



Cochise County
Development Services
Planning, Zoning and Building Safety Division
Public Programs...Personal Service
www.cochise.az.gov

SPECIAL USE APPLICATION FOR APPEAL

NAME OF APPELLANT: The Pharm, LLC
ADDRESS: c/o Timothy A. La Sota, PLC, 2198 E. Camelback Rd. #305, Phx, AZ 85016
PHONE NUMBER: 602-515-2649
EMAIL ADDRESS: tim@timlasota.com
NUMBER OF DOCKET APPEALED: SU 21-000005
DATE OF COMMISSION DECISION: March 10, 2021
DATE OF APPEAL SUBMITTAL: 3/24/21 FEE PAID: \$ ~~3/24/21~~ 600

In addition to the \$600 fee, the following information shall be provided before an appeal can be accepted. If more room is needed please attach additional pages.

1. Description of the decision being appealed. An appellant can appeal the Commission's decision for approval or disapproval or any conditions stipulated as part of docket approval.

The Special Use Authorization granted to Willcox OC, LLC by the Cochise County Planning and Zoning Commission on March 10, 2021, Docket SU-21-000005, MM Ft Grant Rd.

Special Use Appeal Application

Page Two

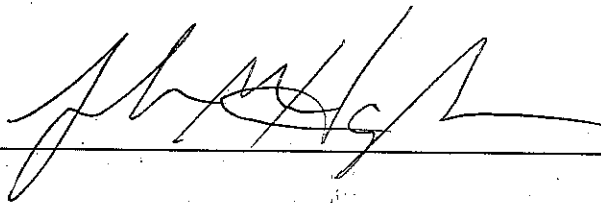
2. A complete statement of all reasons why the appellant believes that the decision, or any part of the decision was erroneous, arbitrary, capricious, or any abuse of discretion.

Please see attached letter from The Pharm's counsel.

3. Written presentation of additional testimony & evidence. A full explanation of the additional testimony & evidence that will be submitted with explanation of why this was not presented to the Planning Commission.

None.

SIGNATURE _____

A handwritten signature in black ink, appearing to be "J. M. G.", written over a horizontal line.

Planning, Zoning and Building Safety

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Timothy A. La Sota, PLLC
2198 East Camelback, Suite 305
Phoenix, Arizona 85016
P 602-515-2649
tim@timlasota.com

March 24, 2021

Via online submission to:

Mr. Dan Coxworth
Cochise County Zoning Inspector
126 West 5th Street, Suite 4
Benson, AZ 85602

Re: Appeal of Grant of Special Use Authorization to Willcox OC, LLC (Docket SU-21-000005, MM Ft Grant Rd)

Dear Mr. Coxworth:

This law firm represents The Pharm, LLC. I write on behalf of The Pharm to formally appeal the Special Use Authorization granted to Willcox OC, LLC¹ by the Cochise County Planning and Zoning Commission on March 10, 2021, Docket SU-21-000005, MM Ft Grant Rd, pursuant to Cochise County Zoning Regulations Section 1716.04.

Pursuant to Cochise County Zoning Regulations Section 1716.04, below is a summary of the points raised in opposition to this Special Use Authorization in front of the Commission. No new arguments are sought to be added by The Pharm.

THE PHARM HAS BEEN A GOOD COMMUNITY PARTNER

As we indicated at the hearing in front of the Commission, we welcome Willcox, OC, LLC, whoever they are, to this marketplace. Attached is a letter from The Pharm's CEO to Willcox OC. In it, we pledge support for a Special Use Authorization in other parts of Cochise County. Because we are talking about cultivation operations as opposed to retail dispensaries, if we truly feared competition from Willcox OC, and that was our motivation for opposing them, we would not support their application for a Special Use

¹ Despite advertising itself as an "LLC", or limited liability company, as of this writing Willcox OC has still not qualified as one, according to the Arizona Corporation Commission. This issue is addressed in more detail below.

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Authorization for an operation in another part of the County. The Pharm is also not interested in this property to grow our operation.

As it is, we do not welcome them to this particular spot on Fort Grant Road, on property adjacent to The Pharm. That is because locating another marijuana grow in such close proximity is a threat to both The Pharm's and Willcox OC's ability to effectively harvest. I go into detail on that below, but first, I would like to point out what a significant community asset the Pharm is.

In terms of job for the community, The Pharm can boast the following:

- 300 employees, plus seasonal extras in summer
- \$9 million payroll for hourly employees, half live in Willcox or near
- \$3 million payroll for salaried employees, nearly all live in Willcox or near

Money paid to our employees often times is spent right here in Cochise County.

In terms of business we bring to our local vendors, The Pharm purchase the following from local vendors:

- Fertizona, \$150,546.46 in purchases in 2020.
- Pacheco, \$228,045.70 in purchases in 2020.
- Sierra Lumber, \$28,135.98 in purchases in 2020.
- Southwest Irrigation, \$78,490.74 in purchases in 2020.
- Stamback Septic Services, \$18,870.94 in purchase in 2020.
- Oro Valley AG (Wilcox business), \$1,190,687.63.

In addition, The Pharm pays hundreds of thousands of dollars in county property taxes.

Though I realize it may not be customary to talk about another entity in a Special Use Authorization setting, in this case we think it is appropriate given the significant economic impact of The Pharm and the threat to our operation if a Special Use Authorization is granted to this entity to farm almost right on our doorstep.

THE PROPOSED SPECIAL USE IS A NUISANCE

A. THE PROPOSED USE MAY RESULT IN CROP CROSS-CONTAMINATION

Marijuana is a "specialty crop," or crop that is intensively cultivated. This means that when it is cultivated outdoors, operators must ensure the specialty crops are grown in isolation, that is, grown with a significant degree of separation from other specialty

crops. If proper separation distances are not maintained, the result is often cross-pollination.

In the realm of cannabis, cross-pollination can be disastrous. Crops of a specific strain that may have taken years, and millions of dollars to develop, can be destroyed. This can have devastating financial impacts for the grower.

According to studies, the minimum advisable separation for certain specialty crops is 10 miles. <https://www.canr.msu.edu/news/weighing-the-risk-of-cannabis-cross-pollination>. Most of these studies have focused on the negative potential cross-pollination interaction between hemp and marijuana, but the problem is no less a problem in the realm of different cannabis grows.

One of the arguments heard sometimes with this discussion is that individual people or businesses cannot be told what not to grow. But a nuisance is by definition an activity occurring on one's own property that effectively spills over and negatively impacts another's rights. And that is the case here. And this is exactly one of the reasons that a Special Use Authorization is required—this is not like other crops that can be grown next to each other without cross-pollination concerns.

B. TRANSFER OF PESTS AND DISEASE

Placing multiple cannabis cultivations in close proximity carries additional risks. One of these is that pests and disease will readily transfer between grows, leading to crippling infestations and potentially crop destruction, by the pest or disease or intentionally to halt spread. Like animal species, growing certain plants in such close proximity increases the risk of disease.

THE PROJECT BREADTH AND IMPACT ARE LARGELY UNKNOWN

To put the scale of the projects into context, The Pharm has 7 acres greenhouse, 10 acres outside. In contrast Willcox, OC's grow would be approximately 63 acres outside, with 15 acres greenhouse. Essentially it would be 4 or 5 times size of The Pharm.

Extrapolating from this, the impacts would be 4 or 5 times that of The Pharm. Once again, The Pharm has 300 employees, so many times that will have to be accommodated. The Pharm typically has 6 truck trips a day, so 4 to 5 times that would be 20 to 30 truck trips per day.

The use permit application and site plan was extremely limited and failed to address these concerns in a meaningful way. The project is large, but details are few and far between. Without the necessary information, such as impact and similar studies, the impact on the community is largely unknown. Parking and traffic impacts should be addressed

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before this Conditional Use Authorization is granted, and there are also questions about water. To wit, this use will draw on well water, and specifically, the Willcox Playa Aquifer. The Willcox Playa aquifer already under heavy demand, with use far exceeding replenishment. This is likely to add to that.

The bottom line is that a project of this size should provide a clear understanding of its impact on the aquifer, as well as a description of its plan for conservation and efficiencies in its technology and operations. It should also convey much more information about overall impacts given its size. This application clearly fails that.

In addition, the majority of the property is in the floodplain. About 70% to be exact. Given the sheer size and scale of this facility there is significant risk that the current floodplain water management system. The project could compromise detention and retention basins.

The retention/detention basins Willcox OC shows on their rudimentary site plan are not realistic and are too small and will not drain in 24 hours as required. Upsetting the flood control balance could cause retention basins to develop into pest breeding grounds, with those same pests harming neighboring crops and farms.

THE APPLICANT HAS NO TRACK RECORD IN THIS COMMUNITY OR ANYWHERE ELSE AND EVEN ITS IDENTITY IS SHROUDED IN MYSTERY BECAUSE IT HAS NOT PROPERLY FORMED AS AN LLC

The following screen shot, taken from the Arizona Corporation Commission website as of this writing, demonstrates this:

The screenshot shows the ACC eCorp website interface. At the top left is the ACC logo. At the top right are navigation links for 'eCorp', 'Search', 'File', and 'FAQ'. Below these is a search bar with the placeholder text 'Search for an Entity Name'. The main content area is titled 'ENTITY INFORMATION' and includes a search timestamp: 'Search Date and Time: 3/22/2021 5:30:16 PM'. Under 'Entity Details', the following information is displayed:

Entity Name:	WILCOX OC, LLC	Entity ID:	23154358
Entity Type:	Domestic LLC	Entity Status:	Pending Active
Formation Date:		Reason for Status:	
Approval Date:		Status Date:	11/25/2020
Original Incorporation Date:		Life Period:	7/14/2021
Business Type:		Last Annual Report Filed:	
Domicile State:		Annual Report Due Date:	
		Years Due:	
Original Publish Date:			

Below this is the 'Statutory Agent Information' section, which includes fields for Name, Attention, Address, Agent Last Updated, Attention, County, Appointed Status, E-mail, and Mailing Address. The 'Principal Information' section is a table with columns for Title, Name, Attention, Address, Date of Taking Office, and Last Updated. It currently displays 'No records to view.'

In short, this entity has been “pending active” for nearly four months, and has failed to complete the steps necessarily to actually form as an LLC. This is all the more troubling since this point was brought up in front of the Planning and Zoning Commission. And yet, Willcox OC continues calling itself an LLC even though it has not yet qualified as one.

There is no information regarding Willcox OC’s ownership/membership. This entity has no discernible web presence. At the Planning and Zoning Commission hearing one advocate talked about partnerships this entity was entering into, but this begs the question of what kind of partnerships, and with who since Willcox OC does not yet exist as an LLC.

This is not just a technical problem. What if someone is hurt by Willcox OC? Who does an injured party seek compensation from? Who does an injured party serve a lawsuit on? We simply do not know.

Perhaps most importantly, why should this entity, who we know very little about, be entrusted with a Special Use Authorization? And is this simply a situation where the applicant intends to entitle the property and then sell it to someone else? These are all fair questions. And certainly lack of clarity as to who Willcox OC is does not do anything to settle these questions.

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Willcox OC should come back and apply once it has actually formed as a legal entity and can legitimately call itself an LLC. As it is now, its application is misleading at best because it is not really an LLC at all, at least not as of this writing.

ZONING REGULATIONS FACTORS THAT WILLCOX OC FAILS TO MEET

Pursuant to Section 1716.02 of the Cochise County Zoning Regulations, there are twelve factors to consider with regard to a Special Use Authorization application. Critically, staff found that the applicant did not comply with the factor addressing Off-site Impacts. We concur with that.

In addition, for the reasons stated above, Willcox OC fails to meet the below factors.

- Traffic Circulation Factors
- Adequate Services and Infrastructure
- Significant Site Development Standards
- Public Input
- Hazardous Materials
- Water Conservation

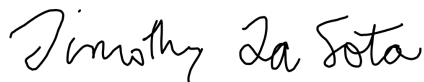
CONCLUSION

The Pharm is simply trying to protect the significant investment it has made in its cultivation operation. Willcox OC's proposed use is simply not compatible with existing uses.

The Pharm supports a robust and free cannabis marketplace and property rights. However, when one's proposed use is a threat to existing property owners, the rights of existing property owners are also important. It is government's job to balance the various interests and make a decision. That decision should be denial of the Special Use Authorization.

Very truly yours,

TIMOTHY A. LA SOTA PLC



Timothy A. La Sota

Sunday Goods the pharm

March 23, 2021

Mr. Adam Baugh
Withey Morris, PLC
2525 East Arizona Biltmore Circle
Phoenix, Arizona 85016

Re: Special Use Authorization granted to Willcox OC, LLC by the Cochise County Planning and Zoning Commission, Docket SU-21-000005, MM Ft Grant Rd

Dear Mr. Baugh:

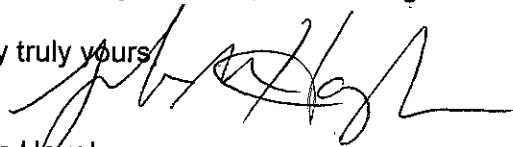
At the hearing on your client's application before the Cochise County Planning and Zoning Commission, you attributed The Pharm's opposition to a desire to stifle competition. This is false.

As we indicated at the hearing in front of the Commission, we welcome Willcox, OC to this marketplace. In fact, we support your application for a Special Use Authorization that is currently pending in another part of Cochise County. As long as your grow is not close to ours, we would support any other application you submit.

Your Special Use Authorization involves cultivation operations, rather than retail dispensaries. If our motivation was fear of competition from Willcox OC, we would not support a Special Use Authorization for an operation in another part of the County. That is, you are as much of a threat from a competition standpoint 10 or 50 miles away as you are next door. Surely you must understand this.

I appreciate your consideration of the points I make. I understand that you are an advocate for your client, but in doing so I would ask that you stick to valid arguments.

Very truly yours,



John Haugh
Chief Executive Officer
The Pharm & Sunday Goods