



Cochise County
Community Development
 Planning, Zoning and Building Safety Division

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MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Peter Gardner, Planner II
FOR: Daniel Coxworth, AICP, Planning Director
SUBJECT: Docket SU-18-06 (Green Desert Patient Center)
DATE: March 28, 2018 for the April 11, 2018 Meeting

APPLICATION FOR A SPECIAL USE

The Applicant requests a Special Use Authorization to establish a Medical Marijuana Cultivation and Infusion Facility southeast of Kansas Settlement, per Section 607.53 & 607.56 of the Zoning Regulations. The property is zoned RU-4 (Rural; one dwelling unit per 4 acres) and accommodates an existing agricultural facility including greenhouses, a warehouse, and accessory structures. The 143-acre site, parcel 305-43-056C, is located at 5655 E. Gaskill Road in Willcox, AZ.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 143 acres
 Zoning: RU-4 (one dwelling per four-acres)
 Growth Area: d-Rural
 Comprehensive Plan Designation: Rural
 Area Plan: None
 Existing Uses: Greenhouse facility and fallow crop land
 Proposed Uses: Medical marijuana cultivation and infusion

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	Non-Maintained Road/RU-4	E. Gaskill Road/Agricultural
South	Non-Maintained Road/RU-4	E. Canada Lane/Agricultural/Rural Residential
East	RU-4	Agricultural
West	County Maintained Road/RU-4	S. Bell Ranch Road/Agricultural

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II. PARCEL HISTORY

1996- Greenhouses constructed

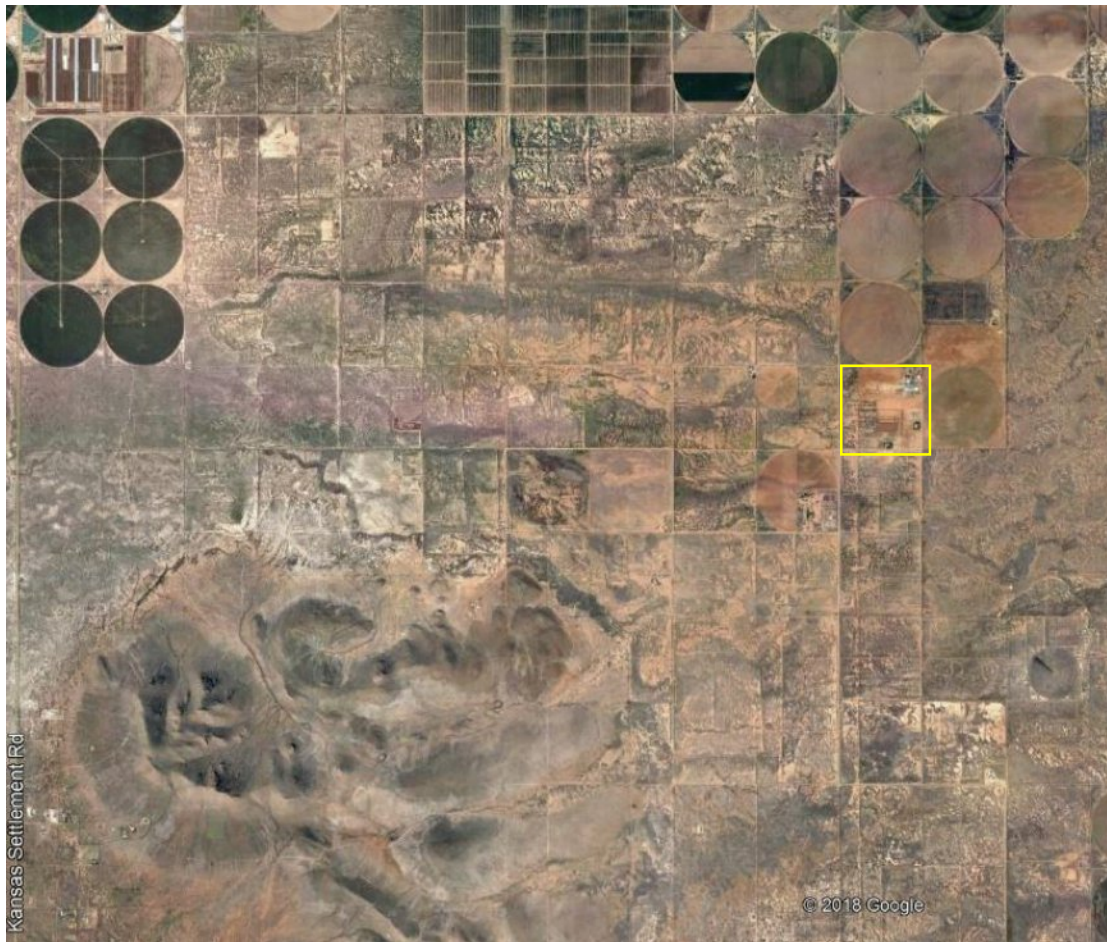
2006- Equipment shed constructed

III. NATURE OF REQUEST

The Applicant is requesting authorization for cultivation of medical marijuana both in enclosed greenhouses and on approximately 2.5 acres enclosed by fencing on the 143-acre parcel located at 5665 E. Gaskill Road in Willcox, AZ, an RU-4, D-Rural zoned property. There will be no dispensary or public facilities at this cultivation site. The property is located approximately 5 miles east of Kansas Settlement Road at the south corner of Bell Ranch Road and Gaskill Road. Currently the property has greenhouses and other accessory agricultural structures.



Site aerial



The property is located in a very low density, rural, agricultural part of the county, and is surrounded, in the larger context with productive agricultural land. The property has been in essentially the same condition for 22 years, since 1996 when the greenhouses were constructed.

This request is for cultivation, harvesting, processing, and potential future infusion only. The applicant will be using both the existing buildings and outdoor planted area, which will be enclosed by a solid barrier in compliance with state requirements.

The parcel is not located in any active water management area. The crop will be grown with computer-controlled drip irrigation. Water runoff will be captured for reuse. 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 five days a week sunrise to sunset starting with 12 to 15 employees with possible expansion to 20 employees. 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 E. Gaskill Road, a non county-maintained road that intersects on the west with S. Bell Ranch Road, a county-maintained roadway. Bell Ranch Road is currently slated to be upgraded to a chip seal surface, along with E. Shelton Road. This will provide a chip seal surface from Kansas Settlement Road to Gaskill. Once the chip seal project is complete, a solid apron from Gaskill onto Bell Ranch will be required to protect the County roadway. The applicant anticipates that one 6-wheel box truck will be used for weekly product delivery and one semi-truck per week will deliver soil to the site. Additional traffic will be limited to employees. The upgraded road network is sufficient to handle the load.



Water usage will be similar to the previous usage, as marijuana is a moderate demand crop, well within normal agricultural demands.

Potential off-site impacts will be mitigated with sealed greenhouses, existing quiet fans, offsite postharvest processing. The crop will be grown using all organic methods. Lady bugs and grasshoppers, together with glue traps will be used to control insects. Non-organic pesticides will not be used.

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 Bell Ranch intersection



View of greenhouses



View of greenhouses and shop



View southeast towards nearest residence

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 seven of the conditions and complies with conditions with two factors. 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 south side of E. Gaskill Road and the site takes access from one gated driveway entrance and therefore does not take access from any Major thoroughfare or arterial street.

D. Traffic Circulation Factors: Complies with Conditions

Access is taken from a privately-maintained road, E. Gaskill Road, onto the subject parcel from an existing driveway. Gaskill Drive connects to S. Bell Ranch Road, which is a county- maintained road in the process of being chip sealed. A condition is included requiring a chip seal or better apron to be constructed once the County work on Bell Ranch is complete.

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 20 employees, at full-build out of this project, which has the potential to generate an estimated range of 30 to 89.6 vehicle trips per day. Greenhouses tend to stabilize the typical seasonal variations inherent in open agricultural activities. The applicant is proposing a staged greenhouse development with three or five phases over time, as market demand allows.



View of prep work on Bell Ranch Road

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.

The applicant indicates a startup operation using approximately 70,000 square feet of greenhouses. This level of light industrial agricultural activities is likely to generate an estimated range of 110 to 1,101 vehicle trips per day. The threshold for providing a more significant traffic analysis is at 100 vehicle trips per day; however, given the typical range using employee factors, and taking into account that the site has other exempt agricultural trips associated with it, and assuming no patient services per the conceptual scope of the application, and given the applicant's participation with right-of-way dedication and off-site improvements at the Gaskill Rd. intersection, no traffic report will be required.

If built out to a full residential use this 143-acre parcel would likely generate an average of 334.94 vehicle trips per day, for 35 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 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 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 1.75 miles of the subject parcel to notify them of this application. The County notified the same owners and received three letters in opposition and six in support, with two letters coming from LLCs under common ownership.

H. Hazardous Materials: Complies

Natural pest controls, such as lady bugs, grasshoppers and physical traps 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 compliant lighting and will control 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 and capture water and use computer-controlled drip irrigation to reduce water consumption.

V. PUBLIC COMMENT

The Planning Department staff mailed notices to neighboring property owners within 1.75 miles of the subject property. This is the minimum radius required to reach at least 50 distinct property owners as required under current regulations. Staff posted the notice to the County website on March 27, 2018, published a legal notice in the *San Pedro Valley News Sun* on March 21, 2018 and posted the property on the same date. In response to applicant and County mailings, staff received six letters in support of this request and three letters in opposition to this request. Two of the support letters came from separate LLCs under common ownership.

The support letters cited the benefits of the medical use of this plant, economic development, and that this will be a quiet operation with no retail sales or retail traffic. One letter objected to any government interference in a land owner's choice of crops.

The opposition letters expressed disapproval of marijuana in general.

VI. SUMMARY AND CONCLUSION

This request is for a Special Use authorization to approve the change of use of an existing agricultural property for the cultivation and infusion of medical marijuana on a 143-acre parcel located at 5655 E. Gaskill 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 seven of the ten Special Use factors used by staff to analyze this request, and complies with conditions with two additional factors;
2. The proposal complies with the Adopted Comprehensive Plan Agriculture and Ranching, Economic Development and Rural Character Elements;
3. The proposal complies with the Rural Zoning District purpose statement;
4. If any other crop were being grown, the use would be exempt from County Zoning and Building Codes;
5. The proposal will employ water conservation measures;
6. The proposal will provide jobs for up to 12-15 employees in Phase One and up to 20 employees at full build-out; and
7. At full build-out the traffic generated by this proposal would be less than if the site were developed as a residential use.
8. Five property owners have sent six letters of support for this application.

Factors Against Allowing the Special Use

1. Three Property owners have sent 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 E. Gaskill Road from their driveway to S. Bell Ranch Road;
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 maintenance statement stating that they (the owners) will keep all debris, including grass, from obstructing the bottom of the fence and maintain their fence line as to allow water to flow naturally through as to not divert onto other parcels;
7. Within one year of County completion of chip sealing S. Bell Ranch Road, the Applicant shall apply for a permit to construct a private road apron meeting the standards of the Cochise County Road Design Standards, and complete said apron within one year of permit issuance.

Sample Motion:

Mr. Chairman, I move to approve Special Use Docket SU-18-06, 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. Agency comments
- E. Public Comment