



**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: John Holcomb

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NUMBER OF DOCKET APPEALED: SU -21-000005 (MM Ft. Grant Rd.)

DATE OF COMMISSION DECISION: March 10, 2021

DATE OF APPEAL SUBMITTAL: 3/24/2021 FEE PAID: \$ 3/24/2021

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 approval of Docket SU-21-000005 with the Conditions of Approval recommended by staff; the Factors of Approval constituting Findings of Fact.

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## Special Use Appeal Application

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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.

In accordance with 1716.02-1 - Offsite Impacts, the applicant is deficient in the outdoor odor mitigation plan.

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.

We are appealing this decision because Cochise County's Recommended Conditions were not supplied to us prior to the March 10, 2021 Planning & Zoning Commission meeting. Our research has found that this Condition is not sufficient to mitigate outdoor cannabis cultivation odor.

See attached documents for full explanation of the additional testimony & evidence that will be submitted with explanation.

SIGNATURE John Holcomb

Digitally signed by John Holcomb  
Date: 2021.03.25 08:44:35 -07'00'

Special Use Appeal Application Docket SU-21-000005 (MM Ft. Grant Rd.)

Section 3 of Application:

We are appealing this decision because Cochise County's Recommended Conditions were not supplied to us prior to the March 10, 2021 Planning & Zoning Commission meeting. Our research has found that this Condition is not sufficient to mitigate outdoor cannabis cultivation odor.

The Planning & Zoning Commission was presented an odor mitigation plan for outdoor cannabis cultivation by the Applicant. Applicant's staff stated that no cannabis odor would leave the property. This is a false and misleading statement.

Cannabis is very pungent and the odor is difficult to neutralize. The proposed outdoor growing acreage of 63 acres is exceptionally large. While this acreage is small for other crops grown in the area, it is huge for cannabis. In 2019 the largest outdoor grow for cannabis was listed at 33 acres. This has since been eclipsed by 80 acres planned for Tularosa, New Mexico and 100 acres near Ontario, Canada. The 100 acres would be the largest outdoor grow in the world. The trends seem to be for larger and larger outdoor grow acreage. One notable exception is Pinal County, Arizona which has an outdoor grow maximum of 10 acres. (Pinal County Development Services Code Section 2.191.010.C)

After extensive online research, we have not been able to find one reference to the successful use of any type of outdoor odor mitigation. In Washington and Colorado, regulators address odor as an air quality issue. The Puget Sound Clean Air Agency (PSCA) odor regulations set a "Best available control technology" (BACT) standard. For marijuana growers, PSCA has determined that BACT means no detectible cannabis odor outside the facility property line. PSCA does not believe outdoor cannabis production facilities can continuously achieve the "no odor outside the property boundary" standard without the proper use of an enclosure that routes emissions to a carbon absorption system. PSCA also does not allow odor masking, such as spraying a curtain of scented oil vapor around the perimeter of greenhouses and will not accept it as a control technology. (Powell 2019) Bart Schaneman, in "Stop Making Scents", states that "Cannabis has a strong odor, and finding a solution to control it-be it in an indoor facility, greenhouse, or outdoors-comes with significant challenges." (Schaneman 2019) It is apparent that at this time, there is not a clear, successful best practices standard for outdoor odor mitigation.

The applicant stated that they were planning to use Fogco odor control equipment. Our irrigation consultant is a dealer for Fogco. At our request he made inquiry with two Fogco representatives on the stated design. He was advised that a perimeter mister system would be ineffective, as much of the odor would move vertically above the mister system before moving horizontally off the property. It was recommended to him that in addition to a perimeter misting system, that fog cannons be used at sufficient density to neutralize the vertical movement of cannabis odor. This design would only reduce, but not eliminate, the cannabis odor leaving the property. We request that the outdoor grow be eliminated from the permit application.

At the Planning & Zoning Commission meeting on March 10, 2021, I commented that Cochise County needed to review their current Cannabis Regulations. The Commission Chairman stated that he hoped that I would appeal this to the Board of Supervisors to bring this to their attention.

As we reviewed regulations from other states and counties, we found that many had detailed regulations for marijuana cultivation, and some did not allow any outdoor grow. Cochise County's one page of regulations is woefully inadequate for a rapidly growing industry in an area of high demand permits. Current County regulations only address Zoning Districts, Set-Backs and three restrictions for dispensaries and infusion facilities. Planners can set conditions, such as stated on Docket SU-21-000005, that state there must be an odor mitigation plan. There is nothing in the current Cochise County Code that defines what is required for indoor or outdoor grow odor control or if, or how, compliance will be measured and enforced. Without regulations there are no standards to be met and no way to enforce violations.

We request that the Board of Supervisors direct staff to review regulations from other cannabis growing areas and compile a comprehensive set of cannabis regulations for Board consideration. The attached link from Chelan County, Washington provides an excellent example of a thorough Cannabis plan.

The cannabis industry is a newly emerging industry in Arizona. Looking into the future, cannabis production may become a significant economic factor in Cochise County. It would be to the benefit of both the residents and growers to have a well defined set of regulations provided by Cochise County for an orderly growth of this industry.

Literature Cited:

Powell, L, Odor Issues are Moving to the Forefront as More States Allow Recreational Cannabis; The Pipeline: Cannabis Law Advisor, January 11, 2019  
Schaneman, B., Best Practices in Cultivation, Stop Making Scents, mjbizdaily.com, August 2019, p. 118-121

Additional Supporting Documents:

Chelan County, Washington County Code, Chapter 11.100 CANNABIS Regulations, passed February 2, 2021

<https://www.codepublishing.com/WA/ChelanCounty/html/Chelco11/Chelco11100.html>

"Odor Issues Are Moving to the Forefront as More States Allow Recreational Cannabis"

<https://www.cannabislawadvisor.com/2019/01/11/odor-issues-moving-forefront-states-allow-recreational-cannabis/>

"Stop Making Scents", Marijuana Business Magazine, August 2019

<https://mjbizdaily.com/digital-issues/2019-07-Aug/118/>

"Marijuana Stinks" Here's What Cities, Businesses and Neighbors Can Do About It"

<https://www.thecannifornian.com/cannabis-business/marijuana-stinks-heres-cities-businesses-neighbors-can/>