

FLOODPLAIN PERMIT COMMITTEE MEETING
201 West Gray, Building A, Conference Room D
Monday, June 7, 2021
3:30 p.m.

Minutes

PRESENT: Shawn O'Leary, Director of Public Works
Scott Sturtz, City Engineer
Jane Hudson, Director of Planning & Community Development
Lora Hoggatt, Planning Services Manager
Sherri Stansel, Citizen Member

OTHERS PRESENT: Carrie Evenson, Stormwater Program Manager
Amy Shepard, Staff
Todd McLellan, Development Engineer
Steven Derk, Phillips 66
J.W. Dansby, Dansby Engineering
John Martin, Citizen
Ann Raia, Citizen
Catherine Schipul, Citizen
Julie Rusling, Citizen
Brendan Murphy, Citizen

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

Item No. 1, Approval of Minutes:

Five members of the committee were present, a quorum was established, and Amy Shepard called roll. Mr. Ken Danner and Mr. Bill Scanlon were absent. Mr. O'Leary called for a motion to approve the minutes from the meeting of May 17, 2021. A motion was made to approve the minutes by Mr. Scott Sturtz. The motion was seconded by Mrs. Sherri Stansel. The minutes were approved 5-0.

Item No. 2, Floodplain Permit Application No. 634:

Mr. O'Leary said this application is for the repair of an existing segment of a crude oil pipeline, OK-01, on the west side of I-35 south of West Lindsey Street, which is located in the Canadian River floodplain. Dr. Carrie Evenson gave the staff report for Floodplain Permit Application

No. 634. Dr. Evenson said the Applicant and Engineer are Phillips 66 Pipeline Company. Dr. Evenson said Steven Derk with Phillips 66 Pipeline Company was in attendance to represent the Applicant. Dr. Evenson said there is an existing 12" crude oil pipeline owned by the applicant that is generally located on the west side of I-35 south of West Lindsey Street in the Canadian River floodplain. Dr. Evenson said that according to the Applicant, the project will disturb a maximum of approximately 2,500 square feet of ground within the floodplain. Dr. Evenson said the ground will be cleared above the repair location to allow the pipeline to be excavated and repaired and that once the repair is complete, the excavated area will be backfilled using existing materials and returned to pre-activity conditions. Dr. Evenson said no changes in elevation or contours are expected as a result of this project. Dr. Evenson reviewed aerial photographs of the site location and floodplain boundaries. Dr. Evenson said no fill will be brought into the floodplain as part of this project. Dr. Evenson said the Applicant's Engineer certified that the project will not cause a rise in the Base Flood Elevation (BFE). Dr. Evenson reviewed all the applicable floodplain ordinance sections and confirmed all ordinance requirements have been met. Dr. Evenson said staff recommended approval of Floodplain Permit Application No. 634. Mr. O'Leary asked if there were any comments from the Applicant. Mr. Derk said the presentation was thorough and he was available for questions. Mrs. Stansel asked where the planned access point for this project would be. Mr. Derk said there are two options for access, one directly off of West Lindsey Street and the second one on an access road that runs from a nearby neighborhood. Ms. Stansel asked for the timeframe of the project and assurance the concrete barriers in the neighborhood would be placed back into position when the project is complete. Mr. Derk said the timeline depends on dry weather and ground condition, but he anticipated that within a month of approval the project would be well

underway. Dr. Evenson said there is a previously permitted floodplain activity occurring near this project location and that the access road has been in use by that company. Dr. Evenson said some coordination will be required regarding access and restoration and she would stay in communication with both applicants. Ms. Stansel asked about the location of the repair on the gas line. Mr. Derk said it was located within 120 ft. of West Lindsey Street. The pipe section in need of repair will be unearthed and soil stability will likely dictate their access point. Ms. Stansel asked if the section of gas line will be upgraded when the repair is completed. Mr. Derk explained as part of Phillips 66 Pipeline Company's ongoing pipe integrity maintenance program, smart inspection tools are used to x-ray each pipeline to measure the integrity of the pipe every 5 years. Mr. Derk said the information obtained is used to determine areas that may require additional inspection and/or repair. Mr. Derk noted that the pipeline in this area is not leaking and that this was a preventative maintenance repair. Mr. O'Leary asked for questions from the committee or a motion. Mr. Sturtz recommended approval of Floodplain Permit Application No. 634. Ms. Lora Hoggatt seconded the motion. The committee voted to approve the application 5-0.

Item No. 3, Floodplain Permit Application No. 635:

Mr. O'Leary said this Floodplain Permit application is for the installation of ornamental iron fencing at 319 Merkle Drive, which is located in the Merkle Creek floodplain. Dr. Evenson gave the staff report for Floodplain Permit Application No. 635. Dr. Evenson said the Applicant is Ann Raia and the contractor is Superior Fencing. Dr. Evenson said the Applicant owns an approximately 0.36 acre parcel located at 319 Merkle Drive, that is partially located in the Merkle Creek floodplain. Dr. Evenson reviewed aerial photographs of the property and the location of the fence to be installed. Dr. Evenson said this application is for installation of an

ornamental iron fence to meet the fencing requirements specified in the City's Floodplain Ordinance. Dr. Evenson said no fill will be brought into the floodplain as part of this project. Dr. Evenson reviewed all the applicable floodplain ordinances and confirmed all ordinance requirements have been met. Dr. Evenson said staff recommended approval of Floodplain Permit Application No. 635. Mr. O'Leary asked if there were any comments from the Applicant. Ms. Raia said she would like to install the fencing along the existing concrete footing at the rear of the property. Ms. Raia provided a photograph of the footing in the yard. Ms. Raia said the floodway boundary runs approximately 2 feet to the west of the location of the concrete footing and is requesting to install the fence on the existing footing, which would place it in the floodway. Dr. Evenson reminded the Applicant that in previous conversations about the project location, a fence would not meet ordinance requirements if it were placed in the floodway. Ms. Raia agreed and asked the Floodplain Permit Committee for an exception for ease of installation. Dr. Evenson said staff would not be able to recommend approval of a fence in the floodway. Mr. O'Leary thanked the Applicant for the additional information and photographs provided. Mr. O'Leary clarified that what the committee is being asked to consider at this time is the original location in the application. Ms. Hudson asked for clarification about fencing plans provided in the application. Dr. Evenson said originally the project included fencing for two properties, but after review the property to the north had a greater portion of their yard in the floodway and decided to forego fencing at this time. Ms. Stansel asked Ms. Raia if the application was approved as submitted without the amended location would they proceed with installation. Mrs. Raia said they will install the fence in the planned location and look at possibly removing the footing at a later time. Mr. O'Leary asked for questions from the committee or a motion. Mr. Sturtz said it is difficult to consider allowing any project in the floodway due to

the critical nature of that area but would recommend approval of Floodplain Permit Application No. 635 as submitted. Ms. Hudson seconded the motion. The committee voted to approve the application 5-0.

Item No. 4, Floodplain Permit Application No. 636:

Mr. O'Leary said this application is for maintenance activities on 4 bridges within the City of Norman that are deemed the highest priority for maintenance. Mr. O'Leary said the bridges are located in the Dave Blue Creek, Imhoff Creek, Rock Creek, and Prairie Creek floodplains/floodways. Dr. Carrie Evenson gave the staff report for Floodplain Permit Application No. 636. Dr. Evenson said Application No. 636 is for the FYE 2022 Bridge Maintenance Program, the Applicant is City of Norman Public Works Department, the Engineer is the City of Norman Engineering Division and is represented by Mr. Brandon Brooks. Dr. Evenson said the Oklahoma Department of Transportation (ODOT) is tasked by the Federal Highway Administration (FHWA) to perform Bridge Safety Inspections for all publicly owned structures greater than 20 feet in length. Dr. Evenson said inspections are performed at least once every two years to identify any critical findings, document the bridge condition and make repair recommendations as necessary. Dr. Evenson said the City of Norman currently has 75 bridges requiring inspection per FHWA criteria. Dr. Evenson said on December 19, 2017, City Council approved Resolution R-1718-68, selecting H.W. Lochner, Inc. as the City of Norman's appointed Bridge Inspection Consultant to ODOT for compliance with the National Bridge Inspection Standards. Dr. Evenson said H.W. Lochner completed the required Bridge Safety Inspections in November 2019, and provided the inspection reports to City staff. Dr. Evenson said data obtained from the Bridge Safety Inspections were used to prioritize bridges that are in need of rehabilitation, maintenance, and/or replacement. Dr. Evenson said maintenance

activities include repairing erosion and scour, removing debris, restoring channels, placing rip rap (limited to the immediate vicinity of the bridge), and repairing cracks and sealing joints of the bridge itself. Dr. Evenson said these maintenance activities are necessary to prolong the life of the City's bridges and are vital to insure the safety of the traveling public. Dr. Evenson said the contractor for this project has not yet been selected and that the total cost of the project is estimated to be \$440,270.00. Dr. Evenson said if Application No. 636 is approved the project is scheduled to be completed in February 2022. Dr. Evenson reviewed the detailed scope of work for each site. Dr. Evenson said two (2) of the 4 bridges are located in the Little River basin and tributaries, Dave Blue Creek and Rock Creek, one bridge is located in the Prairie Creek floodplain, and one bridge is located in the Imhoff Creek floodplain. Dr. Evenson said the channel flow line and banks will not be altered at any of the sites. Dr. Evenson said material (soil and rip rap) placed in the channel will be to replace what has been washed away by erosion and scour and is considered routine maintenance. Dr. Evenson said there will not be any increase in the BFE at any of the locations. Dr. Evenson reviewed aerial photographs and maps of each site location with floodplain boundaries. Dr. Evenson reviewed the bridge inspection findings and maintenance activities planned for each bridge. Dr. Evenson reviewed all the applicable floodplain ordinances and confirmed all ordinance requirements have been met. Dr. Evenson said staff recommended approval of Floodplain Permit Application No. 636. Mr. O'Leary asked if there were any comments from the Applicant's representative. Mr. Sturtz said that the prior year bridge maintenance projects had been completed, and the latest inspection findings show the maintenance completed had a direct positive impact on the evaluation scores of the structures. Mr. Sturtz said after the maintenance was performed, the inspection scores increased the bridge's rating by 60 to 100%. Mr. Sturtz said the Bridge Maintenance Program took a lot

of work to implement and has been very successful. Mr. Sturtz noted that this Application No. 636 is for the same type of maintenance to the structures as the previous year and he anticipates continued success and improvement in the future. Mr. Sturtz said the project is advertising for bids and is planned to be awarded by City Council on July 13, 2021. Mr. O'Leary asked for questions from the public. A resident asked about the maintenance planned for the bridge on 60th Ave NE and if it would address erosion to the streambank near the corner post of his fence. Dr. Evenson said the maintenance activity for that bridge location didn't specifically mention the streambank at that location, and that if his concerns weren't addressed by this project it could be addressed as a stormwater maintenance issue. The resident said there have been a number of issues that have impacted the creek including trash dumping, washout of rock that stabilized the structure, and changes in the flow. Mr. Sturtz said the proposed maintenance will address the stabilization and should improve the erosion at the bridge structure. Ms. Catherine Schipul expressed her concern about the safety and integrity of the Imhoff Creek streambanks and asked how much of this maintenance project would address those concerns. Mr. Sturtz said the project at this location will focus on the bridge structure and close proximity of the bridge. Mr. Sturtz said he is familiar with some of the challenges downstream of the bridge and the need for streambank restoration. Dr. Evenson said there is currently a project in the design phases for streambank stabilization for Imhoff Creek south of Imhoff Road. Dr. Evenson said this project is identified in the Stormwater Master Plan as a multi-phase project. A conceptual study was completed in 2017 by Meshek & Associates, and they recommended a two phase approach for restoration. Dr. Evenson said the first phase addresses the area of the creek south of Imhoff Rd and is currently under design. Dr. Evenson said the estimate for the project is over 3 million dollars and part of the design service is to look for potential grant funding through a

new program with Federal Emergency Management Agency (FEMA). Ms. Schipul asked about the frequency of inspection to ensure further damage doesn't occur. Mr. O'Leary said homeowners play a large part in helping to keep an eye on public infrastructure and reporting any concerns or changes. Dr. Evenson and Mr. O'Leary offered to follow up with Ms. Schipul and help coordinate her concerns with necessary parties. Mr. O'Leary thanked Ms. Schipul for her comments and noted that this area of Imhoff Creek has been a very high priority item on the Stormwater Master Plan and was included in the Stormwater Bond that was presented on April 2019 ballot but failed to win approval from the citizens of Norman. Mr. O'Leary said although it was not passed in the previous two elections, the project continues to be a high priority and staff is working to find solutions using other methods. Mr. O'Leary asked for questions from the committee or a motion. Ms. Stansel recommended approval of Floodplain Permit Application No. 636. Ms. Lora Hoggatt seconded the motion. The committee voted to approve the application 5-0.

Item No. 5, Floodplain Permit Application No. 626:

Mr. O'Leary said this application is a request to reconsider Floodplain Permit Application No. 626 and remove the requirement that a Letter of Map Amendment be submitted and approved by the Federal Emergency Management Agency prior to the issuance of a building permit by the City of Norman. Dr. Carrie Evenson gave the staff report for Floodplain Permit Application No. 626. Dr. Evenson said the Applicant is requesting reconsideration and removal of the requirement to submit a Letter of Map Amendment approved by FEMA reflecting a BFE of 1070.0 ft. on this parcel prior to the City issuing a building permit for the structures. Dr. Evenson said the Applicant is Roger Janoe, and the Applicant's Engineer is J.W. Dansby. Dr. Evenson said Mr. Dansby was in attendance to represent the Applicant. Dr. Evenson said the

applicant owns an approximately 5.6 acre tract, a portion of which is in the Little River floodplain in northeast Norman. Dr. Evenson said the applicant is proposing to install a driveway to access a house and barn to be built on the west side of the property. Dr. Evenson said according to the DFIRM, the proposed location of the driveway and culvert is in the Little River floodplain Zone A [no base flood elevations (BFEs) have been determined]. However, according to the Applicant's Engineer, the U.S. Army Corps of Engineers, Tulsa District, determined that the BFE for this property is 1070.0 ft., and the lowest finished floors of the house and barn are to be at or above 1078.14 ft. Dr. Evenson said based on this information, the house and barn will be located outside of the 100-year floodplain. Dr. Evenson said the driveway will cross the floodplain from east to west and will consist of 430 ft. of a 12 foot wide asphalt driveway placed at existing grade and 28 ft. of an 18 inch corrugated metal pipe at the creek crossing.

Dr. Evenson said this application was approved by the Floodplain Permit Committee on March 15, 2021 with a condition that a Letter of Map Amendment (LOMA) be approved by FEMA reflecting a BFE of 1070 ft. on this parcel prior to the City issuing a building permit for the house and barn structures. Dr. Evenson said the applicant is requesting reconsideration and removal of the requirement to submit a Letter of Map Amendment approved by FEMA reflecting a BFE of 1070. ft. on this parcel prior to the City issuing a building permit for the structures for the following reasons as outlined in a letter to the Floodplain Administrator:

1. It was not included as a condition in the staff report, consequently we were not prepared to respond and did not realize all of the impacts of the condition.
2. This is the first time that condition was ever placed on a FPP.

3. The permit was recommended for approval by staff without this condition. (All requirements of the City ordinances were met)
4. Two surveyors told us that this would require a more detailed survey than is required for an elevation certificate which is completed after construction. Consequently, this survey is an additional expense.
5. Based on the permit that was issued an elevation certificate is still required after construction.
6. One condition of purchase was that a building permit could be obtained for the buildings constructed on the property. The seller was not willing to extend the conditions past the March 31 deadline. Consequently, Mr. Janoe purchased the property without building permits.
7. Both surveyors said it would take 4 to 8 weeks to get a response from FEMA after the LOMA is submitted.
8. The United States Army Corps of Engineers (USACE) used a conservative method to establish the BFE that is accepted by FEMA.
9. The surveyor established an elevation for the pad based on a stake placed by Mr. Janoe relative to the BFE established by the USACE.
10. Mr. Janoe cannot close on his construction loan without a building permit.

Dr. Evenson said according to Section 429.1.5(d), the Floodplain Permit Committee may attach such conditions to the granting of such permits as it deems necessary to further the purposes of the ordinance, which includes the condition placed on Floodplain Permit No. 626 on March 15, 2021. Dr. Evenson said if the LOMA is submitted and approved by FEMA, an elevation certificate will not be required for the structures because the floodplain boundaries on this parcel

will be located to the east of their proposed location according to the information previously submitted by the Applicant's Engineer. Dr. Evenson said staff recommends that Floodplain Permit No. 626 retains approval with the condition that a Letter of Map Amendment (LOMA) is submitted and approved by FEMA reflecting a BFE of 1070.0 ft. on this parcel. The LOMA must be approved by FEMA prior to the City issuing a building permit for the structures. Mr. O'Leary asked if there were any comments from the Applicant's Engineer, Mr. Dansby. Mr. Dansby said the primary request is the removal of the restriction to obtain a LOMA prior to the issuance of a building permit. Mr. Dansby said the Applicant is ready to proceed with construction and will submit an Elevation Certificate after the structures are complete. Mr. Dansby said based on the information from the US Army Corps of Engineers, he does not see the need for additional conditions. Mr. Dansby said he is not aware of a LOMA requirement on any application prior to construction. Mr. Dansby said the Applicant is planning to proceed with the LOMA in the future but would like to get construction started now. Mr. Dansby asked if the committee had additional questions. Mr. Sturtz asked for the status of the LOMA and stated that based on the fact that the original approval occurred in March 2021, there should have been enough time for the LOMA to be granted. Mr. Sturtz noted that the Applicant or Applicant's Engineer has the option to submit the LOMA to FEMA electronically to expedite the process. Mr. Dansby said he is concerned that an electronic submittal could result in being placed into an audit status and could cause further delays. Mr. Dansby said the LOMA application has not been submitted at this time because an additional detailed survey would be required and would be an additional cost to the Applicant. Mr. Sturtz said his primary concern is if a building permit is issued and the LOMA isn't required until the Applicant files for a Certificate of Occupancy and the LOMA is then denied by FEMA, that the committee will then have allowed construction

within the floodplain with no recourse. Mr. Sturtz said his motion would be to deny the request for further reconsideration. Ms. Hudson seconded the motion. Mr. Dansby said that FEMA allows citing of the US Army Corps of Engineers data in an application, and that he isn't aware of any case when the BFE cited by the US Army Corps of Engineers has been denied by FEMA. Mr. Sturtz said his concern isn't about the accuracy of the information provided by the US Army Corps of Engineers, but that his concern is about following the process to correct the inconsistency in the mapping. Mr. Sturtz said submitting a LOMA is the best tool to correct the identified floodplain boundary. Mr. Sturtz said all the benefit of a LOMA is to the homeowner because it will prevent the homeowner from being required to carry flood insurance if the structure has a federally insured loan. Mr. Sturtz reiterated the cost savings and value to completing the map amendment prior to construction. Mr. Dansby said an elevation certificate at construction completion will serve the same purpose as a LOMA. Mr. Sturtz noted that an elevation certificate will only certify the finished floor is above the BFE, it will not update the FEMA maps to reflect that the structure is not in the floodplain. Mr. Dansby said the Applicant will be able to use the elevation certificate to obtain the LOMA. Mr. Todd McLellan added that getting a LOMA before beginning the project will prevent an elevation certificate from being required and that the homeowner wouldn't have to come before the committee for any additional projects on the property. Mr. O'Leary said a LOMA is really the most cost effective and permanent way to address concerns about location in the floodplain. Mr. O'Leary said many LOMAs are issued each year and they are a very good tool for property owners. Mr. O'Leary noted his confusion about the role of the US Army Corps of Engineers in this Application, because they do not have jurisdiction over floodplain. Mr. O'Leary said the US Army Corps of Engineers are a great asset and the City works with them daily, but ultimately FEMA is the

regulating body for determining the floodplain maps. Mr. O'Leary said the Floodplain Permit Committee exists to administer the FEMA floodplain regulations within the City of Norman. Mr. Dansby asked for further clarification on why the LOMA is being required in advance of the building permit being issued instead of at the time the Certificate of Occupancy is issued with an elevation certificate. Mr. O'Leary said this was part of the routine process for a building permit to be issued if a structure is in the floodplain, a LOMA. Mr. O'Leary said a Floodplain Permit Application would be required as a companion piece to the building permit for the driveway, which is what the application was approved for. Mr. Dansby said that an elevation certificate can be used to obtain a LOMA. Mr. McLellan agreed that an elevation certificate can be used to obtain a LOMA but stated that a LOMA can also be used to remove property out of the floodplain or a structure out of the floodplain boundary. In this case, the LOMA is needed to remove the property from the floodplain so that construction activities on the property can be permitted. Mr. O'Leary acknowledged the motion and second. The committee voted to deny the request and keep the condition that a LOMA approved by FEMA reflecting a BFE of 1070 ft. on this parcel be approved prior to the City issuing a building permit for the house and barn structures with a vote of 5-0.

Item No. 6, Miscellaneous Discussion:

- a) Mr. O'Leary said the deadline for submittals for the June 21, 2021 has passed and one application had been received. Mr. O'Leary confirmed that upcoming meetings must be attended in person as confirmed by the Legal Department. Ms. Hudson noted that meetings like pre-development, where no vote is taken and that were informational only, can still be held virtually. Ms. Hudson said since the Floodplain Permit Committee votes, it is considered a judicial committee and that meetings must be held in-person.

- b) Mr. O'Leary said the deadline for the July 6, 2021 meeting is Wednesday, June 16, 2021, and there were no pending applications at the time of the meeting.

Item No. 7, Adjournment:

Mr. O'Leary called for a motion to adjourn. Mr. Sturtz motioned to adjourn and was seconded by Ms. Stansel. The motion was approved 5-0. Meeting adjourned at 4:30 p.m.