



Cochise County

Development Services

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 SU21-000001 (Holmes)
DATE: February 23 for the March 10, 2021 Meeting

APPLICATION FOR A SPECIAL USE AUTHORIZATION

The applicant requests a Special Use Authorization to construct indoor medical marijuana cultivation, packaging, and dispensary located in an approximately 20,000 square foot building.

The project is located on South Community Road, approximately ½ mile northeast of S Foothills Road, near Portal. The parcel number is identified as 402-11-001. The Applicant is Mr. Jeffery Holmes.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 41.72 acres, approximately one (1) acre for the special use
Current Zoning: RU-4 (Rural; one dwelling 4 acres)
Proposed Zoning: Same
Growth Area: Category D
Comprehensive Plan Designation: Rural
Area Plan: None
Existing Uses: Vacant
Proposed Uses: Indoor Medical marijuana cultivation, packaging and dispensary

Zoning/Use of Surrounding Properties

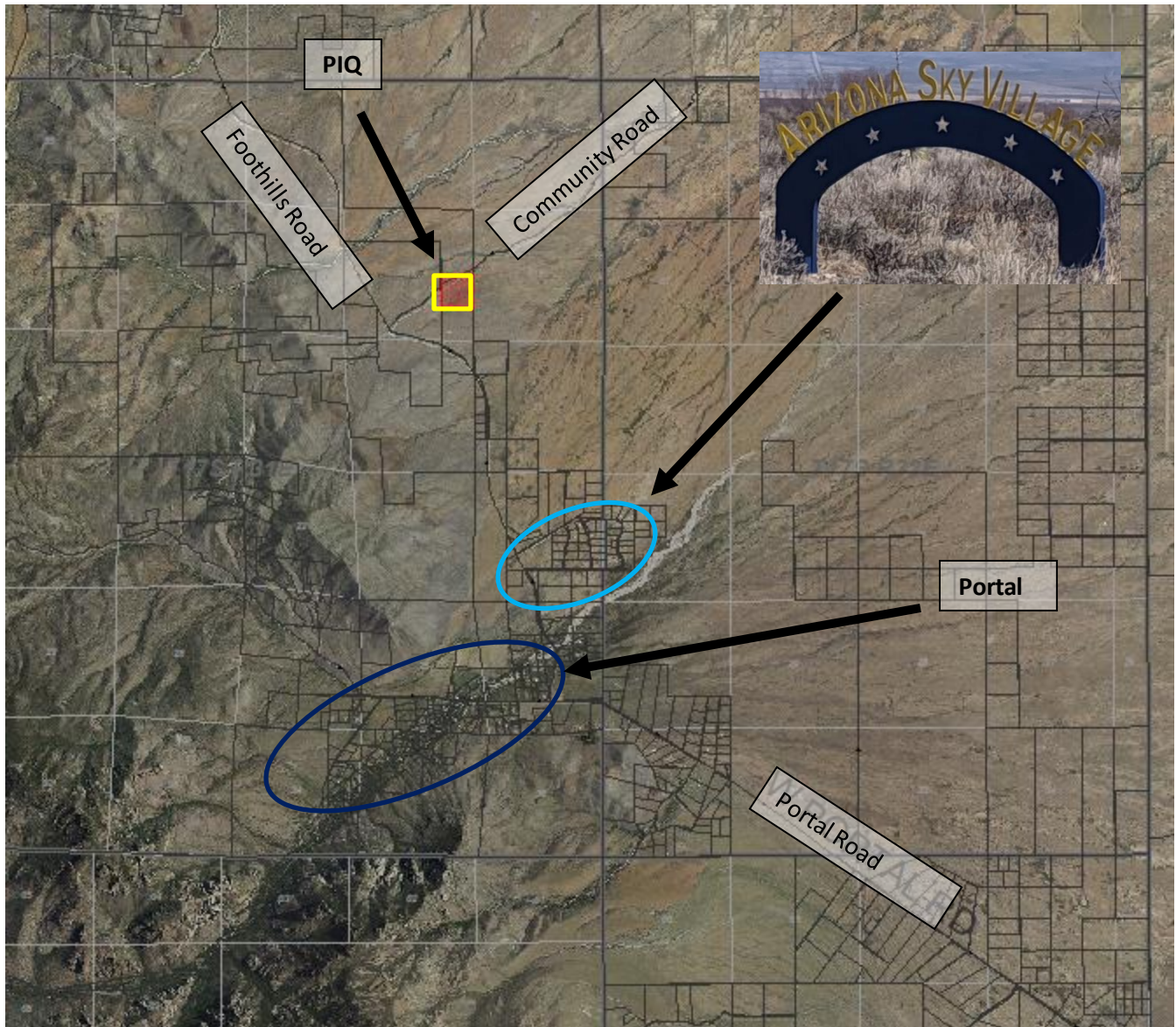
Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Vacant/ Rangeland
South	RU-4	Vacant
East	RU-4	State land
West	RU-4	State land

II. PARCEL HISTORY

No permit history.

Planning, Zoning and Building Safety

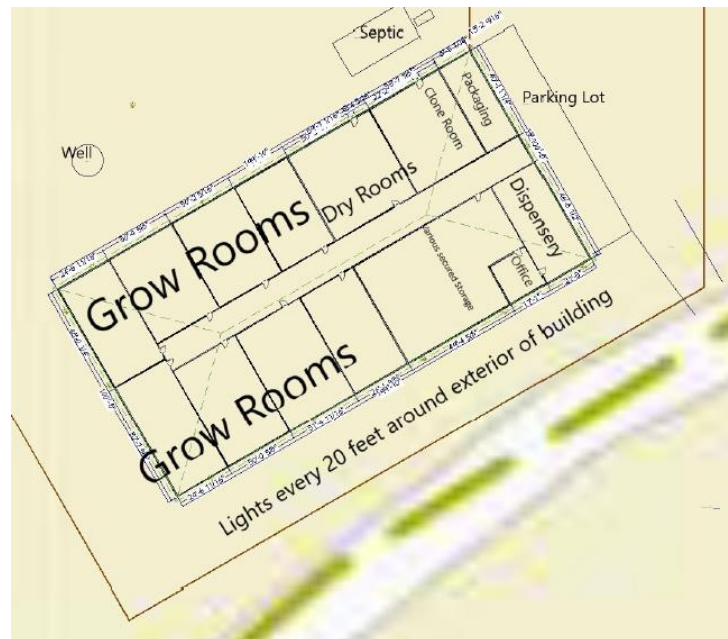
1415 Melody Lane, Building F
Bisbee, Arizona 85603
520-432-9300
520-432-9278 fax
planningandzoning@cochise.az.gov



III. NATURE OF REQUEST

The applicant requests a Special Use Authorization to allow indoor medical cannabis grow, packing and dispensary. The entire building will be approximately 20,000 square feet, located north of Community Road. The building is estimated to be broken down as follows:

- Eight (8) 1125 square foot grow rooms
- One (1) 3,000 square foot packaging room
- One (1) 2,000 square foot dry room
- One (1) 3,000 square foot dispensary
- One (1) 1,000 square foot office
- One (1) 2,000 square foot storage, security/safe room



IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH SPECIAL USE FACTORS

Section 1716.02 of the Zoning Regulations provides a list of ten factors 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 and determine what Conditions and/or Modifications may be needed.

With the information provided, nine (9) of the ten (10) factors apply to this request. The project, as submitted, fully complies with three (3) of the factors. With the recommended conditions, the project complies with five (5) additional factors. One (1) factor does not comply, and one (1) is not applicable.

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 the development of agricultural processing, both on-site and at industrial scale, to support the production of value-added agriculture products in Cochise County.

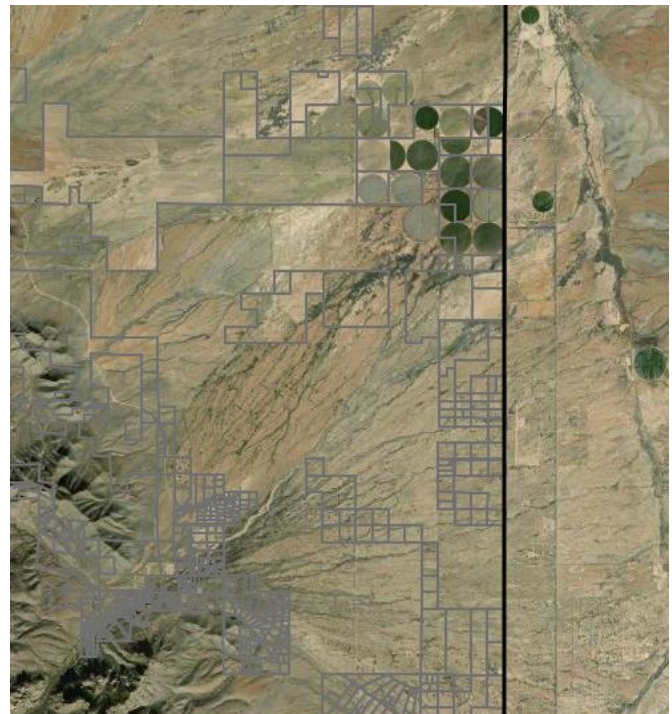
The Economic Development Element that states that "Supporting small businesses will not only spur diversified income opportunities and ensure economic competitiveness, but will also foster resilience in the face of economic challenges such as natural disasters "and the policy to continue to communicate 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.

B. 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. The proposed facility is only 20,000 square feet and will provide a large amount of open, undisturbed area South of Community Road.





C. Development along Major Streets: Not applicable

The project is located on Community Road, which is not a County maintained road. However, only one driveway is proposed to access the facility and will comply with County requirements.

D. Traffic Circulation Factors: Complies with Conditions

This type of use is similar to small-scale 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 is proposing a multi-use building including grow rooms, office, storage, and a dispensary. Indoor

grow tends to stabilize the typical seasonal variations inherent in open agricultural activities.

The building is proposed at approximately 20,000 square feet of greenhouse. The entire area disturbed will be approximately one (1) acre and remain north of Community Road. The other approximately 40 acres in the parcel are planned to be left undeveloped at this time.

The applicant is planning up to a maximum of 50 employees at build-out, which has the potential to generate an estimated 150 vehicle trips. The dispensary at 3,000 square feet and utilizing Specialty Retail under the ITE manual the trips are estimated to be 193 per day.

It is worth noting that vehicle trips are different from the 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 41 acre parcel were built-out to the existing zoning (RU-4), ten residential dwellings on 4 acre lots could be built on the parcel, generating a range between 43 and 218 vehicle trips per day. As proposed, this facility is expected to generate a modest increase of traffic than if the site were developed with residential home sites.

The County Engineer reviewed the proposed project and stated with the project area roads would still operate at a Level of Service (LOS) A. No additional analysis is required at this time, however the project will be evaluated for any changes at permit submittal.

The applicant is advised that construction mitigation requirements are difficult to assess at this conceptual stage, but traffic control methods may be required to ensure safety for both the traveling public and the vehicle operators during construction phases.

E. Adequate Services and Infrastructure: Complies with conditions

The parcel is located on a non-county-maintained road. (Community Road). Based on the review of recorded documents, it appears that the existing roadway is not within the recorded private easements and will need to be addressed prior to permit submittal. The project has been conditioned to sign a private maintenance agreement (PMA) that requires them to contribute to the maintenance of the road.

Community Road connects to County maintained Foothills Road. The surface is dirt; however, the applicant will be utilizing vanpools to reduce overall employee vehicles.

Electrical service will be provided by Columbus Electric Cooperative. A new septic system and a well will be required.

F. Significant Site Development Standards: Complies with Conditions

Parking Complies with condition:

The Zoning Regulations do not establish separate parking regulations for either agricultural uses or medical marijuana grow operations. The parking regulations require one space per 350 square feet of retail and 1 per employee plus 1,000 per square feet of warehousing (Grow rooms, storage, 54 spaces). This results in a requirement of 63 spaces. The conceptual site plan shows thirty spaces. Staff is recommending a condition that the applicant provides an analysis at permit submittal that justifies the proposed parking or adjust the site plan to show adequate parking. All parking areas shall be treated with a least two inches of gravel to reduce dust.

Setbacks Complies with condition:

The RU-4 zoning requires a minimum of 20-foot setbacks from all property lines and from the edge of the roadway travel way. The site plan submitted with the permit submittal shall clearly show all setbacks. The applicant is advised that the conceptual site plan submitted with this Special Use request will not be adequate for a Commercial Permit request. A site plan accompanying the Commercial Permit application must clearly show dimensioned parking stalls and material of parking and driveways.

Screening Not applicable, wavier requested:

The Comprehensive Plan designates the area as rural. Therefore screening is not required. As the operation is entirely indoors, it is possible that the typical ten-foot high wall may not be required by the state, and perhaps an 8-foot chain-link fence could be used instead. This would be Staff's preferences. The wall could attract more attention to the facility across the landscape. Though it is unlikely the state may require installing a wall or fence up to ten (10) feet in height. The Zoning Regulations allow for a maximum of eight feet. To avoid the need to submit a modification to this request in the future, the staff recommends a wavier be approved to allow a fence or wall up to ten (10) feet.



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. This will be evaluated at permit submittal.

Lighting Complies with condition:

Lighting is a significant concern for staff and area residents. People come from all over the world to view dark skies in this area. Approximately 1.75 miles away is Arizona Sky Village, which includes many homes that have telescopes. The applicant's site plan is concerning showing exterior lights every 10 feet. Staff is conditioning that this project not only meets but exceeds the requirements of our Light Pollution Code. The applicant shall employ whatever method is necessary to eliminate the exterior lighting. This can be done using a variety of methods, including infrared cameras and automated dome security systems.

Landscaping not applicable:

No landscaping is required or recommended by Staff. The applicant is encouraged to minimize area disturbance to the greatest extent possible and to incorporate native vegetation into the property.

Recommended Conditions:

1. The applicant shall provide a parking analysis at permit submittal that justifies the proposed reduction in parking or shall provide the required spaces per the Zoning Regulations.

2. All on-site parking, driveways, and maneuvering areas shall receive at least a two-inch layer of gravel.
3. A detailed, dimensioned site plan shall be provided in conjunction with the permit submittal.
4. No outdoor lighting shall be provided except as required by code. Where lighting is necessary, the fixtures shall be International Dark Skies (IDA) approved. This shall be documented at permit submittal.

Waiver Requested:

1. Staff is recommending the Planning Commission approve a waiver to allow a wall or fence allowing a height up to ten (10) feet.



G. Public Input: Does not comply

The applicant mailed letters to property owners within 1,000 of the property prior to application submittal and received no feedback. 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 a legal notice on the property. To date, Staff has received 107 letters—four (4) in support and 103 in opposition from both residents of the area and outside. Issues cited include increase in traffic, lighting, disruption of views, and safety concerns.

It should be noted that the Zoning Regulations state: *If there is major public opposition to a proposed Special Use Authorization request, this may indicate that the technical evaluation regarding compatibility of the use does not concur with the view of local residents and a recommendation of denial may be appropriate...*

The property is bounded on the east and west by State Land. On the north and south are large private properties. The north is used for ranching and south is vacant. Neither property owner submitted a letter in opposition to the request. A potential purchaser of the south property submitted a letter in opposition. The majority of the opposition comes from approximately 1.75 miles south in the Arizona Sky Village and approximately 2.5 miles to the Portal area.

Although there is significant opposition, the vast majority are from residents that are 1.75 miles away or further. And the proposed conditions/mitigation measures should address any impacts that may be a result of the project.

H. Hazardous Materials: Complies with Conditions

The applicant initially stated on their application that no hazardous materials will be used or will be present at this facility. However, current research suggests it is not uncommon for cannabis facilities to produce hazardous wastes. These include mercury-containing lighting and ballasts, many types of pesticides or other chemicals used in the cultivation process, certain solvents or other chemicals used in the production of marijuana concentrate, marijuana soaked in a flammable solvent for purposes of producing a marijuana concentrate, electronics (e-waste) and batteries. In addition, residual tetrahydrocannabinol (THC), if improperly disposed of, could potentially have adverse effects on the local ecology. Staff has recommended a condition of approval requiring the submission of a hazardous materials questionnaire in conjunction with permitting. Also, all chemicals, fertilizers, or any hazardous product associated with the cultivation of marijuana shall be used, stored and disposed of in a manner consistent with the manufacturer's instructions and/or any law that governs same. Cannabis remnants, infused products, bi-products, and other waste material shall be rendered unusable and disposed of in a safe, sanitary, and secure manner.

Recommended Condition:

1. The applicant submits a hazardous materials questionnaire in conjunction with permitting. All chemicals, fertilizers, or any hazardous product associated with the cultivation of marijuana shall be used, stored, and disposed of in a manner consistent with the manufacturer's instructions and/or any law that governs same. Cannabis remnants, infused products, bi-products, and other waste material shall be rendered unusable and disposed of in a safe, sanitary, and secure manner.

I. Off-Site Impacts: Complies with conditions

Odor Complies with condition:

The proposed project is small in overall scope. Approximately 9,000 square feet of indoor grow is proposed. Odor, particularly from budding plants, can be quite strong. In conjunction with the permit submittal, the applicant shall provide an Odor mitigation plan that outlines how odors will be mitigated to the level of being undetectable at property lines.



Dust Complies with conditions:

Foothills Road and Community Road are both dirt roads. There will be an increase in dust due to the additional traffic created. The applicant is conditioned to participate in the maintenance of Community Road. A traffic statement is required to determine if further mitigation is warranted.

On-site dust will be mitigated as follows:

- Minimize the amount of area to be disturbed. At this time, the applicant is anticipated to grade less than an acre.
- Any areas disturbed shall receive dust mitigation measures which could include gravel, native planting, temporary soil stabilization.
- All on-site parking, driveways and maneuvering areas shall be treated with a minimum of 2" of gravel.

Smoke Complies:

No smoke is anticipated to be generated by the proposed use.

Noise Complies:

As noted in the public comments area, residents and visitors enjoy the quiet that the area affords. The applicant shall ensure that any machinery utilized, including generators, air handling units, etc, shall be properly muffled and that the noise shall not trespass beyond property lines.



Lights Complies with conditions:

As discussed in detail above, Staff fully understands the concerns regarding outdoor lighting and the impacts it could have on the Community and its visitors. Therefore, Staff has included several conditions to mitigate any impacts from lighting on the area.

Drainage Complies with condition:

With permit submittal, the applicant is required to provide a drainage analysis. This will ensure that the incremental increase is held on-site and that the flow leaving the site is un-altered.

Recommended Conditions:

1. In conjunction with the permit submittal, the applicant shall provide an odor mitigation plan that will eliminate odors at the property line.
2. Minimize the amount of area to be disturbed. At this time, the applicant is anticipated to grade less than an acre.
3. Any areas disturbed shall receive dust mitigation measures which could include gravel, native planting, temporary soil stabilization.
4. All on-site parking, driveways, and maneuvering areas shall be treated with a minimum of 2" of gravel.
5. There shall be no outdoor lighting except that is required by Code. All exterior fixtures shall be approved by the International Dark Skies Association. Any openings in windows or roof where light may spill outside shall be treated with black-out curtains. This shall be presented at permit submittal.

J. Water Conservation: Complies

The project site is not located within the Sierra Vista Sub-Watershed. The project site will be served by private well, where indicated in the site plan. The applicant has indicated a water use of approximately 150 gallons per day and 1,800 gallons per year. Although the grow is entirely indoors and will be on drip irrigation, Staff believe these numbers are underestimated.

The average cannabis plant uses approximately six (6) gallons of water per day. They generally require between 1 and three square feet to grow. Based on a 9,000 square foot grow area, allowing two (2) square feet for each plant would allow approximately 4,500 plants. 4,500 plants by six (6) gallons per day would result in approximately 27,000 gallons of water per day.

The site could be utilized for other agricultural purposes, completely unregulated. There are existing pivots approximately 4 miles northeast of the site. According to the New Mexico Dept of Agriculture (1/21/20), here is some water uses:

- Cannabis, 3-4 acre-feet
- Chile, 3-4 acre-feet
- Cotton, 4-4 acre-feet
- Alfalfa production, 5-6 acre-feet

The site could also be developed into ten single-family residences. Using the EPA estimate of 88 gallons of water per person per day and the US Census data of 3 persons per household, we would be looking at approximately 960,000

gallons of water.

V. PUBLIC COMMENT

Staff mailed notices to neighboring property owners within 1,000 feet of the subject property on February 8, 2021, posted the property on February 17, 2021, and published a legal notice in the *San Pedro Valley News-Sun* on February 19, 2021. In response to applicant and County mailings, the Planning Department received 103 letters of opposition and four (4) letters of support from area and abroad residents.

VI. SUMMARY AND CONCLUSION

This request is for a Special Use authorization to approve the cultivation, packaging, and dispensing of medical marijuana near Portal.

No waivers or modifications have been requested; however staff is recommending a wavier to allow a fence/wall height of up to ten (10) feet if required by the State.

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

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 fifty employees at full build-out; and
6. The proposal is expected to generate less traffic than if the site were developed, as residential home sites.
7. The Planning Department has received four (4) letters in support of the request.

Factors Against Allowing the Special Use

1. The Planning Department has received 103 letters in opposition to the request;
2. The applicant does not comply with the public input factor.

VII. RECOMMENDATION

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

Should the Commission approve the Application, Staff recommends the following Conditions:

2. 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;
3. 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;
4. 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;
5. The applicant shall provide a parking analysis at permit submittal that justifies the proposed reduction in parking or shall provide the Zoning Regulations' required spaces.
6. All on-site parking, driveways, and maneuvering areas shall receive at least a two-inch layer of gravel.
7. A detailed, dimensioned site plan shall be provided in conjunction with the permit submittal.
8. No outdoor lighting shall be provided except as required by code. Where lighting is necessary, the fixtures shall be International Dark Skies (IDA) approved. This shall be documented at permit submittal.
9. The applicant submits a hazardous materials questionnaire in conjunction with permitting. All chemicals, fertilizers, or any hazardous product associated with the cultivation of marijuana shall be used, stored, and disposed of in a manner consistent with the manufacturer's instructions and/or any law that governs same. Cannabis remnants, infused products, bi-products, and other waste material shall be rendered unusable and disposed of in a safe, sanitary, and secure manner.
10. In conjunction with the permit submittal, the applicant shall provide an odor mitigation plan that will eliminate odors at the property line.
11. Minimize the amount of area to be disturbed. At this time, the applicant is anticipated to grade less than an acre.
12. Any areas disturbed shall receive dust mitigation measures which could include gravel, native planting, temporary soil stabilization.
13. All on-site parking, driveways, and maneuvering areas shall be treated with a minimum of 2" of gravel.
14. There shall be no outdoor lighting except that is required by Code. All exterior fixtures shall be approved by the International Dark Skies Association. Any openings in windows or roof where light may spill outside shall be treated with black-out curtains. This shall be presented at permit submittal.
15. At the Commercial permit, the applicant shall submit documentation to the Floodplain department demonstrating compliance with the Floodplain Regulations.

Sample Motion:

Mr. Chairman, I move to approve Special Use Docket SU21-000001, on parcel 402-11-001 with the Conditions of Approval recommended by Staff; the Factors in Favor of Approval are constituting the Findings of Fact.