

**NORMAN PLANNING COMMISSION  
REGULAR SESSION MINUTES**

**JULY 11, 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 11<sup>th</sup> day of July, 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

Lark Zink  
Nouman Jan  
Chris Lewis  
Sandy Bahan  
Tom Knotts  
Steven McDaniel

MEMBERS ABSENT

Neil Robinson  
Dave Boeck  
Erin Williford

A quorum was present.

STAFF MEMBERS PRESENT

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

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Item No. 4, being:

**O-1920-4 -- AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 13-108, IN ARTICLE I OF CHAPTER 13 (LICENSES AND OCCUPATIONS); AMENDING ARTICLE XXXIV, SECTIONS 13-3401 THROUGH 13-3407, IN CHAPTER 13 (LICENSES AND OCCUPATIONS); AMENDING SECTIONS 420.1 (A-1, GENERAL AGRICULTURAL DISTRICT), 420.2 (A-2, RURAL AGRICULTURAL DISTRICT), 422.7 (RO, RESIDENCE-OFFICE DISTRICT), 422.9 (O-1, OFFICE INSTITUTIONAL DISTRICT), 423.1 (CO, SUBURBAN OFFICE COMMERCIAL DISTRICT), 423.2 (C-1, LOCAL COMMERCIAL DISTRICT), 424.1 (C-2, GENERAL COMMERCIAL DISTRICT), 424.2 (TC, TOURIST COMMERCIAL DISTRICT), 424.3 (CR, RURAL COMMERCIAL DISTRICT), 425.1 (C-3, INTENSIVE COMMERCIAL DISTRICT), 426.1 (I-1, LIGHT INDUSTRIAL DISTRICT), 428.1 (M-1, RESTRICTED INDUSTRIAL DISTRICT), 429 (MUD, MIXED USE DEVELOPMENT DISTRICT), ALL IN ARTICLE XI OF CHAPTER 22 (ZONING ORDINANCE); AND AMENDING SECTION 450 (DEFINITIONS), IN ARTICLE XIV OF CHAPTER 22 (ZONING ORDINANCE); ALL IN ORDER TO UPDATE LICENSING FOR MEDICAL MARIJUANA ESTABLISHMENTS AS ALLOWED BY STATE LAW, TO ADD AND UPDATE PERMITTED AND SPECIAL USES TO THE ZONING ORDINANCE TO ALLOW FOR THE LOCATION OF MEDICAL MARIJUANA ESTABLISHMENTS AND USES IN CONFORMANCE WITH STATE LAW, AND TO ADD DEFINITIONS AND OTHER RELATED PROVISIONS; DECLARING AN EMERGENCY AS PROVIDED BY ARTICLE XII, SECTION 5 OF THE CHARTER OF THE CITY OF NORMAN; AND PROVIDING FOR THE SEVERABILITY THEREOF.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Ordinance No. O-1920-4 -- Annotated

**PRESENTATION BY STAFF:**

1. Beth Muckala reviewed the staff report, a copy of which is filed with the minutes. Staff recommends approval of the attached Ordinance No. O-1920-4 amending the Zoning Ordinance and adding to and amending the business licensure portions of the City Code relating to medical marijuana establishments, in response to new state law.

2. Mr. McDaniel – I'm going to go back to the question I asked earlier: is there no way that the City can implement a process or a way to penalize for smell if that nuisance is there?

Ms. Muckala – The City does have the legislative ability to write into its zoning ordinance particular parameters. Let me rephrase that. In the case of special uses, it's a given that certain conditions and standards can be added to the requirements for establishing that, so that's one way to address it. We don't have that currently, but that's one option. Another would be to amend the part of the City code addressing public nuisances where we have, in other cases, specifically defined situations that constitute public nuisances.

Mr. McDaniel – Such as the lighting. There's a way for them to govern spillage.

Ms. Muckala – Right. I do think there is reference to lighting; that's a good example.

3. Mr. Lewis – I would like to reiterate your comments that it would be nice if we would become more strict. I think you and I have discussed in the past, Ms. Muckala, that we can't be more lenient than what state law allows, but we can be more stringent. Is that an accurate statement?

Ms. Muckala – From the perspective of specification and building codes, and that may have been the context of our conversation. Municipalities are allowed to be more restrictive under that standard. However, when it comes to medical marijuana so far, as drafted, our ordinance has always been very careful to follow and incorporate the state definitions, and one benefit of that is the avoiding of confusion. If the state considers something to be a processing facility, we wouldn't want it to be different in our city; it would create a lot of confusion across the board. So that's one reason we've tried to keep the same definitions.

Mr. Lewis – My understanding is, and correct me if I'm wrong, the state statutes do not specifically address odor, though. Is that correct?

Ms. Muckala – No. I wouldn't pretend to be an encyclopedia that could recall every word in the new bill – it's very lengthy – but I'm unaware of any particular language that addresses odor and particular processes that need to be in place. I say that because I have reviewed other states and other municipalities that have enacted that type of specific guidance on that, but we don't have that on the state level.

Mr. Lewis – So, in a general context from a Planning Commission standpoint, we can suggest that City Council look into – or the City Attorney's office look into adding a specific comment in regards to odor and how we control that within our City as you had followed up with.

Ms. Muckala – Yes. The Planning Commission's authority on zoning matters is recommendory and so it would be appropriate for attaching a condition or a suggestion with your vote, if that was the wish to add it to the motion.

#### **AUDIENCE PARTICIPATION:**

1. Keith Chambers, 3916 Worthington Drive – I am here representing Oracl, which is a test lab – we're trying to set up a test lab here at North Flood and I-35, which is Light Industrial. It's currently legal, from what I understand, in the state, according to state laws, because there is no OMMA license required and there are several other labs – there are 34 licenses issued currently for test labs by the OBN and, of those, about 17 are for law enforcement agencies; the remainder, approximately 17-20 are issued to other private labs in the state – a number in Tulsa and Oklahoma City. They're already operating with only an OBN license. The OMMA will not require a state license until January 1 of this coming year, at which point I understand that Norman will also require a permit for us to operate for that. Light Industrial is currently – none of the zoning, as the chart that Ms. Muckala showed earlier – none of the zoning addresses the test labs right now. It's just not included. The only four categories that are addressed are the processors, the growers, the researchers, and the transporters, and we're not any of those. So I guess my main point is that I saw that there's the proposal that it be a special use in Light Industrial, and I'm wondering why it would be necessary to have a special use permit for that, when growers and processors would be allowed in those areas. All we're going to do – the purpose of a test lab is to take a small quantity from a ten-pound batch – we're talking about 1 or 2 grams at the most – and to test that for heavy metals, for pesticides, for any other contaminations, and for potency. So there's no smell. Once we get it to the lab, we grind it up and dissolve it into methanol and then we inject it into a HPLC instrument – scientific instrument – the same type that there are numerous on OU campus, and we just do the chemical analysis and then we send a report via the internet to the person who is requesting the testing. So the way that our facility is designed, we actually have a garage area where we'll drive into – we'll go out to the grower or the processor and we'll bring back a tiny amount of their batch, and we will actually drive into our facility and close our door, and then we'll take it directly into our lab and we'll test it and we'll post that data. So that's what we're planning to do. We're currently in the process of applying for a special use for this. I think that summarizes my comments. Thank you.

2. Ms. Muckala – I did speak with Mr. Chambers, and I wanted to just follow up that we have spoken regarding this issue of existing testing facilities and state treatment of it. He brought it to my attention as quite a new question. I am making contact with the state, because, as I said several times before, our understanding of the legality of this starts on the state level, and thus whether it's allowed in Norman is consistent with that. So I'm trying to run down an answer on that. In particular, I want to make sure that I fully flesh out his comment on the special use. We have recommend in the I-1 district that testing laboratories be a special use. On the state level, the definitions of testing laboratory and research facility are extremely similar. I didn't have those in my PowerPoint because I didn't anticipate this conversation before. But, essentially, the difference is that the testing facilities are hired by the growers in order to test the

product according to the standards that will be established in the state law when it becomes effective August 29<sup>th</sup>. I think that explains why the state licensing category for testing facility is only now being created. As for the legality of the processes already in place, I am going to get in touch with the state and make sure that we will figure out the right way for Norman to treat these facilities so that it's in line with state law. But the special use – I think what Mr. Chambers is referencing is that in our current I-1 zoning, certain laboratories are allowed as a matter of permitted right, and this facility that he represents already has a testing laboratory for other products in that space. So he would need a special use in order to be testing laboratory for medical marijuana. So I think the consideration there is whether or not the proposed special use is a better choice than a permitted use, since we have other testing laboratories. So I hope that fully fleshes out any questions you may have had.

3. Mr. Lewis – Ms. Muckala, so help me to understand. So the current facility that Mr. Chambers is in right now – is the testing of marijuana allowed or not allowed? And the reason I'm asking is, a little bit further, if something is currently allowed under our current ordinances, and then we change them, which causes his facility to be an outlier, would that not fall under grandfather as long as his doors are open and the business is active under the current ordinance?

Ms. Muckala – That could be a legal argument. Again, at this time, I don't think I have the information to answer that question, unfortunately, because it all comes down to the legality of the procedure in place on a state level. I can only say this very broadly from my conversations with different state officials regarding these laws that are put in place, but my understanding of medical marijuana in Oklahoma is it's legal to the extent of the licenses that were established by the OMMA. So my initial understanding is that you need that license to have that operation. Mr. Chambers has brought a different question to my attention, and so I'm following up on that to make sure that I fully understand it.

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

*Chris Lewis moved to recommend adoption of Ordinance No. O-1920-4, with the additional comments that we address the testing laboratory issues as Ms. Muckala is doing, as well as investigate odor ordinances in addition to what is currently listed, to City Council. Nouman Jan seconded the motion.*

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

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

Ms. Tromble announced that the motion, to recommend adoption of Ordinance No. O-1920-4 to City Council, passed by a vote of 6-0.

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