



# COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

## SPECIAL USE APPLICATION FOR APPEAL

NAME OF APPELLANT: Sonoran Care, LLC

ADDRESS: Ms. Becki Shumaker, 8630 E. Bellvue Place, Tucson, AZ 85715

PHONE NUMBER: (520) 248-9958

EMAIL ADDRESS: shumaker.becki@gmail.com

NUMBER OF DOCKET APPEALED: SU- 15-18

DATE OF COMMISSION DECISION: Wednesday, November 18, 2015

DATE OF APPEAL SUBMITTAL: 12/1/2015 FEE PAID: \$ 300.00

In addition to the \$300 fee, the following information shall be provided before an appeal can be accepted. If more room is needed please attach additional pages.

1. Description of the decision being appealed. An appellant can appeal the Commission's decision for approval or disapproval or any conditions stipulated as part of docket approval.

This is an appeal from the DENIAL of Sonoran Care, LLC's request for a Special Use Permit to establish a facility for personal services and the cultivation and dispensing of medical marijuana on an RU-4, Rural zoned property, parcel 404-26-101, located at 2.8 miles north of Davis Road on Central Highway south of Elfrida, AZ.

**Special Use Appeal Application**

Page Two

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.

Please see attached.

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3. Written presentation of additional testimony & evidence. A full explanation of the additional testimony & evidence that will be submitted with explanation of why this was not presented to the Planning Commission.

Please see attached.

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SIGNATURE

 11/30/15  
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**Special Use Application For Appeal  
Attachment for Questions 2 and 3**

**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.**

Applicant believes that the Cochise County Planning and Zoning Commission acted in error and arbitrarily, capriciously and contrary to law, in denying its request for a Special Use Permit. Section 1706.2 of The Cochise County Zoning Regulations specifies ten factors with which to evaluate a Special Use request. Only nine factors were found to apply in this instance. One factor was found not to apply to this Applicant (Factor H, Hazardous Materials). Staff found that Applicant's request complied outright with eight of the remaining factors, and the request conditionally complied with the ninth factor. The one conditional factor was Factor D., Traffic Circulation Patterns, which is insignificant because the Applicant has agreed to work with a traffic engineer to address the concerns raised by Staff concerning driveway design, placement and construction. In any case, the staff recommended approval of the requested special use permit based on County criteria. Thus, there is no question that the project meets the requirements of the county codes. But instead of deciding the matter on these relevant issues, Applicant believes that the Commission, in making its decision, took criteria other than the Cochise County Zoning Regulations into account. Specifically, the Commission made its decision based on 1) its own opinions about Arizona's marijuana laws (passed by the public in an election); 2) objections made by persons who live more than one full mile from the project, which objections amounted to mere unfounded speculation and (again) personal opinions about Arizona's marijuana laws; 3) bias against the principals of the proposed project because they live outside Cochise County.

**3. Written presentation of additional testimony & evidence. A full explanation of the additional testimony & evidence that will be submitted with explanation of why this was not presented to the Planning Commission.**

The evidence Applicant intends to present at the hearing includes the following:

- The recommendation of the county staff demonstrating that the project substantially meets the requirements of the County's codes and recommending approval of the requested special use permit.
- Quotes from the recording of the hearing will demonstrate that one or more of the Commissioners disliked the Applicant merely because the principals are from Tucson;
- Quotes from the recording will indicate that one or more commissioners' unfounded and speculative objections to traffic that would be generated by the proposed facility despite the Staff's finding that the impact of the proposed facility would be "unlikely to change or negatively impact" surrounding traffic patterns.
- Quotes from the recording will indicate that Commissioners may have been influenced by personal opinions about Marijuana in general, despite the proposed activity being permissible under Arizona Law and the Zoning Regulations.
- Additionally, Applicant will present evidence that letters of objection from the public were taken into account despite the fact that the nearest occupied residence is one mile distant from Applicant's parcel.