

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

*Monday, October 21, 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  
Sherri Stansel, Citizen Member

OTHERS PRESENT: Carrie Evenson, Stormwater Program Manager  
Todd McLellan, Development Engineer  
Amy Shepard, Staff  
Terrell Hill, Citizen  
Rick Byrd, Citizen

The meeting was called to order by Shawn O’Leary at 3:30 p.m.

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

Five members of the committee were present, and a quorum was established. Neil Suneson was absent. Mr. O’Leary called for a motion to approve the minutes from the meeting of August 19, 2019. A motion was made to approve the minutes by Scott Sturtz. The motion was seconded by Sherri Stansel. The minutes were approved 5-0.

**Item No. 2, Floodplain Permit Application No. 610:**

Mr. O’Leary said this application is for the construction of a new two-story house, an 80ft. by 50ft. shop building, gravel driveway, septic system and water well on the property located at 5400 W. Franklin Road in the 10 Mile Flat Creek floodplain. Dr. Carrie Evenson gave the staff report for Floodplain Permit Application No. 610. Dr. Evenson said that the applicant is Brandon Jennings who is represented by Mr. Rick Byrd, and the engineer is J.W. Dansby, who

could not attend the meeting in person but was willing to answer any questions by phone. Dr. Evenson said the applicant owns a 3 acre tract in the 10 Mile Flat Creek floodplain. Dr. Evenson reviewed the existing floodplain map of the location and the preliminary updated floodplain map of the location that is currently under review at FEMA. Dr. Evenson said the proposed structures, driveway, septic system and water well will be located entirely within the 10 Mile Flat Creek floodplain. Dr. Evenson reviewed current photos of the property and plans provided by the engineer for the proposed structures. Dr. Evenson verified the application meets all applicable ordinances and said that staff recommends Floodplain Permit Application No. 610 be approved with the condition that an Elevation Certificate be submitted for both the house and shop building and as-built drawings are provided for the compensatory storage area.

Mr. O'Leary asked if Mr. Byrd would like to add any additional information. Mr. Byrd said that the staff report was thorough and he did not have any additional comments. Mr. O'Leary asked if there were any questions or comments from the committee. Mr. Ken Danner asked about the fill amount needed to elevate the shop building and expressed concern about a potential runoff issue for the adjacent neighbor to the west. Sherri Stansel added that she is concerned with the amount of fill required to elevate the structures and the size of compensatory storage that will be required. Mr. Danner added that due to the size of the compensatory storage area he expects that area to be a pond. Mr Danner inquired with Mr. Byrd if the applicant intends to install fencing around the property. Mr. Byrd said fencing had not been discussed and isn't in their current budget. Mr. Danner advised Mr. Byrd that if the applicant would like to add fencing in the future, an additional floodplain permit application would be required. Mr. O'Leary acknowledged that, if approved, the applicant would still need to return for a building permit and would be required to meet all building requirements. Mr. Danner said he has

concerns about the amount of runoff that would be directed to the west due to the fill for the shop building, and would prefer that the building be moved to the east. Mr. O'Leary said that a motion could include conditions to address committee concerns.

Mr. O'Leary asked for any other comments or questions. Mr. Terrell Hill said as a neighboring property owner, he is concerned about runoff from the property and ponding due to the location in the floodplain. Mr. Hill asked who would be responsible for the ponding on his property. Mr. O'Leary acknowledged Mr. Hill's concern and said that general standards for a building permit is that the construction "do no harm" which prompted the committee to discuss the location of the shop building. Mr. Hill asked if a tin horn would be required under the drive to ensure proper drainage. Mr. Danner said the drive approach will be required to meet city standards and that if a pipe is required then it will need to be installed to meet city standards. Mr. Hill said that there has been a history of flooding in the area and he is concerned about the impact this construction will have on the area. Mr. O'Leary told Mr. Byrd that there may be some conditions established for approval of the permit. Mr. O'Leary stated that as an experienced builder, Mr. Byrd could use multiple methods to address the runoff from the construction with the expectation of both the floodplain permit and building permit would be that the construction "do no harm" and that the runoff must follow the same pattern as currently exists. Mr. Sturz motioned to approve Floodplain Permit Application No. 610 with the conditions that an Elevation Certificate for both the house and shop building are provided, as-built drawings for the final fill areas and compensatory storage areas are provided, and the shop building is relocated so that all grading and drainage will be contained onsite doing no harm to adjacent properties. Mr. Danner seconded the motion to approve.

Ms. Jane Hudson asked if the as-built drawings would be provided at the building permit stage.

Mr. Sturtz said the as-built drawings would be a condition of obtaining a Certificate of Occupancy. Mr. Sturtz added that the measurements need to be precise to prevent overages, and recommended having engineered drawings of the site layout and grading. Mr. O'Leary clarified with Mr. Byrd that he is the builder for the house but not the shop building. Mr. Byrd said that currently he has a contract as the builder for the house only. He said the applicant plans the shop as a future project when funding is available. Ms. Stansel clarified that, if approved, the floodplain permit would provide a 2 year period for completion and that an additional permit application would need to be submitted if no work had started within 2 years of issuance of Floodplain Permit No. 610.

Mr. O'Leary said this permit application is for the entire package including the house and shop and will expire after 2 years. Mr. Hill asked who would be his point of contact for followed if there were issues with runoff after the application was approved. Mr. O'Leary said with the conditions in place and the applicant meeting them that there should not be any issues but if a situation arises that would be handled during the building permit review process. Mr. O'Leary added that if at completion of construction the requirements are not met, then the Certificate of Occupancy would not be issued until the problem is remedied. The committee voted to approve the application 5-0.

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

- a) Mr. O'Leary said that no applications had been received for the November 4, 2019 meeting and it was cancelled.
- b) Mr. O'Leary stated the filing deadline for the November 18, 2019 meeting is still pending.

- c) Ms. Stansel asked for an update on a reported issue at 48<sup>th</sup> Street and Main Street. Mr. McLellan said that upon the most recent inspection, the fill piles that had been reported had been removed. Mr. O'Leary said a meeting had occurred with the Legal Department to discuss next steps but had been suspended upon the last inspection.

Ms. Stansel inquired about the status of a possible floodplain ordinance violation at 535 S. Pickard. Mr. O'Leary said currently there is still non-compliance. Mr. O'Leary said he hoped J. W. Dansby would be present at this meeting to discuss the situation. Mr. O'Leary said in a previous conversation in September 2019, Mr. Dansby informed staff that his client, Mr. Steele, was insisting on applying for a floodplain permit to allow the six car garage and driveway to remain. Mr. O'Leary and Mr. McLellan presented information and discouraged Mr. Dansby from submitting a floodplain application due to the current floodplain regulations. Mr. O'Leary said that the final word was that there would be another application submitted that should have come before the committee at the September meeting. Mr. O'Leary said the expectation was set at that meeting that the next step would be legal action. Mr. O'Leary said that after conversations with the City Attorney's office, it was agreed to allow the applicant one final chance to comply. Mr. O'Leary stated that the City Attorney, Kathryn Walker, would recommend the matter be escalated to district court. Mr. O'Leary said this matter would typically be handled in municipal court but she felt that a higher level of judicial action was required due to the severity of the violations of the floodplain ordinance. Mr. O'Leary said a letter would be sent to the applicant including the complaint, the subsequent meetings and lack of remedy to the violations. Mr. O'Leary said another reason that Ms. Walker felt district court would be appropriate is due to the remedy, which will require removal

of the building and driveway pavement. Mr. O'Leary stated that according to Mr. Dansby, the Steeles have approximately \$45,000 in improvements on the property and would like to investigate procedures that would allow the improvements to stay in place. Mr. O'Leary added that there are multiple violations in construction of the structure with regard to both floodplain permit and building permit requirements. Ms. Hudson asked if anyone had verified the use of the garage, if it was being used as vehicle storage or if it is additional living space. Mr. O'Leary said no additional inspection has taken place inside the structure. Mr. Sturtz asked if a Certificate of Occupancy was obtained for the house addition. Mr. Danner said an as-built drawing of compensatory storage was required and hadn't been received so a Certificate of Occupancy has not been issued.

**Item No. 4, Adjournment:**

Mr. O'Leary called for a motion to adjourn. Ms. Stansel motioned to adjourn and was seconded by Mr. Danner. Motion was approved 5-0. Meeting adjourned at 3:56 p.m.