
ORDINANCE NO. O-2021-12

ITEM NO. 6

STAFF REPORT

GENERAL INFORMATION

APPLICANT	Earnest Bell
REQUESTED ACTION	Rezoning to A-1, General Agricultural District
EXISTING ZONING	RE, Residential Estates Dwelling District
SURROUNDING ZONING	North: RE, Residential Estate Dwelling District East: RE, Residential Estate Dwelling District South: PUD, Hallbrooke West: R-1, Single Family Dwelling District
LOCATION	2001 E. Rock Creek Road
SIZE	5 acres, more or less
PURPOSE	Rezone to allow for medical marijuana commercial grower
EXISTING LAND USE	Single-family
SURROUNDING LAND USE	North: Vacant East: Single-family South: Single-family West: Single-family
LAND USE PLAN DESIGNATION	Very Low Density Residential

SYNOPSIS: The applicant, Earnest Bell, is requesting to rezone his property from RE, Residential Estates Dwelling District to A-1, General Agricultural District to allow for use of an existing storage building/garage for medical marijuana commercial growing.

ANALYSIS: Mr. Bell purchased the subject tract in 2019 with the intention of starting a medical marijuana grow facility, mistakenly believing that the RE, Residential Estates Dwelling District (RE District) allowed commercial marijuana growing as a "General Purpose Farm and Garden." This provision has not been applied to commercial agricultural operations in the

past. Additionally, Norman made "Medical Marijuana Commercial Grower" a defined use in the Zoning Ordinance, which means that it is only available when specifically stated in the Zoning Ordinance. Medical Marijuana Commercial Grower is not an allowed or Special Use in the RE, Residential Estates Dwelling District.

HISTORY: The subject property was zoned RE, Residential Estates Dwelling District with Ordinance 1459 in March of 1963. The zoning to the RE District included 4 tracts of land: this 5-acre subject tract, two more 5-acre tracts to the east and one 38-acre tract to the north of the subject tract.

The subject tract was not developed with the single-family home until 1995 and the existing storage building/garage was built in 2004. The other two properties to the east are owned by the same individual and there is one single-family home, constructed in 1995, with multiple accessory structures. The 38-acre tract to the north has not been developed.

The subject tract and the other three adjacent tracts were originally planned to be part of the Twin Acres Subdivision, located west of this subject tract. Twin Acres Subdivision is zoned R-1, Single Family Dwelling District. The Twin Acres final plat was filed of record prior to annexation into the City of Norman but did not include this subject tract or the other three adjacent tracts. Historically, after properties were annexed into the City of Norman, City Council would honor a previously filed of record final plat and would then zone those annexed plats as R-1, Single Family Dwelling District (R-1 District). Zoning to the R-1 District was due to the fact that the RE District zoning had not yet been established/adopted as a zoning district so there was really no other option of zoning due to the size of the lots – they didn't fit A-2 or A-1 area requirements. In this case, as stated above, the four tracts were never final platted as a part of the Twin Acres Subdivision. As a result, when annexed, this property was zoned A-2, Rural Agricultural District when City Council adopted Ordinance No. 1322 in December of 1961. The RE District was established by City Council on May 8, 1962. In March of 1963, the new owners of this property requested rezoning for this property from the A-2 District to the RE District.

The area to the east is zoned A-2, Rural Agricultural District and developed as single-family uses.

To the south, across Rock Creek Road is the recently developed Hallbrooke PUD; zoned in 2003. This PUD is being developed with single family lots, a clubhouse, public streets, sanitary sewer and water.

Public water service is available to the subject tract, although on the south side of Rock Creek Road so there would be a substantial cost to tie into public water service. Public sewer service is not available to the subject tract. The Twin Acres Subdivision to the west of the subject tract was developed with water wells and individual sewer solutions before public water was available.

ALTERNATIVES/ISSUES: The applicant is requesting to rezone a residentially zoned tract of land to an agricultural tract to allow for medical marijuana commercial grower.

The "General Description" for A-1, General Agricultural District is as follows:

"This district is intended to provide a zoning classification for the land situation on the fringe of the urban area that is used for agricultural purposes, but will be undergoing urbanization in the future. Most of these areas will be in close proximity to residential and commercial

uses. Therefore, the agricultural activities conducted in this district should not be detrimental to urban land uses. It is not intended that this district provide a location for a lower standard of residential development than is authorized in other districts. The types of uses, area and intensity of use of land which is authorized in this district is designed to encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made."

"Medical Marijuana Commercial Grower" is defined the same as the Oklahoma state definition, which allows cultivation, preparation and packing of marijuana, wholesaling to other medical marijuana businesses, as well as the sale of seeds/flowers. Clones to other growers, without limitation as to amounts. See Okla. Stat. tit. 63, §§ 422 and 427.2(33).

The applicant's intent is to grow medical marijuana in the existing accessory structure, however, the rezoning to A-1 would apply to the entire parcel. Rezoning this property from residential to agricultural allows for future use of the site as a medical marijuana commercial grower – the zoning stays with the property. If the rezoning request is approved, any uses allowed within the A-1, General Agricultural District will be allowed on this site.

- **SIGNAGE:** At this point the applicant has shown no proposed signage – if there is to be any signage it will comply with the current Sign Code, Chapter 18.

OTHER AGENCY COMMENTS:

- **PRE-DEVELOPMENT MEETING PD NO. 20-16** **Meeting August 27, 2020**
A neighbor expressed concern over the use of the site as a commercial business. The applicant's representative stated the site would not be used as a commercial business but the growing of medical marijuana is listed as a "commercial grower" due to state titles. There would not be commercial activity or retail traffic coming to the site. The neighbor acknowledged the comments from the applicant's representative.

(There was a neighbor that could not get into the Zoom meeting, Mary Poillion. Mary was able to have a conversation with the applicant's legal representatives Gunner Joyce and Sean Rieger via speaker phone after the second pre-development meeting ended. Mary expressed concern with the proposal and stated she does not want the grow operation next to her property.)

- **PARK BOARD:** There are no park requirements for this rezoning application.
- **PUBLIC WORKS:** The site is not platted and with the use of the existing structures platting is not required.

CONCLUSION: Staff presents this rezoning request from RE, Residential Estates Dwelling District to A-1, General Agricultural District as Ordinance No. O-2021-12 to the Planning Commission for review and consideration.