

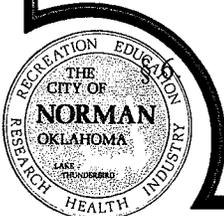
Resolution

R-0910-28

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, DECLARING A TEMPORARY ADMINISTRATIVE DELAY FOR A PERIOD OF (12) TWELVE MONTHS ON THE ACCEPTANCE OF ALL APPLICATIONS FOR BUILDING, DEMOLITION, PAVING, PLATTING, AND REZONING ACTIVITIES IN THE PORTER AVENUE CORRIDOR PROJECT AREA; DECLARING POSSIBLE EXCEPTIONS; DECLARING A PROCEDURE FOR ADMINISTRATIVE REVIEW AND APPEALS PROCESS; AND PROVIDING FOR THE SEVERABILITY THEREOF.

- § 1. WHEREAS, in commissioning the *Porter Avenue Corridor Study* in 2008, the Norman City Council recognized that there were substantial opportunities along Porter Avenue to improve aesthetic, economic, and social conditions for residential and commercial property owners; and
- §2. WHEREAS, the Porter Corridor Project Area, roughly bounded by Robinson Street, Findlay Avenue, Alameda Street, and Crawford Avenue, more specifically delineated on the attached map, attached hereto as Exhibit "A", has unique characteristics and issues; and
- § 3. WHEREAS, over the past year, community stakeholders have participated in the creation of and support for a Vision for Porter Avenue as follows:
- Make Porter Avenue a Core Area destination;
 - Make Porter Avenue a source of new economic and social vitality to the City of Norman;
 - Make Porter Avenue a gateway to Central Norman;
 - Create a unique Porter Corridor environment with distinctive visual appeal, from streetscape to storefronts;
 - Offer a balance of commercial, residential and institutional land uses along Porter Avenue that complement and protect the adjacent neighborhoods;
 - Accommodate all forms of transportation along Porter Avenue, with a strong commitment to pedestrian uses and safety;
 - Establish the Porter Avenue corridor as a community connector instead of being a barrier or merely a through-street; and
- § 4. WHEREAS, development and redevelopment pressures threaten to erode Porter Corridor's potential to become a Core Area destination with a desirable mix of land uses that complement and protect the adjacent neighborhoods, and to realize the community's vision for an attractive streetscape environment with distinctive visual appeal, pedestrian uses, safety, and economic vitality; and
- § 5. WHEREAS, the future of an attractive, economically healthy neighborhood commercial district depends in no small part on the preservation of a healthy neighborhood around it; particularly at the edges of the district, where one land use stops and another starts, it is essential that these edges be carefully designed to make boundaries clear and to protect a fragile harmony that allows a peaceful coexistence of different land uses; and

WHEREAS, during the past year, the Porter Avenue planning and visioning process has been closely guided by an 18-member Porter Corridor Stakeholder Committee, appointed by the



Mayor, whose members represent the four neighborhoods adjacent to the Porter Corridor project area, as well as institutions, businesses, and property owners along Porter Avenue, and who have worked directly with City staff and the Porter Corridor consultant team to ensure that the Porter Avenue Corridor Plan balances commercial, residential and institutional land uses along the Corridor and complements and protects the adjacent neighborhoods which will allow the community to realize the goal of making Porter Avenue an attractive, successful Core Area destination; and

- § 7. WHEREAS, during the past year, the Porter Avenue planning process has included an investment of hundreds of citizen hours spent participating in Community Stakeholder interviews, attending the Porter Avenue Charette, multiple neighborhood meetings, and the Porter Avenue Open House, which has generated broad community understanding of what Norman would gain by making an investment in the Porter Avenue Corridor, of how the public and private sectors can work together to create a source of new economic and social vitality to the entire City of Norman, and how this process has created good will among commercial and residential property owners who recognize the social, economic, and civic opportunity of a revitalized Porter Corridor; and
- § 8. WHEREAS, the City Council is elected and is duty-bound to promote the community's health, safety, and moral and general welfare, which duty includes the preparation of plans, strategies, and ordinances designed to effectuate the coordinated development of the City, and that in accordance with existing and future needs, will best promote the general welfare, as well as conserve property values and encourage the most appropriate use of land throughout the City; and
- § 9. WHEREAS, generally, when it becomes apparent there is a need to amend existing plans or ordinances, or to adopt new plans, strategies, or ordinances to promote the health, safety, and general welfare, a "race of diligence" ensues between landowners seeking to establish vested rights under existing law and the City Council seeking to enact or amend a plan or ordinance, or adopt new plans, strategies, or ordinances, before such vested rights are established; thereby creating additional safety and welfare problems; and
- §10. WHEREAS, this "race of diligence" is counterproductive to both individual landowners and the City as a whole, because landowners rush to submit applications that may not have received adequate consideration and to gain approval of such applications, and the City rushes to adopt a plan or ordinance amendments, strategies, or ordinances that may not have received thorough analysis or been subject to full public debate with respect to the issues, goals, and policies of the proposed development controls, and therefore may not be as responsive to either the City's or the applicant's goals and needs or received the degree of community input and debate as would otherwise be possible and appropriate; and
- §11. WHEREAS, a temporary administrative delay of development applications within a defined geographic boundary of the City by resolution of the City Council, based upon the likelihood that proposed amendments to the Zoning Ordinance or planning policies may impact the nature of development applications, is an appropriate remedy to counteract the effects of a "race of diligence"; and
- §12. WHEREAS, this Resolution is considered because the City Council has determined that some applications for building, demolition, paving, platting, and rezoning activities in the Porter Avenue Corridor will be impacted by the pending adoption or rejection of a Porter Corridor Plan, and preparation of a Porter Corridor Overlay Zoning District and Design Guidelines for

the Porter Corridor and such applications may adversely affect the potential of the Porter Avenue Corridor to offer a balance of commercial, residential, and institutional land uses that complement the adjacent neighborhoods and that allows Porter Avenue to become a source of new economic and social vitality to the City of Norman; and

- §13. WHEREAS, a limited number of applications will seek permits for projects that may have little or no effect on the future revitalization of the Porter Avenue Corridor and should therefore be reviewed administratively and approved, if appropriate, in order to cause the least disruption to property owners affected by this Resolution; and
- §14. WHEREAS, the City Council recognizes that administrative delay is an extraordinary remedy that should be used judiciously and only after serious evaluation and analysis by staff and City Council and based upon staff's carefully considered recommendation; and,
- §15. WHEREAS, to ensure that the City Council successfully, fairly, and rationally fulfills this duty, it is necessary to delay temporarily some applications and permits in accordance with Exhibit B, the Table of Affected Permits; and
- §16. WHEREAS, the Council also recognizes that it has an equally important duty to fully consider applications and permits for the issuance of building, demolition, paving, platting, and rezoning whenever such applications are consistent with the *Norman 2025 Plan* and the City's Code of Ordinances, and that it is necessary that delay be enacted for the shortest amount of time; and
- §17. WHEREAS, the City Council has determined that it is appropriate and necessary to provide an expeditious appeal process to individuals or entities affected by this administrative delay in order to ensure proper due process; and
- §18. WHEREAS, it is anticipated that certain public improvements will be recommended to be accomplished in furtherance of the Porter Corridor Plan and that funding sources to accomplish those public improvements will need to be identified.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- §19. That for a period of twelve (12) months, the Council of the City of Norman hereby formally adopts a temporary policy of delaying some applications and permits for building, demolition, paving, platting and rezoning in the Porter Avenue Corridor Project Area as shown in Exhibit A and in accordance with Exhibit B. This Resolution may be rescinded if the City completes those tasks in less than twelve (12) months; and
- §20. That the Planning and Community Development and Public Works Departments of the City of Norman are directed not to accept building, demolition, paving, platting, and rezoning applications except in accordance with Exhibit B; and
- §21. That it is the intent of this action to protect the future character of the designated area by protecting residential neighborhoods from haphazard commercial intrusion and to realize the community's vision for a fully revitalized Porter Corridor that accommodates an attractive balance of commercial, residential, and institutional land uses; and

- §22. That applicants shall have the right to appeal the temporary Administrative Delay of Applications to the Council of the City of Norman if the applicant believes that the decision not to accept building, demolition, paving, platting, or rezoning applications is unreasonable. Such appeal shall be filed with the City Clerk within ten (10) business days after receiving written notification of a determination; and
- §23. That, after receipt of the applicant's written statement of appeal, the City Clerk shall schedule the appeal for hearing by the City Council on the next regular agenda, or as soon thereafter as practicable in the normal course of managing Council agendas. The applicant shall be notified of the time of the hearing at least seven (7) days prior to such hearing. Proper mailing to the address shown on the original application shall be adequate notification. The decision and order of the Council on such appeal shall be final and conclusive; and
- §24. That the applicant shall bear the burden of establishing by a preponderance of the evidence that processing the application for building, demolition, paving, platting, or rezoning will not undermine the spirit and intent of the pending Porter Avenue Corridor Plan and the preparation of the Porter Avenue Overlay Zoning District, and the Porter Avenue Design Guidelines. If the City Council determines that such action will not undermine the spirit and intent of the Porter Avenue Corridor Plan, Porter Avenue Overlay Zoning District, or the Porter Avenue Design Guidelines, it shall direct that the application be processed; and
- §25. That the City Council shall consider the following in determining whether applications for building, demolition, paving, platting, or rezoning, with respect to which an appeal has been properly filed, if approved, will undermine the spirit and intent of the pending Porter Avenue Corridor Plan, and the preparation of the Porter Avenue Overlay Zoning District and the Porter Avenue Design Guidelines:
- The City's interest in protecting the public's health, safety and general welfare;
 - The City's interest is avoiding the creation of nonconforming uses that may conflict with the pending Porter Avenue Corridor Plan, and the preparation of the Porter Avenue Overlay Zoning District, and the Porter Avenue Design Guidelines;
 - The extent to which the proposed use, if applicable, will negatively impact the values of the property and the neighboring property;
 - The economic impact and hardship of the delay upon the owner; and
- §26. That the provisions of this resolution are temporary in nature and are intended to be removed in totality or replaced by subsequent legislative enactment. The temporary administrative delay of applications and permits for building, demolition, paving, platting, and rezoning as specified in this resolution shall terminate twelve (12) months from the date of adoption.
- §27. That the Council adopts the Porter Corridor Timeline ("Timeline") appearing as Exhibit C, and at its meeting of April 27, 2010, shall review progress toward completion of the Porter Corridor Plan, the Porter Corridor Overlay District, and the Porter Corridor Design Guidelines as outlined in the Timeline. In addition to reviewing progress toward completion of the tasks outlined in the Timeline, Council shall also hear proposals for funding the implementation of public improvements identified by the Porter Corridor Plan. If Council determines that progress on the tasks outlined in the Timeline is insufficient or that funding options for the public improvements are not feasible, then lifting the administrative delay on permits within the Porter Corridor Area shall be considered by Council at that time.

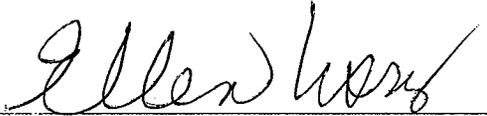
§ 28. Severability. If any section, subsection, sentence, clause, phrase or portion of this resolution is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this resolution.

PASSED AND ADOPTED this 11th day of August, 2009.

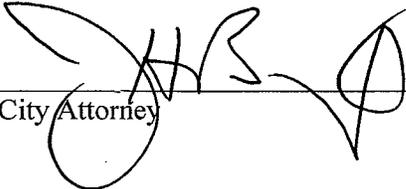


Mayor

ATTEST:



Deputy City Clerk



City Attorney

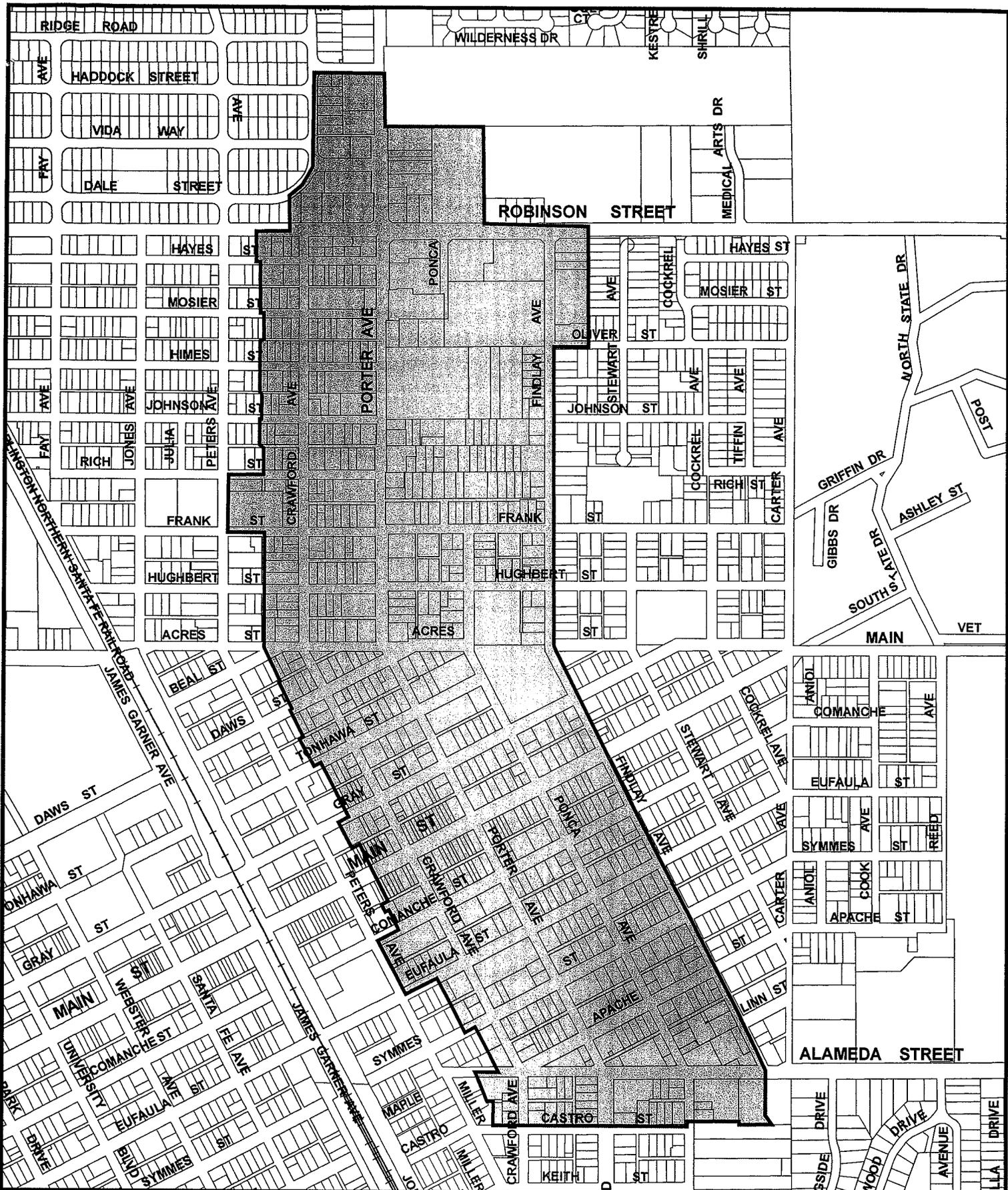


Exhibit A

29-8



Scale: 1" = 800'
August 3, 2009



Map Produced by the City of Norman
Geographic Information System.
(405) 366-5436
The City of Norman assumes no
responsibility for errors or omissions
in the information presented.



Porter Corridor Project Area Boundary

**PORTER CORRIDOR PROJECT AREA
AFFECTED PERMIT TABLE
EXHIBIT B**

Activity	Allowed with No Permit	Allowed with Permit	Subject to Admin Delay*
Addition—residential			•
Addition—commercial			•
Curb cut—new, modified or replacement, commercial			•
Curb cut— new, modified or replacement, residential		•	
Demolition— residential or commercial			•
Doors—replacement, residential or commercial	•±		
Driveway—new, modified or replacement, commercial			•
Driveway—new, modified or replacement, residential		•±	
Façade alteration—commercial			•
Façade alteration—residential		•±	
Fence—new or modified, commercial			•
Fence—under 8', non-masonry, residential	•±		
Interior remodel—residential		•	
Interior remodel—commercial		•	
Interior tenant finish—commercial		•	
Lighting—repair, commercial and residential		•	
Lighting—new or replacement, commercial			•
Lighting—new or replacement, residential		•	
New construction—commercial			•
New construction—residential			•
Painting—residential	•		
Painting—commercial	•		
Pavement—new or replacement			•
Porches or decks—new or replacement, residential		•±	
Roof alterations			•
Roofing—replace existing, commercial	•		
Roofing—replace existing, residential	•		
Sidewalk—private		•	
Siding—installation	•±		
Sign—free-standing			•
Sign—building mounted		•	
Windows—replacement	•±		

EXCEPTIONS

1. All public improvements in the public ROW are excluded from the requirements of this Resolution.
 2. All applications for platting and zoning are delayed.
- ± Requires a Certificate of Appropriateness (COA) inside the boundaries of the Miller Historic District

NOTE

* These applications may be appealed to City Council

Porter Corridor Timeline

Activity	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09	Jan-10	Feb-10	Mar-10	Apr-10	May-10	Jun-10	Jul-10	Aug-10
Plan Adoption													
1 Council hearing on Temp Admin Delay Resolution													
2 Staff reviews final Plan Draft with Stakeholder Committee													
3 Council work session on Porter Plan Planning Commission Public Hearing of Porter Plan													
4 City Council Public Hearing and Adoption/Rejection of Porter Plan													
Zoning Overlay Development													
1 Staff completes research and drafts Porter Avenue Zoning Overlay District													
2 Staff reviews Zoning Overlay language with Porter Committee													
3 Staff holds Study Session with Council on Zoning Overlay District													
4 Staff submits Zoning Overlay language to Planning Commission for review and approval													
5 Council votes to approve (or reject) Zoning Overlay District													
Design Guidelines Development													
1 Staff meets with Stakeholder Committee to gather input re: Design Guidelines													
2 Staff writes RFP for Design Guidelines													
3 Staff solicits firms to submit proposals for Porter Design Guidelines													
4 Staff issues RFP, receives proposals													
5 Staff prepares proposal packets for committee review													
6 Stakeholder Committee meets to review proposals, select short list													
7 Bring candidates to town for interviews, selects winning proposal													
8 Winning firm, City agree on Design Guidelines contract content													
9 City Council approves Design Guidelines contract													
10 Phase I: Project Kick Off and Document Corridor Context													
11 Phase II: Project Area Analysis and Guidelines Development													
12 Phase III: Guidelines Draft Review and Staff, Council Comment													
13 Phase IV: Final Approval of Design Guidelines													