

**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 11th 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. 3, being:

O-1920-1 – EVIANA, L.L.C. REQUESTS REZONING FROM C-2, GENERAL COMMERCIAL DISTRICT, TO SPUD, SIMPLE PLANNED UNIT DEVELOPMENT, FOR 3.16 ACRES OF PROPERTY LOCATED AT 2505 WEST MAIN STREET.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
3. SPUD Narrative
4. Aerial Photo of Subject Property
5. Pre-Development Summary

PRESENTATION BY STAFF:

1. Janay Greenlee reviewed the staff report, a copy of which is filed with the minutes. Staff supports the applicant's request and recommends approval of Ordinance No. O-1920-1. We did receive protests from outside the notification area; there were no protests from within the notification area.

2. Mr. Knotts – This request is only necessary in order to add the growing and processing area.

Ms. Greenlee – Correct.

Mr. Knotts – If it was just marketing or retail, they wouldn't even have to come here.

Ms. Greenlee – Correct. They can already have a dispensary by right in C-2.

Mr. Knotts – And looking at the information, it didn't appear that they had applied for a license.

Ms. Greenlee – I'm pretty sure that they want to have their zoning in place before they spend the money to go apply for a medical marijuana license for a growing and processing facility. We're dealing strictly with the zoning. If they don't obtain their license, then we don't give them the City license to continue with that operation.

Mr. Knotts – But if we approve that zoning change, it would continue for whatever follow-on.

Ms. Greenlee – If somebody else came in and decided – the SPUD stays with that parcel. That's correct.

Mr. Knotts – Do you see any problems with that?

Ms. Greenlee – I do not foresee another person that could obtain a medical marijuana grow or processing.

Mr. Knotts – I'm really specifically talking about the situation that it's a SPUD. But if they don't get a license or something, and someone else comes in – I don't know what they would be doing.

Ms. Greenlee – Well, the only thing that they could is anything that would be allowed in C-2 and then a grow and processing facility. That would be the only uses allowed on that parcel.

Mr. Knotts – So that's a C-2 SPUD with the exception for the growing and processing.

Ms. Greenlee – It's C-2 with a grow and process only.

Mr. Knotts – Addition to it.

Ms. Greenlee – Correct.

Mr. Knotts – And that's all that could ever happen.

Ms. Greenlee – That's all that could ever happen. But it's already C-2 now. So the addition for the SPUD is just to allow the grow and process. They don't want any industrial uses, because then that opens it up if you just went straight industrial could have all of the permitted uses that would be allowed in industrial, and that is not what they wish to do. Currently the land use is Commercial. So their request is consistent with the Land Use Plan.

PRESENTATION BY THE APPLICANT:

1. Blaine Nice, 100 North Broadway, representing the applicant -- Commissioner Knotts, maybe I can clear that up a little bit. When we first came forward, the initial application was for I-1 zoning, so we could have all the uses, because, as Janay pointed out, while we as a matter of right now can have a dispensary, we had to get this changed in order to have a grow and a processing facility. So we came forward with a SPUD with keeping the property with the commercial uses, but add I-1 uses. At Pre-Development, nobody showed up and Ms. Hudson was there on behalf of the Planning staff and because it was discussed that the only thing we truly want to do that's allowed in I-1 is to have a grow and process, rather than ask for all the I-1 uses, let's simplify it and ask just for the grow and the processing. So, to answer your question, yeah, if this was approved, that SPUD stays with the property and runs with it, but there's no other industrial uses that could take place in there. Okay? So that was one of the first things I did want to point out, that we had come forward -- initially the application indicated commercial with I-1 uses. That's been down-sized to these uses. Quite frankly, when we first applied, the thought was we'd just apply for that, but we didn't want to be disingenuous and try to get I-1 uses and then people say, oh, you're doing this to process marijuana. We wanted to be upfront about that's what we intended to use the property for.

As Janay pointed out, the applicant operates another facility in Newcastle. I have Roger Mayes, who is the business manager for this, and he'll explain some of the things about how their facility is going to operate, which I think should answer some questions and I hope alleviate some of the things.

Obviously, there were no protests in the official protest area she said, and there were a lot of letters from people in the neighborhood across the street, and I understand that. Most of what I heard was high use of electricity which will impact our grid, high water usage. One, they used LED lights, as she pointed out, and Mr. Mayes can explain that a little bit better to you, and they use a drip system. The energy use for Walmart and Hobby Lobby and those is more than this, I can assure you.

The other issue that people brought up, of course, is the smell. I share those concerns. I understand those concerns. Because some of these facilities do a system where the odors are released, and that's not the type of system they will run. I'm going to have Mr. Mayes explain that to you a little bit later.

The other issue that I heard raised -- and I'll just tell you, Sean Rieger, whose family trust owns the property where Hobby Lobby and Chick-fil-A are, and as you folks here are well aware, if there was an objection, he would have been here. His concern to me was we hate to lose commercial property on Main Street, and I said I understand that and that's why the SPUD is written that the frontage on Main Street will stay commercial. There's already industrial use in the back with OEC, so it doesn't change that area too much and it's just for that use. That is really the main thing I wanted to get across tonight.

I'm happy to answer any questions. But Mr. Mayes is here and I want him to explain a little bit for particularly the people in the audience how the system -- what they use and how they handle that as far as the odors are concerned.

I want to also point out briefly -- one of the other concerns, and you see this in these facilities, is traffic and crime, etc. Well, we could already operate a dispensary there -- it would be a very large one. The dispensary would have more traffic than the grow facility and the processing facility. It's going to be a building with no windows. You're not going to have people coming and going in that like you would a dispensary. The question was asked, what happens if they don't get their license. Right now they're looking at the zoning. They may not do this in the near future. It may be down the road. We don't know. They just want to be in place to have that ability. As you guys are well aware, there's a lot of facilities opening up. I suspect the economics of that are going to change that in the near future. But, certainly, I think this use is consistent with the uses around, and probably less intense than the automotive use could be. So we certainly ask you to follow staff's recommendation and approve the application -- or recommend approval to City Council.

Mr. Knotts – The photograph that Janay showed of the facility in Newcastle said "Opening Soon". Is there a license for that?

Mr. Nice – I'll let Mr. Mayes answer that. The dispensary is not open yet. The other part of the facility is open.

Mr. Knotts – So they have a license for that facility.

Mr. Nice – Certainly.

Mr. Knotts – It's just not opened yet.

Mr. Nice – Well, they have a license, as I understand it – and correct me if I'm wrong – to grow and process there. They actually have a license for a dispensary, I believe, already. They just haven't opened the dispensary. Certainly all this is contingent on the applicant obtaining a state license. I assume many of you are aware, and I know staff is, what a curve when this first passed, the state, one, was overwhelmed, but applicants would go in and get their license and, as a general rule, in most for liquor stores and other things, you have to show the state that you're in compliance with the zoning. Well, they didn't do that in regard to medical marijuana initially. They just trusted the applicant to fill it out. In fact, I represented the City of Moore in a matter where they had opened one right next to a school – they got approved within the distance to school, and the state ended up rescinding that license. There wasn't a check. But now that's not going to be the case. They're certainly not going to undertake any activities until they have all the proper licenses with the state. Mr. Mayes can probably answer some questions. I think that's important, because I know people in the audience – one of the biggest issues is the odor and I want him to explain that a little bit. I'll be happy to answer any other questions that you have.

2. Roger Mayes, 613 Deerridge Drive, Purcell – The first thing I'll address is this odor issue. What we have started in the Newcastle facility is the example – the model – of what we plan on doing if we do the project here in Norman, which is a state-of-the-art operation with the highest quality that we can produce. That's especially important with it being a medical type thing that we're providing to the public. To understand about our air conditioning and heating system I think will maybe answer all the concerns that you might have about the odor thing that people are talking about. We run what's called a closed system – air conditioning and heating recirculates its own air. It filters through a carbon filter and brings it right back into the facility. There are times when our humidity levels may get too high that we need to discharge humidity; when we do that, that runs through a carbon filter – we use a local company here – our units are made by the York plant, which are commercially kind of custom built that we can control humidity, we can control a number of things. We can control if we are going to discharge air. The air is not discharged through the air conditioning system; it's just a ventilation system that's got carbon filters on it. Depending on how fast you're discharging, it can take out up to 99.9% of any odors or anything of that type. Carbon filters are what we use even in the car dealership of exhaust and things like that – you know, not sending that out into the community; it needs to be taken care of and filtered. It is an expensive system, but the commitment, when we decided to look into this space of business was to provide the highest quality product that is possible. Mr. Nice pointed out that we do not use any type of pesticides; it's all organically grown. We will continue with that type of operation if permitted to do so at this facility.

Now the facility itself – the part that we're asking for the I-1 zoning – is a large, concrete block – some of it is poured concrete, tilt-up area. It does currently in some areas have some overhead doors and has some windows – very few windows. This is not to say that we would just go in and start growing in this entire facility. It's a large facility. We've thought about sectioning off areas; if we do that, the areas that are sectioned off – of course, it's for a number of reasons. For security, number one. All the windows and things like that would be blocked in with concrete block or brick. We don't want our air conditioning and heating to escape through windows. So we're trying to maintain the climate – these facilities run at around 75° during the day and at night they drop to 65°. They're insulated very well to maintain that temperature. The primary doors that we have in a grow facility are the emergency exit doors, as approved by the

proper government authorities. This is not a thrown together type thing; this is a serious operation and we treat it that way.

Now some questions have come up about licenses. We have five licenses at this point. We have a grow license; we have a process license; we have a dispensary license at the Newcastle location. We have a dispensary license in Ada. It may just be four. Your question about a license – it is true that we would not, obviously, want to apply for the license first; zoning would have to come first and then we would make the application – or the other company would.

Mr. Jan – Sir, I have a question. The intent is clear that if zoning happens, you will have this facility over here?

Mr. Mayes – Yes. I cannot tell you an exact timeframe, but that is the plan.

Mr. Jan – Just a few questions that came in my mind. You mentioned you have a facility already in Newcastle. How much quantity are you producing over there? I'm just trying to assess that what led you to move – or grow an extra facility which is like less than five miles from your current facility. I mean, you're trying to expand the business. How much quantity you will be processing in Norman, or what's your intent? And I would also like to know ...

Mr. Mayes – You're just talking about just the Norman facility?

Mr. Jan – Also how much you're producing in Newcastle and what will be the total amount if this facility comes on-line and it's also producing. I'm just wanting to see ...

Mr. Mayes – Well, the Newcastle facility is primarily to serve our dispensaries in southern Oklahoma.

Mr. Jan – Okay.

Mr. Mayes – In building up a dispensary – I've given the example before – is like building up a herd of cattle – it takes a while to get everything built up from clones and seeds and things like that. At full capacity, we should run around 60 pounds a month of finished product. That's not processed product; that's just raw product.

Mr. Jan – And, of course, Norman's facility is going to be much, much larger than your Newcastle facility, if I'm not mistaken.

Mr. Mayes – That's correct.

Mr. Jan – So are we talking about three time more production? Four times?

Mr. Mayes – I don't think I could answer that at this point.

Mr. Jan – I'm kind of worried about that a facility is going to come in my town which is producing close to ...

Mr. Mayes – Well, I think it comes into supply and demand at that point. We're obviously not going to open up 20,000 square feet of grow facility without knowing what the demand is. If the demand demands more, we would probably take steps to grow more.

Mr. Jan – Another comment I have to make is the gentleman before you, sir, who said that the protest area was very little – I mean, the thing is it's a commercial area where you're trying to set up this facility. I think it's two parts. It's not only the facility or the commercial facility, but the intent of the business which is going to be here is more of a concern. Being a citizen of Norman, if it was up to me, I would open up to a mile or a mile and half to get the concern from the citizens whether it's the right decision that the City's going to make or not. But it's my comment. I'm not expecting an answer. Concern is a valid concern from the citizens.

Mr. Knotts – So are you a cattle man? Since you're comparing this to getting a herd.

Mr. Mayes – No, I'm not.

Mr. Knotts – What is your experience in this area, since it is new in Oklahoma?

Mr. Mayes – I'm a business manager. I don't grow the marijuana.

Mr. Knotts – So you're not a mechanical, electrical guy. You're doing their business plan?

Mr. Mayes – Yes.

Mr. Knotts – Do you have anyone on staff that's ...

Mr. Mayes – We have a professional grower. Is that what you're asking?

Mr. Knotts – No.

Mr. Mayes – We do have a mechanical engineer that works for us.

Mr. Nice – Commissioner Knotts, are you asking about utility usage or something?

Mr. Knotts – Well, I'm not really worried about the utility usage. I hear a state-of-the-art facility and nobody has got any experience. So I'm wondering where that experience comes from and if you've got ...

3. Tom Drummond, 1503 Lindell Circle – The facility that we're putting together and the facility that we have now – when we talk about state-of-the-art, the state-of-the-art right now is in flux. You're exactly right. It's brand new. So what we're seeing is the innovations that we're able to start to bring to the table. A lot of that comes from other disciplines. My background is in aircraft maintenance, aviation, and then environmental engineering with Standard Testing & Engineering up in the city. So in looking at the different impacts of stuff that go on in those two areas, a lot of that stuff translates over into the goals that we have in mitigating cost, in keeping the containment of all the stuff that we have going on, the security – all those things kind of fall in place.

Mr. Knotts – So these are best practices that you've pulled from the existing facilities in other places, not experience that you've had yourself?

Mr. Drummond – No. This will be our first experience with building at this level. The experience we have now has come from those smaller operations that have grown up over time. So we've been building on that knowledge for quite some time.

Mr. Knotts – Okay. Thank you.

Mr. Drummond – You're very welcome.

4. Mr. Mayes – I might be able to add just a touch to that. I was a public utility contractor for 38 years, working for the City of Norman on many projects. I understand systems and things like that, so I don't know if that counts for anything. My point being that this is – Tom was exactly right. There is not an exact model to this. We are trying to put together the best quality model that we can with the experience that I do have, I think, a background in plumbing and things like that, which I'm doing those type systems. Tom does other type systems. And if we get into areas, like the professional grower that we have – we hired this lady from Colorado. She had been working as a grower in Colorado. We had her brought in with her experience. So in new businesses, I don't think that's unusual. You have to gather the knowledge from where you can.

Mr. Knotts – Well, I'm not disputing that. That wasn't presented so far, so I had to ask that question. Thank you.

AUDIENCE PARTICIPATION:

1. Patricia Apple, 345 Stonehaven Drive – I want to protest the rezoning at 2505 West Main Street formerly Norman Mitsubishi. I mostly object to the location of this facility, this being the entrance of Main Street.

2. Bob Anthony, 2516 Osborne Drive – Which is two streets south of Main Street, between 24th and I-35. This is a bit of a déjà vu moment for me because, when I graduated from law school almost 40 years ago, my first job was as an Assistant City Attorney here in Norman, and for about three or four years I went to a lot of meetings like this. I haven't been back for a while. I submitted a letter last week, last Friday, that had quite a few attachments to it. I'm assuming that you all got that and have had a chance to look at it. Am I correct in assuming that, so I won't repeat all that stuff and I'll just kind of hit the highlights if that's true. So everyone did get a copy of it and has a chance to look at it?

The first point, I think, to be made is that my reading of the ordinance it seems pretty clear that the initial threshold issue is whether there are any unique physical features for 2505 West Main, because that's the entry point for any request to get SPUD zoning. And there are none. I mean, it's clear that there aren't any. If 2505 West Main is unique or has unique physical

features, so does every other commercial property on both sides of Main Street between I-35 and 24th Avenue, so you would be bound to grant any subsequent SPUD request to every one of those properties. The purpose of a SPUD, my reading of the ordinance seems pretty clear, is that when there are properties that do have unique physical features, my recollection is sometimes they're called orphan properties, where two developments went to a certain distance and then there was gaps between them that created issues about access or utilities or other things, then you could look at a SPUD or something like that to address those issues so property simply doesn't get developed. As I said, I think that used to be called an orphan property. That's not the case here at all. In fact, you have a perfect model of what happened on the south side of Main Street when the Chevrolet dealership moved out several years ago. Various commercial properties moved in there – retail, clothing store, Goodwill, restaurants – things like that – which is exactly what would happen with this property whenever this dealership moves out on the north side of the property. Again, there are no unique physical features to this property. The only thing that's unique is what the applicant wants to make use of the property for. I think that's pretty clear. In their application they don't make any representation that there's anything unique about this property or it has any unique features. In fact, it really emphasizes how there's nothing unique about this property. It has access. It has all those things that a commercial property has, which I think argues against the granting of a SPUD request, because there are, again, no unique physical features. The second part of the SPUD requirement is that it be five acres or less, and this is.

3. Nadine Jewell, 2426 Brentwood Drive – My first thing was, after you had your first meeting and after everybody – I've heard them twice say no one complained – well, four lanes of Main Street and a median does not have anybody to write a letter, so we all wrote letters and we did it because some mysterious person brought this to our house. I don't know if you've all seen it or not. It says "Stop a large marijuana growing facility near your home," and it tells about what you want to do about changing the zoning and it also tells the location where it is. I visited myself at the Hobby Lobby, Mardel's, some of these other businesses – Chick-fil-A. I gave them copies of this; they didn't know anything about it. So no one knows about it, but yet you're going to vote to make the gateway to Norman the pot store of Oklahoma, and we're against it. We don't want it in our neighborhood. I live in Normandy Park and we have children playing in the streets all the time; they ride their bikes in the streets all the time. We have no sidewalks. And now we're going to have an element of people driving around our neighborhoods, putting our children's lives in danger, which is lowering the price of our property, because no one will want to live next to this marijuana place. If you also look at the New York Times last week, they had an article in there about marijuana growing in Colorado, and they said it was not supposed to have any smell or anything around; well, it was telling about these people saying every time I go outside, if I want to go out and do something, all I do is smell this haze in the air. So it isn't impossible that we would have this stuff, and we don't want to live in an area like that. If these people want this thing in their back yard, fine. Just don't put it in our back yard. Would you like a copy of this?

4. Paul Arcaroli, 405 Garland Court – It's funny how it's quoted in today's Transcript about transparency and the need to have communication between leaders in Norman and citizens. The three-minute time limit was a subject of conversation. I didn't know you had a three-minute time limit here. But I'll try to do the best I can.

First of all, I am not against medical marijuana. Matter of fact, I wish I was less healthy so I could actually get a card but, you know, that's one of these times where health is not a good deal. But what I do have a problem with is the size of this particular production. I have laid out on this chart here what I consider six concerns that you should really be thinking about when you look at this. I'm going to read through them really quickly. Hopefully I'll have a minute to actually talk about them.

It's not the best use for this area. It's a commercial area; you should not convert it to light industrial. That's Main Street. That's not the forest. It's the front door effect, I call it. Literally,

Main Street is the front door for Norman. Please, we don't want to diminish that. We need to do better, but that's not better. Rezoning opens a very big door. This is a very big facility. This is a very big building. It's 3.19 acres, even though they said they're not going to use the entire 3.19 acres. Once this is rezoned, they get to do what they want. And I appreciate everything they said about quality assurance and all that stuff, but there's no guarantee of that, and you're not putting in any restrictions that require all those sorts of things. They can do what they want. They can grow as much as they want. That, for me, is a potential problem. Security and public safety – this is going to be a big production facility and, for me, that says risk. Marijuana is a very, very, very profitable black market commodity. I happen to have relatives that are in this business in California and there's plenty of experience out there to tell us what we are looking at going forward. We should really, really take advantage of what's been happening in other states. This is new for us. The market is still evolving here. The interesting thing, if you look at some of the numbers, already there have been 3,397 manufacturing facilities approved in this state. There have already been 1,606 dispensaries approved and there are only 134,000 legal applicants. Well, if you do the math pretty quickly, you're going to see that each of those applicants has to consume vast quantities of marijuana in order to maintain supply and demand. We're already in excess of supply and demand here. We should not contribute to that. This is not good for Norman. It's not good for an emerging business. We should take a more conservative approach to this. I'm not saying don't support a new industry; I'm saying let's step back a little bit; let's be a little cautious. Be optimistic, but be conservative. And, finally, the law on this is not settled. The feds can change ... [end of 3 minutes]

5. Jayne Crumpley, 423 Elm Avenue – My objections may not be as articulate as some of those that preceded me, but I object and have a lot of concerns. I think this opens the door for any commercial establishment, if this is approved, to decide that they want to put concrete blocks in their windows and some kind of a system that will prevent the odor seeping out to do this. Council approved industrial zoning for these kinds of operations. They looked at it carefully and had concerns. I hope that this will not move forward. I do have concerns about the system; does it work? Do we have City staff? Will they go in and inspect and evaluate that this system does control odors seeping out? Will they go in annually to see if this happens? I just shudder to think of other commercial operations in the City of Norman with concrete blocks in the windows as this is being proposed.

6. Nancy McCall, 331 George Cross Drive – I'm probably the only person in town that was born on Main Street and lived within three blocks of Main Street for 85 years. I sell real estate. My big question is why did they have to have that location when they could buy three acres – I've sold three acres for \$30,000 a lot of times. Why did they have to pay more than \$3 million for that particular location? What does everybody that comes into Norman think of Norman? I've been selling real estate for more than 40 years. I've had somebody from Newcastle wanting to move over here and I think now that's the reason why; I didn't know they had a place in Newcastle. And I've had somebody moving from Edmond to Norman, that doesn't want to move here now. And I don't think that is very good public relations for Norman. Like I say, I've heard the things like odors and things of this nature. Some of the realtors said they'll never pass it in Norman because of all the problems like that, where it would bother the City of Norman. So nobody else was interested in coming to talk, so I said well I'll go talk because I hope to sell real estate another ten years. But I don't need to. I might die tomorrow or I might decide I want to retire tomorrow if that's what Norman is like. Like I say, I don't work for anything but the wonderful, nice people I've met. I've sold houses for people from India. I thought I'd be their friend forever. I have some people from Edmond now that are wanting to move to Norman. I think they're not going to now; I think they've decided that Edmond is a better place to live. Anyway, I just wonder why they paid \$3 million for that location when they could have so much someplace else. I don't understand why that's the only location. When you come into Norman – welcome to Norman – here's our marijuana growing place. I did go to the Sooner's banquet recently and all these guys were getting up there because they've got people who had

addiction problems and things like this. Somebody said well Bill Wally is the only one here that hasn't aged a day – said the reason why he's never had a cigarette in his life or a drink. I think health is what we make ourself. I try to eat healthy and try to exercise and my wellness checkup for Medicare I got an A+ recently. I'm grateful. I do have a degree in home ec and I know I'm supposed to have six or seven vegetables a day and protein and drinks and all these kinds of things. I think what we put in our bodies is what makes us, and some people want to live forever and some don't. And I don't; I'm ready to go any day. I do think people are really right about the real estate – it's really going to affect real estate in Norman. Why? Why did they choose Main Street? Everybody that comes into Norman, that's what they see.

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

1. Mr. Lewis – I think everyone on this Commission knows, and many of the people in the City of Norman know, that I am absolutely pro City development. However, when you look at the challenge and the charge of this Commission is to consider and investigate any subject matter related to the development and improvements of the City and make those recommendations to City Council concerning those developments and improvements. Everyone here will remember just a couple of months ago my chief complaint and concern in regards to a grow facility in the City and a processing facility in the City is the smell, and I believe Ms. Crumpley is the one that said it to us and clearly iterated it as the City Council, in its wisdom, defined the industrial zoning as a place for growing. There is a reason for that, and across this nation, with states and cities that are being challenged with this right now, there is an ongoing comment – there is an ongoing discussion in regard to odor and whether it be in the forests of Oregon, as I brought up last time – whether it be in central California, where I grew up – whether it be in Colorado, it is an ongoing concern that everyone says is addressed, and carbon filters will take care of it, and everything else, and there will be no smell, but yet the chief complaint – whether it's in the New York Times – whether it's in the Hemp Times – whatever article is being provided by reputable sources – not just propaganda – is a commonality of odor. Again, I think the City Council, in its wisdom, put facilities like this in the industrial area for a reason, outside of homeowner communities, and that's where it should be. Please understand, under the letter of the law, I have no personal qualms if you want to smoke marijuana, chew it, drink it, whatever, as long as you're within the letter of the law. However, when it comes to dispensing, again, anything that falls in our code, absolutely appropriate. But when you're asking for a special use or something different so you can have a grow facility or a processing facility outside of our code, and as City Council is saying, we believe that should be in the industrial area, I will not support that, even though I have said previously, and I'd say 99% of my votes absolutely support commercial development within our City when it's applicable and in the appropriate space.

2. Mr. Knotts – Ms. Hudson, the facility on Gray that we approved about three months ago, is that just a dispensary, or is that – I thought the back was growing, they just couldn't process.

Mr. Lewis – We had to do special use for processing and growing, didn't we?

Ms. Hudson – If I remember correctly, and I think I can get Legal to respond to this as well, but if I remember correctly on the floor that night they withdrew their grow option and they are a dispensary and processing facility.

Mr. Knotts – My feeble mind has it a little differently, in that it was a grow and a dispensary, not a processing.

Ms. Hudson – They were asking for grow, but due to comments at the Planning Commission meeting that evening, they withdrew their request for grow.

Mr. Knotts – Okay. Now that you've tweaked that ancient spark, I do remember that it was – they were going to transport from another facility the grown plant to be processed here.

Ms. Hudson – That's correct.

Mr. Knotts – Is there a City ordinance on signage?

Ms. Hudson – There is a sign code. Yes.

Mr. Knotts – That facility on Gray, not as large as this, but its diminutive signage, painted black, and so it's very unnoticeable, I guess would be the way I would describe it.

Ms. Hudson – They're Center City Form-Based Code, so their signage is different than the sign code that you're thinking of that would go for commercial developments.

Mr. Knotts – For this facility.

Ms. Hudson – For this facility on Main Street would be the actual ...

Mr. Knotts – City sign ...

Ms. Hudson – City sign code. Correct. The one on Gray is actually within the Center City Form-Based Code.

3. Mr. McDaniels – I was just going to ask, have we determined if there are ways to file complaints for odor, and what are the processes of filing a complaint?

Ms. Muckala – Odor is not something that is addressed specifically with respect to marijuana establishments in the City code. It's also not addressed directly in state law concerning medical marijuana establishments as well. So for an issue involving a nuisance odor, that would be a nuisance matter handled by civil law, which is a state law action. There are also, of course, nuisances within our own code, and we would follow our procedure on those if they were reported on a municipal level as well.

Mr. Knotts – So are you saying that, if a citizen noticed an odor, they would have to bring suit?

Ms. Muckala – Yes. There is a process under our City code to bring it on a municipal level, but there is also a basis in law on a civil suit state level.

Mr. Knotts – It's not a City monitoring situation; it's a by-complaint issue.

Ms. Muckala – It is. It would have to constitute what is defined as a public nuisance, either under the City code or under state law. But there is a procedure; it's simply not specific to medical marijuana or in that law.

4. Mr. Jan – Commissioners, I have to just make a few quick comments. I've listened to protests. I think I totally agree with them. Also, I think my vote when we were passing that facility close to the high school, I was against it. I'm just not looking at the immediate effect to the economy of the City or whatnot, but I'm looking beyond that – five years, ten years. These small shops are popping up like anything. I totally agree with what the gentleman gave us on this protest things. The laws are still not clear. This is our front door. Is this the right business for the Main Street? I'm not going to take too much of our time, but I would not support this request to be processed and to be approved. This is my just comments.

5. Ms. Zink – I share the same concerns about the location of a growing and processing facility, even in the best case scenario. I do want to acknowledge the care that the applicant has taken in setting up procedures and mechanisms to create the best possible scenario. But I'm afraid – I share Mr. Knotts' concern about the SPUD running with the land. I want to look a little bit toward the future, and I'm concerned that a future applicant might not take the same degree of care that this present applicant has taken, and I'm worried about the slippery slope.

6. Ms. Bahan – I don't think that I have really anything to add to what has already been said, other than that I, too, share the concerns about this being on Main Street. From the beginning, this has bothered me that it's on Main Street. I agree with Mr. Lewis that in a different area with a different zoning I think it would probably be perfectly fine. But this isn't the place. I'm sorry.

Chris Lewis moved to recommend adoption of Ordinance No. O-1920-1 to City Council. Tom Knotts seconded the motion.

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

YEAS

Tom Knotts, Steven McDaniel

NAYES

Lark Zink, Nouman Jan, Chris Lewis, Sandy Bahan

MEMBERS ABSENT

Neil Robinson, Dave Boeck, Erin Williford

Ms. Tromble announced that the motion, to recommend adoption of Ordinance No. O-1920-1 to City Council, failed by a vote of 2-4.

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