



**Cochise County**  
**Community Development**  
**Planning, Zoning and Building Safety Division**

*Public Programs...Personal Service*  
www.cochise.az.gov

**MEMORANDUM**

**TO:** Cochise County Board of Supervisors  
**THROUGH:** James Vlahovich, County Administrator  
**FROM:** Jesse Drake, Planning Manager  
**FOR:** Paul Esparza, AICP, Planning Director  
**SUBJECT:** Docket SUA-16-04 (Kriaris)  
**DATE:** June 2, 2016 for the June 14, 2016 Meeting

**I. APPEAL OF THE PLANNING AND ZONING COMMISSION APPROVAL OF SU-16-04 (KRIARIS)**

An Appeal of the Planning and Zoning Commission approval of SU-16-04 (Kriaris), a request for a facility for the cultivation and infusion of medical marijuana on a 40-acre RU-10, D-Rural zoned property.

The subject parcel, APN 305-55-015, is located at 6950 S. Covered Wagon Rd., Willcox, AZ. It is further described as being situated in Section 24 of Township 15 South, Range 26 East of the G&SRB&M, in Cochise County, Arizona.

The uses are considered Special Uses in RU-10 Rural Zoning Districts under Sections 607.53 and 607.56 of the Zoning Regulations. The Applicant is Nick Kriaris/NGK Enterprises Inc., the Appellant is Cynthia M. Traylor.

**II. NATURE OF APPEAL REQUEST**

The Planning and Zoning Commission voted in a public meeting on April 13, 2016 to unanimously approve Special Use, SU-16-04 (Kriaris), a request for a facility for the cultivation and infusion of medical marijuana on 40 acre RU-10, D-Rural zoned property.

This Appeal is a request to overturn the April 13, 2016 Planning and Zoning Commission approval of SU-16-04. The appellant filed an application to Appeal the approval on April 21, 2016. Section 1716.04 of the Zoning Regulations governs the appeal of Special Use Authorization Decisions. 1716.04.B. states 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.

The Appellant's response to number 1:

**Planning, Zoning and Building Safety**

1415 Melody Lane, Building E  
Bisbee, Arizona 85603  
520-432-9300  
520-432-9278 fax  
1-877-777-7958  
planningandzoning@cochise.az.gov

**Highway and Floodplain**

1415 Melody Lane, Building F  
Bisbee, Arizona 85603  
520-432-9300  
520-432-9337 fax  
1-800-752-3745  
highway@cochise.az.gov  
floodplain@cochise.az.gov

*"Appeal to nullify the decision to allow the marijuana growing and processing facility at 6950 S. Covered Wagon, Willcox, AZ 85643."*

The Appellant's response to number 2:

*"The decision to allow this facility was based on an incomplete and erroneous understanding of the community for which this facility is proposed and the facility's impact upon the lives of the residents."*

The Appellant's response to number 3:

*"Some of the evidence supplied with this appeal was presented to the Commission at the hearing but the attorney for the proposed facility, in rebuttal, dismissed it as a "scare tactic". Not all the evidence was brought out the hearing because of the naivete of the residents of the [sic] this community. The people concerned did not understand the process and trusted the Commission to protect the citizens of the area by denying a permit to the facility. Attached is a list of the reasons for denying the Special Use Permit."*[Letter below]

Appeal for SU-16-04 Proposed marijuana farm and processing facility 6950 South Covered Wagon Road, Willcox, AZ 85643

Reasons for denying a Special Use Permit for a proposed marijuana growing and processing facility.

1. The proposed facility is in the midst of a residential area whose residents are retirees and working people and who are being caused both emotional and financial distress as they foresee declining property values and rising costs associated with providing themselves significant protection from perceived dangers associated with living in close proximity to this facility.

2. Lack of policing should be considered as a major safety factor. There are no Sheriff's patrols in this area. In fact, should a call be placed, the minimum response time would be one half hour.

This facility would be policing itself with a heavily armed potentially violent private security force which is antithetical to the serenity of a residential area.

A marijuana facility would create an "attractive nuisance" by its very presence. There is already a security problem in this area with migrating illegals and already a drug problem in this area as it has been used in the recent past as a "drop zone." The facility and its vehicles would not be anonymous even though they would not be signed so that any criminal element would be attracted to the area. Should that element come into the area looking for the facility, it would put the nearby residences in jeopardy.

3. Lack of fire protection should also be considered as a major safety factor. The all-volunteer Chiricahua Trails Fire Department, 6475 S. Jeffords Trail is composed of several pieces of older equipment. Some of the personnel work in Willcox and are not readily available during the day. In most cases, if the firefighters are at home, they are upwards of a half hour in reaching the equipment and then it is about another half hour to reach the facility because the roads are so poor. There is no aerial ladder truck or pumper, just a small tank truck. The winds are generally steady, the land dry and fire can spread quickly. Willcox Rural Fire Department is anywhere from a half to an hour away.

4. There are environmental factors to be considered.

This facility will employ a butane process for extracting the cannabanoids, the active chemicals from the cannabis plants. Butane is highly flammable. Recently, a similar facility on New Mexico had an explosion due to a butane leak.

During the first three days of drying, the cannabis produces a very strong, noxious odor. Scrubbers and filters do not completely remove this smell. The lingering smell of the cannabis will be prevalent and unpleasantly noticeable to the neighbors.

Another consideration is water consumption. Each mature plant uses about 6 gallons per day. This factors out for 10,000 plants to be 60,000 gallons of water daily. It is unknown how many plants this facility plans to put into its greenhouses and outdoor acreage.

South Covered Wagon Road is a dirt lane which is maintained at irregular intervals by the residents of the road. The monsoon season and other rains wreak havoc. This road has few cars travelling on it as it is not a through thoroughfare and is used only by the residents. Additional traffic will not help the condition of this road and the statutes cannot make the owner of this facility make road improvements despite his contention that he will maintain the road. Increased traffic will also add to the dust problem that already exists from the road.

A marijuana farm must necessarily use pesticides to combat rats, insects, molds and fungi which will eventually migrate into the environment. There are vineyards in fairly close proximity whose crops potentially could be endangered by both the pesticides and the reasons for their use.

Light pollution is another concern. Although the growing and security lights are planned to aim downward in order to protect the night sky, there will still be a huge amount of light emanating from the facility that will impact the close neighbors.

The first greenhouse to be built will straddle an existing large wash. Although the facility proposes to re-channel the wash, the potential for flooding exists on adjacent properties and on the road.

6. Raising cannabis violates both Federal and Arizona laws.

7. If this facility is approved, it will lead to the proliferation of these marijuana facilities in any part of the county that they wish to go.

### **III. THE REQUEST BEFORE THE PLANNING AND ZONING COMMISSION**

The Applicant's request was for authorization of the cultivation and infusion of medical marijuana in enclosed greenhouses on a 40 acre parcel located at 6950 S. Covered Wagon Rd. in Willcox, AZ, an RU-10, D-Rural zoned property. No dispensary or public facilities would be located at this cultivation site. The property is located approximately 6.5 miles east of Kansas Settlement Road at the northeast corner of the Arzberger Road alignment and Covered Wagon Road. Currently the property has residential structures, accessory buildings and a pistachio orchard on the parcel.

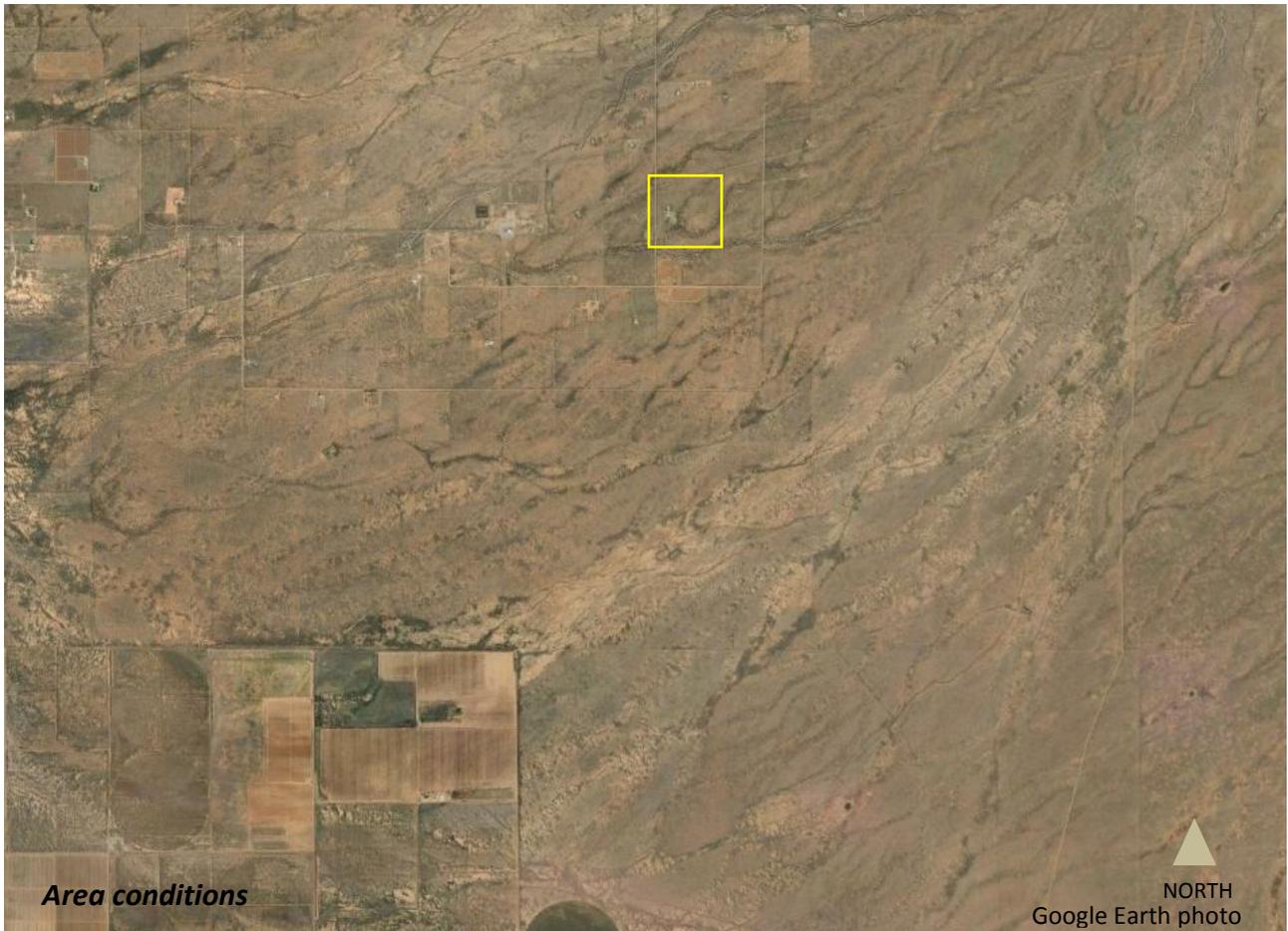
The property is located in a very low density rural part of the county, and is surrounded, in the larger context with vacant property to the east, and farm fields to the west and southwest with scattered residential uses on large lots. The property has been in essentially the same condition for 16 years, since 2003 when the pistachio orchard was planted. The applicant intends to continue nut production on the site. The two main structures on the property are visible in the earliest Google Earth aerial dated October 1996, prior to the addition of the pistachio orchard, which appears in the September 2003 aerial.

The request is for cultivation, harvesting, processing and infusion only. The applicant will be using both of the existing buildings and adding greenhouse structures plus a garage, storage building and a restroom facility for employees on approximately ten acres of the forty acre site. The existing house will be used as the production building for processing the plants into their final products. The greenhouse construction is proposed in two phases: Phase I will have one greenhouse; Phase Two will complete the construction of the remaining five greenhouses. The greenhouses will be 21 feet tall, sloping to 13 feet on the sides. All marijuana products will remain locked and enclosed either in the greenhouses or inside buildings.



Site aerial with property boundary

Photo date March 21, 2015, Google Earth

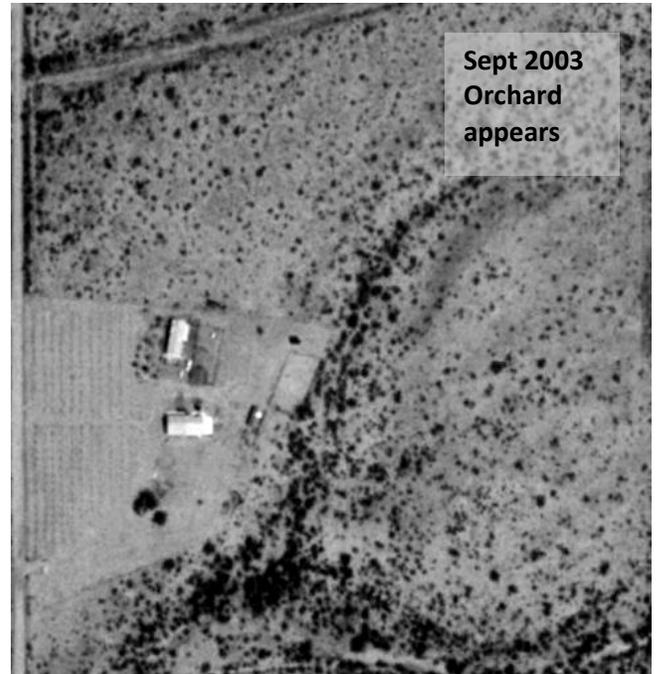


Area conditions

NORTH  
Google Earth photo



Google Earth photo



Google Earth photo



*Pistachio orchard on subject property adjacent to South Covered Wagon Road*

*photo date 3/10/16*



The parcel takes access from S. Covered Wagon Road, a non county-maintained road that intersects on the south with East Cattle Drive, a county-maintained roadway. The applicant anticipates that one heavy-duty passenger-class pickup truck, a 1-ton truck, will be used by at least one of the 3-6 employees or principals living on the property. The harvested and process products will be shipped out four times a year in unmarked passenger type vehicles such as a pickup truck, van, sedan, etc. The driveway and internal traffic circulation roadways will be maintained with four inches of stabilized decomposed granite or stabilized gravel which meets the site development standards. Adequate parking, including ADA parking, is provided.

The plants will use approximately 150 to 175 gallons of water per day, or 60,000 gallons per year in Phase One. At full build-out, when all six greenhouses are fully constructed and operational, the total is estimated to be 810 to 935 gallons of water per day, or 295,650 to 341,275 gallons per year. The Arizona Department of Water Resources estimates that the average residential usage is 100 gallons per person per day. The US Census lists the average persons per household as 2.69 between 2010 and 2014. If built out to residential standards with the current R-10 (one house per 10 acres) zoning the site could have four residences. With the current Arizona average of 2.69 persons per household, times 100 gallons per person, times four households, the average water usage for this site, if built to current residential standards would be 1076 gallons of water per day, 392,740 gallons per year, or slightly more than the applicant's projected high water usage at full build-out.

The existing house has a septic system, but in addition, the applicant intends to install a separate restroom facility that will have two 1500 gallon septic tanks as part of the construction.

The greenhouses will be surrounded by a sight obscuring ten-foot-high chain link fence as required by the State of Arizona. The State also has security and lighting requirements that must be met and will be enforced by the State. No signs will be installed except as required by the State to warn of prohibited entry to restricted areas.

Potential off-site impacts will be mitigated with filters for fan noise, and charcoal filters inside each greenhouse to eliminate off-site odors. The crop will be grown using all organic methods. Lady bugs and grasshoppers, together with hemp and/or rosemary oil will be used to control insects. Only organic pesticides will be used.

The applicant will be using light deprivation grow techniques inside the greenhouses. This system uses the natural light cycle of the sun and supplemental artificial lighting. The supplemental lighting will be low energy LED lighting for minimal energy consumption. During the night the greenhouses will completely dark and covered so there will be no light pollution from the greenhouses.

The proposed project meets all of the County's separation requirements from residences, libraries, schools and day care facilities found in Article 1825 of the Cochise County Zoning Regulations.

Any medical marijuana cultivation will be required to meet the security requirements mandated by the State of Arizona, including security cameras, perimeter fencing and secured access, and will require final approval from the Arizona Department of Health Services (AZDHS) prior to beginning of any marijuana cultivation.



Photo 3/10/16

*View east from entry gate*



Photo 3/10/16

*View southeast from entry gate on S. Covered Wagon Rd.*



Photo 3/10/16

*View north from S. Covered Wagon Road*



Photo 3/10/16

*View south from S. Covered Wagon Road*



*View from property to house on west side of S. Covered Wagon Rd. photo date 3/10/16*

## **ANALYSIS OF IMPACTS – COMPLIANCE WITH SPECIAL USE FACTORS**

Section 1716.02 of the Zoning Regulations provides a list of ten factors with which to evaluate Special Use applications. Staff uses these factors to help determine the suitability of a given Special Use request, whether to recommend approval for a Special Use Permit, as well as to determine what Conditions and/or Modifications may be needed.

Nine of the ten factors apply to this request. The project, as submitted, fully complies with eight of the conditions and conditionally complies with one additional factor. The one remaining factor is not relevant to this application.

### **A. Compliance with Duly Adopted Plans: Complies**

The proposed project satisfies the criteria for Comprehensive Plan D-Rural areas since the proposal is in an outlying rural area between unincorporated communities that have a low growth rate, and is in a very low density area is surrounded by agricultural and vacant lands.

The proposal also supports the following Comprehensive Plan Elements:

The Agriculture and Ranching Element goal that seeks to "Protect and promote the agricultural economy of Cochise County, its agricultural and ranching lands, and related land uses."; and the policy to "Continue encouraging development of agricultural processing, both on-site and at industrial scale, to support production of value-added agriculture products in Cochise County.

The Economic Development Element that states that "Supporting small businesses will not only spur diversified income opportunities and ensure economic competitiveness, but will also foster resilience in the face of economic challenges such as natural disasters" and the policy to Continue to communicate with the business community, and be responsive to the changing needs of established and new businesses.'

The Rural Character Element: One goal of the Rural Character Element is to "Provide for a continuation of traditional rural ways of life, such as farming, ranching, and other agricultural-related activities, and provide for diverse and viable economic and development opportunities that are consistent with the character of Cochise County's rural areas."

The project site is not within the boundaries of any area plan.

### **B. Compliance with the Zoning District Purpose Statement: Complies**

The proposed project satisfies the following zoning district purpose statements:

**601.01** To preserve the character of areas designated as "Rural" in the Cochise County Comprehensive Plan;

**601.02** To encourage those types of non-residential and non-agricultural activities which serve local needs or provide a service and are compatible with rural living;

**601.03** To preserve the agricultural character of those portions of the County capable of resource production;

### **C. Development Along Major Streets: Not Applicable**

The property is located on the east side of South Covered Wagon Road and the site takes access from one gated driveway entrance so does not take access from any Major thoroughfare or arterial street.

### **D. Traffic Circulation Factors: Complies**

No right-of-way dedication or off-site improvements are required.

Access is taken from a privately-maintained road, S. Covered Wagon Rd. onto the subject parcel from an existing gated driveway located approximately 1,500 feet north of E. Cattle Dr. Cattle Drive is a county-maintained, native surfaced primitive road with an 18 foot cross-section. Cattle Drive links via the county-maintained Quick Silver Road to Arzberger Road, a county-maintained, chipped-sealed rural minor access roadway. The proposed use is consistent with similar agricultural uses in the County.



*View of entry gate and driveway*

*photo date 3/10/16*

### **E. Adequate Services and Infrastructure: Complies with Conditions**

Electrical service is provided to the site by Sulphur Springs Valley Electric Cooperative; water is supplied by an existing private well and there is an existing septic tank on site.

#### **Traffic Analysis**

This type of use is akin to a small-scaled agricultural use: average trip generation rates specifically for this type of growing operation have not been developed on either a national or state-level at this time. The applicant anticipates up to 24 employees, at full-build out of this project, which has the potential to generate an estimated range of 36-107 vehicle trips per day. The applicant anticipates a heavy pick-up truck to be used for deliveries and agricultural activities on the site; no large commercial vehicles are anticipated at this time by the applicant.

Note: Vehicle trips are different than number of vehicles that travel to the site. Average vehicle trips per day also include incidental traffic generated due to the presence of any particular use (e.g. mail, deliveries, trash pick-up) and averages seasonal variations in trips generated.

Greenhouses tend to stabilize the typical seasonal variations inherent in open agricultural activities. The applicant is proposing a staged greenhouse development with up to 6 greenhouses built over time, as market demand allows. The applicant also anticipates one residential unit with 3 to 6 employees staying on site at any given time. Potentially this would add an estimated 9.57 vehicle trips per day, ranging from 4.3 to 21.8 vehicle trips per day, for non-commercial activities. However, typically having employees located on site reduces employee travel demand thus creating an internal capture rate that off-sets any additional residential use travel demand.

If built out to a full residential use this 40 acre parcel would likely generate an average of 95.7 vehicle trips per day for ten residential units. As a growing and infusion operation only, with no dispensary operation, the requested use is not likely to change the type of use that has historically been on this site nor the type and volume of traffic associated with an agricultural greenhouse operation. It is likely that even at full build-out, as proposed by this applicant; the trip generation for this site would be less than if developed as a residential use.

### **Private Maintenance Agreement**

The applicant's access is off of a non-county maintained roadway. The applicant will be required, in keeping with the requirements of Zoning Regulation 1807.02 A., to provide a Private Maintenance Agreement at the Commercial Permit stage. This agreement will require the applicant to keep this segment of roadway in "passable" condition which means in a condition on which the average vehicle can travel on the roadway. This agreement does not require that the roadway be maintained to a county-maintained standard or to an all-weather condition.

Like all other native surfaced roadways in the County the access roads to this site are subject to changing conditions which include sudden and severe flooding, ruts, erosion and blowing dust. There is no expectation that the applicant will maintain the private segment of the roadway in any better condition than the County can manage to do in severe weather conditions. However, the applicant will likely have a higher motivation to bring the roadway back into passable condition than other property owners in order to provide access to their employees and the Private Maintenance Agreement formalizes the higher degree of obligation that they would have as a business owner along this residential roadway.

### **F. Significant Site Development Standards: Complies**

The applicant has not requested any waivers from site development standards. All site development standards must be met to obtain a non-residential use permit, should this request be approved. The property has adequate area for parking. All of the existing structures on the site meet all of the zoning regulations as they pertain to set-backs, off-site parking, and loading areas, land clearing, water conservation, and Section 1825 of the Zoning Regulations pertaining to medical marijuana. Any future construction of will be required to meet all clearing, drainage, site development standards and building permit regulations.

In addition to County regulations, the applicant will be required to meet all regulations and requirements established by the State of Arizona for these types of facilities including security cameras, perimeter fencing and secured access to the cultivation greenhouses.

### **G. Public Input: Complies (from the original application)**

The Applicant sent letters to all property owners within 1,500-feet of the subject parcel to notify them of this application and also held a neighborhood meeting on March 7<sup>th</sup> at the Holiday Inn Express in Willcox, AZ, to address any neighbor concerns. There were fifteen attendees at the neighborhood meeting including a representative from the Willcox Range News. The applicant's report from the meeting stated that neighborhood objections were concerned primarily with traffic, security and lighting.

### **H. Hazardous Materials: Complies**

Natural pest controls, such as lady bugs, grasshoppers and organic oils such as neem and rosemary oils will be used to deter and control pests. Only organic fertilizers will be used. No hazardous materials or pesticides will be used.

### **I. Off-Site Impacts: Complies**

The proposed facility is not anticipated to produce off-site impacts. The State of Arizona has other lighting requirements for medical marijuana facilities. The applicant is intending to use shielded LED lighting and will use sound-controlling filters for any noise from fans inside the greenhouses, and carbon filters in the greenhouses to eliminate any off-site odors from the plants. The proposal will have the same visual impact

as any other agricultural greenhouse use that would be allowed by right as a principal permitted use in this zoning district.

#### **J. Water Conservation: Complies**

The applicant is proposing to recycle water to reduce water consumption.

#### **PUBLIC COMMENT (FROM THE ORIGINAL APPLICATION)**

The Planning Department staff mailed notices to neighboring property owners within 1,500-feet of the subject property. Staff posted the notice to the County website on March 11, 2016, published a legal notice in the *Bisbee Observer* on March 24, 2016 and posted the property on March 10, 2015. In response to applicant and County mailings, staff received one letter in support of this request and two letters from one resident in opposition to this request.

The support letter cited the benefits of the medical use of this plant, and that this will be a quiet operation with no retail sales or retail traffic. The writer also mentioned an interest in any impacts on the water table and pollution, if any.

The opposition letters stated that the resident was supportive of medical marijuana but had concerns about (not ranked): security, fire and police protection, fears of a reduction in property values and a concern about the applicant's second neighborhood notification letter that recognized an error in proposal in the greenhouse height and corrected the error. The resident in opposition has concerns that other errors in the proposal exist.

Staff also received one letter in support from the property owner. This letter is not reflected in the factors in favor as it is assumed that the property owner is supportive of this request since he signed the authorization to allow the permit to be submitted.

#### **IV. PUBLIC COMMENT FROM THE APPEAL APPLICATION**

The Planning Department staff mailed notices to neighboring property owners within 1,500-feet of the subject property. Staff posted a notice regarding this Appeal request to the County website, published a legal notice on May 26, 2016 and posted the property on May 19, 2016. In response to applicant and County mailings, staff received 197 letters and petitions in support of this Appeal request to deny the facility at this location; and 730 letters opposing the Appeal request, in support of the facility at this location.

No waivers or modifications have been requested. Any State of Arizona requirement for cultivation, security and lighting requirements will be met.

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 types of dockets items for land use issues only.

**Approval of this land use does not guarantee that the applicant will be successful in obtaining a license with the State of Arizona for medical marijuana cultivation; obtaining County land use approval is only one part of the State application process.**

#### **V. PLANNING AND ZONING COMMISSION DISCUSSION**

In the Final Minutes from the April 13<sup>th</sup> meeting, it was noted that the Commissioners confirmed the requirement for a Private Maintenance Agreement on S. Covered Wagon Road from the applicant's property to E. Cattle Drive, the county-maintained road. The applicant's representative, Mr. Adam Trenk, noted that no modifications or waivers were requested and that the cultivation greenhouses would be compatible with the existing agricultural uses on the site. Mr. Trenk also commented about the on-site housing, security measures and water usage.

Five members of the public appeared in opposition: Mr. Richard Frank and Ms. Brenda Frank expressed

opposition without speaking; and three persons addressed the Commission. Ms. Cindy Traylor, from Willcox, 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 of Willcox spoke in opposition citing fire and police protection issues and the potential of attracting criminals to the area; and Mr. Paul Ottens also spoke in opposition citing concerns about grading and drainage on the site and the unreliability of services in the area.

The applicant's representative, Mr. Trenk responded to the public comment noting that the neighborhood was a rural area and the use was agricultural, that the applicant also used carbon dioxide and water in the infusion process and noted that the County's Building Safety Division would inspect the site for code compliance.

Commission Brauchla requested and received clarification that the use was an agricultural use. Chairman Greene requested and received clarification of the employee vetting process which consists of State performed background checks and fingerprinting of all staff. Only licensed, professional employees would be allowed, by State statute to work at the site, no migrant workers would be employed. Other Commissioners clarified the fencing installation, which is a requirement from the State, and questioned and clarified issues about light pollution, water storage, fire suppression capacity and odors. Chairman Greene requested confirmation that if the request were for another greenhouse grown crop, other than medical marijuana, then this application would not be before the Commission, staff answered affirmatively.

The Commission voted unanimously (7-0) to approve the request. Commissioners Martzke and Gregan were not in attendance.

## **VI. ANALYSIS OF THE APPELLENTS REQUEST**

The Appellant is requesting that the Board overturn the Planning and Zoning approval of SU-16-04 (Kriaris) stating that 1) the Planning and Zoning Commission did not understand the community and the impact on the community, 2) that the residents were naïve and did not understand the process, and 3) the appellant provided a letter listing perceived impacts as an attachment to the application.

Portions of the Appellant's attached letter were part of Ms. Traylor's opposition statement at the Planning and Zoning Commission meeting.

One of the Appellant's concerns was having this facility in a "residential area". Although there are residential homes in the area, the zoning district is a Rural zoning district; Permitted Principal Uses, allowed by right in this Rural district, that could have greater impacts than enclosed greenhouses and a processing building are:

- Veterinary clinics and animal hospitals,
- Grocery stores with outdoor storage, and
- Custom butchering and meat processing.

One of the Appellant's concerns was fire suppression and the fire district response time. Staff was contacted by the Fire Chief from the Chiricahua Fire District who wanted to clarify some of the neighbors' concerns about fire response times, stating 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.

One of the Appellant's concerns was off-site odors. The Applicant is using an odor-eliminating system; however, should off-site odors occur, they would be a violation of the Cochise County Zoning Regulations and the County would investigate any complaint and the applicant would be required to eliminate the off-site odor.

One of the Appellant's concerns was light pollution. Internally illuminated greenhouses are be exempt

from zoning regulations however the Applicant is voluntarily using the industry standard opaque blackout screening to eliminate light trespass.

Other agricultural uses, including internally illuminated greenhouses, are allowed by right in all zoning districts for any other crop except marijuana. The applicant could plant orchards or fields, or install greenhouses on the entire property and grow any other crop with no permitting required.

## **VII. SUMMARY AND CONCLUSION**

This is an Appeal of the Planning and Zoning Commission's approval of SU-16-04 (Kriaris), an authorization of a phased development for the cultivation and infusion of medical marijuana on a 40-acre parcel located at 6950 South Covered Wagon Road in Willcox, AZ.

The residents surrounding the site of the Special Use request were properly noticed. 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, security and fencing are regulated by the State of Arizona and are not under the regulatory authority of the County.

Prior to the Planning and Zoning meeting one resident expressed support and one resident expressed opposition. At the April 13<sup>th</sup> Commission meeting five residents expressed opposition.

Since the Appeal was filed, staff received:

5 individual letters plus 192 signatures on copies of a form letter in support of the Appeal to overturn the Planning and Zoning Commission approval (opposed to the project); and

4 individual letters plus 726 signatures on copies of a form letter opposed to the Appeal to overturn the Planning and Zoning approval (in support of the project).

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

1. 197 people sent letters supporting the Appeal to overturn the Commission approval.

### **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;
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 people sent letters opposed to the Appeal to overturn the Commission approval.

### **VIII. RECOMMENDATION**

Staff recommends **Denial** of the Special Use Appeal to overturn the April 13, 2016 Planning Commission unanimous approval of SU-16-04 (Kriaris) a Special Use request to approve a facility for the cultivation and infusion of medical marijuana on 40 acre RU-10, D-Rural zoned property thereby granting Conditional Approval of SU-16-04, with 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;
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;
3. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional Modification and approval by the Planning and Zoning Commission;
4. In advance, or concurrent with, their first Commercial Permit application, the applicant is required to provide a Private Maintenance Agreement for S. Covered Wagon Road from their driveway to Cattle Drive;
5. At the commercial permit stage additional site plan details, including a sight distance triangle, per Zoning Regulation 1807.06 and/or Roadway Design Standards D-300, will be needed on the site plan or as a separate illustration. Details on the driveway width, driveway access radii will also be needed: design should comply with the County's Roadway Design Standards;
6. At the commercial permit stage a Drainage Analysis will be required demonstrating that the proposal will have no adverse impacts to adjacent parcels and any downstream properties;
7. At the commercial permit stage the applicant shall indicate on their site plan the location and size of any proposed rainwater catchment areas; and
8. Design plans for any improvements disturbing one acre or more will need to be submitted, reviewed and approved before construction begins.

### **IX. ATTACHMENTS**

- A. Appeal application
- B. Location Map
- C. SU-16-04 Memo to the Planning and Zoning Commission
- D. April 13, 2016 Planning Commission Final Minutes
- E. Public input- Support of Appeal -Form letter Total list with resident locations; sample form letter and individual letters
- F. Public input- Opposition to Appeal -Form letter Total list with resident locations; sample form letter and individual letters
- G. May 27, 2016 Adam M. Trenk, Esq., Rose Law Group PC letter to the Board of Supervisors