

**From:** [Brian Day](#)  
**To:** [Cathy Oloffson](#)  
**Subject:** FW: ONP Question  
**Date:** Tuesday, June 8, 2021 12:29:48 PM

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**From:** Brian Day  
**Sent:** Thursday, July 30, 2020 2:46 PM  
**To:** Brian Day <bday@normal.org>  
**Cc:** Pamela Reece <preece@normal.org>; Eric Hanson (ehanson@normal.org) <ehanson@normal.org>; Mercy Davison <mdavison@normal.org>; Greg Troemel <gtroemel@normal.org>  
**Subject:** RE: ONP Question

This email is to being sent to the Council, the Planning Commission, and the Staff identified above. It concerns the process for the One Normal Plaza matter pending before the Planning Commission.

1. Zoning is not a simple political calculation. Because of the way zoning restricts the use of private property, it comes with a number of constitutional implications, both substantive and procedural. The courts and statutes have laid out what can and cannot be considered in zoning decisions and the process by which those decisions can be made.
2. The Town has set, established procedures to comply with legal requirements and to protect the constitutional rights of those involved and to protect the Town from getting sued when it makes a zoning decision.
3. When we make decisions outside of the process, we run the risk of violating citizens' constitutional rights and subjecting the Town to legal challenges. Even if we don't get sued, we degrade the legitimacy of our zoning decisions. One of the key factors that courts consider when reviewing zoning challenges is the seriousness with which the community follows its zoning and planning process.
4. Some of the property owners in ONP and the surrounding area oppose the proposed changes, and some want the proposed changes (and some like some changes but not others). Each has rights and interests in the

decision. Every Councilmember and Planning Commissioner has a duty to respect the rights and interests of all sides—as well as those of the community at large. The failure to do so would be wholly inappropriate and potentially a violation of your oath of office.

5. As I have stated before, Planning Commissioners should not be discussing pending matters outside of the public-hearing process. The public hearing and the Commission's consideration serves as the legal basis for the Town's zoning decisions. It is also what we will rely on to defend any action challenging the approval or denial of a zoning change. That process should not be contaminated.
6. Until the Planning Commission completes the public hearing and issues its formal recommendation to the Council, there is nothing before the Council and Councilmembers should refrain from inserting themselves into the process, including discussing the matter with Planning Commissioners, coordinating with proponents or opponents to work in favor or against the measure, or trying to influence public opinion about a pending hearing. There is a time and place for Councilmembers to be actively involved in zoning issues. The Planning Commission process is not it. The Council is the final decisionmaker. It is never a good look for the jury to announce the verdict before the trial.
7. There does not appear to be any valid reason for email between a Councilmember and a Planning Commissioner about a matter pending before the Planning Commission.
8. I am concerned about the integrity of our process here. My office will review the matter and I intend to ask officials to recuse themselves from this matter if it appears that their actions have been inappropriate or would subject the Town to legal challenge.

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Brian Day  
Corporation Counsel, Town of Normal  
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**From:** Pamela Reece <[preece@normal.org](mailto:preece@normal.org)>

**Sent:** Thursday, July 30, 2020 12:24 AM

**To:** Stan Nord <[snord@normal.org](mailto:snord@normal.org)>; Eric Hanson <[ehanson@normal.org](mailto:ehanson@normal.org)>

**Cc:** [talldds67@gmail.com](mailto:talldds67@gmail.com); Mayor Chris Koos <[ckoos@normal.org](mailto:ckoos@normal.org)>; Kevin McCarthy <[kmccarthy@normal.org](mailto:kmccarthy@normal.org)>; Scott Preston <[spreston@normal.org](mailto:spreston@normal.org)>; Kathleen Lorenz <[klorenz@normal.org](mailto:klorenz@normal.org)>; Chemberly Cummings <[ccummings@normal.org](mailto:ccummings@normal.org)>; Karyn Smith <[ksmith@normal.org](mailto:ksmith@normal.org)>; Brian Day <[bday@normal.org](mailto:bday@normal.org)>

**Subject:** RE: ONP Question

Stan,

You seem to be misunderstanding the process. Staff, in response to various conversations with someone who had a business idea and with property owners, recommended an update in the land use (ie. Zoning). Land use – specifically what types of uses are permitted in a certain zoning area – are being asked to be reviewed and, if agreed by Planning Commission and Council, modified. Allowable uses are not dependent on a particular business that may or may not come to fruition. The underlying question is: are the proposed uses at One Normal Plaza PUD supported or not. If not, then the Planning Commission may recommend modifications to the proposed PUD or the Council can amend the proposed PUD. It is not the role of staff to amend or withdraw at this point. We are in the midst of a quasi-judicial proceeding that is defined by Code (which means there are legal processes to follow).

The involvement of Planning Commission members outside of the public hearing process has also been cautioned so I will remind Dave to consult Corporation Counsel Brian Day if there are continued questions on Planning Commission's role.

Again, and as I've explained a few times in the past few weeks, we are in the midst of a public hearing process. I've responded a few times to your statements regarding negotiating changes. I will ask Corporation Counsel Brian Day to again provide legal guidance to you and your council colleagues on this issue. Continued attempts to circumvent a defined zoning process (one intended to gather citizen input) is subject to legal risk; and failure of the Planning Commission and/or City Council to abide by the required legal process is of great concern.

If you're seeking to point the finger at someone because you don't like the process or the proposed PUD amendments, feel free to point it at me. I will remind you that Council supported this initiative (moving it forward to a public hearing process) on a 6-1 vote, so clearly a majority of Council found value in the process.

Pam

*Pamela Reece*  
City Manager

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**From:** Stan Nord <[snord@normal.org](mailto:snord@normal.org)>  
**Sent:** Wednesday, July 29, 2020 10:57 PM  
**To:** Pamela Reece <[preece@normal.org](mailto:preece@normal.org)>; Eric Hanson <[ehanson@normal.org](mailto:ehanson@normal.org)>  
**Cc:** [REDACTED]  
**Subject:** ONP Question

A resident and planning commission member has questioned who exactly is wanting the zoning changes for One Normal Plaza (ONP). The council packet, the planning commission packet, and staff presentations describe these zoning changes as compiled, proposed, and recommended by the Town Staff. The applicant for the zoning change request is Town Staff member, Mercy Davidson – Town Planner. Requests for negotiation of the proposed changes have been referred to an answered directly by the Town Staff. The Town Staff have recommended the approval of their proposed changes. The bar owner referenced in the packets communicated that they are not pursuing to open in ONP. Based on this and staff's resistance to withdraw or modify their proposed zoning change requests, it is reasonable to believe that the Town Staff's intent is for the zoning changes to be implemented as the Town Staff has written and recommended them.

Am I misunderstanding something? Are the Town Staff not the ones responsible and accountable for proposing and recommending these zoning changes to be approved? Or are the Town Staff simply following instruction and someone else is responsible and accountable for the requested zoning changes? If so, to bring clarity and transparency on this matter, who is it?

Thank you,

Stan

Stan Nord, Normal Town Council Representative  
309-242-2495 *phone*  
[snord@normal.org](mailto:snord@normal.org)

\*\*\* I am communicating with you as an individual. I am not speaking on behalf of the council and/or mayor.

\*\*\* The mayor, town manager and/or council may be CC'd this message for openness and

transparency.