

# COCHISE COUNTY

## Docket SUA-16-04 (Kriaris) Appeal

An Appeal of the  
Planning and Zoning Commission's  
Approval of Special Use SU-16-04

Board of Supervisors June 14, 2016



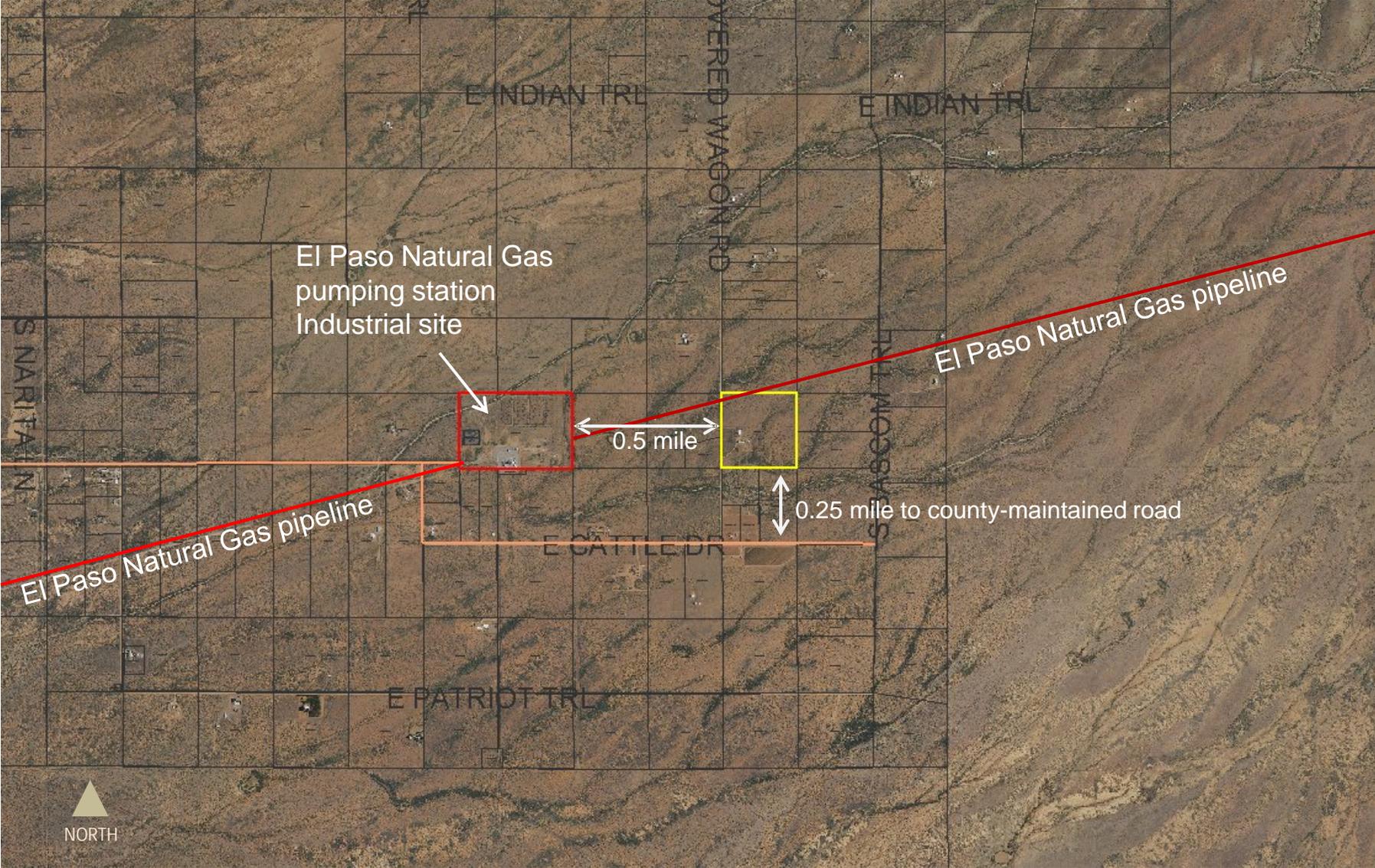
***Public Programs...Personal Service***

## COCHISE COUNTY

# Docket SUA-16-04 (Kriaris) Appeal

- On April 13, 2016 the Planning and Zoning Commission unanimously approved a Special Use request for a medical marijuana cultivation and infusion facility on a 40-acre, RU-10, D-Rural zoned parcel; APN 305-55-015.
- This use is considered a Special Use in Rural districts under Sections 607.26 and 607.55 of the Zoning Regulations.
- On April 25, 2016 Cynthia M. Traylor submitted an application to Appeal the Planning and Zoning Commission's decision.





**COCHISE COUNTY**

**Surrounding Conditions**



Google Earth, photo date March 21, 2015



# COCHISE COUNTY



View from subject parcel to closest house, on west side of S. Covered Wagon Rd.

photo date 3/10/16



# COCHISE COUNTY

# Conceptual Site Plan

Not in a flood zone

Not in the Douglas INA

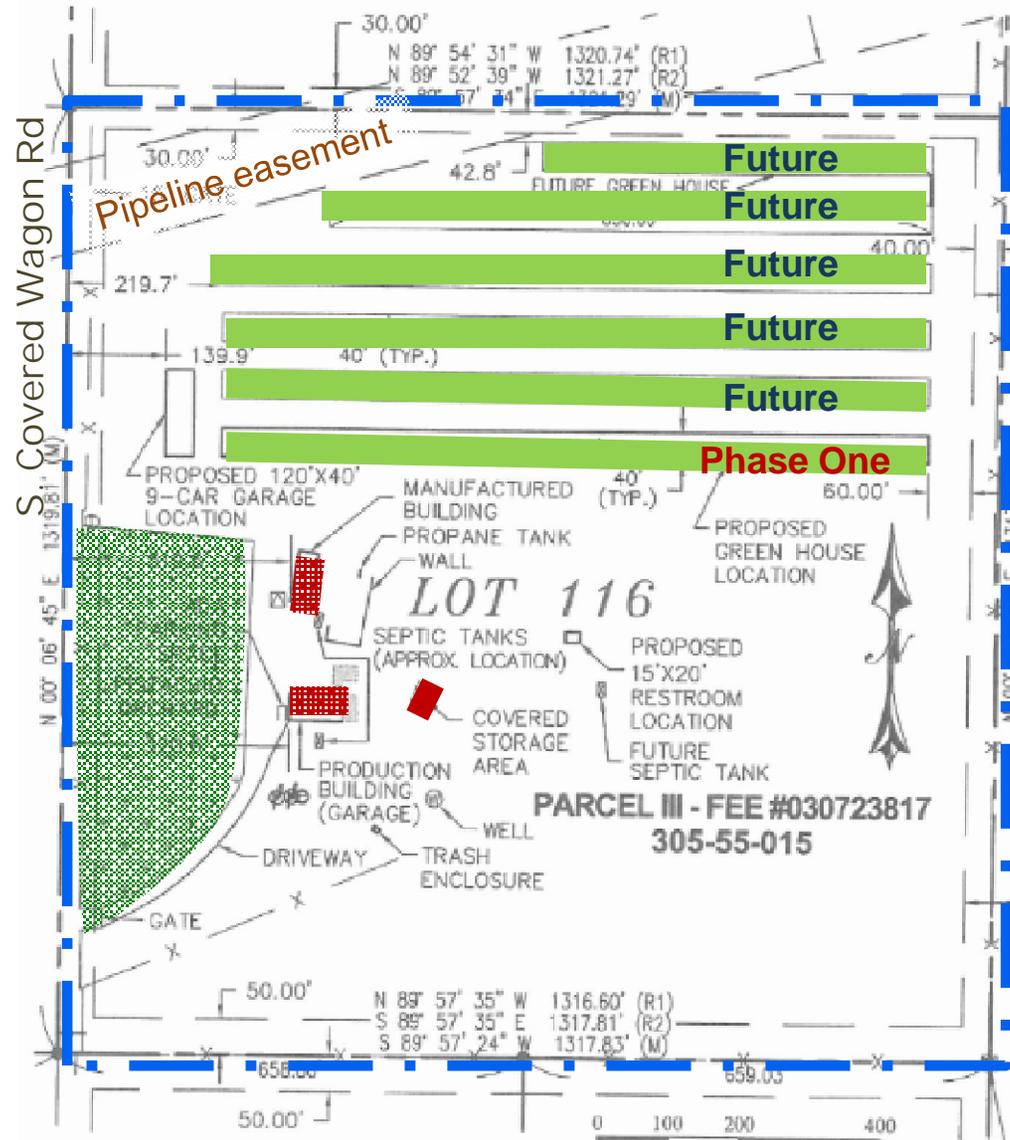
Water recycling and conservation measures

Locked and enclosed greenhouses

Meets all setbacks

Adequate parking

Future Phasing if demand increases



# COCHISE COUNTY



Pistachio orchard on subject parcel fronting S. Covered Wagon Rd.

photo date 3/10/16



# COCHISE COUNTY



*View east from entry gate*



*View southeast from entry gate on S Covered Wagon Road*



*View north from S Covered Wagon Road*



*View south from S Covered Wagon Road*



## COCHISE COUNTY

March 31, 2016

### Staff Memo to Planning and Zoning Commission

- No dispensary.
- Meets all separation/spacing requirements.
- 3-5 employees in Phase One; up to 24 employees at full build-out.
- On-site housing for some employees will reduce traffic.
- Locked and enclosed greenhouses.
- Charcoal filters to capture and remove odors.
- Organic growing and non-polluting organic pesticides.
- County will inspect for fire safety compliance.
- No light trespass, only lighting as required by the County and State.
- No modifications or waivers requested.



## COCHISE COUNTY

- Plants processed inside a secure building.
- Products sold in Phoenix area.
- Uses existing well and water conservation measures; water consumption regulated by ADWR.
- Required fencing and security is regulated by the State.
- 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

Staff reviews docket items, and makes recommendations, based on ten Special Use criteria found in the Cochise County Zoning Regulations.

SU-16-04 complied with all 9 of the 10 factors used to evaluate this Special Use requests:

1. Compliance with Duly Adopted Plans: **Complied**
2. Compliance with the Zoning District Purpose Statement: **Complied**
3. Traffic Circulation Factors: **Complied**
4. Adequate Services and Infrastructure: **Complied with Conditions**
5. Significant Site Development Standards: **Complied**
6. Public Input: **(from the original application) Complied**
7. Hazardous Materials: **Complied**
8. Off-Site Impacts: **Complied**
9. Water Conservation: **Complied**
10. Development Along Major Streets: **Not Applicable**



# COCHISE COUNTY

April 13, 2016

## Planning and Zoning Commission Discussion

The requirement for a Private Maintenance Agreement on S. Covered Wagon Rd.

That the land use was an agricultural use.

State requirements for employee background checks and fingerprinting, and that no migrant workers would be employed.

On-site issues and off-site impacts including State fencing requirements, light pollution, water storage, fire suppression capacity and off-site odors.

That if the request were for a greenhouse-grown crop other than medical marijuana, the application would not be before the Commission.



## COCHISE COUNTY

### Five members of the public appeared in opposition:

Mr. Richard Frank and Ms. Brenda Frank submitted cards in opposition but did not address the Commissioners.

Ms. Cindy Traylor, the appellant, spoke in opposition citing fire and police response times, potential hazards with the use of butane in the processing facility, road maintenance and off-site impacts from odors.

Ms. Peggy Ottens from Willcox spoke citing fire and police protection issues and the potential of attracting criminals to the area; and

Mr. Paul Ottens also spoke citing concerns about grading and drainage on the site and the unreliability of services in the area.



# COCHISE COUNTY

April 21, 2016

## The Appeal to Overturn the Commission Decision

The Appellant states:

1. That the Planning and Zoning Commission did not understand the community ,and the impact on the community of this use,
2. That the residents were naïve and did not understand the process, and
3. A letter attached to the application listed concerns of declining property values, security, environmental issues, water consumption, road conditions, light trespass, flooding, violations of Federal and State statutes, and concern about proliferation of marijuana facilities in the county.



## COCHISE COUNTY

### Section 1716.04 of the Zoning Regulations governs the appeal of Special Use Authorization Decisions.

The Appeal shall include:

1. An identification of the decision being appealed;
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 an abuse of discretion; and
3. Written presentation of additional testimony and evidence, a full explanation of the additional testimony and evidence that will be submitted, with an explanation of why this was not presented to the Planning Commission.



## COCHISE COUNTY

### Analysis of the Appeal request

- Portions of the Appeal attachment were read at the Commission hearing.
- Residents were properly noticed and the public were allowed to speak.
- RU (Rural) is not a residential zoning category; although there are residential homes in the area, much more intensive uses are allowed by right in this rural district, such as RV parks, veterinary clinics or meat processing plants.
- Staff was contacted by the Fire Chief from the Chiricahua Fire District in response to the neighbors' concerns about fire response times;  
    Chief Levine stated that the response time to a fire in that location would be under ten minutes.
- In addition, the proposal is located ½ mile from the 60-acre industrial pumping station for the El Paso Natural Gas pipeline which would have a much great impact to the neighborhood should a fire occur at that location.



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- Flooding potential, light trespass, traffic and roadway conditions, off-site odors, and hazardous material safety are regulated by the County.
- Water consumption and environmental contamination are regulated by the State of Arizona and are not under the regulatory authority of the County.



# COCHISE COUNTY

## SUA-16-04 (Kriaris)

SUPPORT of Appeal/Opposition to the Facility

Bisbee	2
Bowie	2
Cochise	7
Elfrida	5
McNeal	1
Pearce	41
Portal	1
Sunsites	2
<b>Willcox</b>	<b>131</b>
<hr/>	
<b>Cochise County</b>	<b>192</b>

Tucson 1	1
Massachusetts 1	1
Unknown location 5	5

**TOTAL 199 opposed to the project**

# COCHISE COUNTY

## SUA-16-04 (Kraris) Appeal

### OPPOSITION to Appeal/Support for the project

Bisbee	8
Douglas	3
Hereford	2
Huachuca City	2
Naco	1
Pearce	1
Sierra Vista	45
Whetstone	1
<b>Willcox</b>	<b>148</b>
<b>Cochise County</b>	<b>211</b>

Apache Junction	2
Avondale	6
Chandler	8
El Mirage	1
Gilbert	2
Glendale	44
Laveen	6
Litchfield Park	1
Mesa	13
Peoria	8
Phoenix	337
Scottsdale	7
Sun City	2
Surprise	3
Tempe	9
Tolleson	3
Waddell	4
<b>Phx metro area</b>	<b>456</b>

Flagstaff	1	Coconino County
Maricopa	2	Pinal County
Prescott	1	Yavapai County
Spring Valley	1	Yavapai County
St. Johns	2	Apache County
Wittman	1	Not Phx metro
Las Cruces, NM	1	out of state
No location	54	
<b>Other locations</b>	<b>63</b>	

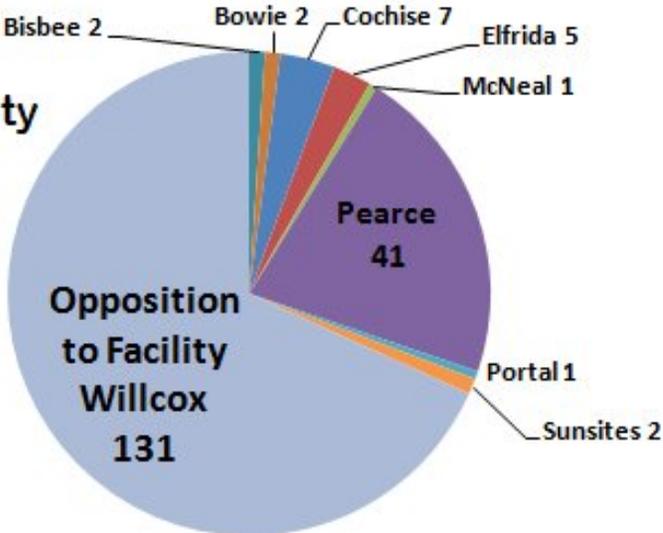
**TOTAL 730 in support of the project**



# COCHISE COUNTY

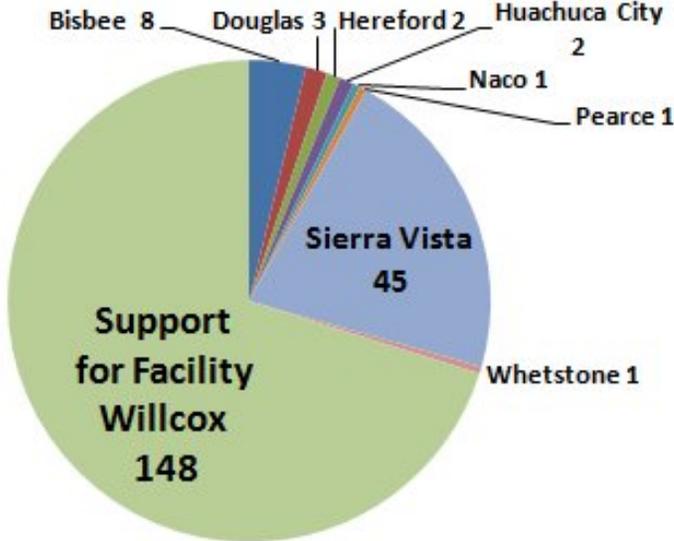
## Cochise County

Support for Appeal  
Opposition to Facility



## Cochise County

Opposition to Appeal  
Support for Facility



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## COCHISE COUNTY

### Factors in Favor of Approving the Appeal to overturn the Planning and Zoning Commission approval.

199 people have sent letters in support of the Appeal to overturn the Commission approval (opposition to the project).



## COCHISE COUNTY

### Factors in Favor of Denying the Appeal to overturn the Planning and Zoning Commission decision.

1. Medical marijuana cultivation and infusion facilities are authorized by the State of Arizona;
2. Medical marijuana land uses are allowed as Special Uses in the Rural Districts in Cochise County;
3. The proposal complies with the Adopted Comprehensive Plan Agriculture and Ranching, Economic Development and Rural Character Elements;
4. The proposal complies with the Zoning ordinance Category D purpose statement;
5. No modifications to design standards were requested;
6. The proposal will employ water conservation measures;



## COCHISE COUNTY

7. The proposal, with the recommended Conditions of Approval, will comply with nine of the ten Special Use factors used by staff to analyze this request, the one additional factor was not applicable to this request;
8. The proposal will provide jobs for up to three to five employees in Phase One, and up to 24 employees at full build-out; and
9. At full build-out the traffic generated by this proposal would be less than if the site were developed as a residential use.
10. Staff finds no land use factors that were not addressed in the Planning and Zoning Commission hearing.
11. 730 residents sent letters in opposition to the Appeal to overturn the Commission approval (in support of the project).



# COCHISE COUNTY

## Staff Recommendation

Based on the Factors in Favor of Denial of the Appeal, Staff recommends upholding the Planning and Zoning Commission's Approval of SU-16-04, with the original Conditions of Approval.

