



Cochise County
Community Development
Planning, Zoning and Building Safety Division

Public Programs...Personal Service
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MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Robert Kirschmann, Planner II
FOR: Daniel Coxworth, AICP, Development Director
SUBJECT: Docket SU-20-07 (Seed Capital)
DATE: July 31, 2020 for the August 12, 2020 Meeting

APPLICATION FOR A SPECIAL USE AUTHORIZATION

The Applicant requests a rezoning from R-36 (Residential, one dwelling per 36,000 square feet) to RU-4 (Rural, one dwelling per four acres). A Special Use Authorization is also requested to allow a phased medical cannabis grow and packing facility. Phase one will include approximately 28,000 square feet in greenhouses, an approximately 3,000 square foot office and agricultural storage of approximately 3,500 square feet. Phase two will include additional approximately 28,000 square feet in greenhouses.

The project is located on the northwest corner of Fort Grant Road and Harguess Way, north of Willcox. The parcel number is identified as 201-30-007A. The Applicant is Mr. Ronald Redburn with Seed Capital Investments, LLC.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

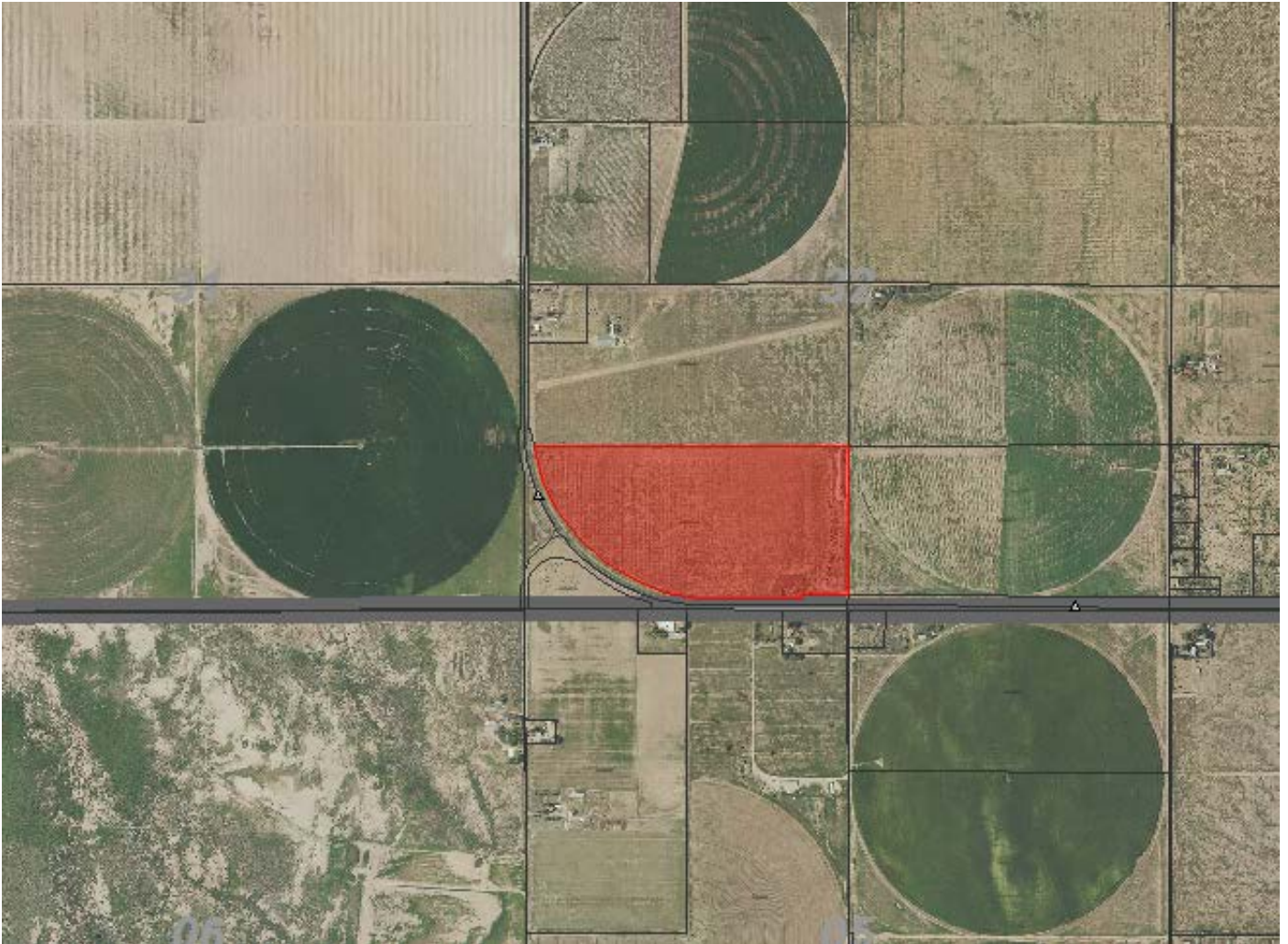
Parcel Size: 62 acres, approximately 4 acres for the special use
 Current Zoning: R-36 (Residential; one dwelling 36,000 square feet)
 Proposed Zoning: RU-4 (Rural; one dwelling per 4 acres)
 Growth Area: Category D
 Comprehensive Plan Designation: Rural
 Area Plan: None
 Existing Uses: Vacant and fallow farm land
 Proposed Uses: Medical marijuana cultivation

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Low-density residential & Agricultural land
South	GB, R-36	Gas station, low-density residential and Agricultural land
East	R-36	Agricultural land
West	RU-4	Agricultural land

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II. PARCEL HISTORY

No permit history. Looking at the site and aerials, the property has been used for agricultural purposes in the past.

III. NATURE OF REQUEST

The Applicant requests a rezoning from R-36 (Residential, one dwelling per 36,000 square feet) to RU-4 (Rural, one dwelling per four acres). A Special Use Authorization is also requested to allow a phased medical cannabis grow and packing facility. Phase one will include approximately 28,000 square feet in greenhouses, an approximately 3,000 square foot office and agricultural storage of approximately 3,500 square feet. Phase two will include an additional, approximate 28,000 square feet in greenhouses.

IV. ANALYSIS OF IMPACTS

Mandatory Compliance

Section 2208.03 of the Zoning Regulations requires that the amendment of Zoning District boundaries take place in compliance with the Comprehensive or Area Plan Designation assigned to the area in question. In this case, the subject property lies within a Category “D” Rural Area. The Category D designation permits rezoning to Rural (RU-4) as requested.

Compliance with Rezoning Criteria

Section 2208.03 of the Zoning Regulations provides fifteen criteria used to evaluate rezoning requests. Twelve (12) of the criteria are applicable to this request. Six (6) criteria are met as presented, five (5) are met with conditions/modification and one (1) does not comply.

1. Provides an Adequate Land Use/Concept Plan: Complies with Conditions

The Applicant provided a conceptual site plan depicting the location of the greenhouses, storage, office parking and circulation. The applicant will be required to provide an updated plan to reflect a revised driveway entrance off of Fort Grant Road, to comply with Engineering and Natural Resources requirements.



2. Compliance with Applicable Site Development Standards: Complies with modification

The parcel is large enough to comply with all development regulations except the height of the wall. The State of Arizona requires a minimum of a ten (10) foot tall wall around the facility. The Zoning Regulations only allow an eight (8) foot tall wall/fence, and the applicant is requesting a modification.

The site plan will be discussed in more detail under the Special Use Section.

3. Adjacent Districts Remain Capable of Development: Complies

The parcels located to the north and the north east are all zoned RU-4. The area surrounding



the site is primarily large agricultural properties with some rural residential homes and a gas station/convenience store across Fort Grant Road. This rezoning to larger parcels is more appropriate and better reflects current development patterns in the area.



4. Limitation on Creation of Nonconforming Uses: Complies

If approved, the rezoning would not create any non-conforming land uses.

5. Compatibility with Existing Development: Complies with conditions

The parcel is located in a rural area with very scattered single family homes, large farms and a convenience store/gas station located across Fort Grant Road. Aside from the large ten foot tall wall required by the state, this use will look/function similar to other agricultural operations in the area to include greenhouses, an office, onsite storage/process, etc. on larger lots. Due to concerns regarding compatibility issues with the wall, staff has included a condition requiring drought tolerant

landscaping to be provided along all four sides of the wall to try and blend into the surroundings.

6. Rezoning to More Intense Districts: Not applicable

The proposed rezoning is a down zoning and this criteria is not applicable

7. Adequate Services and Infrastructure: Complies

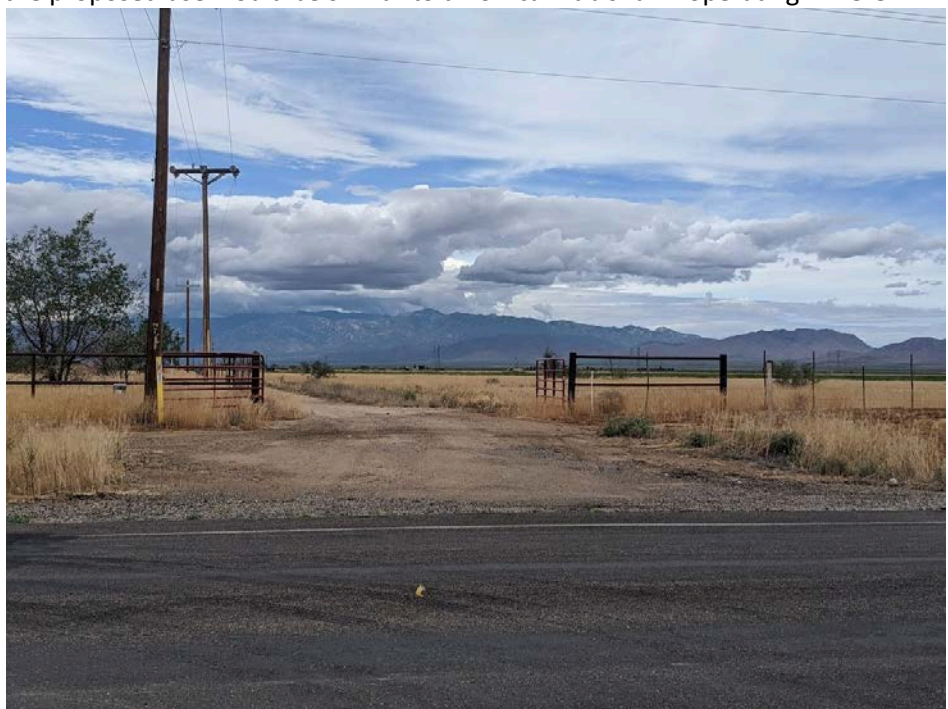
The property has electric nearby. Wells and septic will be required for water and sewage. The plants will be grown inside of the greenhouses and watered with drip irrigation. The applicant estimates that phase one will use approximately 27,000 gallons of water per year and phase two, an additional 27,000 gallons per year.

8. Traffic Circulation Criteria: Complies with conditions

The construction and operational traffic for the proposed use would be similar to a non-cannabis farm operating. There are concerns about the location of the access to the site and it is anticipated that the driveway will be moved further west on Fort Grant Road.

9. Development Along Major Streets: Complies with conditions

The parcel proposes direct access to Fort Grant Road. In addition to the relocation of the access, a condition is included requiring an additional 50 foot dedication for Fort Grant Road along the entire frontage.



10. Infill: Not applicable

This Factor applies only for rezoning requests to General Business, Light Industry or Heavy Industry.

11. Unique Topographic Features: Complies

The parcel is flat with no significant washes occurring on site; however, it is located within a designated floodplain. The drainage analysis will be required and that will determine how much the structures will need to be elevated and or designed to convey flood waters. Floodplain full comments are included as an attachment to this report.

12. Water Conservation: Complies

There is currently no water service in the area. The applicant is intending to drill a well to provide water to the project. The plants will be grown within greenhouses and drip irrigation will be utilized. Today any non-cannabis farm could install an irrigation well and start watering crops. The pivots in the area can produce over 600 gallons per minutes, which will far exceed the applicant’s projection of 27,000 gallons per year.



13. Public Input: Does not comply

Staff mailed notices to neighboring property owners within 1,000 feet of the subject property on July 15, 2020 . Staff posted the property on July 22, 2020 and published a legal notice in the Herald/Review July 22, 2020.

As of the writing of the Staff report we have received seven letters in opposition. The comments from the surrounding property owners are in regards to the Special Use request and not specifically the rezoning. Please see the special use section for more detailed information and discussion.

14. Hazardous Materials: Complies

Not hazardous materials are proposed.

15. Compliance with Area Plan: Not applicable

The rezoning is not located in an area plan.

V. 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 Authorization, as well as to determine what Conditions and/or Modifications may be needed.

With the information provided, Eight (8) of the ten (10) factors apply to this request. The project, as submitted, fully complies with four (4) of the factors. With the recommended conditions/modifications, the project complies with four (4) additional factors. One (1) factor does not comply.

1. 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 that states “The *Envisioning 2020* process consistently revealed that rural character is an important community asset worthy of protection. Participants in *Envisioning 2020* mentioned farming and ranching economies, scenic vistas, ecotourism activities, dark night skies, unimproved roads, and large lots as measures of rural character. 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.

2. Compliance with the Zoning District Purpose Statement: Complies

By continuing the character of low density housing and agricultural uses, the application complies with two purpose statements in Article 6 by preserving the “Rural” character of the area; and by providing a non-residential service that is compatible with rural living.

3. Development along Major Streets: Complies with Conditions

Fort Grant Road is county-maintained and classified as a Federal Functional Rural Major roadway and is paved the entire frontage of the property. The Right-of-way department has requested an additional 50 foot right of way dedication. A new driveway will be required from Fort Grant Road to the facility. This driveway will be treated with a minimum of 2” gravel to reduce dust on surrounding properties. Engineering has a concern with the proposed driveway location. During permit submittal the applicant shall relocate the driveway west, to the satisfaction of the County Engineer. The recommended conditions include the additional right-of-way, the requirement for dustproof

material, and the relocation of the driveway.

4. Traffic Circulation Factors: Complies with Conditions

This type of use is similar to small-scaled agricultural use though 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 is proposing greenhouse grow with two phases, as market demand allows. Greenhouses tend to stabilize the typical seasonal variations inherent in open agricultural activities.

The initial phase of construction would consist of approximately 28,000 square feet of greenhouse, a 3,000 square foot office, and 3,500 square feet in storage. The second phase would add another approximately 28,000 square feet in greenhouses. The medical marijuana operation will be on the roughly four acres of land in the property most distant from the access road, Ingram Rd. The other 58 acres in the parcel are planned to be left undeveloped at this time.

The Applicant is planning up to a maximum of 16 employees at build-out, which has the potential to generate an estimated range of 24.48 to 71.68 vehicle trips per day.

It is worth noting that 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, etc.) and averages seasonal variations in trips generated.

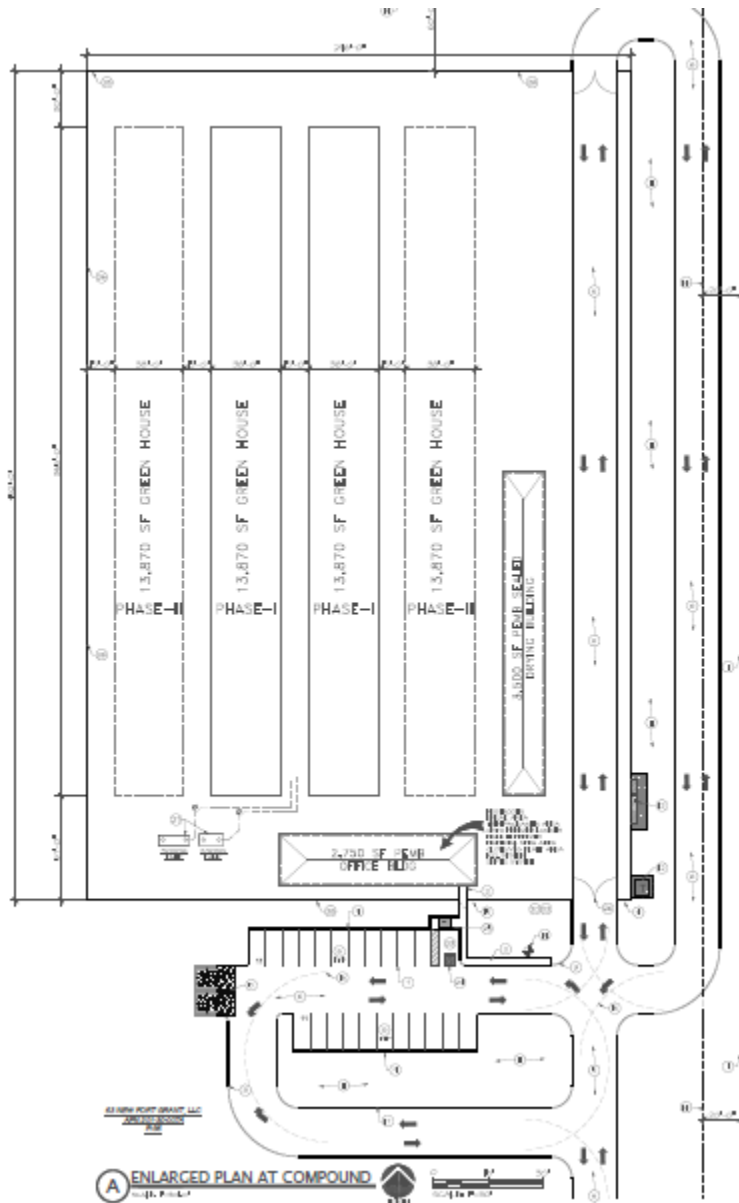
If the 62 acre parcel were built-out to the existing zoning (R-36), 75 residential dwellings on 36,000 square foot lots could be built on the parcel, generating a range between 323.25 and 1638.75 vehicle trips per day. As proposed, this cultivation and infusion facility, an agricultural use, is expected to generate significantly less traffic than if the site were developed, as it is currently zoned, for residential home sites. It should be noted that the applicant is proposing to downzone the property to RU-4 which significantly reduces the potential residences and also the traffic.

The applicant is advised that construction mitigation requirements are difficult to assess at this conceptual stage, but traffic control methods may be required (including but not limited to a commercial driveway) to ensure safety for both the traveling public and the vehicle operators during construction phases.

5. Adequate Services and Infrastructure: Complies

Electrical service is provided to the site by Sulphur Springs Valley Electric Cooperative; water will be supplied by private well and sewage will be disposed by a septic system.





6. Significant Site Development Standards: Complies with Conditions

Parking:

The Zoning Regulations do not establish separate parking regulations for either agricultural uses or medical marijuana grow operations. The zoning regulation do require 1 space per 350 square feet. At build-out a total of 16 employees are estimated to be working at the location both in the greenhouses and office. No customers will visit the site. The applicant is providing 22 spaces. One for each employee, plus 6 extra. Additionally, the site is large and should additional parking be warranted, it could easily be accommodated. Therefore, staff recommends approving the parking as presented.

As shown on the applicant plans and required by the Zoning Regulations all driveways will be a minimum 2" dust proof material.

Screening: Section 1203.05 requires that all non-residential outdoor storage shall be screened. Further, Arizona State Law requires that medical marijuana grow operations be surrounded by a ten (10) foot tall solid screen. The Zoning Regulations limit the height to eight (8) feet therefore, the applicant is requesting a wavier be approved for the wall. As will be discussed a little bit more under public comments, neighbors have concern about the visual impact of the wall and the

greenhouses. Staff agrees that both will be highly visible as this is located in a very flat agricultural area. The applicant is requesting a waiver to the wall height limitation. If, the Commission agrees to the modification staff would recommend a condition requiring mature, drought tolerant vegetation be planted around the entire perimeter of the wall to help lessen the visual impact to the surrounding neighbors.

Lighting: Typically, the State requires a large amount of security lights on these types of facilities. This concern was raised by several neighbors. In an effort to mitigate these concerns the applicant has proposed and staff has conditioned the project to limit the outdoor lighting by installing a motion activated drone system. With the installation of these drones, it is anticipated that lighting can be significantly reduced. Further, all outdoor light is required to comply with the Outdoor Light Regulations.

Setbacks: The Zoning Regulations require a minimum of a twenty foot set back with the RU-4 Zoning. The site plan shows 60 feet to the north property line and approximately 150 feet from the east. There was some concern expressed by surrounding neighbors about the location of the facility on the parcel. However, the location chosen is the furthest from Fort Grant Road and surround residential properties be so close to the surrounding residential and agricultural parcels. However, the applicant has expressed willingness to move the facility further away from the property lines if necessary.

Landscaping: No landscaping is required by the Zoning Regulations, however as mentioned above staff is recommending that the entire perimeter of the wall be landscaped with mature drought tolerant vegetation.

7. Public Input: Does not comply

The Applicant mailed letters to property owners within 1,000 feet of the property prior to application submittal. The Applicant engage is dialogue with several surrounding property owners.

The Planning Department mailed letters to the same property owners within 1,000 feet of the subject property, published a legal ad in the *Sierra Vista Herald* and posted legal notices on the property. To date, staff has received seven (7) letters in opposition.

The issues raised include:

- Odor
- Disapproval of the product grown
- Lighting
- Type of greenhouse
- Ten foot wall

Odor:

Odor is an understandable concern. During the budding process which could be several weeks a year the plants to have a strong aroma. The applicant has proposed to mitigate the odors using a specific system designed to neutralize the odor. This system was evaluated by an Engineering Firm in California and presented to the Santa Barbara Planning Commission demonstrating that 98.7% of odors were eliminated at 30 feet. A copy of this study is included in the application attachment to this report. Finally, the closest residence is approximately 800 feet away from the proposed greenhouses. A condition of approval is included requiring the odor elimination system

Disapproval of the product grown:

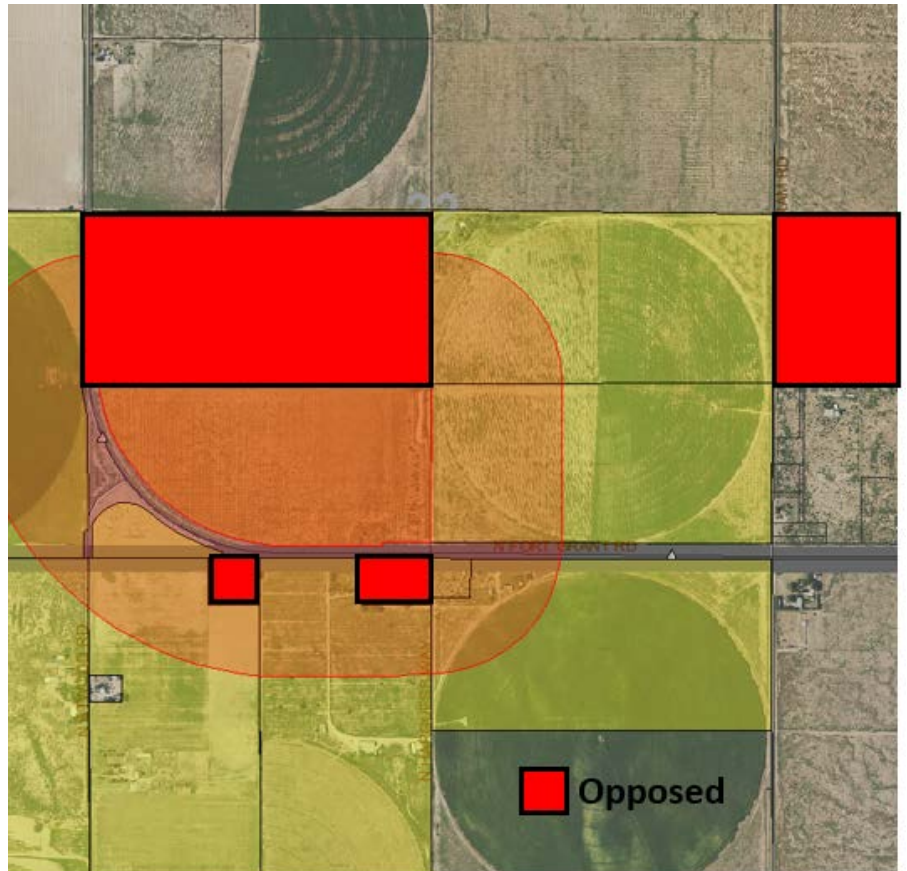
Medical Cannabis is a legal and regulated product in the State of Arizona.

Lighting:

Staff understands the concerns regarding outdoor lighting. The applicant is required to comply with the County Outdoor Light Regulations. However, in discussions the applicant they have proposed to install a motion activated drone security system that should help to avoid the need to install excess security lighting.

Type of Greenhouse

If the Applicant was growing any crop other than medical cannabis, the County would have no say in the type, material or location of the greenhouses, office, processing facilities, etc. Therefore, staff is not recommending any conditions requiring a certain type of greenhouse be constructed. The Applicant has stated that if required to construct a more traditional greenhouse they would be willing to agree to a condition.



Ten Foot Wall:

The area is extremely flat. Anything vertical in this area is highly visible whether it is a greenhouse, business, sign, or wall. In this case a ten (10) foot tall wall would be highly visible. Staff has included a condition that the entire wall shall be screened with mature, drought tolerant vegetation.

8. Hazardous Materials: Not applicable

The applicant has stated that no hazardous materials will be used at this facility.

9. Off-Site Impacts: Complies with Conditions



The major off-site impacts include odor, lighting, and site visibility as discussed above. With the recommended conditions, Staff believes these items can be mitigated.

10. Water Conservation: Complies

The project site is not located within the Sierra Vista Sub-Watershed. Drip irrigation will be utilized, conserving water over other methods. Water use, as discussed earlier could be significantly higher if the property was developed with 17 single family homes, pivots, or many other types of irrigated crops.

VI. PUBLIC COMMENT

Staff mailed notices to neighboring property owners within 1,000 feet of the subject property on July 15, 2020 . Staff posted the property on July 22, 2020 and published a legal notice in the Herald/Review July 22, 2020.

In response to applicant and County mailings, the Planning Department received seven (7) letters of opposition and from surrounding property owners.

VII.WAIVERS

The Applicant is requesting a waiver to the height requirement for wall. The Zoning Regulations allow a maximum of an eight (8) foot wall and State Law requires a ten (10) foot tall wall. Should the Commission approve the waiver, staff has included a condition requiring the entire wall to be screened with mature, drought tolerant vegetation.

VII. SUMMARY AND CONCLUSION

This request is for a Rezoning and a Special Use authorization to approve the cultivation and processing of medical marijuana.

Any State of Arizona requirement for cultivation, security and lighting requirements will be met.

Factors in Favor of Approval

1. The request complies with eleven of the applicable Rezoning factors used by Staff to analyze this request;
2. With the recommended Conditions the request would be in keeping with the character of the existing development in the area;

Factors Against Approval

1. Though not specifically on the rezoning, seven letters in opposition were received;
2. The request does not comply with one factor.

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 would comply with two additional factors if the Conditions of approval are met;
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 would have the same visual impact as any other agricultural use that would be allowed by right as a principal permitted agricultural use;
5. The proposal will provide jobs for up to 16 employees at full build-out;
6. The proposal is expected to generate significantly less traffic than if the site were developed, as it is currently zoned, for residential home sites.

Factors Against Allowing the Special Use

1. The Planning Department has received seven letters in opposition to the request;
2. The Applicant does not comply with the Public input factor.

VIII. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends **Approval** of the Rezoning and Special Use request.

Should the Commission approve the Applications, staff recommends 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. The applicant is required to obtain a Cochise County Right-of-Way/Encroachment Permit in advance or concurrent with their Commercial Permit application and coordinate with the Highway Department to provide a commercial access apron at the driveway intersection/connection with Fort Grant Road as per the Cochise County Roadway Design Standards or as approved by County Engineer;
5. At the Commercial permit, the Applicant shall submit documentation to the Floodplain department demonstrating compliance with the Floodplain regulations.
6. The ten(10) foot tall wall shall be screened with mature (trees shall be a minimum 24” box or equivalent) drought tolerant vegetation on all four sides.
7. The applicant shall utilize a drone security system (or similar) to reduce the required lighting. Any lighting still required shall fully comply with the Outdoor Light Regulations.
8. The greenhouses shall employ the “blackout panels” or similar to reduce the glow from when grow lights are required.
9. The Owner shall dedicate an additional 50 feet of right-of-way for Fort Grant Road.
10. An Ecosorb or similar odor elimination system shall be utilized and included in the commercial permit submittal.

Sample Motion:

Mr. Chairman, I move to recommend approval to the Board of Supervisors Rezoning, Z-20-08 (Seed Capital) located on parcel 201-30-007A, with the Conditions of Approval recommended by staff; the Factors in Favor of Approval constituting the Findings of Fact.

Mr. Chairman, I move to approve Special Use Docket SU-20-07 (Seed Capital), located on parcel 201-30-007A, with the Conditions of Approval recommended by staff; the Factors in Favor of Approval constituting the Findings of Fact.