



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-18-09 (Finneran)
DATE: April 26, 2018 for the May 9, 2018 Meeting

APPLICATION FOR A SPECIAL USE

The Applicant requests a Special Use Authorization to approve a facility for the cultivation of medical marijuana. Medical Marijuana Uses require Special Use Authorization. The 8.04-acre site, APN 208-90-012F, is located at the northeast corner of N. Nino Place and Unnamed road 6288 in the Dragoon area and is zoned RU-4. The applicant is Dennis Finneran.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 8.04 acres
 Zoning: RU-4 (one dwelling per four-acres)
 Growth Area: D-Rural
 Comprehensive Plan Designation: Agricultural and/or Green Space
 Area Plan: Mid Sulphur Springs
 Existing Uses: None
 Proposed Uses: Medical marijuana cultivation and Residential

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Vacant
South	Non-Maintained Road/RU-4	Unnamed Road/State Land
East	RU-4	Vacant
West	Non-County Maintained Road/RU-4	N. Nino Place/Residence & Airstrip

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II. PARCEL HISTORY

None

III. NATURE OF REQUEST

The Applicant is requesting authorization for cultivation of medical marijuana both in enclosed greenhouses and on approximately two acres enclosed by fencing on the eight-acre parcel located at the corner of N. Nino Place and an unnamed road in Dagoon, an RU-4, D-Rural zoned property. There will be no dispensary or public facilities at this cultivation site, however, there will be a home on site for a caretaker. The intention is to provide a single site for multiple caregiver level growers to consolidate their growth in one location, with development spread over three phases as demand requires. The property is located approximately 1 mile south of Dagoon Road. Currently the property is vacant.



Site aerial with parcel highlighted in blue

The property is located in a rural area approximately one mile south of Dagoon Road, and over two miles from Interstate 10. It abuts state land to the south. The surrounding area is partially developed in a rural fashion.



The parcel is not located in any active water management area. The crop will be grown with drip irrigation. Water runoff will be captured for reuse. The product will be delivered to off-site consumers, with no public access to the site. The entire parcel will have perimeter fencing. The site will be in operation five days a week sunrise to sunset starting with 4 employees with possible expansion to 8 employees.

The parcel takes access from N. Nino Place, a non-county-maintained road that intersects on the north with W. Drought Road, a county-maintained roadway. Bell Ranch Road is currently a chip seal surface. The applicant states that there will be no truck traffic to the site. Additional traffic will be limited to employees. The existing road network is sufficient to handle the load. The Applicant will be required to sign a Private Road Maintenance Agreement prior to or concurrent with commercial permitting, stating that they will participate in roadway maintenance from Drought Road to their driveway. At the third phase, a compliant roadway apron onto Drought Road will be required, at the discretion of the County Engineer.

Potential off-site impacts will be mitigated with plants being grown primarily indoors, with no more than two acres of exterior grow area. The distance from other occupied parcels will mitigate odors during flowering, which is the primary off-site impact unique to the proposed use.

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. There is another approved Medical Marijuana Cultivation and Dispensary site located on Drought Road, which is outside of the state and County minimum separation distance. That site, while approved as both a Dispensary and Cultivation site, it currently being used only as a Dispensary, although Cultivation may legally be restarted at any time.

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.



Intersection of Nino & Bird of Paradise



View the property looking east



Airstrip and hanger to the west

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 with the recommended conditions, complies with the other 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 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 within the boundaries of the Mid-Sulphur Springs Valley area plan. The "Agriculture and/or Green Space" designation supports agriculture and associated support uses as Special Uses. This request complies with this designation.

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 N. Nino Place 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, N. Nino Place. Nino Place connects to Dragoon Road, which is a county-maintained chip seal roadway. A condition is included requiring a chip seal or better apron to be constructed prior to or concurrent with the third phase of development, at the discretion of the County Engineer.

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. The applicant will also have propane delivered. While the property is not officially located within a fire district, the use poses no more fire risk than a typical residential or agricultural use.

Traffic Analysis

This type of use is akin to a residential 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 8 employees, at full-build out of this project, which has the potential to generate an estimated range of trips similar to the two residences that could be built on the site. 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.



Looking south on N. Nino Place

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. 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 mile of the subject parcel to notify them of this application. The County notified the same 62 owners and received nine letters in opposition and three in support. The County also notified the Sunsites Community Association working group to update the area plan. The group found no issue with the request.

H. Hazardous Materials: Complies

Natural pest controls 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 drip irrigation to reduce water consumption.

V. PUBLIC COMMENT

The Planning Department staff mailed notices to neighboring property owners within 1 mile of the subject property. This is the minimum radius required to reach at least 50 distinct property owners as required under current regulations, reaching 62 distinct property owners. Staff posted the notice to the County website on April 24, 2018, published a legal notice in the *San Pedro Valley News Sun* on the same date and posted the property on April 19. In response to applicant and County mailings, staff received three letters in support of this request and nine letters in opposition to this request.

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. The opposition letters expressed disapproval of marijuana in general, and concerns about traffic & road maintenance, water, and the Applicant.

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 of medical marijuana on an 8-acre parcel located on N. Nino Place in Dagoon, 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 adopted Mid-Sulphur Springs Area Plan
4. The proposal complies with the Rural Zoning District purpose statement;
5. If any other crop were being grown, the use would be exempt from County Zoning and Building Codes;
6. The proposal will employ water conservation measures;
7. At full build-out the traffic generated by this proposal would be less than if the site were developed as a residential use; and
8. Three property owners have sent letters of support for this application.

Factors Against Allowing the Special Use

1. Eight 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 N. Nino Place from their driveway to W. Dragoon Road;
5. Within one year of the permit for the third phase of construction, the Applicant shall apply for a permit to construct a private road apron meeting per the requirements of the County Engineer, and complete said apron within one year of permit issuance;
6. If additional phases beyond the first exceed 1 acre of disturbance and/or imperviousness then a drainage statement/analysis will be required.

Sample Motion:

Mr. Chairman, I move to approve Special Use Docket SU-18-09, 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