



Location Map

In the *Special Use Application for Appeal* the appellant provides information in three parts:

Part 1. Description of the decision being appealed.

Appellant's response:

"Concerned citizens, neighbors, and those in public safety positions, strongly feel this permit will not be beneficial, but harmful to our community. In my personal opinion, the special use permit is: **Not Safe and Not a Community Asset.** Please see the attached paper to see the concerns I spoke before the planning and zoning." [sic, emphasis by appellant].

Part 2. A complete statement of all reasons why the appellant believes that the decision, or any part of the decision was erroneous, arbitrary, capricious, or any abuse of discretion.

Appellant's response:

Appellant affirms that the community members present at the April 8, 2015 spoke their concern before the board [sic].

Part 3. Allows the appellant to provide additional testimony and evidence with an explanation of why the evidence was not presented to the Planning and Zoning Commission.

Appellant's response:

"All information was presented before the Planning Commission on April 8, 2015. The community voice was heard that they were against Cochise County issuing his permit. The only citizens that spoke in favor of the permit, were those that filed for it. County Supervisors, the citizens you represent that were present at the April 8th meeting are against this permit. Please reconsider."

As presented in the application, the appellant has verified that those persons in attendance at the Planning and Zoning Commission meeting were allowed to speak, and that no new information regarding the Special Use authorization is being presented in the Appeal application.

Therefore the appellant has not been able to provide grounds for why the Planning and Zoning decision, or any part of the decision, was erroneous, arbitrary, capricious, or an abuse of discretion; nor has the appellant provided any new evidence or testimony but rather the appellant confirms that "all information was presented be the Planning Commission on April 8, 2015."

One person speaking at the public hearing raised the concern that the property proposed for the facility was full of "junk". Staff investigated this assertion and found that the property with significant junk and abandoned cars was in fact located on the property to the north of the Crisantes site, but the confusion may have occurred due to the fact both that the Crisantes and the adjacent neighbor to the north share a common mailbox delivery site as shown in the photo below.



Shared mailboxes on property north of the Crisantes farm site.

Licenses for medical marijuana dispensaries and cultivation areas are issued by the Arizona Department of Health Services. Permits are issued after proper security and containment measures are approved by the State. Cochise County reviews these dockets items for land use issues only; however staff is including some information from the ADHS website due to the confusion about how and when the Arizona State Department of Health issues those licenses.

- A.R.S. Title 36 contains the law governing medical marijuana in Arizona.
- What is a CHAA? A CHAA is a Community Health Analysis Area, a geographic unit in Arizona. The ADHS Bureau of Public Health Statistics created these units by modifying the Primary Care Areas (PCAs) used by the ADHS program for Health Systems Development for use by various disease monitoring programs. The map of Arizona contains 126 of these units.
- Medical Marijuana Dispensaries- As of January 2012, the Department anticipated issuing 126 dispensary registration certificates (based on the number of pharmacies in the State). The Department does not have authority to issue a separate certificate to an entity that is only a cultivation facility.
 - A medical marijuana dispensary registered with ADHS must be operated on a not-for-profit basis, but will be able to receive payment for expenses incurred in its operation.
 - No more than one nonprofit medical marijuana dispensary registration certificate is issued for every ten pharmacy permits issued by the Arizona State Board of Pharmacy under current law.
 - A dispensary can cultivate marijuana only in an enclosed, locked facility.
 - State law and rules specify various security, record-keeping, and verification requirements a registered dispensary will have to follow relating to the operation of the dispensary.

Medical conditions qualifying for medical marijuana use

- Cancer
- Glaucoma
- Human Immunodeficiency Virus (HIV)
- Acquired Immune Deficiency Syndrome (AIDS)
- Hepatitis C
- Amyotrophic Lateral Sclerosis (ALS)
- Crohn's Disease
- Agitation of Alzheimer's disease
- A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that causes:
 - Cachexia or wasting syndrome;
 - Severe and chronic pain;
 - Severe nausea;
 - Seizures, including those characteristic of epilepsy;

- Severe or persistent muscle spasms, including those characteristic of multiple sclerosis



House and parking for dispensary



Covered greenhouses

III. PUBLIC COMMENT

The Planning Department mailed notices to neighboring property owners within 1,500-feet of the subject property. Staff posted the property, and published a legal notice in the *Bisbee Observer* on April 30, 2015. In response to applicant and County mailings, the Planning Department received no letters regarding this appeal request.

IV. SUMMARY AND CONCLUSION

This is an Appeal of Special Use authorization SU-15-06 approving a facility for the cultivation, dispensing and delivery service of medical marijuana located on a 65-acre parcel RU-4 Rural zoned property at 10990 N. Mormon Road in Elfrida, Arizona.

Factors in Favor of Approving the Appeal

1. The appellant is opposed to this use at this site.

Factors in Favor of Denying the Appeal

1. The appellant has not been able to provide a reason why the Planning and Zoning decision, or any part of the decision, was erroneous, arbitrary, capricious, or an abuse of discretion;
2. The appellant has not provided any new evidence of testimony other than the evidence and testimony presented at the Planning and Zoning Commission meeting on April 8, 2015;
3. Medical marijuana cultivation and dispensary facilities are authorized by the State of Arizona;
4. Medical marijuana land uses are allowed as Special Uses in the Rural Districts in Cochise County; and
5. The Planning and Zoning Commission voted 5-2 to approve Docket SU-15-06.
6. Staff has received no letters in support of this appeal.

V. STAFF RECOMMENDATION TO THE BOARD

Based on the factors in favor of denying the appeal, Staff recommends that the Board of Supervisors **deny** the Special Use Appeal, and uphold the April 8, 2015 decision of the Planning Commission to grant conditional Special Use Docket SU-15-06, the conditions of approval as follows:

1. Within 30-days of approval of the Special Use, the Applicant shall provide the County a signed Acceptance of Conditions form and a Waiver of Claims form arising from ARS Section 12-1134. Prior to operation of the Special Use, the Applicant shall apply for a building/use permit for the project within 12-months of approval. The building/use permit shall include a site plan in conformance with all applicable site development standards (except as modified) and with Section 1705 of the Zoning Regulations, the completed Special Use permit questionnaire and application, and appropriate fees. A permit must be issued within 18-months of the Special Use approval, otherwise the Special Use may be deemed void upon 30-day notification to the Applicant; and
2. It is the Applicant's responsibility to obtain any additional permits, or meet any additional Conditions, that may be applicable to the proposed use pursuant to other federal, state, or local laws or regulations.

VI. ATTACHMENTS

- A. Appeal application
- B. Staff report to the planning and zoning commission.
- C. Minutes of the April 8, 2015 Planning and Zoning Commission meeting pages 1, 3 and 4.