

**NORMAN PLANNING COMMISSION
REGULAR SESSION MINUTES**

MAY 13, 2021

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, and via video conference, on the 13th day of May, 2021.

Notice and agenda of the meeting was posted at the Norman Municipal Building and online at <https://www.normanok.gov/your-government/public-information/agendas-and-minutes> at least twenty-four hours prior to the beginning of the meeting.

Chair Erica Bird called the meeting to order at 6:34 p.m.

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Item No. 1, being:

ROLL CALL

MEMBERS PRESENT
(via video conference)

Sandy Bahan
Lark Zink
Dave Boeck
Michael Jablonski
Erin Williford
Steven McDaniel
Erica Bird

MEMBERS ABSENT

Nouman Jan
Mark Daniels

A quorum was present.

STAFF MEMBERS PRESENT
(in person, except as noted)

Jane Hudson, Director, Planning &
Community Development
Roné Tromble, Recording Secretary
Bryce Holland, Multimedia Specialist
Beth Muckala, Asst. City Attorney (video)
David Riesland, Traffic Engineer
Todd McLellan, Development Engineer

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Item No. 10a, being:

R-2021-115 – SHAZ INVESTMENTS, L.L.C. REQUESTS AMENDMENT OF THE NORMAN 2025 LAND USE AND TRANSPORTATION PLAN FROM FUTURE URBAN SERVICE AREA TO CURRENT URBAN SERVICE AREA FOR APPROXIMATELY 41.46 ACRES OF PROPERTY GENERALLY LOCATED ½ MILE SOUTH OF CEDAR LANE ROAD ON THE EAST SIDE OF JENKINS AVENUE AND EXTENDING SOUTHEAST TO 12TH AVENUE S.E.

ITEMS SUBMITTED FOR THE RECORD:

1. 2025 Map
2. Staff Report
3. Pre-Development Summary

Item No. 10b, being:

O-2021-44 – SHAZ INVESTMENTS, L.L.C. REQUESTS REZONING FROM A-1, GENERAL AGRICULTURAL DISTRICT, AND A-2, RURAL AGRICULTURAL DISTRICT, TO R-1, SINGLE FAMILY DWELLING DISTRICT, FOR APPROXIMATELY 41.46 ACRES OF PROPERTY GENERALLY LOCATED ½ MILE SOUTH OF CEDAR LANE ROAD ON THE EAST SIDE OF JENKINS AVENUE AND EXTENDING SOUTHEAST TO 12TH AVENUE S.E.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
4. Pre-Development Summary

Item No. 10c, being:

PP-2021-11 – CONSIDERATION OF A PRELIMINARY PLAT SUBMITTED BY SHAZ INVESTMENTS, L.L.C. (CRAFTON TULL & ASSOCIATES) FOR EAGLE CLIFF WEST ADDITION FOR APPROXIMATELY 151.48 ACRES OF PROPERTY GENERALLY LOCATED ½ MILE SOUTH OF CEDAR LANE ROAD ON THE EAST SIDE OF JENKINS AVENUE AND EXTENDING SOUTHEAST TO 12TH AVENUE S.E.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Preliminary Plat
3. Staff Report
4. Transportation Impacts
5. Request for Variance – length of cul-de-sac
6. Pre-Development Summary

PRESENTATION BY STAFF:

1. Jane Hudson reviewed the staff report, a copy of which is filed with the minutes. We did receive protests which amounted 40.4% for these areas shown in pink.

2. Mr. Jablonski – Can you tell me about this floodplain and what kind of floodplain is it? And is the classification realistic? One of the protests points out that, because of inappropriate stormwater management, that the area has been holding a lot more water than it historically did, and that concerns me.

Todd McLellan – Yes, Commissioner. I'm the Development Engineer for the City of Norman. The floodplain you're referring to, that's the Canadian River and Bishop Creek floodplain and it's currently zoned AE which means that there's base flood elevation data for that area. There was a detailed study by FEMA. The last time the map was updated was 2008 so there may be additional water ponding up and building up down there, and that's probably due to the upstream development. As far as I know, there are no plans to update the maps, although we've been requesting that the Bishop Creek floodplain map be updated. Right now, because of funding, that hasn't been done.

3. Ms. Bird – Jane had mentioned that the staff had recommended the fee in lieu of the detention ponds. Can I have some more explanation as to why that recommendation happened on this particular project?

Mr. McLellan – Sure, Commissioner, I'll be happy to explain it. The way that works is when we have development near the rivers we like to do fee in lieu of detention because not providing detention during a storm allows the runoff to get out of the developed area quicker than if we did do detention. We want it to get out there quicker before the peak flow from Bishop Creek comes down the stream. Therefore, by getting it out there, we have less flooding when we get it out there ahead of time. I believe the area of Bishop Creek – the total drainage area – is very large; it's approximately 6,700 acres. So during a large event we have quite a peak flow coming down the creek. By doing fee in lieu of detention, we get the water from this development out headed toward the river and the creek faster than if we did do detention. It reduces the flooding potential by not combining with the peak flow coming down Bishop Creek.

4. Mr. Boeck – I guess that would be my big question here. Obviously, we're at the end of Norman – this is the end of the City of Norman boundary here, and the river runs through here and Bishop Creek. There's been lots of concerns of Bishop Creek when you get up to, like, Lindsey and north of Lindsey, and actually down into Sherwood Forest and those areas, because of all the development that's gone on, and the City deals with that on a continual basis. But I guess the question I have is where do I see the concern from some comment from some protest was in terms of flooding, but I'm not sure where the concern for flooding would be in these residential neighborhoods, because, again, this is at the end of Norman. This is the end of development for this part of the river and creek. So what's the concern?

Mr. McLellan – You have to ask the protestors, but I believe the main concern is that, by developing, they're getting more volume of water and ...

Mr. Boeck – Who is "they" and where are "they"? I don't see how that's a problem, looking at this site development plan.

Mr. McLellan – They're here. They're in the audience, and I think they plan on speaking after the presentation.

5. Ms. Williford – When you talk about getting rid of the detention ponds in lieu of a fee, have you looked at where that storm water goes? Because it doesn't go directly to the river. It travels through someone else's property. So how does the City determine what is an acceptable method of where that water goes, and potentially floods, when it's not going directly to the river?

Mr. McLellan – Well, the applicant has to submit a drainage report as part of the preliminary plat submittal. We review the data and see how much water is coming down and what the flow paths are. You are correct. It has to cross some property to the south before it gets to the creek and the river. There are concerns by the property owners that there will be additional erosion because of the water. But we feel by doing fee in lieu of detention that it will reduce the risk of flooding because this water will be out toward the creek and the river before the peak flows of Bishop Creek get down this far.

Ms. Williford – Forgive me for not knowing this answer – I probably should, so I apologize – but where do the fees go, and how are they used?

Mr. McLellan – Well, the fees are collected by the City and they're used on future projects – future storm water projects.

Ms. Williford – So they're not used in any way to help the properties that are damaged by this water draining into their property, or other detention ponds for this water that are flooding down.

Mr. McLellan – That is true, they're usually not used on private property; they're used on storm water infrastructure projects.

Ms. Williford – So correct me if I'm wrong. So developers pay a fee to not put in drainage – detention ponds, and then the money is used elsewhere so developers can not build these

ponds, water just runs downward off their property to somewhere else, and then the City uses it for further development and/or storm water usage.

Mr. McLellan – Yes, that's the idea. Yes.

Ms. Williford – That doesn't make sense to me.

Mr. McLellan – Again, it has to do with trying to reduce the flooding potential. Now, we're not opposed to the applicant if they want to do detention. We not opposed to it, we're just saying if they do it they're probably increasing the risk of flooding potential for the people on Bishop Creek.

Ms. Williford – Does it cost the developer less money to pay the fee or to build the detention pond?

Mr. McLellan – You would have to ask the applicant and the developer that question. Current fee is they pay fourteen cents per square foot of additional impervious area they are adding.

6. Ms. Bird – I'm sorry, I don't know if I heard Commissioner Boeck's question getting answered as far as to who the flooding concern was. I apologize if that was answered. But when you're talking about the increased risk of flooding, could you just clarify who – you said the people along Bishop Creek that would have increased flooding? Or who would be affected by this increased flooding?

Mr. McLellan – Well, it would be people upstream along Bishop Creek that could be affected.

7. Mr. Jablonski – I have a question not about the flooding or the storm water management, but about parks. Did I miss that? We were supposed to get an update from the City about parks and I didn't see that.

Ms. Hudson – That was a fee in lieu of for parks.

Mr. Jablonski – And, correct me if I'm wrong, there was also a fee in lieu of parks the last time that they developed in that area? Is that right?

Ms. Hudson – I do not know that. I did not check that. I just got the vote for this item that went to the Park Board. I'm hearing that there was no park land required, so they did fee in lieu of last time, yes.

Mr. Jablonski – Thank you. Can you tell me where the closest parks are and what the access is like in terms of walking access to those parks or greenspace also?

Ms. Hudson – There's the large park that's up north in Eagle Cliff. I couldn't tell you the exact location. It's closer to Cedar Lane. To my knowledge, there is not another park within the Eagle Cliff subdivision, but the one that is up there is a very large park. It's south of the commercial, then you have the duplexes, then you have the apartment complex, so it's a good quarter of a mile back in from Cedar Lane. I'm trying to look at a map in this room.

Mr. Jablonski – I'm just trying to eyeball it myself right now, and it looks like it's maybe a half mile walk, if I had to guess, from houses in that new development. But someone can correct me.

8. Ms. Williford – Is the fee in lieu of for parks the same as the fee in lieu of for detention ponds?

Ms. Hudson – The fee in lieu will go to the area parks. There's a determination from Parks Board where they would utilize that funding, is my understanding. Part of it could go to the Eagle Cliff Park. It depends, I guess, if it was a neighborhood park fee or if it was a community park fee – whatever their designation was. I believe they can designate how that goes. I'm sorry I don't have anybody from Parks Board. I don't want to tell you the wrong thing, but I believe that's how they designate that funding.

Ms. Williford – Jane, do you happen to know if it's also fourteen cents? Or do you know the price that they pay?

Ms. Hudson – I do not. I'm sorry. I can find out and send you guys an email and let you know.

Ms. Williford – I'm just curious.

Ms. Zink – I wanted to respond to Commission Jablonski's comment. I used to live in the neighborhood, and the park is probably closer to a mile away.

PRESENTATION BY THE APPLICANT:

1. Sean Rieger, representing the applicant (via video) – I'm going to try to answer all those questions; I think I can. First, I'm going to dive into some of these questions first and then I'll take you through the presentation. Parkland – you see the PL right there and R-1 right here. The main park – the subject tract down here that Jane showed you. The subject tract, first I want to say, is an outline of the entire preliminary plat. We've talked about this before a little bit, but preliminary plats are a large area sometimes because you have to plat the whole common ownership. That's not the area that the homes are going to go into. The homes are in a much smaller area, and I'll show you that in just a moment. But they basically are pocketed up in here and over here. The main park for Eagle Cliff Addition is right up here. So to answer the Commissioners' questions about access, you would likely come down the sidewalks. All of these areas must have sidewalks. So you would come down the sidewalks down into this area over here and then down over to here. As far as parkland dedication, this is all pretty structured in the preliminary platting guidelines, so it's a function of preliminary platting. And the way it works on developments is the developer has to do one of three things. They have to either pay fee in lieu of for a park, or they have to provide private parkland dedication, or they have to provide a public park. If they do a public park, then that is factored by population; it's a structured calculation in the ordinance of the City of Norman. They determine the population planned for the plat being done, so you would take the population of these homes, probably times 2.3 persons per household, which is the U.S. Census figure, and you would determine the population. Then there is a standard per square foot of person per park. So this is all pre-calculated; we don't determine any of this. It's all in the ordinance. So then the park gets determined – the public park size gets determined by that. What happens functionally is, when you're doing small sections – small additions like this – that calculation ends up being a pretty small park, and so what you oftentimes find is the Board of Park Commissioners or the staff of Parks Board – and congratulations to Judd Foster for his retirement this past week – usually they desire to basically have a fee in lieu of because they don't want a tiny park, because tiny parks become a maintenance problem for them to go out and mow and maintain every little bitty park all over the City. So a lot of times, in situations like this where there's a main park for the neighborhood, oftentimes they will actually collect monies for each addition, each section that comes in, and then use those monies to basically augment or enhance the existing park. As to value – somebody asked the question what is the price of the fee in lieu of – the Parks Department determines that price based on fair market value of typically floodplain land, because most parks are, a lot of times, in floodplain or open areas, and that's the price used per square foot at an equivalent rate of the public parkland. I hope that makes sense. That's a long explanation, but that's how parkland works in platting. It's a function of platting, not of zoning, not of land use, so it's very rudimentary and calculated in the platting ordinances. So these, which would be relatively small additions as compared to the whole, are planned for fee in lieu of and likely, a lot of times, they use those fees to enhance the neighborhood park. So that's the area.

Let me continue on. I'm going to address all the storm water questions, too, as we get deeper into this presentation. So this is the area, Cedar Lane Road down here, 12th Avenue S.E., Cobblestone, if you're familiar with Cobblestone, is right over here. And Eagle Cliff is the addition that has been a continuation of an addition over many years now, really a very long time – over decades really, as it's just continued to grow south. The general orientation as the general area is looking – this is Highway 9 across the top. This is 12th Avenue coming down here. This is Cedar Lane right here. This is Jenkins over here and the wastewater treatment plant right here, the animal shelter, those things. There's not a connection right now with Cedar – someday that could happen. But the land we're looking at – again, preliminary plat layout is this whole area down here. The actual homes layout is quite a lot smaller, and I'll show you that as we get into it. This is all the Eagle Cliff Addition right here, a continuation as the market has absorbed

this addition, homes are added to it. This is the actual area, again, of the preliminary plat we're talking about, not the particular layout of the homes. This big swath you see going through is a power transmission line that's kept clear. And then the lift station – this is an important little element right there, but that is the lift station that is in place right now to carry the sanitary sewer service for this neighborhood on over to the wastewater treatment plant, which is over here.

So tonight on your agenda is really mostly a preliminary plat. The first two items on your agenda are what we call an amendment of the Future Urban Service Area to the Current Urban Service Area on 2025. You don't see a lot of these very often, because they just are the peripheral developments. This one we haven't had in a while, but this is basically saying we now have utilities to serve it and so it gets transferred in. The rezoning you are seeing is to rezone to R-1, and then the preliminary plat is the mechanics of creating the lots and the block and the development. So I'm going to take you through each one of those, one by one.

The urban service area – 2025. Again, we don't see a lot of these, but what this is – and it's probably hard to see on screen right there – but that is striped. This light yellow area right there is striped, and if I was to show you the actual printed map of 2025, it has areas that are striped, and they're striped in a particular color for a reason. The stripe means that that is future service area, meaning services of water and sewer, and the colors means – so the stripe is future – the color of the stripe is what 2025 as adopted policy said we want it to become when services become available to it. So what this is doing is doing exactly that. So we now have services – we have water and sewer to these locations, and so the developer has requested to now put them into Current Urban Service Area, which is what we're asking right there.

The proposed rezoning to R-1 and the Current Service Area, we are simply asking you to take off the stripes, in effect is what we're doing. Take off the stripes and make it yellow, just like the rest of the area is yellow. So that's what the 2025 Plan change is doing. In order to do that, you have to do things. You have to show that we have public facilities – water and sewer – that they're in place and can serve the development, or will be at the time of development. I showed you that lift station right down here. That's what will serve the sanitary sewer, and water is all right at the periphery as well. So we've satisfied that condition. The second condition is actually pretty similar. It just says the development basically won't exceed sewer capacities is what this basically says. City staff has written in their staff reports that this is well within the capacities of the sewer plant. So with those two criteria satisfied, we can shift that into Current Urban Service Area now. Here is the staff report that says since the adoption of 2025 the necessary public facilities have been established. This is the staff report that says that we have the capacity to be expanded to serve this development. Water and sewer is available. These are the staff words, not ours. It goes on to say this will not result in adverse land use or traffic impacts, which, again, you wouldn't think there would be any way to do that, because we are transitioning exactly into the use that the policymakers in 2025 asked us to transfer into. So we're not changing, for instance, that to red or orange or deep yellow or anything like that. We're just turning it right into exactly what the policymakers asked us to turn it into.

I don't think I've ever shown you guys this before, but 2025 is a big book. There's a big book with 2025 that accompanies the map. It actually addresses Future Urban Service Areas, and it's kind of applicable to the one we're doing tonight. It actually talks about infrastructure requirements. Not all portions of it will be able to develop to urban densities. It gives us an instruction – it says the need to prevent development at less than urban densities from occurring in those areas in the interim. In order to insure that development at less than urban densities does not occur, City Council will continue the policy that does not allow for these areas to be rezoned to Residential Estate. What that's telling you is that Residential Estate is the two-acre lots. So what that paragraph is saying is they don't want you to change this to agricultural or Residential Estates; they want you to take it into urban densities, which is what the rest of the neighborhood is. So the policy is to take off the stripes, turn it into yellow and make it R-1, Single Family, and that's what we're proposing tonight. Staff notes that the last approved plat, which is basically exactly what we're asking for tonight in terms of policy, was approved just two years ago in 2019. So the land use change is just taking off the stripes, make it Current, make it the same use that policy asks for. The rezoning is to change to A-1 and A-2 to R-1, again, just like

2025 asks us to do. This yellow over here is R-1. So 2025 is saying we want you to go to R-1, and that is exactly what we're asking you to do tonight. So the rezoning request fits exactly within the 2025 Plan to move these to R-1. And what is R-1? I think usually we're sitting in front of you with PUDs. You're familiar with PUDs, and we do PUDs because we want to change a setback, or we want to change a height, or we want to change a coverage area. This developer – pretty unique any more, really – is choosing to not change anything. They just want straight R-1, and R-1 is right out of the Zoning Code – it's right here, and you see all these yellow areas, all over the City – you can see basically the older areas. This is OU right here – I-35 – that whole area is yellow. That's the same thing we're zoning into tonight is R-1. So nothing different – no PUD – no changes. We just simply want to do what 2025 has suggested we do and take it straight into R-1. So the rezoning is very simple, really, in that we're seeking straight R-1, which means we carry in with it the exact policies of the City of Norman as to density, as to previous coverage, as to drainage, as to landscaping – all of that. We're not modifying any of it. We're just saying take us straight into R-1. Staff report finds that there will be no negative impacts to the surrounding area and there's close proximity to the access to major arterials and everything else. So it really is an extension of the existing developments, totally in keeping with 2025, and totally using the existing R-1 ordinance. So the big part of this request really is preliminary plat, in that the uses are basically in line with the policy of the City 2025 and zoning, and so the plat, which also is more of a ministerial function typically, is just creating the actual lots and streets and blocks. When we plat, we have to follow what's called the Engineering Design Guidelines of the City. In fact, those are being updated right now. In fact, we all went to a meeting last week that was to update the Engineering Design Guidelines, and that will be ongoing now for the next year or two. But when we plat, we have to create all of these lots and streets and sidewalks and fire hydrants and everything in keeping with what is a large book of the Engineering Design Guidelines. Just like the zoning, this applicant has chosen to basically fit all within those criteria. There's one variance; I'll show you that in just a second. But otherwise it is basically the exact policies of the City in terms of how we plat. Very importantly, you see this blue line. That is the edge of the floodplain. You will see we don't even have a back yard in the floodplain. Sometimes you will see developers actually extend the back yard into the floodplain but keep a buildable area outside of the floodplain. This developer has chosen to not even put so much as a fence back in the floodplain. They're not touching it. So the floodplain is untouched. This is all R-1, Single Family development per the City policies and per 2025. That's the west side of it. Then the east side of it is down here. Same thing. Here's the floodplain in blue right here, and again not even a fence is going to touch that floodplain. It will go right up to it, but we're not putting anything out in the floodplain at all. These will all meet the City of Norman's Engineering Design criteria. The only change that we've asked for is this cul-de-sac right here – we asked for a variance to extend it to 800 feet. There's only a few homes out on the end of it. The City staff, I think, is supportive of that. I believe the staff report says they are. That's a couple of hundred feet longer than what the Engineering Design Guidelines would ask for. That's it. So the one variance has nothing to do with storm water or any of those issues.

So storm water. Let's talk about it. Several questions about it, and I thought I would try to explain to you a little bit more about it. I think Commissioner Boeck asked who would be flooded and where does the water go. Well, here it is. This is the drainage area. This is Eagle Cliff right here, and actually I should just go ahead and get an annotator out here. This is Eagle Cliff right here. Bishop Creek goes up here. As, I think, the staff member said, Bishop Creek is a large area of Norman. Bishop Creek goes way up into north Norman and drains a significant area. Very importantly, Bishop Creek drains much of the University of Oklahoma. We love OU – great partner – but I will tell you that OU doesn't follow the storm water regulations of the City of Norman, and you won't find many detention basins on the University of Oklahoma. So as the South Research Area Campus and the National Weather Center, Lloyd Noble – all of these areas have been created with parking lots. Those areas are all draining down Bishop Creek down into here. What you see in those protest letters and the comments as to excessive water, they're talking about this area down here. Well, what is that area? That area is the floodway, and I think Commissioner Boeck was actually talking earlier on a different application about floodway

and floodplain. Let me explain the difference – and Kendall Dillion with Crafton Tull is with us tonight to give you much better knowledge than me. But floodway – this is what FEMA says a floodway is: a regulatory floodway means the actual channel of a river or other water course. This is the river channel. A lot of us think the channel is just this little skinny area down here. Not according to FEMA. FEMA says everything striped red is the actual floodway, which is the actual channel. There is significant water in a floodway in a channel. That's where it goes. So who gets flooded? Commissioner Boeck asked that earlier. Well, the area the water goes to is the floodway. The floodway is what gets all of this water. Here's Eagle Cliff Addition right up here. Our project tonight that you're looking at is roughly in this yellow area. The water is going that way. And so the water is not going back into the neighborhood at all. The water is going down into the floodway where it is supposed to go. We are right at the edge of the floodway. So the blue is the floodplain. Floodplain is basically the expansion area of a floodway – and I'm being very rudimentary in my descriptions here, but the floodplain, the blue area, is where when the floodway – the actual river channel – when it exceeds its borders it is supposed to expand into the blue area, which is the floodplain. We are outside the blue area. We're right on the edge of it, but we're outside of it, and the water will cascade down into the floodway. So that's where it's supposed to go.

So you got protest letters, for instance, from one family that said there's excessive water out here. I just want to again reiterate the excessive water they're talking about is in the floodway – it's in the river channel. So that's what they're discussing.

So let's talk about – I was debating to show you this, because this is just me. An old engineer one time tried to explain to me what is fee in lieu of and why do we do it? So I'm going to give it a shot. I've never shown you this before but I've always wanted to show you this. So fee in lieu of – you heard Mr. McLellan tell you that they want the water at the end of the basin to get out and get out quick. The reason is because if you detain this water, all of this water up here is trying to get out. It's trying to get to the floodway in a significant rain event. If you hold back this water, then you're actually holding back all of this water with it. You want the water next to the floodway to get out quickly because it frees up volume and space for all of that water behind it to get out. I had an old engineer one time explain it to me like this: let's say we've all been to a ballgame, I think a lot of us have. Let's say you're sitting right up here at the end. Well, you've got to get to that exit right there. Well, before you get to that exit, the people in the little yellow circle have got to get out. If you tell the people in the little yellow circle to just stand there and wait – to detain themselves – you are keeping all of these people from getting out. It's no different than water. If you tell the water at the edge of the floodplain to stay there in detention ponds, then all the water behind it can't get out. What happens if it can't get out, and it continues to rain? You're flooding all the people behind these areas that are right at the edge of the floodway and want to get out. So I've always had engineers describe it to me like that. Just like a stadium, you want the people next to the exit – just like the water next to the floodplain – you want it to get out and get out quick, because that frees up room for everybody else to travel the same corridor that they have to travel. So that's fee in lieu of as a concept.

Finally, again really the zoning, 2025 meet the adopted policies of 2025. We're doing exactly what it's asked. R-1 is exactly what it asks us to zone into. And as to preliminary plat, we're doing exactly what it asks as well. I would note, actually staff is asking us to do fee in lieu of so that we can follow that concept of getting the water out of there quickly.

No residential lots in the floodplain. Traffic exceeds the capacities. Staff recommends approval of the preliminary plat.

Kendall Dillon, Crafton Tull, is with us. I'm happy to answer any questions you have. And with that, I thank you very much.

AUDIENCE PARTICIPATION:

1. Derek Rosendahl, 908 Accipiter Street (via video) – I am president of the Board of Directors for Eagle Cliff South. We are all these numbered sections just to the north. We're Eagle Cliff South, and then north of us is Eagle Cliff, which is older. These are the two proposed

developments. In the preliminary plats, we first had some questions – the initial one said that the property owners association was responsible for maintenance, and then it also said that Eagle Cliff was responsible and their property owners; there is no Eagle Cliff Property Owners Association. We are the only ones nearby. We're just Eagle Cliff South. The new plat that's currently sitting at is that it just says Property Owners Association, and so we actually – we, as the Eagle Cliff South – refuse to be named responsible, due to a large number of issues that have occurred in the past with what has been unfinished and unmanageable from the same developers that we'll talk about in a second. Here's the floodplain that we've been talking about for a while now. Here's the official plats that was done by FEMA and it was done in 2013. Since then there have been a large number of changes, and there were a large number of observational changes in the water flow and the water around here. Just to look here, this is the general area back in 2013 when FEMA constructed those floodplain maps, and you can see there's no development. Then here is this last year where we've developed quite a bit more, and so the water doesn't have as much space to absorb and it's increasing the runoff. So that's actually here – this is that new development – and here is the FEMA map which we've seen. So you can see that all of this area here used to be open land that was absorbing water when these lines were designated. So all of this the water wasn't running off completely. So now all of this is developed and so more water is running off quickly. This is the brand new development that is being proposed. I would just make a comment, if Mr. Rieger's comment is that the floodway is the river, then that's saying that the homes are one lot away from the river. To me doesn't seem like a very wise decision. This is this next 1% hazard, which is the 100-year floodplain, which you are supposed to stay away from – stay outside of. Then this is the 500-year floodplain, so they do butt up right up against it, and if these previous FEMA lines were correct, this would completely be fine and okay, but in the last five to ten years since this was designated there's been a large amount of evidence of an increase in the water definitely down here and where the farmers' land is at, which we'll hear about, but all of this land that is now 1%, I used to go back there when a previous farmer owned it, and it was completely dry and then it has transitioned to a marsh land, and there's currently two to three feet of standing water and it can be there for months at a time, right here in the once in 100 year – so we're having a once in 100 year flood every day – every second for a month minimum straight. All of this is now becoming marsh land, and in the past it was dry. So the farmer – yes, there's giant issues with flooding down here, but up into this region we've actually seen a large increase of flooding and I actually live nearby so I see it all the time. So a FEMA assessment needs to be done that's new and updated that isn't assumed to be 2013.

The next big issue for us as an association is large erosion and drainage issues with the previous developments that have occurred with the same developers. As you can see – it's hard to see this here, but there's really, really steep terrain. This has always been steep terrain and all of the housing additions have come up and butt up right against it now. They're going to be developing inside of this very steep – especially right in this area there's very steep terrain. Even this home right here there's a 30-foot drop between the back yard and the front yard, and there's a 15-foot drop from the right side to the left side. So you can see there's 30-foot drops all over the place. So very, very steep terrain; very long yards. I just noticed in the new preliminary plat is that there's a 50' tree preservation buffer, which would be nice, except they've already torn out all the trees there, so there are no trees in the tree buffer that would have potentially helped to decrease erosion. Maybe more trees can be planted there, but there's enormous drop-off right at that location. This is actually where we, as a homeowners association, have found massive issues in erosion that is unmanageable that were either never finished, or they were attempted to be put in and they did not work and failed. I'd first make a comment that there were many things said in the last presentation about the staff report. Everything I'm presenting was submitted and the staff report came out prior to all this information being submitted, and it was submitted on time. The farmers to the south – all of their information was submitted; that was not in the staff report, either. So none of this information is represented in the staff report. This section down here that was commented about that was approved two years ago – we came to that – we were here two years ago and we said there's these massive

drainage issues and we said please don't build here – very steep, it's not going to work – and we were promised that, well, that's fine, we know that, but we're going to put in retaining walls to stop the erosion and it will be fine. Two years later the cement slabs are now being poured, the homes are about to go up. No retaining walls were installed and so what happened? So we'll take a little tour of what happened. This is what happened – massive, massive drainage issues. Let's go around the corner. So this is somebody's home right here – this is back of their home. It's actually drainage lines coming right into it with large drop-offs. There's me standing in it. Huge, huge drop-offs with the homes, and there's already drainage issues and they're putting in homes right now. We'll keep going down the line. Bottom of this large landscape that was a lot of dirt was put in there – huge drainage issues; it's just flying right out. Keep going around. This one is a little better. They're trying to manage it a little bit, but we're already having cut-outs in the land. Go a little farther, there's human size cut-outs right where homes are going to be put. We'll keep going around. Here's another one. This is the human size ditch going right into a back yard. More drainage issues. So this is where the retaining wall was supposed to be; it's not. Back yards. So that was what was just done. And everything I'm going to show now is what we have always known about that is just terrible and not working and was left. Here is another location with a home shot. Gigantic drainage. This one was actually left. It would look like this when they were building and it's only gotten worse. You can kind of see here there's more of this falling off where I'm standing. It's continuing to erode and erode and there were zero measures put in. Keep going around the corner. This is actually super extremely dangerous and we want this fixed immediately. If I take one more step out, I drop 30 feet. If I turn around, this is actually going to another home. So this huge drainage ditch is going to a home – 30-foot drop-off. Here they tried to put in a drainage easement. There's no protection. Kids can walk up to it, roll off, drop 30 feet. Keep going around the corner, there's fences and there's a hidden drop-off – this giant 30-foot drop actually you can't see it, but kids can run to it. Keep going. This is looking back the other direction; you can fall into the giant hole. Let's keep going. You can't see it, but there's another hole right there. Keep going. Here's a drainage that goes to nowhere. Another one. This is another steep drop-off with zero protection. People can go to it. And here's erosion that was started when they were building; it's still there and it's getting worse. This is a large area that we are supposed to maintain and it's steep drop-offs with a giant drop-off and creeks in between, and you can maybe wiggle your way in. Kids can get in there, but we're supposed to manage it as an HOA and it's completely unmanageable. If you go around the corner, they're currently building right now. This one is actually being worked on and there's drainage ditches coming out of the back yard which falls into the creek. Keep going. More falling out. This is a large area that was not built up so that it could stop the water. There's me and the one that's going right into a home. Another one going into a home. Here's the end of a street to nowhere that, with this new proposal, will not be extended. There's huge holes. It's become trash. Here's a large area that has no cement anywhere; it just all can erode by itself. Here's another land that's going to be developed. This one has been developed right now. Obviously huge issues. They're going to be developing in the same terrain, and actually this terrain is much steeper that they're going to be working in. We warned about this. It wasn't done properly.

2. David Burget, 930 W. Lindsey – I am speaking on behalf of my clients, so it may be a little bit longer than the three minutes. I am representing multiple clients. I'm probably going to be speaking on behalf of one of them. I think a couple of them would like to share with you all as well. But I represent various members of the Potts family who own the properties to the south and west of the proposed development. Unfortunately, over the course of Eagle Cliff's development, the Potts' land has experienced an increase in storm water drainage and flooding due to the current applicant's previous upstream development, its failure and refusal to ensure detention of the surface waters displaced by such development, and its improper payment of a fee in lieu of detention for previous developments. The developer's failure to address these issues has resulted in significant increase in flooding and saturation of the Potts' property, resulting in damage not only to the property's overall value, but the Potts' economic

operations as well. Pictures attached to the protest filed earlier this week attest to the increased amount of water, debris, and trash that has made its way to the Potts' property, including objects as large as a family Christmas tree, and even a City of Norman polycart trash can. Mr. Potts, my client, will step in here shortly to go into further detail regarding the particulars. Until yesterday, we thought we were protesting and arguing over the adequacy of the three detention ponds that were disclosed on the previous preliminary plat that we were provided. The latest copy of the preliminary plat, though, removed all three detention ponds and instead inserted water pipes aimed straight at our clients' property. Additionally, contrary to the staff report concerning the property's rezoning, the staff report related to the preliminary plat now states that Eagle Cliff West is eligible to pay a fee in lieu of detention. Similar to the additions in both 2012 and 2019, which I believe Mr. Rosendahl referenced, the developer's failure to address the retention of surface water displaced by its development and, instead, request fee in lieu of detention, is not only a violation of Oklahoma law, but City of Norman's own design criteria, which were adopted by ordinance, governing the allowance of a fee in lieu of detention. According to Oklahoma law, Mr. Rieger pointed it out that it sounds like the developer is doing everything in his power to move all of the surface water off of their development onto our clients' property. The developer can only divert its surface water, though, in the event the developer can do so without an injury to the Potts' land. No one is permitted to sacrifice his neighbor's property in order to protect his own. Anyone who diverts the natural flow of surface waters from his own land to that of the adjoining owner is answerable in damages. Furthermore, the City of Norman's design criteria govern the allowance of a fee in lieu of detention. According to Section 5011.1(e) of the design criteria, a fee in lieu of detention may only be allowed if a development is located in the upper portion of the drainage basin, the size of the development is small, and the developer's engineer states in writing that there will be no adverse impacts downstream. The staff report's reasoning for permitting the developer to pay a fee in lieu of detention is totally contradictory to the City's requirements and Oklahoma law. To go through it very quickly, I believe the statement contained in the report is: "Based on the property located in the lower basin and adjacent to the Canadian River, staff recommends fee in lieu of detention with any final plat. Stormwater will be conveyed to the south ..." So let's break that down. Based on the property located in the lower basin – well, we've heard to qualify for a fee in lieu of detention, property must be located in the upper portion of the drainage basin. The staff report mentions that the property is in the lower basin and I believe Mr. Rieger even made a comment to that effect. The report also says that it's adjacent to the Canadian River. It's not adjacent to the Canadian River. My client's property is adjacent to the Canadian River, and any water that's flowing off of that is going through my clients' property – is being dumped on my clients' property. Then "the stormwater will be conveyed to the south" – the statement essentially admits that the developer's fee in lieu request is premised upon the developer's belief that the Potts' property is a convenient, hassle-free dumping ground for its surface water and trash. Furthermore, to qualify for a fee in lieu of detention, the size of the development must be small. This is not a small development. Norman's Stormwater Master Plan references very small developments less than an acre in size or some other size. The Eagle Cliff West addition, though is 147 lots over 41 acres. Lastly, to qualify for a fee in lieu of detention, the developer's engineer states in writing that there will be no adverse impact downstream. We haven't seen any sort of statement from any sort of engineer, and it's unlikely one can exist without the proper studies and water mitigation studies and hydrological studies; if those exist, we'd like to be provided with copies of those. If the statement exists, we'd also like to be provided with a copy of those. The City Engineer just said the development increased flooding on our land and adversely impacted our land, so this is impossible. In conclusion, in an attempt to address the increased flow of surface water onto their properties that has occurred over the last nine years, and to ensure the problem would not be further exasperated by the applicant's most recent round of development, the Potts attended the Pre-Development meeting to express their concerns, namely to state that the development's current plan to only add three detention ponds, when there have not been any built into the development in the previous nine years, was wholly inadequate. What did the developer and City do in response? On the latest

preliminary plat they completely removed all the detention ponds and added additional lots instead. The developer is now seeking a fee in lieu of detention which is expressly premised upon dumping its surface water and storm water runoff onto the Potts' property. Water that would otherwise be soaked into the ground is instead being shot down onto my clients' property. The developer's decision to do so is a blatant violation of Oklahoma law, a blatant violation of the City's own ordinances and requirements for a fee in lieu of detention, and lastly is a blatant violation of the Potts' rights as landowners. We would ask that you recommend denial of the applicant's request to approve the preliminary plat. Doing so will protect the Potts' land from further damage and save the developer, possibly the engineer and the Potts' from the time and expense of what would be lengthy and protracted litigation. Thank you.

3. Alex Hatton, 505 Talon Drive (via video) – I just wanted to briefly give a perspective from someone who lives here in the neighborhood just adjacent to this proposed development. The first thing I noticed was that there are no new entrances or exits planned for the western portion, and that will effectively triple the traffic on our street. It's really going to change the character of the neighborhood – it really will. And it's a concern. Also, the fee in lieu on the parks may be easier for the City, but it's not necessarily easier for those of us who live here and it would be nice to have some green space, and I noticed in the plan that the only green space in this new development is underneath the power lines. It would be nice if there was a park closer by, instead of just putting money in the coffers of another program. That's all I wanted to say. Thanks.

4. Kevin Potts, 3620 Barwick Drive – I'm one of the property owners down south. I'm third generation that's been blessed with this land. My grandpa started it, bought it back in the 1960s. My dad – it passed on to him and my uncle Andrew John Potts. Right now I'm third generation. We've got the fourth and fifth generation in place. We've got a history of about 60 years of working this property, actually developing it into a pretty reasonable hay operation. Farming is hard. You've only got a little bit of time to get things done. You've got really tight windows to put up your hay. But more than anything, we just enjoy the scenery. Mike Elts, that lives up there on Cobblestone – he's just right close to our northeast entrance. He's been walking it. My dad knew him – I didn't know him until recently. He's been walking the property in that area on the east side since 2005 and he's increasingly seen storm water and the flood water sitting on our land. Right now at present we've got about 40 acres of tall fescue that was ready to cut about three weeks ago, and it's just sitting in water. It's losing its value. That 40 acres would produce about 200 bales – 1,000 pound bales, valued at about \$8,000. So we can't do nothing. That storm water sitting on us – it's costing us. It's having an adverse impact on just our farming operation. We use that money to maintain the land. We use that money to clean out Bishop Creek on our own expense, even though it wasn't something we caused. We understand that water is flowing through the place and we work with it the best we can, and we've done that for three generations. Eagle Cliff South has moved on south, and Cobblestone also. We're seeing more and more water sitting on this hay farm, basically. It's actually right now – that 40 acres I'm talking about – I don't know if you see this right here – I guess you can – that's up there directly south of Section 7. We can't get in and do what we're supposed to. It's very, very disappointing and it's having an adverse impact on us economically, part of producing that hay.

5. Charles Kuster, 4300 Condor Drive (via video) – I just want to start by thanking everybody on the Commission and appreciate all that you guys do. Our concerns are just two quick ones. One is I'm concerned about future residents in this proposed development, as well as City infrastructure being placed in a more vulnerable area by building closer to and even within the floodplain. I say within the floodplain because the floodplain map as it's been shown is the 100-year floodplain, which I think is a little bit risky because we're both meteorologists and you look at climate science and we see that the extreme rainfall events are increasing in their frequency and in their attitude. So it's likely that the 500-year floodplain might be the more accurate and

resilient and safe thing to look at in terms of future development. So I'm worried about flooding for these residents who are going to be by this area, and probably not told that they're moving into a floodplain, as well as the City infrastructure that's over there. The other thing is safety, and I think Mr. Hatton kind of talked about this. We don't have a secondary exit out of this neighborhood. It's been mentioned that this area has just sort of been growing over time slowly, and now I would be concerned in the event – hopefully it never happens – some kind of evacuation was needed for our area – maybe a wildfire – that we all have to funnel out of narrow streets like Talon Drive and everyone in this neighborhood funnels out through the 12th Avenue and Cedar Lane intersection. So I'm a little concerned about safety, especially as we continue to grow this neighborhood. That's definitely a concern and I definitely would want to see another exit point out of here if this were to be approved. Once again, thank you all for your consideration and time.

6. John Carr, 1030 Biloxi Drive – First point I want to make is something that he said about OU. OU's rule breaking doesn't entitle the developer to do the same – ever. The river does not run through this part. Bishop Creek flows through it and goes 2.2 miles before it hits the Canadian River. Its outfall is quite a ways away. In the meantime, it does collect additional water. The river itself – the channel – is about 1.4 miles as the crow flies from this development to the actual riverbank. Then between there has been dry land, for the most part except for just the area around Bishop Creek during flood stage, for the last 50-75 years. Occasionally the river will come up over that. It is in the flood management area, but it's unusual. So the idea that you're going to be wading around in the water all the time is just not anywhere near the truth. May I remind everybody that when we're talking about flood waters and we're talking about detention that we're really talking about the Clean Water Act, and that water quality is the primary reason for the Clean Water Act, and that's where detention comes in. So the detention does not increase or decrease the total volume of water that comes into this area; it slows its rate. That rate is related to erosion and erosive forces. As we saw in the presentation, there's a lot of that going on here that hasn't been touched. What the law requires – and I'm a civil engineer, and I've been doing this 25 years – is that their flow rate – not the amount of water, but the rate – has to match the undeveloped rate as it comes across their boundary into this property, and that by no means has happened. So the removal of all of the detention basins is in direct violation to the Clean Water Act. There's just really no way around it. For the City Engineer to say that in any other way – I don't know how you get away with that. As far as erosion, the alluvial sand and clay that's in this area – it just moves really easy – a little bit of water, it's gone. That's why you're seeing all these little canyons forming, because it's a lot of topographic change, a lot of high-velocity water. It's got to be slowed down, and that slow down is where the detention basins come in. Now when you guys decide to pass a fee for it, in my opinion you also take on the liability. Because if you say I'm going to take a fee, which means that says you're going to take the risk. Well, the downstream property owners always take the risk. Does that mean that you're going to reimburse the downstream property owners? After all, you got paid for it, they didn't, and they are one of the last remaining family farms in Norman – not the oldest, because some of the oldest are all gone. Also, the City of Norman uses this land – you may not be aware of that. They land farm on this land.

7. Sonja Potts, 3620 Barwick Drive – I'm part of the Potts Family, obviously. I've heard this land described as undeveloped land and in a floodplain, but I just want you all to know that this is our family's land. This is not a wasteland down there. There's a farming operation going on. We take our grandchildren down there. We see kids down there sitting down on the road on Jenkins studying and having picnics. Bird watchers go down there all the time and walk the land. There's all kinds of wildlife down there. We have tons of deer. We have wild turkeys. We have raccoons, bobcats, all kinds of birds you can't even imagine, and it just goes on and on. It's our land and that's what I want you all to keep in mind, is that we have a huge developer, as in Shaz, and they're trying to push this development through to our detriment, but we're people and we have families, we have grandchildren. I want to show you a picture – you should have it

in all your protest letters – you should have lots of pictures of Bishop Creek and the way it's stopped up and things like that, and the stuff that comes out in the middle of the fields that washes out – Christmas trees, flip-flops, just anything you can imagine, trash cans, floaties, basketballs, soccer balls – we get lots of those. That all ends up out in our fields. We pick that up. We physically go out and we ride around and we pick it up, because you can't do a hay operation over that. This is an instance – and I hope you can see this – this is a stoppage in Bishop Creek. This is one. There are numerous. This stuff is not coming from our land; it's coming from the City of Norman, it's washing down Bishop Creek. All the time we find huge trees that have been cut off – we haven't cut them off, but they're there. The other thing is the hay operation. As far as the economic impact, for the last three years the hay operation – they sold over \$100,000 in hay sales. So the continuation of this – there is a huge economic impact on our family. I just want you all just to remember that we're people – we're real people, just like you are, and if this were your land, you would probably be fighting like we are. Thank you all for listening.

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

1. Ms. Williford – I have several thoughts. First, I would like to say that Mrs. Potts was kind enough to invite me to go take a tour of their farm property, and she showed me around Eagle Cliff – several areas – today. I would like to say that everything you have seen in the photographs and that has been described to you is accurate. There is a lot of trash in the Eagle Cliff neighborhood, particularly in what they call the road to nowhere. At the end of it there was a television, vacuum cleaners, kitty litter boxes – it is absolutely filled with trash. I would be frankly disgusted if it was my neighborhood and I lived there. The Potts Family farm is a gorgeous piece of land and, in my opinion – well, I will be voting against this proposal. The Potts Family farm is gorgeous and, in my opinion, it should be protected. There are not very many properties like this left in Norman. There is value in undeveloped land. Their hay has value. It's personal property. Taking the tour out there, I just kept thinking in my head this is what people think of when they think of what Oklahoma looks like – it's gorgeous. It is really disappointing that everything is draining off into their property. The picture that Mrs. Potts showed you is one of many piles of debris. There is one pile of debris that if I was standing there and my husband stood on my shoulders it would still be taller than both of us. It's just going to fill up and overflow and cause even more flooding. Yes, it is in the floodway. But that doesn't mean that we should vote to let it get worse. We have to protect everyone, not just developers. The City is made up of developers, of single individuals, of farms, of single family homes, and commercial properties and we all have to work together to make it all work together. I just hope that everyone will keep that in mind.

2. Mr. Jablonski – I'd like to piggyback off of what I'm hearing. I agree, we've got a problem with the way that the developed part of the city is interfacing with the natural part of the city. We don't need to erase that natural part of the city; it's important. I think it's important for people to be connected to nature. I think it's important to hear birds and to see wildlife. A lot of the new development I've seen in town, when it bumps up against the natural world, it's slash and burn. We saw this in my neighborhood when they started to fill out the development on the area that hadn't been developed. They didn't work with the existing natural world; they literally cut down every tree. I had no idea that you could see OU's campus from my neighborhood until they cut down all the trees. And I thought, oh my God, what am I seeing? I had no idea. I think this is a bad way to develop; I don't think it's good for the city. And looping back around to the storm water issue, if that's 100-year floodplain, why are we seeing pools of water? There's something not right here, and I think we need to slow down and hit the brakes on this.

3. Mr. Boeck – I'll just add to that. I think I've seen more developments than that where it wasn't considered whose back yard was where and how high the street was compared to the back yards and the kind of slopes that some back yards have. You drive up 24th Street East and

you can look down in those neighborhoods that have been developed – and I don't know who the developers are. But I wouldn't want to live in a house that's 20' below the street, or 10' below the street. And looking at the topographic maps that we saw for the back yards of some of those houses – yeah, it's got to stop someplace. Detention is important. Runoff is important. Erosion is important. I really don't see anything about this development that's going to protect any of that.

4. Ms. Zink – I wanted to echo the concerns about the floodplain that everyone has been sharing, but also to mention that the question of access with just one entrance and exit that Mr. Hatton shared is a real concern as well and the amount of impact that would have on traffic if the development is built the way it's projected to be built is a concern to me as well.

Dave Boeck moved to recommend adoption of Resolution No. R-2021-115, Ordinance No. O-2021-44, and PP-2021-11, the Preliminary Plat for EAGLE CLIFF WEST ADDITION, to City Council. Steven McDaniel seconded the motion.

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	None
NAYES	Sandy Bahan, Lark Zink, Dave Boeck, Michael Jablonski, Erin Williford, Steven McDaniel, Erica Bird
MEMBERS ABSENT	Nouman Jan, Mark Daniels

Ms. Tromble announced that the motion, to recommend adoption of Resolution No. R-2021-115, Ordinance No. O-2021-44, and PP-2021-11 to City Council, failed by a vote of 0-7.

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