

**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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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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