

FLOODPLAIN PERMIT COMMITTEE MEETING  
*201 West Gray, Building A, Conference Room D*

*Monday, April 1, 2019  
3:30 p.m.*

Minutes

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PRESENT: Shawn O’Leary, Director of Public Works  
Jane Hudson, Interim Director of Planning  
Scott Sturtz, City Engineer  
Ken Danner, Subdivision Development Manager  
Neil Suneson, Citizen Member

OTHERS PRESENT: Carrie Evenson, Stormwater Program Manager  
Todd McLellan, Development Engineer  
Amy Shepard, Staff  
Kent Mace, Engineer  
Adam Adkins, Applicant  
Melanie Norris, Citizen

The meeting was called to order by Shawn O’Leary at 3:31 p.m.

**Item No. 1, Approval of Minutes:**

Five members of the committee were present, and a quorum was established. Sherri Stansel was absent. Mr. O’Leary called for a motion to approve the minutes from the meeting of November 5, 2018. A motion was made to approve the minutes by Scott Sturtz. The motion was seconded by Ken Danner. The minutes were approved 5-0.

**Item No. 2, Floodplain Permit Application No. 607:**

Mr. O’Leary said this application is for the removal of an existing one story residential structure and construction of a new two story residential structure within the existing structure’s footprint located at 320 North University Boulevard in the Imhoff Creek floodplain. Todd McLellan gave the staff report for Floodplain Permit Application No. 607. Mr. McLellan introduced the applicant, Mr. Adam Adkins, and the project engineer, Kent

Mace, to the Committee. Mr. McLellan said this application is for 320 North University Boulevard and is part of the Original Townsite Addition, which is entirely located in the Imhoff Creek floodway and floodplain. The original house was a single story approximately 750 sq ft home built on a footing and stem wall foundation in 1930 with an 80 sq ft porch and carport accessory structure. Mr. McLellan said the carport and house were recently demolished. Mr. McLellan reviewed map views of the site and its relation to the floodplain. Mr. McLellan showed pictures of the location in its current and former state and stated that the applicant was proposing to build a two-story house within the footprint of the existing house. Mr. McLellan noted that the new structure will need to be in compliance with the current floodplain ordinance and will be required to be constructed within the footprint of the original structure of approximately 750 sq ft. Mr. McLellan said that exterior stairs will be constructed to allow the passage of flood waters, the foundation will be a footing and stem wall system, and the structure and utilities will be elevated two feet above the Base Flood Elevation (BFE) as required. Mr. McLellan also stated that the new carport will be shifted north and attached to the house, approximately 550 sq ft of additional paving is being proposed for the new carport and driveway. The additional paving will be placed at ground level with the top of the paving no higher than the existing ground. Mr. McLellan said four flood vents would be installed to allow water to flow through the crawlspace in the event of flooding and that the flood vents will be inspected and a certification letter submitted to the City of Norman by the engineer. Mr. McLellan said that this application went before the Board of Adjustment on June 27, 2018, and was granted a variance to the 20 ft setback requirement of the front yard and 5 ft requirement of the side yard to allow the home and carport to be reconstructed within the original footprint. Mr. McLellan reviewed the

applicable floodplain ordinances and confirmed that the application met all ordinance requirements. Mr. McLellan stated that an elevation certificate will be required prior to occupancy to verify that the elevation requirements have been met. Mr. McLellan said that staff recommended Floodplain Permit Application No. 607 be approved.

Mr. O'Leary asked if there were any questions or comments from the committee. Mr. Ken Danner asked about the 15 ft fill slope requirement. Mr. McLellan stated that since the foundation is a footing and stem wall design that it meets requirements. Mr. Scott Sturtz requested an update to the stamped seal on the plans from the engineer. Mr. Kent Mace agreed to provide that update.

Mr. O'Leary asked the applicant and engineer if they had any additional comments. Hearing none, Mr. O'Leary asked if there were any questions or comments from the citizen in attendance. Ms. Melanie Norris asked if this project had already been presented for a permit. Mr. Adkins said the previous meeting was before the Board of Adjustment to approve the variance to the setback requirements for the structure. Mr. O'Leary added that a variance was required to place the new structure in the footprint of the previous structure. Mr. Adkins asked about fence requirements if he added a privacy fence behind the property. Dr. Evenson and Mr. O'Leary said that there are specific requirements for fence materials used in the floodplain. Mr. McLellan said that he could provide the applicant additional details on the requirements for fencing material. Mr. O'Leary said that any new constructed fence would need to meet current requirements and would require a new floodplain permit application. Mr. Danner motioned to approve Floodplain Permit Application No. 607 with all requirements included. Mr. Neil Suneson seconded the motion to approve. The committee voted to approve the application 5-0.

**Item No. 3, Miscellaneous Discussion:**

- a) Mr. O’Leary reviewed the Floodplain Permit Committee yearly summary. Mr. O’Leary said that an additional member will be added when a new Director of Planning is hired to fill the Floodplain Permit Committee’s seven member positions. Mr. O’Leary said that there appears to be a downtrend in floodplain applications during this last year.
  
- b) Mr. O’Leary asked that the Assistant City Attorney, Beth Muckala, give an update on Floodplain Permit No. 574, known as the Sherwood Construction Borrow Pit. Mr. O’Leary said the permit has been closed and completed, but questions have been raised regarding the conditions of the permit being met. A third party study was completed by Guernsey to assess the compliance, and the results had been passed to the Legal Department to present the recommendations to Sherwood Construction and negotiate an agreement. Ms. Muckala said the recommendation from Guernsey was to place one additional monitoring well further upgradient of the northern pit boundary in order to achieve a baseline so that a full determination could be made of the impact of the fill material on the groundwater. Ms. Muckala said the Guernsey report made clear that based on current monitoring reports, the wells had not exceeded acceptable contaminant levels as defined by the Environmental Protection Agency (EPA) in the groundwater. Given that, the focus was not on contamination but on getting the full picture of impact. Ms. Muckala said she had spoken with Angela Nichols, attorney for Sherwood Construction. Ms. Nichols believed that Sherwood Construction had met the requirements established by the Floodplain Permit Committee (FPC) for the monitoring sites by placing them at the northern property line. Ms. Muckala said that

the primary issue involves ownership of the land where the pit was established. When the first floodplain permit application was presented to the FPC, Sherwood Construction owned a larger portion of land to the north of the pit. Ms. Muckala said that about two months after the excavation of the pit, a portion of the property was deeded back to a third party and the property line moved further south and followed very closely to what appears to have been the upper boundary of the pit. Ms. Muckala said that when Sherwood Construction submitted the floodplain permit application to fill the pit, the property boundary was much closer to the pit than was originally thought because of the change of ownership that occurred with the northern portion of the property. When the floodplain permit application was approved, it included the requirements specified in the groundwater monitoring plan, which stated that Sherwood Construction would place monitoring wells at the furthest upgradient property boundary. Ms. Muckala said that in order to get a baseline there must be cooperation from the new owner of that land. The new property owner is Landmark Development LLC (Landmark). Ms. Muckala said Landmark has been cooperative and willing to consider moving forward with the placement of an additional monitoring well according to the Guernsey recommendation. Ms. Muckala said that agreements have been met regarding right of entry, and the City is close to moving forward towards placing the additional well. There is some level of cooperation needed from Sherwood, even though they do not own the land. The circumstances are unique in that the applicant themselves cannot take the action that is being requested to obtain the information that is wanted. Ms. Muckala said that the matter is not a concern of contamination, but one of understanding the baseline. Mr. O'Leary asked

to clarify that the Guernsey report recommended extending the testing period for the groundwater testing and if the City would be asking Sherwood Construction to extend their monitoring period. Ms. Muckala agreed that the City would be requesting that they extend the monitoring timeframe. Mr. O'Leary asked to clarify who would install and own the well that would be located on Landmark's property. Ms. Muckala said that the current plan is to have the City of Norman place the well because legally Sherwood Construction does not own that property. Ms. Muckala said that the groundwater monitoring plan referenced the upgradient boundary, and it appears that Sherwood has complied with that requirement to the best of their ability. Ms. Muckala said that it is prudent to get the baseline information, which is why the Legal Department has proceeded with this item. Ms. Muckala said that to ensure correct placement a gradient survey is needed to identify best placement. Mr. Suneson asked for clarification regarding the agreement with Sherwood Construction specifically related to the placement of upgradient wells and that there was no mention of property line. Ms. Muckala said that the upgradient wells and monitoring were added as a condition of the floodplain permit referencing two monitoring wells at the upgradient property boundary. Mr. Suneson said that he agrees that the results of monitoring so far do not appear to have caused any groundwater pollution and doesn't appear likely to in the future but his concern was the inadequacy of meeting the conditions of the permit approved by the FPC. Mr. Suneson asked if the decision regarding the permit would go before City Council to be decided. Ms. Muckala said that if the permit needed to be revised, it may need to go before City Council. However, given Sherwood Construction's inability to legally proceed with a request to install another

well upgradient that it was unlikely that the floodplain permit would need to be revised. Ms. Muckala said at the time Sherwood was granted the floodplain permit to fill the excavation pit, they did not own the land upgradient of the pit to the tree line, undisputedly by legal record, and couldn't agree to take action on that land. Ms. Muckala said that there was no mention or requirement that a well must be installed on undisturbed land. Ms. Muckala said that the Guernsey report recommends going to the treeline, which is located on Landmark's property but would be outside the Sherwood Construction pit area, and would be an acceptable place to use to determine a baseline. Mr. Sturtz inquired if Sherwood Construction had agreed to the extended monitoring timeline. Ms. Muckala said that she has been unable to get a response to the request for ongoing monitoring. Ms. Muckala said when the original request was sent in relation to the Guernsey recommendations, Sherwood Construction provided a prompt response that they would be unable to comply since they do not own the property. Ms. Muckala said that once the agreement with Landmark has been finalized, then the Legal Department will provide additional information to the FPC regarding the agreement and to discuss options for working cooperatively. Mr. O'Leary thanked Ms. Muckala for the update and advised the FPC that additional details would be forthcoming.

- c) Mr. O'Leary stated that no applications had been received for the April 15, 2019 meeting and that it was cancelled.
- d) Mr. O'Leary stated the filing deadline for the May 6, 2019 meeting is Wednesday, April 17, 2019.

**Item No. 4, Adjournment:**

Mr. O'Leary called for a motion to adjourn. Mr. Danner motioned to adjourn and was seconded by Mr. Sturtz. Motion was approved 5-0. Meeting adjourned at 4:12 p.m.