

**NORMAN PLANNING COMMISSION  
REGULAR SESSION MINUTES**

**OCTOBER 8, 2020**

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session via Video Conference and in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 8<sup>th</sup> day of October, 2020.

Notice and agenda of the meeting were posted at the Norman Municipal Building and online at <https://www.normanok.gov/sites/default/files/documents> at least twenty-four hours prior to the beginning of the meeting.

Chair Lark Zink called the meeting to order at 6:30 p.m.

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Item No. 1, being:

**ROLL CALL**

MEMBERS PRESENT  
via Video Conference

Dave Boeck  
Sandy Bahan  
Erin Williford  
Erica Bird  
Mark Daniels  
Steven McDaniel  
Tom Knotts  
Lark Zink

MEMBERS ABSENT

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A quorum was present.

STAFF MEMBERS PRESENT  
(in person, unless otherwise noted)

Jane Hudson, Director, Planning &  
Community Development  
Lora Hoggatt, Planning Services Manager  
Roné Tromble, Recording Secretary  
Bryce Holland, Multimedia Specialist  
Beth Muckala, Asst. City Attorney (video)  
Carrie Evenson, Stormwater Program  
Manager (video)  
David Riesland, Traffic Engineer (video)  
Todd McLellan, Development Engineer  
(video)  
Nathan Madenwald, Utilities Engineer  
(video)

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Item No. 6, being:

**O-2021-12 – EARNEST BELL REQUESTS REZONING FROM RE, RESIDENTIAL ESTATES DWELLING DISTRICT, TO A-1, GENERAL AGRICULTURAL DISTRICT, FOR APPROXIMATELY 5 ACRES OF PROPERTY LOCATED AT 2001 EAST ROCK CREEK ROAD.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Location Map
2. Staff Report
3. Written Description of Project
4. Site Plan
5. Aerial Photo
6. Pre-Development Summary

**PRESENTATION BY STAFF:**

1. Jane Hudson reviewed the staff report, a copy of which is filed with the minutes. We did receive protests representing 34.1% of the notification area.

**PRESENTATION BY THE APPLICANT:**

1. Gunner Joyce, representing the applicant (via video) – This is a quick presentation that's going to cover a lot of what Jane just said. Here is the aerial of the property, again, right on Rock Creek Road. These are five-acre tracts. We'll kind of talk more in detail, but it's a large piece of property with a lot of natural buffers to the north, east, and west. Here is a little zoom-in of it. Jane showed this as well, but an existing house on the property. That's where the applicant, Mr. Bell, and his wife live. It's their family residence. They're going to continue to live on-site, and this is an existing garage/accessory building. They're going to use the top floor of that building for medical marijuana growing. Here is a map of the current 2025 designation and zoning. Like Jane said, this little pocket is zoned RE, Residential Estates. The reason for that is it was thought to be included in Twin Acres, but never got developed that way, so this is undeveloped single-family residential homes that are not platted, not lot and blocks, still metes and bounds. This is kind of a line right here, as you can see, that urban developed edge out here with lot and block developed residential neighborhoods. As you can see, you've got A-2 agricultural all around it, except for this little pocket. We're requesting to go to A-1. The reason A-1 and not A-2 is now that this has been carved up over the years, it's less than 10 acres so it can't go back to A-2 as it originally was, so we're seeking an A-1 that would more appropriately fit this site. No change to the 2025 designation; it still complies with the Very Low Residential designation. The quick summary of the request. As I mentioned, this property is 5 acres. It has two buildings on it, the primary residence and the accessory building. Seeking the rezoning from RE to A-1. No 2025 change requested here. The primary purpose is to get medical marijuana growing as a matter of right on the site. One of the things worth noting, though, is that this zoning will go – more in detail on the next slide, but it is not any other commercial allowances. It does say commercial growing, but that's how it's defined in the statutes and the City ordinances, but no other commercial allowances on the site. The applicant will be complying with numerous City and State regulations that apply to all medical marijuana uses, as we've discussed before on previous zonings. Security, waste disposal requirements. Like I mentioned, no commercial storefront, no dispensary on the property, no processing can occur in A-1, and no sales directly to consumers. So if we look at this specific site and will A-1 be compatible here, we contend that it, and here's the statement from the A-1 Zoning Ordinance. It says that A-1 is a district that's intended for land situated on the fringe of the urban area. Again, as we've shown, this slide right here shows the urban developed area and the single-family lot and block residential development, and outside of it the A-2 agricultural and the little pocket of Residential Estates that never got developed into the residential neighborhood that it always was intended to be. If you go down here, A-1 is anticipated to be in close proximity to residential neighborhoods. So, again, we contend this site meets that intent as it's in close proximity to the residential and also on the fringe of the urban area. Just to give you a little feel for what A-1 uses are, here's the list. Essentially, as you can see, it's single-family dwellings, general purpose farm

and garden, some other uses that likely can't occur on the this site, such as a golf course, country club – it's too small of a lot. Then you get into medical marijuana commercial grower, which is the reason we're seeking this. Also worth noting, all the surrounding areas up here and to the east of this specific RE area are currently zoned A-2. A-2 contains essentially these same uses, with two additional uses: one is additional plans and the other one is Type 2 mobile home. Essentially, A-2 mirrors this list. Also worth noting that medical marijuana commercial grower is allowed today as a matter of right on all of these A-2 lots that surround here. One more quick slide here as we go into this specific site. We've heard some comments from some of the neighbors about the drainage of the site and protecting the health of the pond. First, the applicant lives on the site and really enjoys the pond. He fishes in it, he canoes in it, so it's his intention to keep this pristine. But just to kind of give some comfort here, this site drains from the north down to the middle of the site and then again from the south to the middle of the site. You can see this is the elevation. You've got 1190 – this is the high point of 1197 flowing down to 1169 and then, again, it goes over to the east to 1164. So the natural drainage flow of this site collects right here in the low point and then heads off down to the southeast, so there is no threat to either of the ponds to the north or to the west. Additionally, mentioned this previously at the beginning, but there's substantial natural buffers in place. One is this large pond that buffers to the north, but also there's dense tree canopy along the east that protects the building from visibility from the road and then from the neighborhood to the east, and additionally a very heavy tree line along the west border. Real quick here, we saw the protest map that Jane mentioned. We saw that late in the day. We understand that this Residential Estates tract is protesting, but worth noting that A-2 surrounds this site to the north and to the east. As I mentioned, medical marijuana is allowed as a matter of right today, so this is not showing any additional uses that aren't in the surrounding area. Also this residential home is one of the driving protestors and the distance between their home and this building where the medical marijuana growing is going to occur is over 1,000 feet; that's essentially the same distance – this is about 1,037 feet. To the east, if you go across this residential tract and go to the next A-2 zoning where marijuana is allowed as a matter of right, it's essentially the same distance. We're looking at, I think, 1,072. I've got the zoomed pictures there from it. One is 1,074 feet. So a very similar ask in relation to what's already allowed as a matter of right in this area. Again, the Residential Estates already borders this allowable use on two sides. That is essentially our request and we are happy to answer any questions that you may have. I'm going to stop sharing so you can see. Thank you very much.

#### **AUDIENCE PARTICIPATION:**

1. Nancy Burgess, 2861 Twin Acres Drive – I'm the old timer. I've lived there since the 60s. When we moved out there and built our house, my neighbors were cows to the west and fields to the north and the east and in the south, except for the other four houses there. So through these years I have seen lots of rezoning changes. Actually, that property they're talking about at one time was rural. So I was a little bit surprised to see that they're asking for the same thing that happened years and years ago, because now that is entirely residential. You can look at all those maps and everything, but all of the people that live out there have been in those residences for some time, except for Hallbrooke across the street. Over the years the agricultural number changed – sometimes it was a 1, sometimes it was a 3. But anyway it's all been agricultural at one time. I hate to see us go backward, frankly. This is a residential estate area and residences completely. There's nothing along there that's commercial – nothing. There is an OG&E substation that none of us objected to because we thought we're going to have lots of electricity and, you know, we have. Sometimes all of Norman has no electricity, but we have some. So that's the only thing that you could even think of as any kind of commercial. I tried to get on Zoom today and I had Dave Moore was there for two and a half hours trying to get my computer on Zoom. So this is a first for me, and I have to tell you it's interesting to get out from under being in this absolute isolation. This is my excitement since March. Okay, now Mr. Bell – dear Mr. Bell stated that he made a mistake believing that the RE, Residential Estates would

allow him to grow the commercial marijuana. The one thing I want you to know, I do think we do need to have some security about our zoning for all the residents there. Thank you.

2. Bill Poillion, 3140 Twin Acres (via video) – Unfortunately, we're not together, but I'm Mary's husband and involved with the protest. Two things I noticed in the presentation – and hopefully, she'll come on, because she's got the notes – but we're the ones that own the large 39-acre tract to the north with the pond. Also, there's a 5-acre tract up at the northeast corner that we have. Two things, in looking at the topographic map that lawyers and presentation have, it does show the drainage in the area, but if you look at that map, it goes around and it goes – it's still a low spot further east that goes into the pond. So it's not like it comes just off the property; it actually goes to the east if you look at the detail of that topo map, it goes actually into the pond from that area – not knowing what kind of processing we have, not knowing what we have going on, there is considerable concern about waste and fertilizer and pesticides getting into the pond. The other thing is the 5 acres up at the top is already classified, and everything that the lawyers showed, and the presentation showed, all that properties are A-1, and it's not A-1, because we just bought the 5 acres and it's 2972 24<sup>th</sup> Street and it is RE. So that's the two things I want to say. Our real concern, because we had nothing from any presentation that shows how big an operation is, how much water is being used, what is the waste disposal? All these questions, being right next to it is residential. We are worried about the pond and using it as a recreational pond and having contamination going into the pond. That's our biggest concern right now. The other thing is, when you're doing the processing, what about the smell and some other things that happen with it? The amount of employees, what kind of operation it is? There's no presentation on that. That's what we would like to see to – essentially, our concerns could be mitigated by some of that information. But the main thing is the pond, and what do you do about waste disposal and runoff, and the runoff will get into the pond. Thank you.

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

1. Mr. Daniels – I don't know anything about the growing operation. Is there a water discharge from that operation? Does the garage have a septic tank that it would be going into? Would it be overloaded?

Earnest Bell, the applicant (via video) – For starters, there is zero runoff. The plants are grown in a 5-gallon bucket. They sit in a dish or a grow tray. Give them 9 ounces of water twice a day. It's in an attic. The water is not draining from my attic, down into this, up this hill to the pond. I'm going to be polite about this. This is simply nonsense. There's no fertilizer. There's no pesticides here. I'm not doing any aerial spray. It's in a pot. It's like if you were growing flowers. With regard to water usage, they use about 15 gallons a day per 100 plants. When you take a bath in the morning it's probably about 45 gallons, so if I had 300 plants it would be about the same amount of water as what you use if you take a bath, except when you take your bath you pull the drain out and it drains out. The water goes in the pots; it doesn't go anywhere. There is zero drainage going anywhere. With regard to polluting the pond, like Gunner said, I walk my dogs out there every morning. I probably fish that pond, swim in that pond, canoe in that pond more than anybody in the neighborhood. The idea that I'm going to pollute the pond – that's insulting. That's ridiculous. There's zero. I wouldn't be so bold, but Mr. Joyce has gone to great lengths to try to explain this. There's some people that simply don't want this to happen. The reality of it is in this place no one will see it, they won't smell it, can't touch it, can't hear it. It's simply a non-issue. With regard to employees, there aren't any; I do this. I grow this. I'm 58 years old. I water the plants, that kind of stuff. Like I said, the water usage – I have a well. We also have City water from the City of Norman. 45 gallons a day – if you were to water your grass, the water comes out of the house at about 15 gallons a minute, so if you water your grass for 3 minutes, that's how much water you just used. The water use is a non-issue. Where the water is going is a non-issue. The pesticides, the employees – this is all simply nonsense.

Sean Rieger (via video) – Let me add one other thing, Commissioners. We hear this comment quite a bit when we discuss growing of marijuana, and we've heard it before where

people suggest that is a commercial use. It's been pretty well settled at this point that that is not a commercial zoning, such as C-1 and C-2, those kinds of zonings. It is called commercial marijuana growing, but it is within the agricultural districts. So I think it's a play on words when you hear people suggest this is a commercial operation. Not so. It is commercial only in the extent that it is grown for production of marijuana, just as anything else would be, and sold commercially, but it does not turn it into a commercial zone.

2. Mr. McDaniel – When the plant starts budding, there is typically a smell associated with it. What are some of the things you're doing to fix the smell, or prevent the smell from leaving the facility?

Mr. Bell – I spoke with Mr. Pyle, the City Manager, and also with the City Attorney. Mr. Pyle told me a story that when he was the City Manager in Southern California that across the street from the Police Station in Ontario, California there was a million square foot grow facility – we're talking about 1300 square foot. And he said zero smell, zero problem with it. How much smell do flowers put off? The answer is – I haven't crossed that bridge yet because, quite frankly, the idea that someone is going to smell this 1000 feet away in Oklahoma – I think that's a little far-fetched.

Mr. Rieger – And let me add to that, too, Commissioner. Realize the protestors are to the northwest and this one structure where the marijuana would be grown – prevailing wind, generally as we all know, come from the southwest. If there were any odor would push it to the northeast. Secondly, I think what we tend to hear in the marijuana zonings is that the processing is where you really get into the issues of odor. There would be no processing here. No sales on the site. So the processing would not occur where you really are starting to alter the physical composition of that plant that turns into a serious odor problem. That would not occur.

Mr. McDaniel – So what you're saying is three to six weeks after the plant is growing and the budding of the plant, you don't foresee there to be an issue with the smell? Because I know a lot of the ones that they've asked to come in, we've asked them to provide some type of ventilation, some charcoal – there was something to prevent the smell from escaping the facility. So what you're saying is you don't foresee that you have the need to have that type of ventilation?

Mr. Bell – I don't, but if that's a requirement that somebody wants to put on us to jump through hoops, fine. I would put out an invitation for anybody on the Planning Commission who would like to come out to our home and walk the property and take a look at this – sometimes a picture is worth a thousand words, and when you look at it you're going to walk away and go this is a whole bunch of nothing. And, quite frankly, maybe we can arrange to look at a few plants at some other grow operations in the area. I have a neighbor that has one off of Sooner Road; we can go walk that and you can smell it and see how much odor has been put off. I think that's really more of an argument that people put forward to keep it out than the real thing. I think some people have this odor thing confused with people smoking marijuana at a concert venue where you can smell it. But the idea of a plant putting off an odor that's so noxious you can smell it a quarter of a mile away – it's a little bit of fiction.

Mr. Rieger – And let me add one other thing, too, is Gunner illustrated the zoning code allows this is A-1. It wasn't just allowed as a matter of right in A-2, which is 10-acre tracts. The Zoning Code allows it in A-1 and, as Gunner illustrated to you, that is anticipated to be really adjacent to the urban fringe of housing.

Mr. Bell – I would throw this out, too. When someone says that you're allowed to do general purpose farm and gardening, what type of odors would come from that and is this odor really any more or any worse than what you would get with general purpose farm and garden? If I was to back my tractor up and plow up the back three acres and put in some corn and bring in some fertilizer – some chicken litter. You've got your choice of smelling some plants or a little chicken litter. Which are you going to pick? What is typically happening with general purpose farm and garden.

*Erica Bird moved to recommend adoption of Ordinance No. O-2021-12 to City Council. Erin Williford seconded the motion.*

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

YEAS	Erin Williford, Erica Bird, Mark Daniels, Tom Knotts, Lark Zink
NAYES	Dave Boeck, Sandy Bahan, Steven McDaniel
MEMBERS ABSENT	Nouman Jan

Ms. Tromble announced that the motion, to recommend adoption of Ordinance No. O-2021-12 to City Council, passed by a vote of 5-3.

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