

May 27, 2016

SENT VIA ELECTRONIC MAIL

Board of Supervisors
COCHISE COUNTY
1415 Melody Lane
Bisbee, AZ 85603
board@cochise.az.gov

**RE: SUA-16-04
Request to Deny Appeal of NGK Enterprises, LLC Special Use Permit
6950 South Covered Wagon Road, Willcox, AZ**

Dear Supervisors,

This office represents NGK Enterprises, LLC (the "applicant"). As you are likely aware, NGK Enterprises, LLC was awarded a special use permit to operate a medical marijuana cultivation and infusion facility (the "SUP") on a forty acre parcel located at 6950 South Covered Wagon Road in Willcox, Arizona (the "Subject Property") by a unanimous vote of the Cochise County Planning Commission on April 13, 2016. Using the factors set forth in Section 1716.02 of Cochise County's Planning & Zoning Regulation to guide their decision, the Planning Commission presumably voted to grant the SUP to our client based on their application meeting or exceeding all objective criteria, and a lack of substance in the arguments presented by those who protested the application. The award of the SUP is now the subject of the above referenced appeal, which is scheduled to come before you on June 14, 2016. The purpose of this letter is to (i) re-iterate the merits of the SUP, (ii) demonstrate that support for the appeal is routed in fallacy, and (iii) to request your denial the appeal in the best interest of Cochise County.

i. MERITS OF THE SUP

The Subject Property

The Subject Property is well situated for the proposed use. The climate and soil conditions in the area are suitable for the cultivation of medical grade cannabis. Zoned RU-10, in a sparsely populated rural agricultural area, the Subject Property is surrounded by grazing land to the North (having the same ownership as the Subject Property), vacant land to the East, and bordered in part to the South by twenty acres of grazing land (also having the same ownership as the Subject Property), and in part to the South by a winery. The Subject Property, together with

the forty acres to the North, and twenty acres to the South, are already used for commercial agricultural purposes, a by right land use, producing pistachio nuts and providing forage for beef cattle. The production or processing of virtually any crop is not only be permissible by right, but also encouraged by the County's ordinances. See Sections 601.03 and 603.18 of the Cochise County Planning & Zoning Regulations.

Given its stigma, and historically more sensitive legal classification, it stands to reason that certain criteria are required to be met by Cochise County's land use ordinances before marijuana is permitted to be farmed there. The Subject Property meets all such criteria. The approval of the SUP merely allows for the expansion of those agribusiness operations to include the cultivation and processing of such alternative medicines subject to State Law and Arizona Department of Health Services regulations.

The Applicant

The applicant is highly qualified. NGK Enterprises, LLC is an affiliate of Encanto Green Cross, a family owned and operated medical marijuana dispensary located in Phoenix, Arizona. Nick Kriaris, who is the principal of NGK Enterprises, LLC, operates Encanto Green Cross together with his mother and brother in conformity with all relevant state and local laws and regulations. NGK Enterprises, LLC has sought the SUP in order to allow for the expansion of their production operations to serve the needs of the patients who patronize their dispensary. Specifically, Encanto Green Cross currently cultivates products in an entirely closed facility in artificial plant beds. Once their cultivation operations are initiated at the Subject Property, Encanto Green Cross will be able to provide a more natural product, which is perceived as more desirable by a large segment of their market.

The Application

The application for the SUP met or exceeded all of Cochise County's criteria for approval. Attached for your reference as Exhibit A is a copy of the Memorandum prepared by Cochise County's Community Development Department in anticipation of the Planning Commission Hearing held on April 13, 2016. This Memorandum clearly expands upon each of the SUP approval criteria contained in the County's Planning & Zoning Regulations, together with a thorough explanation of how the application and anticipated operations at the Subject Property complies with the same.

ii. FALLACIES IN OPPOSITION ARGUMENT

Pursuant to Cochise County's ordinances, area residents have a legal right to contest the award of the SUP. However, the balance of the County's citizenry is entitled to expect that its leadership will exercise sound judgment rooted in fact when making policy decisions, and not be swayed by emotional appeals. Simply put, merely because a lot of people are subscribing to a theory does not make it a reality, and bandwagon subscription to a fallacy should not influence policy decisions. As leaders in your community it is incumbent upon you to try to sort the sound arguments from the illusory before relying on that information to base a decision.

Section 1716.04 of the Cochise County Planning & Zoning Regulations clearly details the process for the Appeal of Special Use Authorization Decisions. Section 1716.14(B)(2) requires “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.” The appellants wrote:

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 appellants above copied statement begs the conclusion that all seven members of the Planning Commission, who (a) studied the application for the SUP, (b) reviewed the Memorandum prepared by the County's Community Development Department, and (c) heard the testimony of the Community Development Department, the applicant, and several area residents, then managed to fail to understand the nature of the application and the true potential impacts the anticipated operations permitted by this SUP could have on the surrounding area. For this to be true, it would have to mean that every member of the Planning Commission, lacked the will or the capacity to serve their main function as your appointees in that role. This is very difficult to accept.

Section 1716.14(B)(3) requires the appeal to include “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.” In other words, the appellants have to present new information not presented to the Planning Commission at the initial hearing and explain why it was not presented previously. The appellants wrote:

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 of the evidence was brought out at the hearing because of the naivete of the residents of 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.

First, the appellant fails to distinguish that “evidence” which was presented to the Commission and the “additional testimony & evidence” required by a valid appeal. In the analyses below, those statements that were in fact presented to the Planning Commission at the hearing on April 13, 2016 are noted¹. The fact that the applicant's attorney classified that “evidence” as a “scare tactic” does not mean it was not presented. The Planning Commissioners had the opportunity to make their own judgements. Furthermore, the appellants “explanation of why this was not presented to the Planning Commission,” is nothing short of lacking. The hearing was duly noticed, and the applicant held a well-attended neighborhood meeting on

¹ Attached for your reference as Exhibit E is a copy of the meeting minutes from the April 13, 2016 Planning Commission Hearing.

March 7, 2016. A copy of the sign in sheet from that neighborhood meeting is attached as Exhibit B for your reference, and as you will see, the appellant and several of those who have written in to support the appeal were at the March 7, 2016 meeting, and had plenty of time to educate themselves about the SUP application and approval process. This rationale for admitting additional information rings hollow.

Second, to someone with little or no knowledge of the Arizona Medical Marijuana Act², related Department of Health Services Regulations³, or the true scope of the operations anticipated by the SUP, the arguments (including both those previously presented and those offered as “additional testimony & evidence”) proffered by the SUP’s appellants may seem reasonable, but they are not. If you read the list of “reasons” presented with the appeal closely you will see there is no actual evidence, merely speculative arguments with no factual basis many of which are unrelated to SUP approval criteria and thus irrelevant. Moreover, these “reasons” tend to be couched in highly hypothetical language, virtually admitting that they are unsubstantiated. Copied herein in italicized text are excerpts from the appellant’s “reasons for denying” the SUP, together with analyses below each to illustrate that the foundation of the appeal is nothing more than fallacy:

“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.”

The Subject Property is located in an area zoned RU-10. Though it may be populated by residences pursuant to the County’s Planning and Zoning Regulations many other uses are allowable by right, including agricultural production and processing, commercial stables, grocery stores, recreational facilities, and slaughter houses. Several other uses are permissible upon an application and award of a special use permit, including animal boarding (a use recently approved near to the Subject Property), and the specific uses contemplated by the SUP. A review of the minutes from the April 13, 2016 hearing will reveal that this point was already considered by the Planning Commission.

The appellants offer no evidence, such as comparative market analyses or appraisals, to support fear of declining property values, and admit that dangers are “perceived.” The Merriam-Webster’s dictionary definition of perceived, “*to regard as such,*” is illustrative of the point this section of my letter is now trying to make. Specifically, just because some people may regard the uses permitted by the SUP as bringing detriment to their neighborhood does not make it so. The appellant offers no data or statistics to support their argument that the operation of a medical marijuana cultivation operation will impact their property values or create any dangers to the neighborhood.

² Arizona Revised Statutes (A.R.S.) Title 36 Chapter 21

³ Arizona Administrative Code (A.A.C.) Title 9 Chapter 17

Attached for your reference as Exhibit C is an impact statement from Benchmark Commercial Real Estate⁴ indicating that “there is no negative impact on either residential or commercial property values” when medical marijuana facilities are in the area. I would also like to direct your attention to a study conducted by the University of California Los Angeles faculty which concluded that the presence of medical marijuana facilities “were not significantly related to [either] violent crime rates . . . [or] property crime rates⁵.”

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.

The absence of Sheriff's patrols was not caused by nor is it affected by the award of the SUP. The Sheriff's response times are not impacted by the award of the SUP. These statements, predicated on the unsubstantiated theory that the relatively close proximity of a regulated and surveilled medical marijuana facility creates some danger, is intended to arouse emotion and create fear that a potentially slow response from law enforcement would result in harm to neighboring residents. A review of the minutes from the April 13, 2016 hearing will reveal that this point was already considered by the Planning Commission. Though this statement may be effective as intended, to stir anxiety and solicit support for the appeal, it is simply not a factor when considering the validity of the SUP.

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.

This statement is nothing more than hysterics. There is absolutely no evidence to support the notion that the security the Applicant will have at the Subject Property will be “heavily armed” nor is there any indication that they will be potentially violent. A.A.C. regulations require certain security measures to be taken on site, which will be imperceptible to anyone passing by or residing on neighboring properties. Again, this statement may be effective inasmuch as it rouses emotions to rally support for the appeal, but it is a delusion and should not be persuasive to policy makers educated on the subject.

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

⁴ The attached impact statement was not produced at the request of the Applicant. www.bmcre.com

⁵ *Exploring the Ecological Association Between Crime and Medical Marijuana Dispensaries*. Kepple & Freisthler. Journal of Studies on Alcohol and Drugs, July 2012 at page 527.

NOTE: the Benchmark opinion attached, and the study referenced do speak specifically about dispensaries and do not distinguish them from cultivation operations. Though it is common for dispensaries to co-locate cultivation operations, the subject SUP is for an “off-site” cultivation and infusion facility only. The relevant provisions of the A.A.C. require the cultivation and infusion operations to adhere to substantially similar security measures, which serve as a deterrent to crime, thus it stands to reason the anticipated cultivation operation at the Subject Property will have the same effect on its surrounding area.

area. Should that element come into the area looking for the facility, it would put the nearby residences in jeopardy.

The facility is not going to be an attractive nuisance. On the contrary, the security measures that are mandated by the relevant provisions of the A.A.C. are intended to serve as an active deterrent to crime in as much as they are there to prevent misappropriation of products by those with authorized access. The appellant's statement about migrating illegals and the area's drug problem is nothing short of alarmist, and is completely unrelated to the SUP, as is the vague hypothetical posed at the end of the statement. On the contrary, there are in fact scientific studies such as the one referenced above that clearly demonstrate there is no significant correlation to the location of marijuana dispensaries and area crime. Attached hereto as Exhibit D is a graph detailing that crime actually tends to drop slightly in some areas where dispensaries are located. A review of the minutes from the April 13, 2016 hearing will reveal that this point was already considered by the Planning Commission.

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.

This is simply not a true statement. Based on statements from Chief Levine of the Chiricahua Fire District, response times to the neighborhood where the Subject Property is located are approximately ten minutes, and the district has adequate resources to fight fires in the area. That said any lack of adequate fire protection, perceived or real, would not be caused nor affected by the award of the SUP, and thus is not a factor. A review of the minutes from the April 13, 2016 hearing will reveal that this point was already considered by the Planning Commission.

There are environmental factors to be considered. This facility will employ a butane process for extracting the cannabonoids, 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.

This argument is just more hysteria. Yes, an explosion happened in New Mexico at a facility that utilized butane to make extracts from marijuana plants. However, the details surrounding that explosion indicate that the facility was not operating in conformity with necessary safety standards, and in violation of applicable regulations⁶. Some people speed when they drive, others do not service their brakes, these things lead to accidents, but that does not mean that everyone is deprived the opportunity to get a driver's license. A review of the minutes

⁶ <http://www.abqjournal.com/741087/santa-fe-pot-business-cited-for-violations-in-explosion-video-released.html>

from the April 13, 2016 hearing will reveal that this point was already considered by the Planning Commission.

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.

The scrubbers and air filtration systems are designed to completely prevent any odor from escaping the facility. However, to the extent that they do not, the Subject Property consists of Forty Acres, and as detailed above is surrounded largely by vacant land, most of which is of common ownership creating no detriment to neighboring residents, which will more than adequately buffer any remaining smell. Please also bear in mind that animal processing would be a by right use and has the potential to produce far more offensive odors, and that any intrusion of odors on neighboring properties would be subject to the County's code enforcement as a nuisance. A review of the minutes from the April 13, 2016 hearing will reveal that this point was already considered by the Planning Commission.

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.

Another hysterical and baseless argument, good only to illustrate how little the appellant actually bothered to learn about the SUP before drumming up opposition based on fallacy. Water consumption for the approved special use, to cultivate and process medical marijuana, will not exceed 1,000 gallons per day. This issue is addressed starting at the bottom of page 5 in the Memorandum prepared by the Community Development Department attached as Exhibit A. The Subject Property is served by its own wells. Total water consumption for the cultivation operation will be less than if the Subject Property were developed to its full residential capacity.

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.

As a condition of the SUP's approval the applicant has agreed to enter into a Private Maintenance Agreement and help maintain the access roadways. Moreover, the Subject Property together with connecting parcels of common ownership could be developed to accommodate up to *ten* (10) residences, grocery stores, farmers markets, or churches, all of which would generate significantly more traffic than the use contemplated by the SUP. A review of the minutes from the April 13, 2016 hearing will reveal that this point was already considered by the Planning Commission.

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.

Any non-organic agricultural operation would be objectionable by this logic. This argument is based on an unsubstantiated assumption that the applicant will not responsibly process chemicals in the conduct of its business and is clearly offered for no reason other than to arouse emotion and create fear.

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.

Any and all structural improvements, including light fixtures, will be developed in accordance with the County's Planning and Zoning Regulations and applicable building codes, which includes the Cochise County Light Pollution Code. The appellants has no basis for this statement, it is simply more hysterics.

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.

Again, any and all structural improvements will be developed in accordance with the County regulations, which includes Cochise County's Building Safety code. This means that the Building and Safety Division and the Floodplain Division of the County's Community Development Departments will have to review and approve any and all plans prior to construction. Again, no basis for this statement, simply more hysterics, and a review of the minutes from the April 13, 2016 hearing will reveal that this point was already considered by the Planning Commission.

Raising cannabis violates both Federal and Arizona laws.

False. The use contemplated does not violate Arizona Law. Moreover, though technically illegal under Federal Law, the Federal Government does not prosecute actors such as the applicant who are operating in clear and unambiguous compliance with applicable State and Local law⁷. Regardless, this is not relevant in the context of whether or not the SUP was duly awarded under the purview of the County's land use code.

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.

⁷ Ogden Memo, October 19, 2009. <https://www.justice.gov/sites/default/files/opa/legacy/2009/10/19/medical-marijuana.pdf>

False. Any and all such facilities, as a pre-requisite to operating legally in Cochise County, would need to go through the public process required to ensure the scope of its operations met a multitude of criteria before a special use permit could be granted. Again this statement serves no purpose other than to stoke the flames of fear in an effort to garner support for the appeal.

iii. **CONCLUSION: DENY THE APPEAL/UPHOLD THE PLANNING COMMISSION'S DECISION TO AWARD THE SUP**

An objective and thorough review of all information related to the pending appeal can only lead to the conclusion that the Planning Commission *did not err* in granting the SUP to the applicants, and that the appeal should be denied. The SUP was duly awarded by unanimous vote to the applicant in accordance with Sections 607, 1716, and 1825 of the Cochise County Planning & Zoning Regulations. As the Memorandum, attached as Exhibit A, drafted by the Cochise County Community Development department clearly details, the application for the SUP complied with all applicable factors. Nothing has changed since the application was first considered and the SUP was awarded aside from the eruption of emotions ignited by a few residents who have used misleading, irrelevant, and in some instances patently false information as the spark. It would set a bad precedent and be a disservice to the entirety of Cochise County to allow emotional arguments devoid of factual foundations to derail a sound policy making process.

On behalf of NGK Enterprises, LLC and its principals, I would like to ask that you deny the appeal, upholding its award of the SUP by the Planning Commission. I thank you for taking the time to consider this matter and invite you to contact me directly before the hearing if you have any specific questions that I have not addressed.

Sincerely,



Adam M. Trenk

cc: Jesse Drake, Planning Manager

EXHIBIT A



Cochise County
Community Development
Planning, Zoning and Building Safety Division

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

MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Jesse Drake, Planning Manager
FOR: Paul Esparza, AICP, Planning Director
SUBJECT: Docket SU-16-04 (Kriaris)
DATE: March 31, 2016 for the April 13, 2016 Meeting

APPLICATION FOR A SPECIAL USE

The Applicant is requesting a Special Use authorization to approve a facility for the cultivation and infusion of medical marijuana on 40 acre RU-10, D-Rural zoned property. The proposed uses are considered Special Uses in RU-4 Rural Zoning Districts under Sections 607.53 and 607.56 of the Zoning Regulations.

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 Applicant is Nick Kriaris/NGK Enterprises Inc.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 40 acres
 Zoning: RU-10 (one dwelling per ten-acres)
 Growth Area: Rural
 Comprehensive Plan Designation: D
 Area Plan: None
 Existing Uses: Residential structures, nut orchard and vacant land
 Proposed Uses: Medical marijuana cultivation and infusion

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-10	Vacant
South	RU-10	Vacant and low-density residential
East	RU-10	Vacant
West	RU-10	S. Covered Wagon Rd, vacant and low-density residential

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

II. PARCEL HISTORY

1979- Mobile home permit

1987- Mobile home yard improvements and utility building permit

1990- Detached garage permit

1994- Double-wide mobile home permit

1997- Utility building permit

III. NATURE OF REQUEST

The Applicant is requesting authorization for cultivation of medical marijuana in enclosed greenhouses on the a 40 acre parcel located at 6950 S Covered Wagon Rd in Willcox, AZ, an RU-10, D-Rural zoned property. There will be no dispensary or public facilities 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.



Site aerial with property boundary

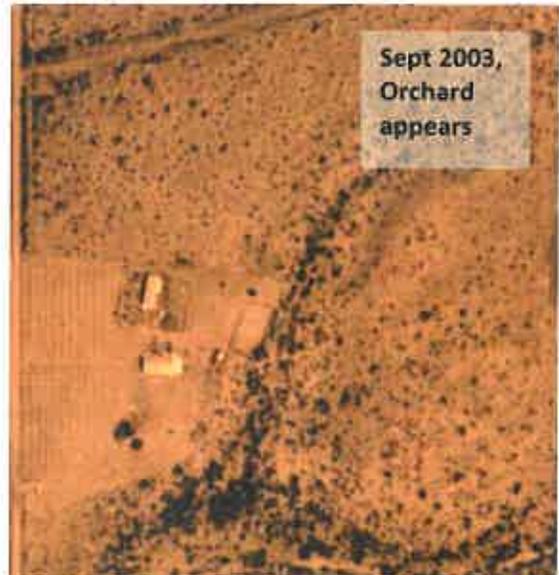
Photo date March 21, 2015, Google Earth



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. The property has been in essentially the same condition for 16 years, since 2003 when the pistachio orchard was planted. The trees are still thriving and 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.



Google Earth photo



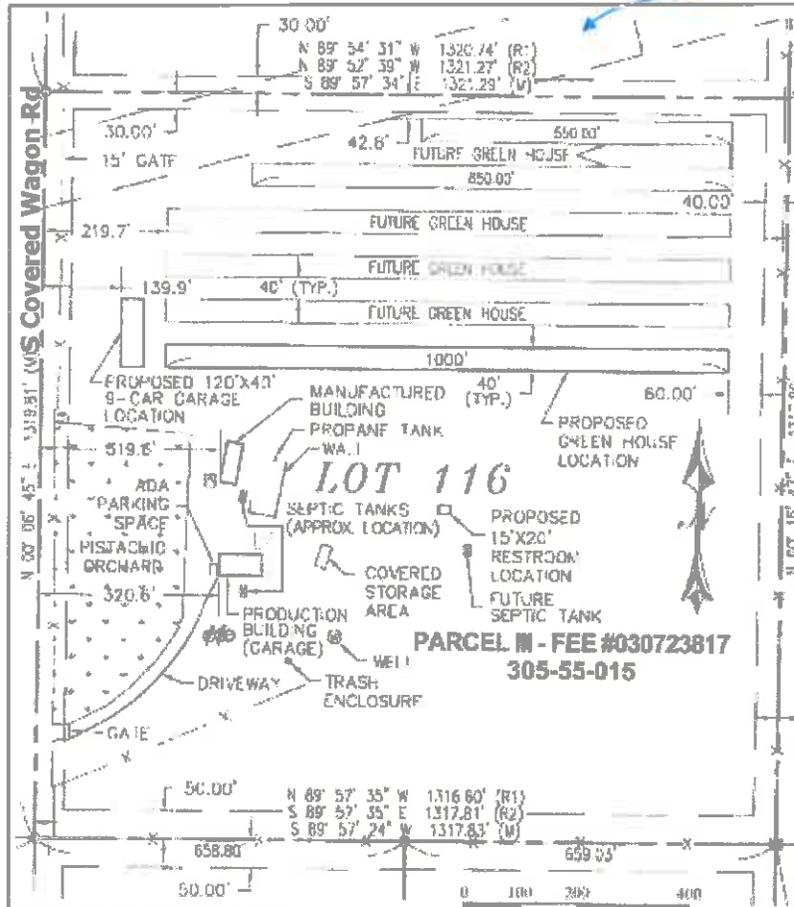
Google Earth photo



Pistachio orchard on subject property adjacent to South Covered Wagon Road



*March 21, 2015
Site aerial,
Current conditions*



Proposed Site plan

This 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.

The parcel is not located in any active water management area. The crop will be grown in the locked and enclosed greenhouses in water-conserving trays. Excess water from the growing trays will be filtered and reused to conserve water. The plants will be processed on-site in an enclosed structure during all Phases of the site development. The entire parcel will have perimeter fencing. The site will be in operation seven days a week from 5 AM to 7 PM starting with 3 to 5 employees in Phase I; expanding the staff to up to 24 employees at full build-out. The final medical marijuana products will be transported and sold at the applicant's existing licensed medical marijuana dispensary in the Phoenix metro area.

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, 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. Non organic pesticides will not be used.

The applicant will be using light deprivation grow techniques inside the greenhouses. This technique uses the natural light cycle of the sun and supplemental artificial lighting. The interior lights will be on during the day and off during nighttime, so light pollution will be kept to a minimum. 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.



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



View from property to house on west side of S Covered Wagon Road

IV. 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 complies with conditions with one 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, 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

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 customers 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

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 7th 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.

V. PUBLIC COMMENT

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.

VI. SUMMARY AND CONCLUSION

This request is for a Special Use authorization to approve a phased development for the cultivation and infusion of medical marijuana on a forty acre parcel located at 6950 South Covered Wagon Road in Willcox, AZ.

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

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.

Factors in Favor of Approving the Special Use

1. With the recommended Conditions of Approval, the proposed use would fully comply with eight of the ten Special Use factors used by staff to analyze this request, and complies with conditions with one additional factor;
2. The proposal complies with the Adopted Comprehensive Plan Agriculture and Ranching, Economic Development and Rural Character Elements;
3. The proposal complies with the Zoning ordinance Category D purpose statement;
4. The proposal will employ water conservation measures;
5. 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
6. At full build-out the traffic generated by this proposal would be less than if the site were developed as a residential use.
7. One resident sent a letter of support for this application.

Factors Against Allowing the Special Use

1. One resident has sent three letters in opposition to this application.

VII. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends **Conditional Approval** of the Special Use request, subject to the following Conditions:

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 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.

Sample Motion:

Mr. Chairman, I move to approve Special Use Docket SU-16-04, with the Conditions of Approval as recommended by staff; the Factors in Favor of Approval constituting the Findings of Fact.

VIII. ATTACHMENTS

- A. *Special Use application*
- B. *Site plan*
- C. *Location map*
- D. *Lighting cut sheet*
- E. *Applicant's February 25, 2016 neighborhood notification letter*
- F. *March 14, 2016 report on March 7, 2016 neighborhood meeting*
- G. *Applicant's second neighbor letter, dated March 17, 2016*
- H. *Agency comments*
- I. *Public Comment*

EXHIBIT B

Neighborhood Meeting Sign-in Sheet

Application for Special Use Permit | Medical Marijuana Cultivation | 9652 S. Covered Wagon Road, Wilcox, AZ
 Monday, March 7, 2016

Name	Address, Physical	Email	Phone
JOAN EDELMAN	6659 S. Covered Wagon	Joan85032@yahoo.	520 3846301
RACHEL HUBER	6800 S. BASCOM TRL	MANYELEPHANTS33@gmail.com	520 4299990
Cynthia Peterson	6707 S. Bascom Trl	craebiscuit@gmail.com	520-507-6131
Will & Kathy Johnson	6845 Covered Wagon	splash53@yahoo.com	520-253-0392
Paul Ellen Phillips	Arzburger Rd		
CINDY TRAYLOR	6722 S. Covered Wagon Rd	CTRAYLOR@POWERC.NET	520-672-5573
PEGGY & DAVE OTTENS	5555 E. SINGLE ARROW LN	3greys@gmail.com	520-507-3689
Matt & Lori Swartz	45 Railhead Ave Wilcox	Leah@Railroads.wilcox.com	216 743 7143
Carol Broeder	P.O. Box 1155 Wilcox, AZ 85649	reporter@wilcoxrange.com	(520) 384-3571 X23

EXHIBIT C



Property Value Impact Statement

Benchmark Commercial, LLC

303 W. Elliot Rd., #111

Tempe, Arizona 85284

Determining the impact of a medical marijuana dispensary on residential and commercial property values in the immediate area.

Background:

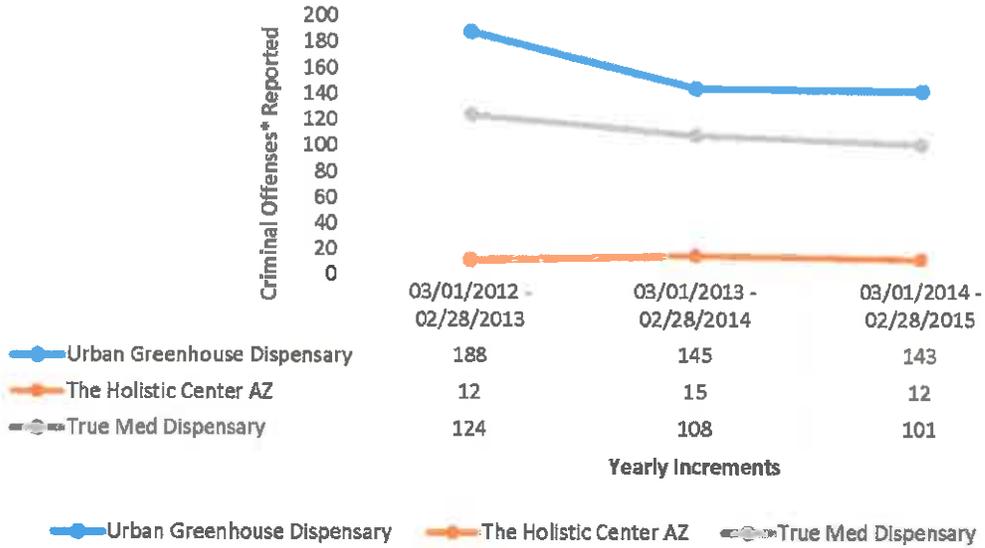
With the rapidly evolving medical marijuana industry many questions have been raised with respect to the opening of marijuana facilities and one of the major concerns has been the affect on nearby residential and commercial property values. In Arizona, the medical marijuana marketplace is still in its infancy compared to neighboring states, so data researching any correlation has been minimal. A quantitative analysis utilizing both Xceligent and Zillow was conducted in order to take a closer look into values of properties (both residential and commercial) close in proximity to existing dispensaries.

Findings:

It was determined that there is no negative impact on either residential or commercial property values due to the existence of a medical marijuana dispensary in the immediate area..

EXHIBIT D

Overall Trend of Criminal Activity within .25 Miles of Dispensaries



The graph includes dispensaries that opened in March/April of 2013.

*Criminal offenses include residential and commercial robbery, residential and commercial burglary, theft, shoplifting, theft of a motor vehicle, assault, sexual offenses, drug and narcotics violations, and disorderly conduct.

All information was retrieved from <http://www.raidsonline.com/>.

EXHIBIT E

**COCHISE COUNTY PLANNING & ZONING COMMISSION
FINAL MINUTES
April 13, 2016
REGULAR MEETING at 4:00 p.m.**

The regular meeting of the Cochise County Planning and Zoning Commission was called to order at 4:00 p.m. by Chairman Greene at the Cochise County Complex, 1415 Melody Lane, Building G, Bisbee, Arizona in the Board of Supervisors' Hearing Room. Chairman Greene admonished the public to turn off cell phones, use the speaker request forms provided, and to address the Commission from the podium using the microphone. He explained the time allotted to speakers when at the podium. He then explained the composition of the Commission, and indicated that there were five Special Use Dockets and one Special Use Modification Docket on the agenda. Chairman Greene explained the consequences of a potential tie vote and the process for approval and appeal.

ROLL CALL

Chairman Greene noted the presence of a quorum and called the roll, asking the Commissioners to introduce themselves and indicate the respective District they represent; seven Commissioners (Carmen Miller, Gary Brauchla, Tom Borer, Patrick Greene, Liza Weissler, Nathan Watkins and Pat Edie indicated their presence. Staff members present included; Paul Esparza, Planning Director; Jesse Drake, Planning Manager; Britt Hanson, Chief Civil Deputy County Attorney; Peter Gardner, Planner I; and Jim Henry, Planner I.

APPROVAL OF THE MINUTES

Motion: Approve minutes of the March 9, 2016 meeting **Action:** Approve

Moved by: Mr. Watkins **Seconded by:** Ms. Weissler

Vote: Motion passed (**Summary:** Yes = 5, No = 0, Abstain = 2)

Yes: Ms. Miller, Mr. Greene, Ms. Weissler, Mr. Watkins, and Ms. Edie

No: 0

Abstain: Mr. Brauchla and Mr. Borer

CALL TO THE PUBLIC:

Mr. Jack Cook of Bisbee spoke on matters of personal concern.

OLD BUSINESS

Item 1 PUBLIC HEARING Docket SU-16-01 (AEPCO)

A request for approval of a solar energy project in phases on approximately 202 acres of Heavy Industry (HI) and RU-4, D-Rural zoned property in and around the Arizona Electric Power Cooperative Inc. plant site located at 3525 N. Highway 191 in Cochise AZ. The applicant is Arizona Electric Power Cooperative Inc.

Chairman Greene called for the Planning Director's report. Planner Jim Henry presented the Docket, explaining the background of the request utilizing photos, maps, and other visual aids. Mr. Henry also explained Staff's analysis of the request. He closed by listing factors in favor of and against approval and invited questions from the Commission.

Chairman Greene then opened the Public Hearing. The Applicant's representative and attorney, Ms. Jana Flagler spoke, explaining the rationale for the requested waivers. Ms. Flagler emphasized that much of the opposition was based on the status of the subdivision as opposed to her client's proposal. She noted that the existing fossil fuel power plant had been in place for decades. She closed by inviting questions from the Commission.

Mr. Guy Shoaf of Bisbee spoke, indicating support for renewable energy in the area.

There being no further speakers, Chairman Greene closed the Public Hearing. Chairman Greene then asked for Staff's recommendation. Mr. Henry recommended Conditional Approval with the requested Modifications. Chairman Greene called for a motion. Mr. Borer made a motion of Conditional Approval, with the Conditions and Modifications recommended by Staff. Ms. Weissler seconded the motion. Ms. Miller asked if the screening was being waived in perpetuity. Mr. Henry stated that the waiver was tied to the solar plant use only. Ms. Miller asked about cooperation with Game and Fish. Mr. Henry stated that the County could not require such cooperation, but noted that the Applicant was cooperating with Game and Fish. There being no further discussion, Chairman Greene called for a vote on the motion. The motion passed 7-0.

Motion: Motioned to Approve the Docket with the Conditions and Modifications recommended by Staff

Moved by: Mr. Borer **Seconded by:** Ms. Weissler

Vote: Motion passed (**Summary:** Yes = 7, No =0, Abstain = 0)

Yes: Ms. Miller, Mr. Brauchla, Mr. Borer, Mr. Greene, Ms. Weissler, Mr. Watkins, and Ms. Edie

No: 0

Abstain: 0

Item 2 PUBLIC HEARING SU-06-14C (CO Palominas)

A request for a Special Use modification to approve a new wall sign and an over-height sign at the Copper Queen Palominas Clinic, a 1.76-acre, R-36, Residential zoned property located at 10524 Highway 92, Hereford, Arizona. The Applicant is Copper Queen Community Hospital/Palominas-Hereford Clinic.

Chairman Greene called for the Planning Director's report. Planning Manager Jesse Drake presented the Docket, explaining the background of the request utilizing photos, maps, and other visual aids. Ms. Drake also explained Staff's analysis of the request, including the requested Modifications. She noted the support and opposition received, and closed by listing factors in favor of and against approval and then invited questions from the Commission. Chairman Greene asked for clarification that the sign was a replacement for the existing sign.

Chairman Greene then opened the Public Hearing. The Applicant's representative, Mr. Guy Shoaf spoke, explaining the request, noting that the request was a compromise solution after concerns were raised at the previous meeting regarding the sign height and base. Mr. Shoaf showed other signs in the area, and explained how the Applicant had worked to design the sign in a way that would comply with the Southern San Pedro Area Plan.

There being no speakers, Chairman Greene closed the Public Hearing. Ms. Weissler commented on several of the signs and lights that Mr. Shoaf showed in his presentation. Mr.

Watkins and Ms. Miller thanked the Applicant and Staff for working together to find a compromise solution. Chairman Greene then asked for Staff's recommendation. Ms. Drake recommended Conditional Approval with the requested Modifications. Chairman Greene called for a motion. Ms. Weissler made a motion of Conditional Approval, with the Conditions recommended by Staff. Ms. Miller seconded the motion. There being no further discussion, Chairman Greene called for a vote on the motion. The motion passed 7-0.

Motion: Motioned to Approve the Docket with the Conditions recommended by Staff

Moved by: Ms. Weissler **Seconded by:** Ms. Miller

Vote: Motion passed (**Summary:** Yes = 7, No =0, Abstain =0)

Yes: Ms. Miller, Mr. Brauchla, Mr. Borer, Mr. Greene, Ms. Weissler, Mr. Watkins, and Ms. Edie

No: 0

Abstain: 0

NEW BUSINESS

Item 3 PUBLIC HEARING Docket SU-16-03 (Levine)

A request for a Special Use modification to approve a dog kennel/animal boarding facility on a 39-acre RU-4, Rural zoned property located at 6475 S. Jeffords Trail, Willcox, AZ. The proposed use is considered a Special Use in RU-4 Rural Zoning Districts under Section 607.06 of the Zoning Regulations. The Applicants are Alvin and Sileigh Levine.

Chairman Greene called for the Planning Director's report. Planning Manager Jesse Drake presented the Docket, explaining the background of the request utilizing photos, maps, and other visual aids. Ms. Drake also explained Staff's analysis of the request, including the requested Modifications. She noted the support and opposition received, and closed by listing factors in favor of and against approval and then invited questions from the Commission.

Chairman Greene then opened the Public Hearing. Mr. Alvin Levine spoke, explaining the background and scope of the request. Mr. Levine explained the need for such a business in the area, and the input that he had received from neighboring property owners. He closed by offering to take questions.

There being no speakers in support or opposition, Chairman Greene invited the Applicant to add anything else. Mr. Levine returned to the podium to describe the construction of the kennels.

Chairman Greene closed the Public Hearing and invited discussion. Mr. Brauchla asked about the number of dogs. Mr. Levine stated that the maximum would be 12, but the intent was to keep no more than 8. Ms. Weissler asked about signage. Mr. Levine stated that the intent was for a four square foot sign at each driveway. Staff noted that those would be acceptable, and would not require additional Commission approval. Chairman Greene asked about plans to control barking. Mr. Levine stated that he did not, as the sound of dogs and coyotes were commonly heard in the neighborhood. Chairman Greene thanked Mr. Levine for his candor.

There being no further discussion, Chairman Greene asked for Staff's recommendation. Chairman Greene called for a motion. Mr. Watkins made a motion to approve the docket with the Conditions and Modifications recommended by Staff. Ms. Weissler seconded the motion.

There being no further discussion, Chairman Greene called for a vote on the motion. The motion passed 7-0.

Motion: Motioned to Approve the Docket with the Conditions and Modifications recommended by Staff

Moved by: Mr. Watkins **Seconded by:** Ms. Weissler

Vote: Motion passed (**Summary:** Yes = 7, No =0, Abstain =0)

Yes: Ms. Miller, Mr. Brauchla, Mr. Borer, Mr. Greene, Ms. Weissler, Mr. Watkins, and Ms. Edie

No: 0

Abstain: 0

Item 4 PUBLIC HEARING SU-16-04 (Kriaris)

A request for a Special Use modification to approve a facility for the cultivation and infusion of medical marijuana on 40 acre RU-10, D-Rural zoned property located at 6952 S Covered Wagon Rd, Willcox, AZ. The Applicant is Nick Kriaris/NGK Enterprises Inc. Chairman Greene called for the Planning Director's report. Planning Manager Jesse Drake presented the Docket, explaining the background of the request utilizing photos, maps, and other visual aids. Ms. Drake also explained Staff's analysis of the request. Ms. Drake noted the support and opposition received, and closed by listing factors in favor of and against approval and then invited questions from the Commission. Mr. Watkins asked if the Private Maintenance Agreement would require the Applicant to maintain the roads to the County Maintained Road. Ms. Drake answered that this was correct.

Chairman Greene then opened the Public Hearing. The Applicants' representative, Mr. Adam Trenk, from the Rose Law Group spoke explaining the request noting the location and scope. He noted that the Applicant operated a Medical Marijuana Dispensary and small cultivation site in Phoenix, and that the proposed cultivation site would supply that dispensary. He stated that the subject and surrounding parcels, also controlled by the Applicant, would continue to grow pistachios and support cattle. Mr. Trenk explained that the Applicant was the end user rather than a speculator, and had a proven track record. In addition, he noted that no modifications were being requested and that the cultivation greenhouses would fit in with the other existing agricultural uses on the site. He explained the staffing and where the workers would be housed. Mr. Trenk closed by explaining the security measures and water usage.

Mr. Richard Frank expressed opposition without speaking.

Ms. Brenda Frank expressed opposition without speaking.

Ms. Cindy Traylor of Willcox spoke, opposing the project. Ms. Traylor stated that she felt that the proposal was an industrial use in a residential area. She expressed concerns about butane being used in the infusion process, fire protection, police protection, road maintenance, and odors.

Ms. Peggy Ottens of Willcox spoke, opposing the project. Ms. Ottens added concerns about the possibility of fire and the potential difficulty in firefighting efforts. She stated that she had never seen a police presence in the area other than Border Patrol. She stated that the

proposed facility would be attractive to criminals. Ms. Ottens closed by stating that the presented proposal had changed from the initial notification.

Mr. Paul Ottens of Willcox spoke, opposing the project. Mr. Ottens identified himself as a registered engineer, and expressed concerns about grading and the existence of a wash on the site. He also expressed concern about the unreliability of services, and stated that he had not received satisfactory answers to questions from the Applicant.

There being no further speakers, Chairman Greene invited the Applicant to rebut. Mr. Trenk stated that the neighborhood was rural, not residential, and the use was agricultural rather than industrial. He stated that the Applicants had fully vetted the site and were prepared to invest in the site. Mr. Trenk addressed the butane concerns stating that the Applicants also used carbon dioxide and water in the infusion process. He reminded the speakers that the Building Department would analyze the requests for code compliance. Mr. Trenk closed by noting the regulations applicable to the project and stating that existing possible illegal activities were not relevant.

Chairman Greene then closed the Public Hearing. Mr. Brauchla asked for clarification that the Commission was only approving the agricultural use. Ms. Drake stated that this was correct. Chairman Greene asked about the vetting process for employees. Mr. Trenk explained that the State performed background checks and fingerprinting on all employees prior to being granted authorization to work in the industry. He stated that there would be no migrant workers, but rather licensed, professional workers. Mr. Watkins asked about the fencing. Mr. Trenk stated that the existing barbed wire fence would remain around the site, and that there would be a ten-foot high chain link fence around the greenhouse sites per state requirements. Ms. Miller asked about light pollution. Mr. Trenk stated that there would be no grow lights on during at night. Ms. Miller asked if there would be water storage on site, which could be used for fire suppression. Mr. Trenk stated that this was correct. Chairman Greene asked about the possibility of odors. Mr. Trenk explained that charcoal filters would be used to mitigate odors. Chairman Greene asked Ms. Drake for clarification that if the request were for any other crop, other than medical marijuana would the item be before the Commission. Ms. Drake stated that it would not. Chairman Greene then asked for Staff's recommendation. Ms. Drake recommended Conditional Approval. Chairman Greene called for a motion. Ms. Weissler made a motion of Conditional Approval, with the Conditions recommended by Staff. Ms. Edie seconded the motion. There being no further discussion, Chairman Greene called for a vote on the motion. The motion passed unanimously.

Motion: Motioned to Approve the Docket with the Conditions recommended by Staff

Moved by: Ms. Weissler **Seconded by:** Ms. Edie

Vote: Motion passed (**Summary:** Yes = 7, No =0, Abstain = 0)

Yes: Ms. Miller, Mr. Brauchla, Mr. Borer, Mr. Greene, Ms. Weissler, Mr. Watkins, and Ms. Edie

No: 0

Abstain: 0

Item 5 PUBLIC HEARING SU-16-07 (Brown)

A request for a Special Use modification to approve an animal boarding and a doggy daycare facility on a vacant 2.3-acre General Business (GB), zoned property located approximately one-

quarter mile north of the intersection of E Hazen Rd. and S. Wardle Rd. near Sierra Vista, AZ. The Applicant is Nicole Brown.

Chairman Greene called for the Planning Director's report. Planner Jim Henry presented the Docket, explaining the background of the request utilizing photos, maps, and other visual aids. Mr. Henry also explained Staff's analysis of the request. Mr. Henry noted the support and opposition received, and closed by listing factors in favor of and against approval and then invited questions from the Commission. Ms. Weissler asked for clarification about the location of the nearest home, and noted that other potential uses would be less intrusive than dog boarding. Mr. Henry deferred the explanation to the Applicant.

Chairman Greene then opened the Public Hearing. The Applicant, Ms. Nicole Brown spoke, explaining the request. Ms. Brown explained that the portion of the site that is closest to the adjacent home would only be used for day care during regular business hours Monday through Friday. Ms. Brown explained her experience with dog boarding for the Army and in Washington D.C., along with her personal experience with pets. She stated that the location was chosen close to town in response to requests from individuals and veterinarian clinics in Sierra Vista and Fort Huachuca. She explained the construction of the facilities and the insulation that would muffle sound. Ms. Brown also showed that the turnout areas would be oriented toward the existing commercial facilities rather than the residential areas. She explained the sound mitigation, erosion mitigation, and security measures, which would include the ability to remotely monitor the dogs. She also stated that neighbors would be able to contact an on-call employee with any problems, including noise issues. Ms. Brown closed by explaining clean up and waste disposal procedures, along with the private road maintenance.

Ms. Helen Mele of Sierra Vista spoke in opposition, expressing concern about the possibility of devaluation of their home and adjacent vacant lots of sale. Ms. Mele stated that there were other existing similar facilities not near residential areas. She compared the request to the previous docket in a rural area and stated that it was more appropriate. Ms. Mele stated that potential traffic would be a huge problem for her home and for potential buyers for her lots.

There being no further speakers, Chairman Greene invited the Applicant to rebut. Ms. Brown reminded the Commission that the site is zoned Commercial, and after annexation, the proposed use would be permitted by right. She clarified that there is currently only one other true boarding facility in operation, and that the others were vet clinics that offer overnight care. She pointed out the existing construction yard and junkyard on the road, that her patrons will, and the neighbors already drive by.

Chairman Greene then closed the Public Hearing. Ms. Weissler asked for clarification of the entrance location. Ms. Brown pointed it out on the overhead view. Mr. Borer asked for clarification of the opposition speaker's location. Mr. Henry pointed them out on the map. Chairman Greene then asked for Staff's recommendation. Mr. Henry recommended Conditional Approval with the requested Modifications. Chairman Greene called for a motion. Mr. Borer made a motion of Conditional Approval, with the Conditions and Modifications recommended by Staff. Ms. Edie seconded the motion. Mr. Borer asked for clarification that if the parcel were annexed then the use would be permitted by right. Mr. Henry confirmed that was the case. Ms. Weissler asked for confirmation that the parcel was zoned commercial. Mr. Henry confirmed that the parcel is zoned General Business. There being no further discussion, Chairman Greene called for a vote on the motion. The motion passed unanimously.

Motion: Motioned to Approve the Docket with the Conditions and Modifications recommended by Staff

Moved by: Mr. Borer **Seconded by:** Ms. Edie

Vote: Motion passed (**Summary:** Yes = 7, No =0, Abstain = 0)

Yes: Ms. Miller, Mr. Brauchla, Mr. Borer, Mr. Greene, Ms. Weissler, Mr. Watkins, and Ms. Edie

No: Mr. 0

Abstain: 0

Item 6 PUBLIC HEARING SU-16-05 (Canna Sun glow)

A request for a Special Use modification to approve a facility for the cultivation and infusion of medical marijuana on 3.46 acres of a 393 acre RU-4, Rural zoned property located at 14066 S Sun glow Rd, Pearce, AZ. The Applicant is Canna Consultants Inc.

Chairman Greene called for the Planning Director's report. Planning Manager Jesse Drake presented the Docket, explaining the background of the request utilizing photos, maps, and other visual aids. Ms. Drake also explained Staff's analysis of the request. Ms. Drake noted the support and opposition received, and closed by listing factors in favor of and against approval and then invited questions from the Commission.

Chairman Greene then opened the Public Hearing. The Applicant, Mr. Luke DeBatty, Vice President of Canna Consulting, spoke explaining the request. Mr. DeBatty explained that the location was chosen based on its existing commercial development. He explained his firm's background and staff. He continued with the details of the proposal, emphasizing that there would not be a Dispensary component. Mr. DeBatty also discussed security measures and the sustainability aspects of the proposal. He expounded on the water report that was submitted and their plans to capture and recycle water. He stated that there would be no light trespass based on existing technology. Mr. DeBatty closed by emphasizing their commitments to the community and medical research.

Ms. Alanna Riggs of Willcox spoke in opposition, stating that she represents the Riggs family ranches and citing concerns about water resources. She asked if the full build out could be supported by rainwater.

Ms. Mary Jones of Elfrida spoke in support. Ms. Jones noted personal experience with the benefits of medical marijuana, and that her research indicated the Applicant was a reputable organization. She stated that she sits on the Elfrida School Board, and that the Applicant had donated to the school district.

Mr. Richard Frank of Willcox noted opposition without speaking.

Ms. Brenda Frank of Willcox noted opposition without speaking.

Mr. John Kalas of Pearce spoke in opposition, citing concerns about light pollution as a member of the Tucson Amateur Astronomy Association. Mr. Kalas stated that he felt the proposal was inappropriate for the location in a pristine area. He cited further concerns about odor, sound, water, and security.

Ms. Nancy Radle of Pearce spoke in opposition, citing environmental impact concerns. She stated that the site was ecologically sensitive, and that the use would negatively impact the environment.

Mr. Jeffery Hoff of Pearce spoke in opposition, citing the residents' efforts to improve the local environment, and the belief that the proposal would negatively impact their efforts. Mr. Hoff expressed doubt regarding the Applicant's water calculations.

Ms. Catherine Martin of Pearce spoke in opposition, citing her research about environmental harm from large greenhouses. She cited issues with carbon dioxide, pesticides, water, contamination, and odor.

Mr. Michael Barnacastle of Pearce spoke in opposition, citing his business experience, and questioned the judgment of the Applicant. He spoke about the sensitive environment, and expressed concerns that the request would destroy the environment in Turkey Creek. Mr. Barnacastle expressed concerns about light pollution, water usage, traffic, and security.

Mr. Robert Smith of Pearce spoke in opposition, concurring with previous speakers' concerns. He stated that Turkey Creek Road would have to be paved, and after this was approved, there would be more. He expressed deep concern about fire and the condition of the roadways.

Ms. Marcia Greene of Pearce spoke in opposition, noting that they were the closest neighbors to the proposed site. She agreed with previous speakers, and cited concerns about viewsheds and property values.

Mr. Geoff Bender of Portal spoke in opposition, as the director of the Southwestern Research Field Station. Mr. Bender expressed concern about damage to the environment and to scientific research. He expressed doubt regarding the Applicant's ability to enact their water plans.

Mr. Casey Kendle of Pearce spoke in opposition, concurring with previous speakers.

Mr. Rod Keeling of Pearce spoke in opposition as a nearby vineyard and winery owner. He stated that he was a planner, developer, and revitalizer in Mesa and Tempe. Mr. Keeling stated that the community was more important than the Applicant's proposal. He cited the value of the local homes. Mr. Keeling argued that the facts were not brought forward, and staff made mistakes. He stated that the Commission would be doing the Applicant a favor by denying the request, threatening an expensive lawsuit from neighbors.

Mr. Robert Smith of Pearce noted opposition without speaking.

Ms. Taylor Clark of Pearce spoke in opposition, citing her efforts on water restoration. She disputed the Applicant's water report. She stated that the Turkey Creek area was identified as a high priority location for conservation easements.

Mr. Larry Greene of Pearce spoke in opposition, citing water and erosion concerns. He noted that any rainwater that the Applicant captured was water not flowing into the creek. Mr. Greene then expressed concern about the methodology of the support and opposition documents. Chairman Greene declared such criticism out of order.

Ms. Mary Louise Smith of Pearce spoke in opposition, citing concerns about the decreasing water table, noting that she had to haul water several times. Ms. Smith also expressed concern on behalf of her sister-in-law who also owned property in the area.

There being no further speakers, Chairman Greene invited the Applicant to rebut. Mr. DeBatty stated that the rainwater system was scalable for the entire project, and that the light pollution would be controlled by, motion controlled lighting and light deprivation systems for the greenhouse. He stated that they wanted to keep the beautiful existing guest ranch, and that there would be no noise from the greenhouse. Mr. DeBatty re-emphasized the odor filtering system, and stated that they would be adding to the restoration efforts. He addressed the security efforts, citing their expertise. He closed by emphasizing their charitable efforts, and thanked the neighbors for their input. Chairman Greene closed the Public Hearing. Mr. Watkins asked if the Applicant had looked at other locations in Cochise County. Mr. DeBatty stated that he had, but this site seemed best to them. Mr. Watkins expressed his feelings that canyons such as this were no appropriate for the foothill canyons. Chairman Greene asked about water usage from the pool at the guest ranch, and how that water was recycled. He then asked Staff if the Applicant were proposing any other crop would it be a Special Use. Ms. Drake answered that both the agriculture and the processing would be exempt under the current law and regulations. Chairman Greene then asked for Staff's recommendation. Ms. Drake thanked the audience for their concerns, and mentioned the Applicant's private property rights, and then recommended Conditional Approval. Chairman Greene thanked everyone for their time and energy, and then called for a motion. Ms. Weissler made a motion of Conditional Approval, with the Conditions recommended by Staff. Ms. Miller seconded the motion. Mr. Brauchla and Ms. Weissler expressed support for Mr. Watkins' position that the proposed location was inappropriate. Chairman Greene stated that he felt the regulations had been met, noting that any other crop would be exempt. Mr. Watkins stated that he felt that the State had put the Commission in a difficult position, but this location was not appropriate for an agricultural use. Ms. Miller stated that she appreciated the detail that the Applicant had put into their application, and the public had put into their concerns. She advocated a fix at the legislative level to correct the difficult position that the Commission was in. Mr. Borer stated that he felt the purpose of the Commission was to analyze each item as an individual request. Ms. Weissler stated that consistency was important, but individual circumstances were important. There being no further discussion, Chairman Greene called for a roll call vote on the motion. The motion failed, 1-6, with Chairman Greene in support.

Motion: Motioned to Approve the Docket with the Conditions recommended by Staff

Moved by: Ms. Weissler **Seconded by:** Ms. Miller

Vote: Motion failed (**Summary:** Yes = 1, No =6, Abstain = 0)

Yes: Mr. Greene

No: Ms. Miller, Mr. Brauchla, Mr. Borer, Ms. Weissler, Mr. Watkins, and Ms. Edie

Abstain: 0

1. PLANNING DIRECTOR'S REPORT, INCLUDING PENDING, RECENT AND FUTURE AGENDA ITEMS AND BOARD OF SUPERVISORS' ACTIONS.

Report on April 12th Board of Supervisors meeting

- a. Abandonment of Foremost subdivision

**Next P&Z Commission meeting
May 11, 2016**

- a. SU-16-06 (Frazier) medical marijuana north of Elfrida
- b. SU-99-09 (Muhammad) revocation of SUP for airstrip in abandoned Foremost subdivision
- c. Special Use request for indoor recreation in Whetstone

Upcoming

- a. SU-16-09 (Kramme) request for Tire Aggregate Storage near Willcox
- b. Minor zoning regulation update

CALL TO COMMISSIONERS ON RECENT MATTERS:

None

ADJOURNMENT – Ms. Weissler moved to adjourn, Mr. Watkins seconded, and the meeting was adjourned at 8:33 pm.