

**NORMAN PLANNING COMMISSION
REGULAR SESSION MINUTES**

NOVEMBER 14, 2019

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 14th day of November, 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 twenty-four 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

Matthew Peacock
Erin Williford
Nouman Jan
Chris Lewis
Sandy Bahan
Tom Knotts
Dave Boeck
Lark Zink
Steven McDaniel

MEMBERS ABSENT

None

A quorum was present.

STAFF MEMBERS PRESENT

Jane Hudson, Interim Director, Planning &
Community Development
Roné Tromble, Recording Secretary
Lora Hoggatt, Planner II
Ken Danner, Subdivision Development
Manager
David Riesland, Traffic Engineer
Beth Muckala, Asst. City Attorney
Bryce Holland, Multimedia Specialist

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Chair Bahan welcomed Mr. Peacock to his first meeting as a member of the Planning Commission.

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CONSENT DOCKET

Item No. 2, being:

TMP-144 -- APPROVAL OF THE OCTOBER 10, 2019 PLANNING COMMISSION REGULAR SESSION MINUTES

Item No. 3, being:

COS-1920-1 – CONSIDERATION OF A NORMAN RURAL CERTIFICATE OF SURVEY SUBMITTED BY BOBBY TIMS (POLLARD & WHITED SURVEYING, INC.) FOR TIMS ESTATES FOR 36.25 ACRES OF PROPERTY LOCATED NEAR THE NORTHEAST CORNER OF 60TH AVENUE N.E. AND ALAMEDA STREET.

Item No. 4, being:

PP-1920-6 – CONSIDERATION OF A REVISED PRELIMINARY PLAT SUBMITTED BY RED LEAF CONSTRUCTION (NAFA ENGINEERING, PLLC) FOR NORTH POINT ADDITION FOR 2.62 ACRES OF PROPERTY LOCATED ON THE EAST SIDE OF INTERSTATE DRIVE APPROXIMATELY ½ MILE NORTH OF INDIAN HILLS ROAD.

Ms. Bahan asked if anyone wished to remove an item from the Consent Docket. There being none, she asked for a motion.

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

Chris Lewis moved to approve the Consent Docket as presented. Dave Boeck seconded the motion.

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

YEAS	Matthew Peacock, Erin Williford, Nouman Jan, Chris Lewis, Sandy Bahan, Tom Knotts, Dave Boeck, Lark Zink, Steven McDaniel
NAYES	None
MEMBERS ABSENT	None

Ms. Tromble announced that the motion, to adopt the Consent Docket, passed by a vote of 9-0.

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Item No. 3, being:

COS-1920-1 – CONSIDERATION OF A NORMAN RURAL CERTIFICATE OF SURVEY SUBMITTED BY BOBBY TIMS (POLLARD & WHITED SURVEYING, INC.) FOR TIMS ESTATES FOR 36.25 ACRES OF PROPERTY LOCATED NEAR THE NORTHEAST CORNER OF 60TH AVENUE N.E. AND ALAMEDA STREET.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Norman Rural Certificate of Survey
3. Staff Report

This item was approved as part of the Consent Docket by a vote of 9-0.

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Item No. 4, being:

PP-1920-6 – CONSIDERATION OF A REVISED PRELIMINARY PLAT SUBMITTED BY RED LEAF CONSTRUCTION (NAFA ENGINEERING, PLLC) FOR NORTH POINT ADDITION FOR 2.62 ACRES OF PROPERTY LOCATED ON THE EAST SIDE OF INTERSTATE DRIVE APPROXIMATELY ½ MILE NORTH OF INDIAN HILLS ROAD.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Preliminary Plat
3. Staff Report
4. Transportation Impacts
5. Site Plan
6. Pre-Development Summary

This item was approved as part of the Consent Docket by a vote of 9-0.

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Item No. 5a, being:

R-1920-23 – TJ FOOD & FUEL, L.L.C. REQUESTS AMENDMENT OF THE NORMAN 2025 LAND USE AND TRANSPORTATION PLAN FROM LOW DENSITY RESIDENTIAL DESIGNATION TO MIXED USE DESIGNATION FOR 7,000 SQUARE FEET OF PROPERTY LOCATED AT 765 JENKINS AVENUE.

Item No. 5b, being:

O-1920-12 – TJ FOOD & FUEL, L.L.C. REQUESTS REZONING FROM R-3, MULTI-FAMILY DWELLING DISTRICT, TO SPUD, SIMPLE PLANNED UNIT DEVELOPMENT, FOR 7,000 SQUARE FEET OF PROPERTY LOCATED AT 765 JENKINS AVENUE.

Item No. 5c, being:

O-1920-21 – TJ FOOD & FUEL, L.L.C. REQUESTS CLOSURE AND VACATION OF THE PLATTED FRONT BUILDING LINE FOR 7,000 SQUARE FEET OF PROPERTY LOCATED AT 765 JENKINS AVENUE.

Item No. 6, being:

O-1920-9 – KEISER AND ATIDAH HOLBIRD REQUEST SPECIAL USE FOR "ONE AND ONLY ONE OF THE SPECIFIC USES PERMITTED IN THE M-1, RESTRICTED INDUSTRIAL DISTRICT" (22:420.3(3)(G)) TO ALLOW A MEDICAL MARIJUANA COMMERCIAL GROWER, AS ALLOWED BY STATE LAW, FOR 2.4 ACRES OF PROPERTY CURRENTLY ZONED RE, RESIDENTIAL ESTATES DISTRICT, AND LOCATED AT 13607 ROKA CIRCLE.

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

Chris Lewis moved to postpone Resolution No. R-1920-23, Ordinance No. O-1920-12, Ordinance No. O-1920-21, and Ordinance No. O-1920-9 to the December 12, 2019 Planning Commission meeting at the request of the applicants. Dave Boeck seconded the motion.

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

YEAS	Matthew Peacock, Erin Williford, Nouman Jan, Chris Lewis, Sandy Bahan, Tom Knotts, Dave Boeck, Lark Zink, Steven McDaniel
NAYES	None
MEMBERS ABSENT	None

Ms. Tromble announced that the motion, to postpone Resolution No. R-1920-23, Ordinance No. O-1920-12, Ordinance No. O-1920-21, and Ordinance No. O-1920-9 to the December 12, 2019 Planning Commission meeting, passed by a vote of 9-0.

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Item No. 7, being:

O-1920-18 – JESSICA SHANNON PRICE REQUESTS SPECIAL USE FOR "ONE AND ONLY ONE OF THE SPECIFIC USES PERMITTED IN THE M-1, RESTRICTED INDUSTRIAL DISTRICT" (22:420.3(3)(G)) TO ALLOW A MEDICAL MARIJUANA COMMERCIAL GROWER, AS ALLOWED BY STATE LAW, FOR 2.12 ACRES OF PROPERTY CURRENTLY ZONED RE, RESIDENTIAL ESTATES DISTRICT, AND LOCATED AT 1825 DERBY CIRCLE.

This item has been withdrawn by the applicant. It appeared on the agenda only as information because it was postponed to this date at the October 10, 2019 Planning Commission meeting.

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Item No. 8, being:

O-1920-20 – MCD WELLNESS SOCIETY, L.L.C. REQUESTS REZONING FROM CCFBC, CENTER CITY FORM-BASED CODE-URBAN GENERAL FRONTAGE, TO CCPUD, CENTER CITY PLANNED UNIT DEVELOPMENT, TO ALLOW FOR MEDICAL MARIJUANA DISPENSARY, MEDICAL MARIJUANA PROCESSOR, AND MEDICAL MARIJUANA COMMERCIAL GROWER, AS ALLOWED BY STATE LAW, FOR PROPERTY LOCATED AT 230 WEST GRAY STREET.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
3. CCPUD Narrative with Exhibits

PRESENTATION BY STAFF:

1. Lora Hoggatt reviewed the staff report, a copy of which is filed with the minutes. Staff supports this request and recommends approval of Ordinance No. O-1920-20. The applicant is proposing 900 sq. ft. of retail; the staff report listed the retail area as 1,100 sq. ft., which includes a restroom and storage area. One support letter was received.

PRESENTATION BY THE APPLICANT:

1. Chelsea McDonald, the applicant, was available to answer questions.

2. Mr. Lewis – Can you tell me – you're applying for an additional commercial grower, so you'll be growing in the building. What type of odor control/filtration systems do you have planned to be in place and from what resources have you got those in regards to efficacy?

Ms. McDonald – We're going to grow in the very back portion of the building inside of a grow tent. It comes with a carbon filtration system for all the air.

Mr. Lewis – Okay. So it will be drawing in or expelling any type of air itself? I would think for a plant to grow – I mean, what type of filtration are we looking at? Charcoal filters?

Ms. McDonald – Yes.

3. Mr. Boeck – Processing. We've approved a couple of those, and no one really knew what the processing was. But I've been talking to a friend of mine who owns a growery and a processor and I'm really concerned and alarmed with the kind of dangerous chemicals that some processing use that can cause explosions that make me feel like our processors ought to be in – what do you call it? – well, industrial or agriculture, but need to be in like – what do they call them? – high hazard, four-hour rated fire walled buildings, which I've designed before and it's kind of scary. So tell me a little bit about your processing. What kind of chemicals are you going to be using and what kind of exhaust systems you're going to have and what kind of safety things.

Ms. McDonald – We're not going to be using any chemicals. We'll do heat only extraction, which is a press. There are two plates that are – it's a hydraulic press. It's a tabletop appliance.

Mr. Boeck – How do you get the heat?

Ms. McDonald – It's electric. So there's really very little smell from that. The machine itself is equipped with an emergency button. But there's no chemicals. It's just pressure.

Mr. McDonald – The same machine that patients are allowed to have in their home.

4. Mr. Jan – There will be a storage facility you said. How many pounds you are planning to store?

Ms. McDonald – Oh, not a storage facility; just our storage for the dispensary and the processing – not an actual – we're not going for the storage license.

Mr. Jan – What I meant was like plant storage – inventory.

Ms. McDonald – Any medical marijuana inventory is kept in a room in the back that has two safes, it's got a lock on the door, and an alarm system. How many pounds?

Mr. McDonald – It's really small. We're not going to be a real commercial grower.

Ms. McDonald – So ten, maybe, at the most.

Mr. Jan – Ten pounds?

Ms. McDonald – Yeah. Very small.

Mr. McDonald – It's mainly going to be to supply our own store.

5. Mr. Boeck – Okay, so I'll be honest up front. I have problems with any kind of growery, especially downtown. We have industrial and agricultural land, and I know you're not trying to do a 5-acres growery, you're just doing a tent. Why have you decided to do that, as opposed to buy from someplace else or put a growery someplace else?

Ms. McDonald – We will still buy from grows, because we're not planning to produce enough to fill all the shelves. But where we can purchase a good rate is \$5.50 per gram; you can produce it for 38 cents a gram. So it would allow us to give better prices to our patients and still make money.

Mr. Boeck – What percentage of your overall sales inventory will come from this grow tent?

Ms. McDonald – Maybe, if we get a really good yield, 20.

Mr. Boeck – 20% is really good.

Ms. McDonald – For the dispensary.

AUDIENCE PARTICIPATION:

1. Jayne Crumpley, 423 Elm – I can't ask everything I'd like to ask in three minutes, but I'll just start out by saying that I am opposed to a grow facility in the downtown area. I think there has been an area designated by Council where a grow is appropriate, and I think that's where it should be. I talked to staff this afternoon and was told that the applicant would tell us how they're going to handle the odor control, I believe Mr. Lewis requested. The little bit that I know about this, and in listening to past sessions, you do require special equipment when it comes to filtration to make sure it doesn't escape the building. In the Planning Commission meeting on July 11th, an Assistant City Attorney said that, if there is a complaint about odor, that really you have to file civilly to get it resolved, because there is no ordinance in the City Code that talks about odor as it works with marijuana, and that's a very expensive process – I mean the average citizen can't really afford to do that. I was also looking at the floorplan and I don't see what is provided to separate the various areas from the person that comes in to buy. If you've got processing going on in the back and growing, I mean, again, I plead ignorance as to how much odor actually is produced from these processing applications, but I don't know, do we need barriers? Are there windows? Again, these are all things that, as a citizen, I don't know. I guess those are the main questions, other than just not feeling really comfortable with a grow process in our downtown area. I don't think that's what we're really trying to do. Thank you.

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

1. Mr. Lewis – I think the Commission, and my fellow Commissioners have known that I've had a concern regarding odor since almost one of the first items that we approved in the City of Norman for a dispensary that's ongoing. It really was brought to my attention and really kind of in my face when I went out to eat in the City of Norman recently at a restaurant and there was an adjacent dispensary in the same building. It was offensive to me, that I felt like I was smoking while I was eating, and I shared with the owner of the restaurant that I wouldn't be returning because of that, so really it's doing harm to his business. As Ms. Crumpley stated, Ms. Muckala has shared in the past that there is some processes in which we can address odor control. One of the things that I would like for the Commission to make a recommendation to City Council for is that Norman, being a very progressive city, to actually be proactive and address odor control through ordinance or other means, however the City's legal department deems it necessary, as some other cities around the country have done. What I would ask Ms. Muckala, if she wouldn't mind, is addressing, in the interim, if we have an issue with odor, which, again, a grow facility – I will be opposed to this facility having the growability, specifically in the downtown area – that should be in the industrial area, in my opinion, as we have in our ordinances. Everything else I'm fine with, but the grow I'm not because of the odor, and that is something that is ongoing

throughout the states that is a true issue, I mean even in the countryside of Oregon people are having litigious action against it. So, Ms. Muckala, can you explain to us what a process would be, say if someone felt the odor was unacceptable.

Ms. Muckala – Yes. As Ms. Crumpley and Commissioner Lewis have mentioned, I have spoken before on the odor issue. You might recall that when the first marijuana ordinance came through it actually did include some language regarding public nuisance and noxious odors. That did not make it into the final version of the ordinance, and so under our Code where we're left is addressing it like any other public nuisance. Because the situation wasn't anticipated when that language was drafted, it hasn't been tested in that way and so the way forward on that isn't sure and it's kind of a narrow avenue. As Ms. Crumpley mentioned, another avenue is civil action. There are state laws on public nuisance, but that requires filing in District Court. What they have done in other states, municipalities that I've spoken to in Colorado, California – some of them do enact requirements that odors not emanate outside the business premises. There's mixed feedback on how effective those are, but it's definitely an issue that other states that have legalized marijuana have discussed. Those are kind of the options and considerations going forward for something like that. I will say that, typically, when the PUDs have come through on stuff like this, usually the odor measures are addressed in the document themselves. I've seen very few that have come through where the applicant hasn't proactively addressed that. So in those cases, where they're actually in the PUD document, that could be enforced through a zoning mechanism.

Chris Lewis moved to recommend adoption of Ordinance No. O-1920-20 to City Council. Dave Boeck seconded the motion.

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

YEAS	Tom Knotts
NAYES	Matthew Peacock, Erin Williford, Nouman Jan, Chris Lewis, Sandy Bahan, Dave Boeck, Lark Zink, Steven McDaniel
MEMBERS ABSENT	None

Ms. Tromble announced that the motion, to recommend adoption of Ordinance No. O-1920-20 to City Council, failed by a vote of 1-8.

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Item No. 9, being:

MISCELLANEOUS COMMENTS OF PLANNING COMMISSION AND STAFF

1. Mr. Lewis – I would like to say a hearty congratulations to Jane, as she's been a dedicated hard worker for the City of Norman for many, many years, and very well-deserved on her new position as Planning Director. Congratulations.

2. Ms. Hudson – I just wanted to outline something. One of the Commissioners had called and asked me a question about some of the applications that you guys have viewed previously about the processing in the medical marijuana applications – the zoning. Rest assured that when you approve these, however these applications move forward – if they get approval and they do apply for a building permit, anything that they're doing on that site has to be approved with the commercial building code. The zoning would obviously have to get approved, but everything has to be reviewed through the commercial building code and any of those outstanding issues that might be of question tonight for you would be taken care of through the adopted building code of the City of Norman.

3. Mr. Boeck – How would we know that? Let me ask you this, because we talked about that. Since there are processing processes that are highly flammable and dangerous, where are those covered specifically in the building code? I mean, I've worked on some high hazard chemical research facilities, where you had to have nitrogen atmospheres and you had to have anti-spark floors, and you had to have double piping systems, but that was under acknowledged and understood hazardous processes for research. Is there the same kind of thing with pot in those codes? How can we be assured that even mechanical – whoever approves mechanical/electrical systems for these understands what the potential dangers are?

Ms. Hudson – The commercial plan review, as well as the Fire review, for commercial applications obviously follows the adopted Building Code. So anything that comes forward is reviewed under those adopted guidelines. The building inspectors that go out for the inspections as the projects are being built – they're very familiar with the codes. If there's any questions, they do come back. On several occasions, the inspectors have met; they pull the plans out for the specific site and I'll see them in the conference rooms going over some of the plans to make sure that they are providing adequate review of the project as it moves forward.

4. Mr. Boeck – This is miscellaneous comments, and I guess one of the things goes back to zoning. Since we deal with everything zoning, Keith McCabe bought some land at auction close to Montford Inn that had been, apparently at one time, a single family residence; it's actually zoned something else now. He and I talked about – because you know one of the issues that I've had with Form-Based Code and with Center City is what we've developed with that Form-Based Code makes no allowances for accessibility when you build floorplans that are three and four and five feet off the ground, it's just stairs, except where you want to put a ramp in someplace. Peter Petromilli is addressing that on one of his projects. So Keith and I were talking about how we could do like five residential units, probably two stories, but the first story would have a bedroom, would be accessible. They'd be small units so they'd be more affordable, because that's the other thing we've destroyed in the Form-Based Code is affordable housing in Core Norman, by allowing these duplexes – five and ten bedroom duplexes – to be built. Then he was told, well, no, it's platted so all you can do is either a single-family residence or you can do apartments and commercial, but you can't do five accessible, affordable houses. I guess the question I have is I'd like to get an answer from City someplace, how do we allow someone like one of the other developers on Campus Corner to go through a PUD or a SPUD to end around what's in the Form-Based Code, but we stymie someone that wants to do something that we've actually looked for in our housing development because of a simple deal like a plat? It doesn't make sense to me, and I'd like to know how we can avoid that – you know, we want to be progressive and we talk about doing livable cities and we talk about doing higher densities, then why can't we support people that are trying to do the right thing?

Ms. Muckala – I want to say, first, I'm going to address that question very generally -- as we're in miscellaneous, we really shouldn't be addressing any particular projects that are or are not in front of the Council that aren't on the agenda. But speaking generally about the difference between a variance that's allowed in the zoning context, which might be incorporated into a PUD or a SPUD – that's actually an entirely different part of our code than a land subdivision matter, which is handled by Chapter 19. Whereas zoning variance power, and especially in the context of a PUD, is pretty broad when it comes through Planning Commission and City Council, the Subdivision Regulations just aren't written the same. The variations and exceptions are set out very specifically and pretty narrowly – the situations in which a variation can be granted. There's one general variance provision – I hesitate to cite anything. I think it's 19-601. That's our general variation. So anything that would come through would have to follow that process, but it would not be the same as the zoning process. It's a completely different ...

Mr. Boeck – Can I come see you, because I'd really ...

Ms. Muckala – Yes.

Mr. Boeck – Okay. I'll call you and set up a meeting, because to me this is one of the most important things that we've had to deal with around here. It seems small, but to me it's really important in terms of how we identify ourselves as a community that wants to support affordable and accessible housing in some small way. I'll call you. Thanks.

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Item No. 10, being:

ADJOURNMENT

There being no further comments from Commissioners or staff, and no further business, the meeting adjourned at 7:01 p.m.



Norman Planning Commission