



**CITY OF NORMAN, OK**  
**FLOODPLAIN PERMIT COMMITTEE MEETING**  
Development Center, Conference Room B, 225 N. Webster Avenue,  
Norman, OK 73069  
Monday, May 15, 2023 at 3:30 PM

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## **MINUTES**

### **ROLL CALL**

The meeting was called to order by Mr. Shawn O'Leary at 3:30 p.m. Roll was called and five members were present, two were absent. Present members included Ken Danner, Scott Sturtz, Shawn O'Leary, Sherri Stansel, and Bill Scanlon. Lora Hoggatt and Jane Hudson were absent. Others in attendance included, Jason Murphy, Stormwater Program Manager; Todd McLellan, Development Engineer; Brenda Gomez, Staff; Gary Keen, Keen Engineering; Derek Harris, Applicant; Georgia Koontz, resident.

### **MINUTES**

1. Approval of minutes from the May 1, 2023 meeting

Mr. O'Leary called for a motion to approve the minutes from the meeting of May 1, 2023. The motion was made by Ms. Sherri Stansel, and seconded by Mr. Ken Danner. The minutes were approved 5-0.

### **ACTION ITEMS**

2. Floodplain Permit No. 671

Mr. O'Leary asked Mr. Murphy to present the staff report. Mr. Murphy said the Applicant is Derek Harris and the Engineer is Jason Emmett, P.E., Cedar Creek for the project. Mr. Murphy said the Applicant is currently going through the Norman Rural Certificate of Survey process to subdivide approximately 115 acres on the north side of West Rock Creek Road between 48<sup>th</sup> Ave NW and 60<sup>th</sup> Ave NW in the 10 Mile Flat Creek floodplain. The 115 acres will be subdivided into four 20 acre tracts and one 35 acre tract. The name of the proposed subdivision is Golden Valley.

Norman's subdivision regulations require that a 20 ft. wide private road be constructed to provide access to the tracts. The road will be approximately 3200 ft. long with 18 inch culverts installed at the intersection with West Rock Creek Road and approximately 2650 ft. north of West Rock Creek Road.

Mr. Murphy said the Applicant will use most of the material excavated from the bar ditches to construct the road and crown. Approximately 1250 cubic yards of rock will be placed on the road for the required 6 inch rock driving surface. This will require that 1250 cubic yards of material be hauled off and placed outside the floodplain to provide the necessary compensatory storage. This material will be stockpiled on Tract 5 out of the floodplain.

Mr. Murphy said since portions of the road surface will be located at or below the Base Flood Elevation (BFE), the City of Norman cannot guarantee that citizens located on tracts served by the new road will be evacuated during a flooding emergency.

Mr. Murphy reviewed plans and aerial maps of the project location provided to members in their packets. Following a careful and in-depth review, Mr. Murphy asked for questions or comments.

Hearing none, Mr. Murphy said according to the DFIRM, the vast majority of the new road will be in the 10 Mile Flat Creek floodplain Zone AE. The BFE along the planned road route will vary from 1128.0 to 1129.5 ft.

Mr. Murphy said the use of fill in the floodplain is restricted. However, the placement of fill is allowed to elevate structures and construct drives and roads providing access to the structures. Approximately 1250 cubic yards of rock will be placed on the road for the required 6 inch rock driving surface. This will require that 1250 cubic yards of material be hauled off and placed outside the floodplain to provide the necessary compensatory storage.

Mr. Murphy said for proposed development within any flood hazard area (except for those designated as regulatory floodways), certification that a rise of no more than 0.05 ft. will occur in the BFE on any adjacent property as a result of the proposed work must be provided. For proposed development within a regulatory floodway, certification of no increase in the BFE is required. The engineer has certified that the project will not cause a rise in the BFE which meets this ordinance requirement.

Mr. Murphy confirmed all ordinance requirements have been met and said staff recommends Floodplain Permit Application No. 671 be approved.

Mr. O'Leary asked for comments or additions from the Applicant or Engineer. Hearing none, Mr. O'Leary asked for additional questions by the committee or any public comments. Ms. Koontz, resident, whose property is adjacent to the proposed parcels, asked if the road would be rock or paved. Ms. Koontz indicated that there is an existing road used to access a well site that is supposed to be maintained by the oil company. Ms. Koontz also said, outside traffic, which is hard to control, poses security concerns for her family and livestock. Mr. O'Leary clarified that there would be approx. 15' between the Koontz property and the new road. Ms. Koontz asked about the location of the culverts for the road due to the large amount of water that backs up during heavy rains. The engineer for the project pointed out the location of the culverts and noted that the project would maintain historic drainage.

Ms. Koontz asked about the requirement of maintenance to the existing access road. Mr. O'Leary asked if the Applicant had a lease agreement with the oil company for the access road. Mr. Derek Harris said the access road is on the property west of his parcels in the application.

Mr. O'Leary, Mr. Ken Danner and Mr. Murphy addressed Ms. Koontz questions about regulations regarding the road. Ms. Koontz asked if there will be fencing to the perimeter of the development and perhaps individual fencing of parcels by potential landowners. Mr. Harris said it will be up to each homeowner if they choose a fence in their design.

Mr. Scanlon expressed concern with emergency access on this road if it is approved. Mr. O'Leary clarified that the application meets the floodplain regulations to build a road in the floodplain. Mr. O'Leary referred Mr. Scanlon to the floodplain ordinance where general guidance regarding health and safety and the basis to approve or deny the Application

accordingly. Mr. Scanlon said his concern is if an ambulance and/or emergency vehicle need access in the event of flooding and the road is impassible, the lives of the residents would be at risk. Mr. Sturtz asked for the elevation of the road surface. Mr. Harris said the fill removed from the ditches will be used to elevate the road above the top of the drainage ditches. Mr. Danner noted that maintenance of the road will be the responsibility of the Home Owner's Association. Mr. Scanlon expressed concern about wash out and road instability. Mr. Danner noted that consideration must be given because previous permits and developments have been approved with the condition that the City may not provide evacuation upon flooding events.

Mr. O'Leary called for a motion. Mr. Scott Sturtz motioned to postpone Floodplain Application No. 671 pending further information from Applicant regarding the elevation of the private road in relation to the BFE. Mr. Bill Scanlon seconded the motion. The committee voted to postpone with conditions the application 5-0.

### 3. Floodplain Permit No. 672

Mr. O'Leary asked Mr. Murphy to present the staff report. Mr. Murphy said the Applicant is Glen Burnett and the Engineer is Earl Keen, P.E. for the project. Mr. Murphy said the Floodplain Permit Application is for the remodel of the house located at 216 S. Lahoma Avenue in the Imhoff Creek floodplain. Mr. Murphy said the original single story, masonry house was constructed in 1930 on Lot 6 Block 2 of the Eagleton Addition and is in good condition. The entire property including the house is in the floodplain/floodway of Imhoff Creek in an area of repetitive flooding.

Mr. Murphy said the applicant's intent is to remodel and improve the structure and use it as student housing. The house currently does not comply with the floodplain ordinance since the lowest floor is approximately 3.2 feet below the Base Flood Elevation. The applicant intends to leave the house at its present elevation; therefore, the substantial improvement section of the floodplain ordinance applies which restricts the value of the improvements to a maximum of 50% of the current value of the structure.

Mr. Murphy said most of the work will take place inside the main structure and will include moving walls to make room for a second bathroom. Other work will include extending wastewater drains and water supply lines to serve the new bathroom. The existing electrical breaker box is outdated and will be replaced. The footprint of the house will not be increased. Work outside the main structure consists of removing the existing storage building and repair of fences.

Mr. Murphy said a licensed appraiser was used to perform a detailed evaluation of the structure. The appraiser determined the value of the structure to be \$80,000. The allowed maximum value of the improvements is \$40,000 according to the floodplain ordinance. The applicant obtained a detailed quote for the proposed improvements in the amount of \$29,442.50. The existing shed will be removed which will increase conveyance across the property. The estimated cost of removing and disposing of the shed is \$1,000. The existing chain link fence is full of debris which will also increase conveyance. The cost of the fence work is estimated to be \$500. The cost of the shed removal and fence work does not count towards the \$40,000 allowed for the house improvements.

Mr. Murphy said it is the applicant's engineer's opinion that the proposed modifications will comply with the floodplain ordinance. However, it is important to clarify that the BFE is approximately 3.2 feet above the floor of the house and the proposed modifications will not

reduce the flood risk. In addition, the ground on this property may be flooded to a depth exceeding 4 feet. The depth of water will be adequate to damage vehicles located thereon and may even cause vehicles to float and/or be transported downstream.

Mr. Murphy reviewed plans and aerial maps of the project location provided to members in their packets. Photos were presented to point out that this property has repetitively flooded. Water marks were evident inside and outside the house per the June 2022 photos and investigation.

Mr. Murphy said according to the latest DFIRM, the entire property is located within the Imhoff Creek floodplain/floodway (Zone AE). 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.

Mr. Murphy said any reconstruction, rehabilitation, addition, or other improvement of the structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement, must meet the current floodplain ordinance requirements. This proposed project meets the Substantial Improvement section.

Mr. Murphy said the use of fill is restricted in the floodplain. No fill will be brought into the floodplain for this project, therefore no compensatory storage is required. In addition, an existing shed will be removed from the floodplain creating a small amount of additional floodplain storage.

Mr. Murphy said for proposed development within any flood hazard area (except for those designated as regulatory floodways), certification that a rise of no more than 0.05 ft. will occur in the BFE on any adjacent property as a result of the proposed work is required. The project engineer has certified that the project will not cause a rise in the BFE.

Mr. Murphy confirmed all ordinance requirements have been met for Floodplain Permit Application No. 672.

Mr. O'Leary asked for comments or additions from the Engineer. Mr. Keen said the flooding risk in this location is very high. Mr. Keen said other properties in this area have been elevated and have had success with the structure but have still had flooding of vehicles. Mr. Keen gave a history of his interactions with owners and properties in this area. Mr. Keen said he thinks the owner has met minimum requirements but approving applications in this area has shown to have consequences.

Mr. O'Leary asked for additional questions by the committee or any public comments.

Ms. Stansel read, for the record, regarding the substantial improvement requirements a portion the appraiser's report:

“ . . . Kitchen features: newer cabinetry, granite countertops, appliances and fixtures; bathroom include newer cabinetry, tile flooring, plumbing, electrical fixtures. Property has refinished hardwood flooring, new interior paint work and fixtures and the property also features a new central heat and air system. . . ”

Ms. Stansel stated that she was not aware of any Floodplain Permit Application for the improvements referred to in the appraiser's report for this property. Ms. Stansel said it is apparent that the previous owner made the improvements disregarding any floodplain

ordinance requirements. Had he done so, the elevation issues would have been addressed at that time. Ms. Stansel said she supports and recommends a Cumulative Substantial Improvement Clause be added to the Floodplain Ordinance. Ms. Stansel said not only would it give a fair assessment of the actual improvements but it would improve Norman's Community Rating System (CRS) rating from the National Flood Insurance Program (NFIP). Ms. Stansel asked if the updated new central heat and air system was elevated or at ground level. Mr. McLellan said it is still at ground level from the pictures included in the presentation. The comparable properties used to determine the appraisal do not match the proximity to the floodplain and do not represent the potential damage or loss related to the assessed value of the home. Ms. Stansel said the Cleveland County Assessor records show that the new owner is not local and may not be aware of the risks associated with the property. Ms. Stansel asked if the previous owner had disclosed any flooding or updates.

Mr. Keen said he recommended to the owner he attend this meeting as there may be concerns that he needed to be made aware of and the committee may have questions. Mr. Keen said unfortunately, he was unavailable for this meeting due to prior commitments. Mr. Keen said the owner did state that the house as it currently stands is in the exact same condition as it was upon purchase and he was not aware of previous work or damage.

Mr. Keen said the house was in good condition, better than other houses in the area. Mr. Keen said on a previous visit he noticed the paint was fresh, the floor was vinyl plank made to look like hardwood, and it was apparent that improvements had been made to the property. Mr. Keen said the owner expressed his intent to remove a wall and put in another bathroom. Mr. Keen said the original estimate was for \$50,000 for work to be done on the house; however, only up to \$40,000 was allowed by floodplain ordinance. Mr. Keen said the owner him to inquire of the committee, upon approval of the application, if they could spend up to the 50% or \$40,000.

Ms. Stansel stated that she was surprised that the new owner wanted to go forward with this application after reading the risks outlined in the engineer's report. Mr. Keen said he was clear in his report and communication that the property would have significant flooding risks to ensure the owner was aware.

Mr. O'Leary brought the discussion back to the committee to discuss and expressed his concerns with the application. Mr. O'Leary offered a refresher for the committee members of the Floodplain Ordinance that governs the actions of the committee. Mr. O'Leary said

"Section 5 of the Floodplain Ordinance under Floodplain Administration, approval or a denial of a Floodplain Application by the Floodplain Committee must consider all the requirements and;

- 1) The danger of life and property due to flooding or erosion control/erosion damage
- 2) Susceptibility of the proposed facility and its content to flood damage and the effect of such damage on individual owners
- 3) The danger that material may be swept onto other lands to the injury of others . . ."

Mr. O'Leary stated that the committee should use all the information available in making their decision. Mr. O'Leary said it is okay to question the credibility of some of the information that was submitted, like appraisals or cost estimates for improvements by contractors. Mr. O'Leary said the committee is able to postpone and request for additional information if so needed. Mr. O'Leary said the committee is not required to approve this application and cautioned them to consider all the information as they framed a motion.

Mr. McLellan said staff had considered going through the neighborhood in the fall with door notices to ensure owners and/or residents were notified and aware of the risk in that area.

Mr. O'Leary indicated that a policy change regarding notification is being considered and also a cumulative substantial improvement clause. Mr. O'Leary said although these items have been discussed over the years it may be time to add it to the ordinance.

Mr. McLellan stated that this is a repetitive flood area and the City is not at liberty to provide public information as to who did or did not file claims and/or receive damage rewards; suffice it to say, this is a flood prone area. Mr. McLellan said these areas will flood, have flooded in the past, and have had insurance claims in recent years.

Mr. O'Leary called for a motion. Mr. Scanlon motioned to deny Floodplain Application No. 672. Ms. Stansel seconded the motion. Mr. Scanlon noted the motion is based on Section 5 and other considerations. The committee voted to deny the application 5-0.

Mr. Keen thanked the committee for their very careful consideration of this matter.

### **MISCELLANEOUS COMMENTS**

4. The Floodplain Committee meeting on June 5, 2023 will have 1-2 applications.

### **ADJOURNMENT**

Mr. O'Leary called for a motion to adjourn. Mr. Sturtz motioned to adjourn and was seconded by Ms. Stansel. The motion was approved 5-0. The meeting adjourned at 4:41 p.m.

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2023

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City of Norman Floodplain Administrator, Shawn O'Leary