

**NORMAN PLANNING COMMISSION  
SPECIAL SESSION MINUTES**

**SEPTEMBER 19, 2019**

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Special Session in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 19<sup>th</sup> day of September, 2019. Notice and agenda of the meeting were posted at the Norman Municipal Building and online at <http://www.normanok.gov/content/boards-commissions> at least forty-eight hours prior to the beginning of the meeting.

Chair Sandy Bahan called the meeting to order at 6:30 p.m.

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Item No. 1, being:

**ROLL CALL**

MEMBERS PRESENT

Erin Williford  
Neil Robinson  
Chris Lewis  
Sandy Bahan  
Tom Knotts  
Dave Boeck  
Steven McDaniel

MEMBERS ABSENT

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Lark Zink

A quorum was present.

STAFF MEMBERS PRESENT

Jane Hudson, Interim Director, Planning &  
Community Development  
Kathryn Walker, Interim City Attorney  
Anthony Francisco, Finance Director  
Roné Tromble, Recording Secretary  
Bryce Holland, Multimedia Specialist

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Item No. 2, being:

**PCR-1920-1 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NORMAN DETERMINING THAT AMENDMENTS TO THE NORMAN UNIVERSITY NORTH PARK PROJECT PLAN ARE IN CONFORMANCE WITH THE COMPREHENSIVE PLAN OF THE CITY OF NORMAN AND RECOMMENDING APPROVAL AND THE ADOPTION OF AMENDMENTS TO THE PROJECT PLAN.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Planning Commission Resolution
3. Final Amended Project Plan
4. UNP Project Plan

**PRESENTATION BY STAFF:**

1. Kathryn Walker reviewed the staff report, a copy of which is filed with the minutes. City staff asks that the Planning Commission give these proposed amendments due consideration and review the resolution, which would reflect a recommendation of the Commission that the Council approve the Amended Project Plan, and also a finding that the Project Plan, as proposed to be amended, is feasible and in conformance with the Master Plan of the City of Norman.

2. Ms. Williford – What's the reasoning behind cutting the funding for the public art at Legacy Park?

Ms. Walker – We actually talked to the Norman Arts Council about that. They were okay with that. The art that was planned in the park – there were several places left in the park design for smaller art pieces, and they feel like they can possibly move forward with that in the future, but with the Norman Forward projects and the 1% art dedicated to public art, they were satisfied with being able to have that impact on those projects across the street.

Ms. Williford – So the Arts Council is supportive of that.

Ms. Walker – Yes. Mayor Miller, I believe it was, met with the Director of the Norman Arts Council and went through this with her, and she expressed support.

3. Mr. Boeck – So with my understanding, since all we're doing is approving that the Land Use Plan with the amendments is staying in line with the 2025 Plan?

Ms. Walker – You are making a recommendation to Council regarding the amendments and including a finding of whether the proposed amendments impact or conform to the Comprehensive Plan.

Mr. Boeck – But we're not having any discussion about the financial issues that have come up in the community discussions about whether we keep the plan, adjust the plan, stop the plan, and so any presentations like that tonight would not be appropriate for what we're doing. Right?

Ms. Walker – You are, in the resolution, in Section 9, it does say that if you adopt the resolution, you're recommending that the Council approve and adopt the amendments to the University North Park Project Plan. So I think anything regarding the amendments, if you have questions about that, or have discussion about that, I think that's all fair game.

4. Mr. Lewis – Ms. Walker, would you please clarify, then, why in our documents it says that the Planning Commission, as is consistent with the charge of the Planning Commission, the Local Development Act requires a finding that the Project Plan is feasible and conforms to the master plan of the City. And the amendments set forth that the Amended Project Plan will not require any changes to the City's Master Plan. Also, it goes on to say would reflect a recommendation of the Committee that Council approve the amended project. So it does seem that the Planning Commission is being asked to evaluate the charge that the Plan is feasible, in addition to conforming with the City Master Plan.

Ms. Walker – The Statute says the local Planning Commission shall review the proposed project plan and shall make a recommendation on the plan to the governing body, then covers

the things the plan has to include. Then it says you may recommend an amendment to the project plan. If you do that, it has to go back to the Review Committee and then be approved by the governing body and goes through the hearing process. And that is the extent of the provision that talks directly to the review of the local Planning Commission.

Mr. Lewis – Okay. I'm reading directly from your office memorandum of September 16<sup>th</sup>.

Ms. Walker – Right. So you are to make a recommendation on the plan to the governing body. The specific call is whether it's in conformance with the master plan.

Mr. Lewis – So help me understand why, in the September 16<sup>th</sup> memo, the word "feasible" was included in that, if that's not a consideration.

Ms. Walker – I believe that's part of the initial review, but it's not in the section pertaining specifically to Planning Commission.

Mr. Lewis – Again, I may be misreading it, but it says, and I quote, "As is consistent with the charge of the Planning Commission, the Local Development Act requires" – requires – "a finding that the Project Plan is feasible and conforms to the master plan of the City." And you note a section, I'm assuming Statute 63 §858(B). So I'm wondering why the memorandum is different than what you're sharing with us this evening. And I believe that's prompted by Commissioner Boeck's comment is why I'm asking that question.

Ms. Walker – The feasibility language is actually from the section dealing with what the governing body has to approve. It says before the governing body may approve such project plan, notice must be given and public hearings must be held. The approval by the governing body is by ordinance and must contain findings that the plan is feasible and conforms to the master plan. So that's just a mistake on my part. That's really what Council will be deciding. But you are to make a recommendation on whether or not to adopt the plan and whether or not it's in conformance with the master plan of the City.

5. Mr. Boeck – I think that's above and beyond what we're capable of doing. We've heard millions of times, from esteemed attorneys, that all we are is a recommendation body. We're not an ordinance body. And the City Council's position and role is to approve plans and budgets. We just approve whether whatever is being done fits into the long range master plan – the 2025 plan. So I don't feel comfortable voting on whether the plan works or not, because that's not our role.

Ms. Walker – I can only tell you what the statute says, which is the Commission shall review the proposed project plan and shall make a recommendation on the plan to the governing body.

Mr. Boeck – Who made that? Who set that up? How was that written? Who wrote that?

Ms. Walker – That's the statute. It was adopted in ...

Mr. Boeck – Was that approved by the Planning Commission that we would approve that?

Ms. Walker – It's the state legislature, so it was adopted in 1992, originally. It looks like it's been amended a few times, but I can't tell which section was amended. But it's the state legislature, not the City's, adoption.

6. Mr. Robinson – At one point you indicated that the University of Oklahoma owned the property and it was a transaction that UNP took ownership. Is that correct? Was the City involved in that transaction in any way?

Ms. Walker – I don't believe so.

Mr. Robinson – And when it took place, was the Comprehensive Plan amended at that time? Or was it even considered at that time?

Ms. Walker – I think it was amended in 2002, when the first PUD went forward for this area. The PUD was amended a few times, but I think the Land Use Plan amendment occurred in 2002 with that original PUD.

Mr. Robinson – So we would be considering that amended portion of the Comprehensive Plan. Is that correct?

Ms. Walker – Right. The Comprehensive Plan we have in place shows that as purple for Mixed Use.

Mr. Robinson – So that was something that came on board with the transaction of the property.

Ms. Walker – I believe so. I think prior to that, given the OU ownership, it would probably have shown Institutional or a use similar to what OU shows and the airport shows.

Mr. Robinson – And then the presentation you've given today, functionally, in terms of that Comprehensive Plan that was adopted with that PUD, are there any substantive changes at all to the PUD requirements?

Ms. Walker – No PUD amendments are planned at this time.

#### **AUDIENCE PARTICIPATION:**

1. Stephen Ellis, 633 Reed Avenue – Since I only have three minutes, let me go ahead and get started. The role of the Planning Commission Department tonight, which is what we were talking about just a second ago with Ms. Walker, is actually spelled out in the Local Development Act and it requires the Planning Commission to review and make recommendation. In particular, the Planning Commission is the only public body that has any opportunity to do an overall sort of fresh eyes review from people who weren't involved in doing the project plans at all. So as uncomfortable as it may be for some of you, you all are it when it comes to having public recommendations from a body that wasn't involved in the planning. What I'm going to suggest to you is that is a heavy responsibility, and if you feel like you're unable to make that decision tonight, it's within your right, since it's your resolution, to postpone, to ask for more information, and in particular, if you want to, you can ask for amendments. That's very specific in the statutory language. There are also guidelines for review that the Legislature provided in §582. It sounds like people weren't really prepared to come and do an overall assessment of the TIF proposal tonight. So maybe it would be helpful if you all got together and thought about those guidelines for review and 585. But let me go through what I think is going on in this situation. I think that there are sort of three things that we all need to know about this proposal. First of all, that the proposed project plan is actually kind of a bad idea. It's a bad idea, in brief, because it increases publicly subsidized spending in the UNP area, and those kinds of public subsidies, it turns out, are bad for the entire City of Norman because of cannibalization effects, and I provided some evidence of that to you via email. The second version of the request is to note that the current project plan is superior to the proposed project plan. I'll get to that in just a second. Essentially, cheaper to do what we're doing now than to go forward with a new project plan. Then, finally, you can just decide to decrease, and recommend as an amendment, a decrease in the project plan spending to zero, after having already committed to paying off our contractual obligations, which amount to about \$3.5 million, and that frees up a bunch of money for the City of Norman and is much more responsible because it doesn't spend nearly as much in the TIF. I'm going to roll forward quickly here to just the main idea about why the current project ... [end of 3 minutes]

2. Cynthia Rogers, 633 Reed Avenue, Ward 4 – I'm just going to tell a little story. I'll talk fast. In 2006, I came to Norman, Oklahoma. I was hired by the Department of Economics. I really didn't think I was going to be here that long, because lots of things had to happen. You have to work hard, you have to get published, you've got to get lucky, husband had to get a job. But lo and behold, in 2006 I was still here and a colleague of mine came and said I'm sure you know what's going on with the TIF, and I was embarrassed because I didn't, and it's exactly in my research area. It's the stuff I was writing about. So I went and I looked in and I said, wow, we're doing some stuff that the professionals say you shouldn't do. Gave some talks. I thought, hey, wow, people listen. I gave some talks; I've told them how to do this right, at least what the research says. But I was pretty naïve then. So that gets us to this. We have this plan. It didn't follow best practices then. It doesn't now. And it's going to actually make things worse if we want the area to grow. It gives back our public protections so the claw back was we put public money in up front; how to we make sure that the developer is going to do their end? Well, they

have to reimburse us if they don't. This amendment takes that away. That was a promise to taxpayers. The other thing is we're going to give incentives. Wow, if you do something wonderful, wow, that we wouldn't have gotten anyway, we're going to give you incentives. This new plan gives incentives for any new to Norman entertainment use with no oversight of what that might be. So a philosophy store. I don't know. Anything new, and there's no guarantee that that will be proven to be a regional draw. So it's a fundamental change in regional draw of high-end retail, which I wouldn't have agreed with in the first place, to any new to Norman entertainment. So from that perspective, these changes don't actually help promote development in the area or create a regional draw and most likely it's just going to create more cannibalization of entertainment uses from other areas in Norman to there. So as a land use plan, I think it's pretty bad. I think it goes backwards. I think it undermines the development of the area, and it also is going to spend a lot more public money in the area, and we have other needs. So, as a plan, I would say, hey, you should talk to some economists; they know about these things. So I think it's a bad plan. I don't think you should approve it, because I don't think it's solid and I don't think it's good for the City.

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

1. Mr. Lewis – I do have one comment. In reading through this entire document that we got on Tuesday for a meeting that was on Thursday, was quite a bit of reading and quite a task for individuals that are volunteers of a commission. In saying that, the one thing that stood out to me in this entire document was the question of integrity. Certainly we had clarification that, I guess, we're not evaluating the feasibility, but we're evaluating whether it conforms. But I can't help but think of when I first came ... [microphones turned off] ... and the General Motors plant was alive and well and it was closing because there was basically a desolution of a tax incentive that brought them here in the first place. Has there been an automotive manufacturing company of that magnitude come to the City of Oklahoma City since then? Absolutely not. And why? It's the same thing that we're doing as a city tonight, and that is basically renege on an agreement that the Councilmember in 2006, I believe, said this is what we're going to agree to for 25 years going forward. So far, to date, it's generated \$82 million in initial tax revenue, \$20 million in ad valorem tax, \$1.1 million in hotel tax that was a piece of dirt 13 years ago. We're halfway through it. And it says with expectations to increase as expenditures continue in the TIF. So how much further are we going to go? Are we going to go to \$160 million, \$40 million in ad valorem, and \$2.1 million in hotel tax? I don't know. I can't tell the future. But what I do know is, if I shook someone's hand and my integrity was on the line, to renege on that integrity when I made a 25-year agreement, is unacceptable. As a member of the Planning Commission, I can't find it (1) feasible, as was in the memo. It may conform, but there is no way that I, as a citizen of the City, nor a Commissioner of this Planning Commission, can support something that 13 years down the road somebody is going to look back on, because I can assure you if I were a business wanting to do business with the City of Norman and a TIF was involved, if this passes, that certainly would not be a consideration. Because I believe the credibility of the City of Norman is on the line and this, to me, is a solid, absolute no.

2. Mr. Boeck – I'll second that.

3. Mr. Robinson – Ms. Walker, I have one – one of the commenters brought up an issue about the entertainment and sort of the definition. How is what we have before us now different from what the original plan was, in terms of that particular item?

Ms. Walker – The original plan just talked about retail. It had three criteria and you had to meet two of the three to be able to be eligible for incentives. It couldn't be located in Norman. It couldn't be located with 25 miles of Norman – right up to Penn Square. Or it had to meet the sales per square foot requirement; it was at \$125 per square foot for stores over 10,000 square feet, and \$275 a square foot for stores under 10,000 square feet. But it was all focused on retail at the time, in the form of a lifestyle center. What the City has learned over the years, I think, is that retail is not a "build it and they will come" type of business. You've got to have the

demographics, you've got to have the data that shows that you can meet the needs of a particular type of retail. So Council, over the years, has focused more on the form of the development, rather than the type of store. That's why you see the mention of walkability and connectivity and those kind of things. We did increase those thresholds, just because in looking at data from stores, it was not creating – it was not incentivizing anything that we didn't already have. So that's why they were increased at that time. It contemplated a movie theater potentially being in the development, but the incentives were not really tied to the entertainment component; they were tied to the retail.

Mr. Robinson – Is there somewhere in all this data and information that you've plowed through, and I believe Anthony has substantially augmented – is there a bottom line for the City here? Is this going to cost the City money ultimately?

Ms. Walker – The bottom line, I think, immediately is we have budgeted based on the TIF ending – based on that assumption. So in Finance Committee today, they were talking about what do we do if this doesn't happen this year and we have to find the answer to that \$3.8 million question, of what do we do if we don't get 100% of revenues. That's what really started this process, is we were seeing in the out years an increasing problem of a shortage in the general fund, and that's why Council wanted to end it early, and that's why we started these discussions.

Mr. Robinson – Does ending the TIF early achieve the goal of providing the City more money on a short-term basis?

Ms. Walker – Short and long-term. If this project plan is adopted, the increment for sales tax ends June 30<sup>th</sup>, 2019. So the City gets the full benefit of 100% of the sales tax generated within UNP this year, and every year going forward. The money that's proposed to be spent under these amendments is money we've already collected, so we wouldn't be waiting on any more increment to come in to complete these projects.

4. Mr. Boeck – So I've heard lawsuit is a term that's used and could be used. How does that fit into the equation with what's being proposed in terms of ending?

Ms. Walker – That's why Council directed us to take on a cooperative effort with the developers. So when this goes forward to Council, there will also be a development agreement that addresses all of those contractual obligations that are outstanding. And it will include a release of liability based on those contractual obligations.

Mr. Boeck – And that's for the amendment that we're being asked ...

Ms. Walker – That will be a development agreement, because those obligations ...

Mr. Boeck – That's part of the amendment – or the anticipation part of the amendment.

Ms. Walker – It's part of the overall deal. The amendment is not where those obligations arose, so it's not addressed in the project plan amendment, as much as it will be addressed in the development agreement.

5. Mr. McDaniel – And that has been agreed to by the developer?

Ms. Walker – Yes.

Mr. McDaniel – And the developer has agreed to this amendment?

Ms. Walker – Yes.

6. Mr. Robinson – I have one comment. I'm a little bit surprised that we have Sean Rieger here and he hasn't weighed in on this. Do you intend to?

Sean Rieger – I do not, Commissioner. Thank you for asking.

*Steven McDaniel moved to approve PCR-1920-1 as presented. Neil Robinson seconded the motion.*

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

YEAS	Sandy Bahan, Steven McDaniel
NAYES	Erin Williford, Neil Robinson, Chris Lewis, Tom Knotts, Dave Boeck
MEMBERS ABSENT	Nouman Jan, Lark Zink

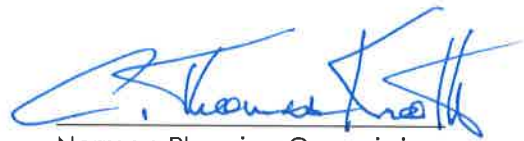
Ms. Tromble announced that the motion, to approve PCR-1920-1, failed by a vote of 2-5.

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Item No. 3, being:

**ADJOURNMENT**

There being no further business, the meeting adjourned at 7:31 p.m.



Norman Planning Commission