Development Services is concerned. Mr. Sturtz said that probably would have gotten us to the point of floodplain permit.

Ms. Hoggatt said if they come back and do breakaway panels, because to me this is not meeting what the code requires, can they still have the edging on the flower beds. Mr. Sturtz said the only thing to me, is that's fill and this area is so flat. Outside of that, it becomes an issue of 2 private property owners having the common enemy of water. For me, has there been fill, is this higher now, that is creating now a rise in the BFE on the adjacent property. For me as an engineer, I don't have anything here that I can say that it is not exceeding .05 foot rise on their property because of what they have impacted on this property. Mr. Keen said the floodplain there is more than a mile wide. Mr. Sturtz said that's irrelevant if you're causing a rise in the BFE on their property because it can't flow. I have no way of knowing what was there before, what has occurred to say that there hasn't been an increase, there hasn't been fill added and this fence definitely doesn't meet requirements. Mr. Danner said correct there's 2

things, how do you prove the previous elevation and current elevation. Mr. Keen said I made my very best effort to make a determination about that. Mr. Sturtz said there's no way from photos and eyeballing. Mr. Broms said what if we had previous elevation surveys and had a current survey done. Mr. Sturtz said that may help.

Ms. Hudson said I have 2 options, one we deny this application or two we table it until they come back with fencing that meets the code and additional elevation certificates that can determine what was there and what's there now. I'm not the engineer in the room, but I can clearly look at this tree bed and see the changes in elevation and the fence does not meet the code and that's not something I can approve. Mr. Scanlon and Ms. Stansel agreed. Mr. Danner said I think the motion is to postpone pending additional information, including the required fencing in the floodplain. Ms. Hoggatt asked if the Applicant was willing to postpone or do they want a vote today. Mr. Danner said a vote today will get a denial. Diana Broms, resident, asked what additional information is needed to postpone. Mr. Danner said we have required designs for fencing that they need to meet. As far as the other elevations, that's going to have be previous surveys. Mr. Keen said there's going to be question about the precision or accuracy of those surveys, I think. Mr. Danner said I understand but I think it's obvious if they brought in sod, they increased the elevation. Mr. Keen said I wish the owner was here because she told me they actually hauled out soil instead of bringing soil, but I wasn't there. Mr. Sturtz said I don't think a breakaway fence would be appropriate in this situation, but if we had more spacing to allow water to flow. Mr. Keen said we're willing to cut the bottom of the fence off and rip out the border, would that satisfy. Ms. Broms said no. I feel the opportunity for us to review the proper planning was taken away from us. Mr. Broms said the bottom of the fence still doesn't account for the increase in the level and any change that was made putting this patio in. Mr. Scanlon said if we find the original surveys and compare against what we have now, we can make that determination. At a minimum the fence is out of line, the fence is going to have to be fixed.

Ms. Hudson said I would move, because there's so much outstanding information, the property owner has to gather the information as far as prior evaluation certificates on the property, that needs to be their responsibility. I say we reject this application. They need to start over. They need to find the elevations and they need to make those determinations instead of us trying to figure that out. They need to come back with appropriate fence design.

Ms. Hudson made a motion to deny Permit 701. Mr. Scanlon seconded the motion. Mr. Miles asked if we wanted to postpone. Mr. Sturtz said personal opinion, postpone is hard for me on this one. Mr. Sturtz asked for any other comments from the committee. The committee voted to deny the application 7-0.

MISCELLANEOUS COMMENTS

Mr. Sturtz asked for any miscellaneous comments. Mr. Murphy said there are no applications for the next meeting.

Mr. Scanlon asked what do we do about the fence farther to the east. It's obviously blocking water flow. I wonder how it got there. There's too much we didn't know going on. Mr. Murphy said we do a mail out every year for any property in the floodplain. Mr. Sturtz asked if the letter says anything you do in the floodplain requires a permit from the City of Norman. Mr. Murphy said yes. Mr. McLellan said it even mentions fences. Mr. Scanlon said it just comes up so often that if we tell people what the consequences are and have been enforced, that this can cost you money. I think we should strengthen the letter.

Ms. Hoggatt notified the committee that she and Ms. Hudson would be unable to attend the October 7th meeting.

ADJOURNMENT

Mr. Sturtz adjourned the meeting at 4:39 p.m.

Passed and approved this _____ day of _____, 2024

City of Norman Floodplain Administrator, Scott Sturtz