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ORDINANCE NO. O-1516-4

ITEM NO. 7a

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**STAFF REPORT**

**GENERAL INFORMATION**

APPLICANT	Joseph and Taya Neely
REQUESTED ACTION	Rezoning from A-2, Rural Agricultural District to A-1, General Agricultural District
EXISTING ZONING	A-2, Rural Agricultural District
SURROUNDING ZONING	North: A-2, Rural Agricultural District and Northern Community Separator Overlay District South: A-2, Rural Agricultural District West: A-2, Rural Agricultural District East: A-2, Rural Agricultural District and RE, Residential Estates Dwelling District
LOCATION	Generally located on the south side of Franklin Road approximately ¼ mile west of 48 <sup>th</sup> Avenue NE at 4630 E Franklin Road
SIZE	3.28 acres
PURPOSE	Residential/Single-Family Home
EXISTING LAND USE	Single-Family Home
SURROUNDING LAND USE	North: Single-Family Home South: Single-Family Home West: Single-Family Home East: Single-Family Home

**SYNOPSIS:** This property contains approximately 3.28 acres and is located just west of 48<sup>th</sup> Avenue NW on the south side of Franklin Road. The current property has one single-family home located 220 feet south of Franklin Road. The applicant is proposing to legally plat and rezone the property from A-2, Rural Agricultural District to A-1, General Agricultural District.

**ANALYSIS:** The applicant is moving forward with this rezoning and platting request so the owner can demolish the existing home and rebuild a new home on a different site within this

property. Anyone applying for a building permit on an unplatted tract of land must demonstrate the land is a "filed of record" legal tract. The warranty deed filed of record for this tract demonstrates it is not recognized as a legal tract of land; it appears a portion of the property was sold without benefit of the legal process for subdividing lands several years back, thus creating an illegal subdivision of two tracts of land. In general, a tract of land in any configuration is recognized as a legal tract if the owner can produce a filed of record warranty deed prior to June 29, 1973. If the tract is considered a legal tract the owner can obtain a building permit, as long as all setbacks, coverage and use requirements are met.

In this case, the records show the applicant purchased this property in early 2003; the land was already in the configuration of 3.28 acres. Sometime prior to 2003 an adjacent property owner purchased a small piece of property from the previous owner of this tract, which caused this tract, as well as the adjacent tract, to become illegal tracts of land, i.e. "subdivision of land without benefit of platting" after the June 29, 1973 date.

Over the years rural properties, more specifically those in the east part of Norman, have been subdivided without benefit of legal subdivision of the property. In looking at this property it is not compliant with the current zoning. Under the current zoning, A-2, Rural Agricultural District, the property is required to abut the adjacent street for a minimum of 250 feet and a 330 foot width at the front build line is required; this property is 198 feet wide at Franklin Road and narrows as it runs south, in no way meeting the current A-2 zoning requirements. Under the A-1, General Agricultural District the property must abut the street for a distance of 35 feet and have a 50 foot width at the build line. Under A-1 zoning there is a minimum area requirement of 2 acres; therefore, the owner could not subdivide this property any smaller as there is only 3.28 acres total.

This application is only a rezoning, there is not a NORMAN 2025 amendment proposed for this site; the Land Use designated for this site is Country Residential Area and this will not change. The adoption of the NORMAN 2025 included Goals and Policies to establish a general statement of intent for the future growth and development of the City, and to serve as the policy basis for the more specific growth area designations, land use recommendations, and street and highway designations. These Policies and Goals should be used as a guide for future land use and infrastructure decisions and for considering amendments to the Plan. In order to encourage the retention of large open space areas and minimize the negative impacts that development may have on rural areas, with constraints such as flood plains, steep slopes or possibly areas of WQPZ, the NORMAN 2025 Land Use and Transportation Plan designated this as Country Residential Area. Under the NORMAN 2025 Plan the Country Residential Area is limited to one dwelling unit per ten acres or one dwelling unit per eight acres if clustering is proposed, therefore, leaving at least 65% open space on the property. This piece of property was already in this configuration when the NORMAN 2025 designated it as Country Residential Area. The applicant is going through this rezoning and platting process to create a legal tract of land for new construction, there is no subdividing of land included with this request.

#### **OTHER AGENCY COMMENTS:**

- Greenbelt Commission Meeting – GBC 15-16 Meeting of June 15, 2015  
The Greenbelt Commission sends the project for Neely Acres forward with no comments.

- PRE-DEVELOPMENT MEETING – PD NO. 15-19 Meeting June 25, 2015  
No neighbors were in attendance for this meeting.
- **BOARD OF PARKS:** This is an existing tract of land with an existing single-family home. There will be no additional parkland fees.
- **PUBLIC WORKS/ENGINEERING:** Franklin Road is designated as a Minor Rural Arterial per the Comprehensive Transportation Plan. Platting of this property will require improvements be made to Franklin Road.

**STAFF RECOMMENDATION:** The request to rezone from A-2 to A-1 zoning district and a preliminary plat is made in order to create a legal tract of land, allowing for the issuance of building permits. Staff agrees with the proposal. A-1 is a reasonable zoning for the property and this area of Norman. Staff recommends approval of Ordinance No. O-1516-4 and Preliminary Plat PP-1516-2.