



Cochise County

Development Services

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MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Christine Mclachlan, AICP, Planner II
FOR: Daniel Coxworth, AICP, Development Director
SUBJECT: Docket SU-21-000005 (MM Ft Grant Rd)
DATE: March 2, 2021 for the March 10, 2021 Meeting

APPLICATION FOR A SPECIAL USE AUTHORIZATION

The Applicant, Ms. Hannah Bleam of Willcox OC LLC, requests a Special Use Authorization to approve the construction of a marijuana cultivation and infusion facility on a 318.31-acre parcel. The Project is located at 9910 North Fort Grant Road on parcel number 201-17-002E. The proposal includes approximately 170 acres of outdoor grow*, 817,120 SF of new greenhouses, 140,000 SF of processing, and a 5,100 SF office/security, 30,640 SF storage. The construction of proposed uses is subject to site development standards in the Cochise County Zoning Regulations and requires Special Use Authorization from the Planning and Zoning Commission in a rural zoning district.

** Prior to the 3/10/21 hearing, the applicant reduced the acreage request for outdoor grow from 170 acres to 63 acres. The attached application and site plan have not been adjusted to reflect this change; however, the staff report analysis and the recommended conditions of approval both recognize this adjustment.*

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 318.31 acres
Current Zoning: RU-4 (Rural; one dwelling per 4 acres)
Proposed Zoning: Same
Growth Area: Category D
Comprehensive Plan Designation: Rural
Area Plan: None
Existing Uses: Farmland, some existing farm support structures
Proposed Uses: Medical marijuana cultivation, no on-site sales

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Agricultural land
South	RU-4	Williams Road ROW, Agricultural land (medical marijuana)
East	RU-4	Vacant land
West	RU-4	Ft Grant Road ROW, Agricultural land

Planning, Zoning and Building Safety

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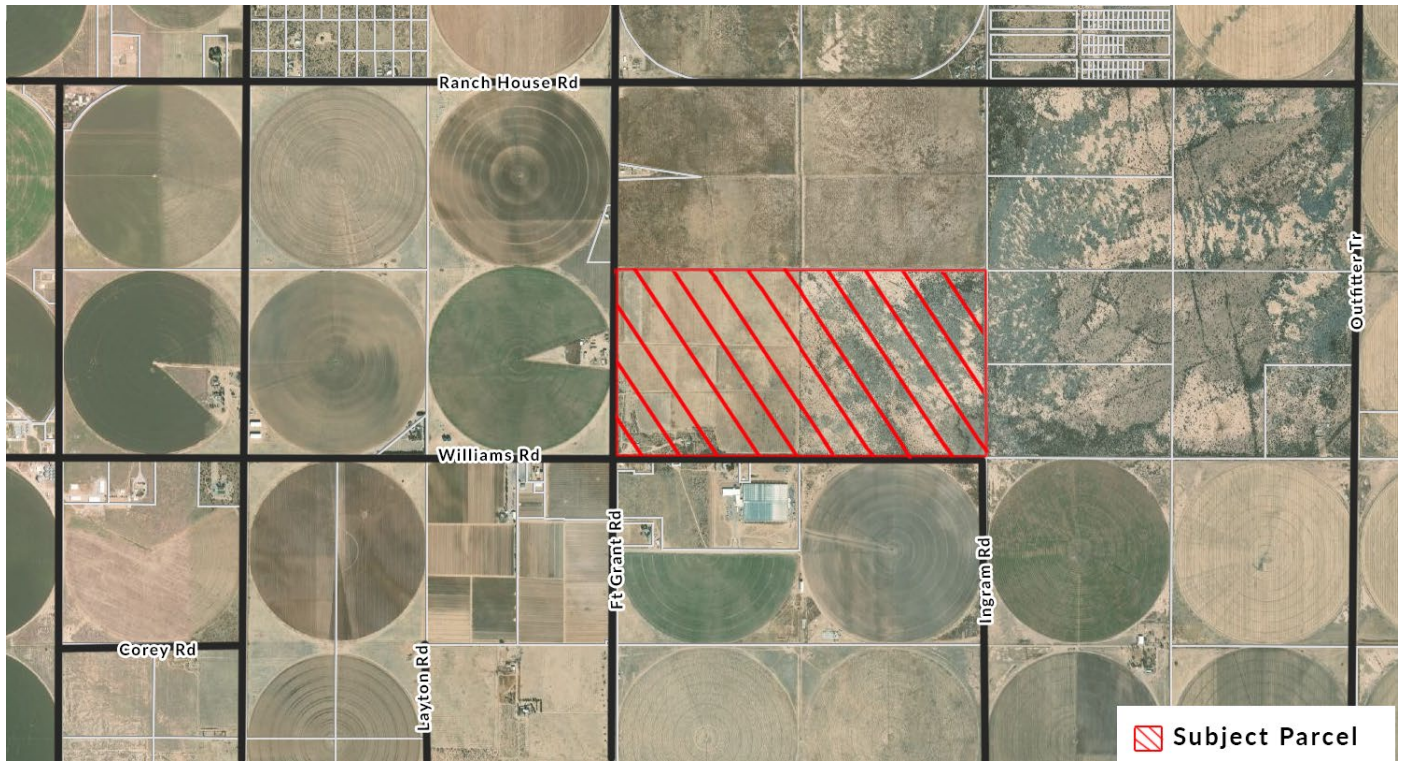


Figure 1: Parcel Location Map

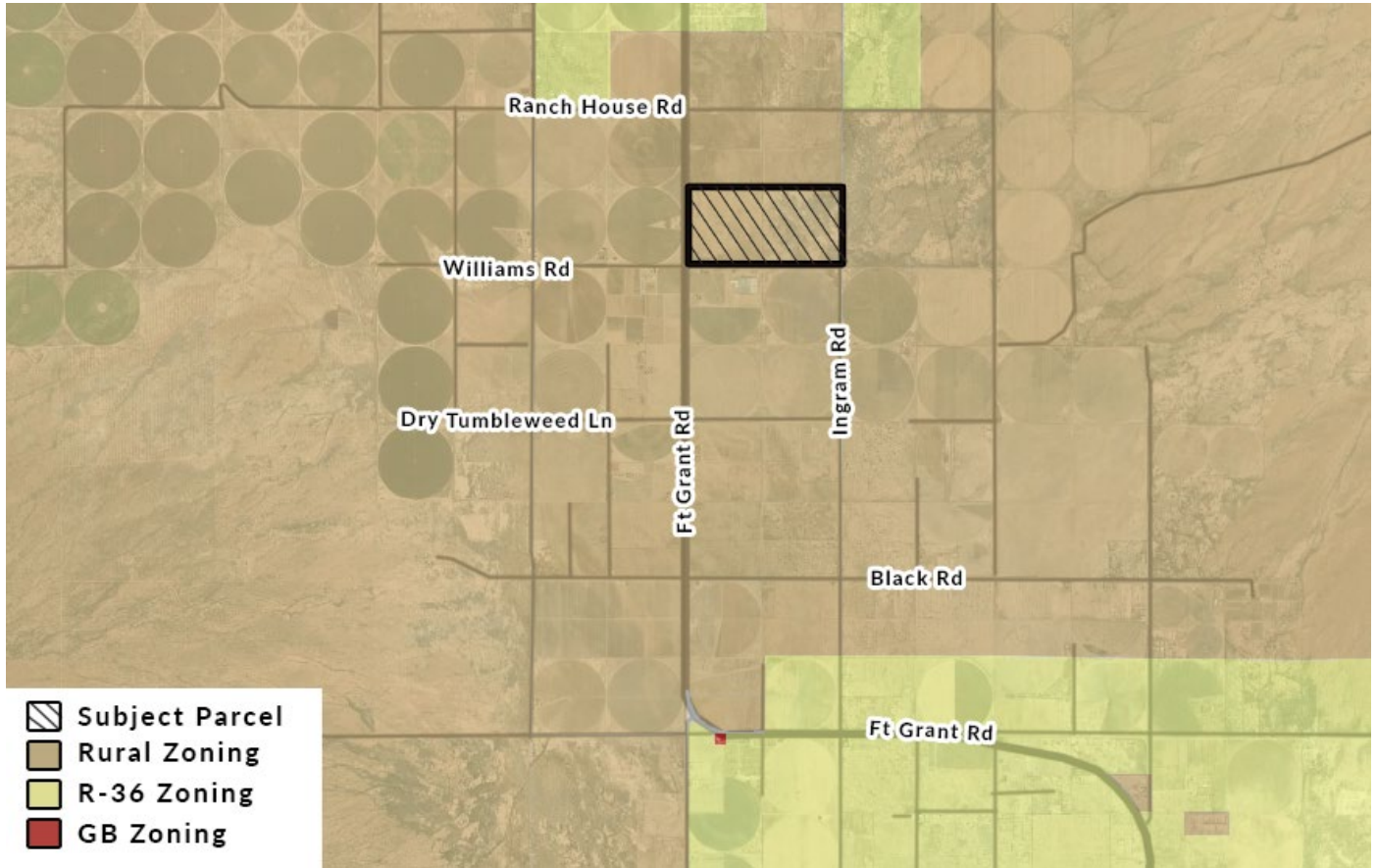


Figure 2: Zoning Map

II. PARCEL HISTORY

Historically, there has been agricultural cultivation on the western half of the parcel. The eastern portion is undeveloped/vacant.

III. NATURE OF REQUEST

The Applicant, Ms. Hannah Blead of Willcox OC LLC, requests a Special Use Authorization to approve the construction of a medical marijuana cultivation and infusion facility on a 318.31-acre parcel. The Applicant proposes a phased construction schedule, as follows. The facility shall include all of the following elements (all numbers are in acres or square feet and are approximate)

Phase 1 (2021):

- 63 acres of outdoor grow*
- 140,000 square feet of processing
- 5,100 square foot Admin and Security Buildings with associated parking
- 100,000 square feet of greenhouse
- 30,640 square feet of equipment storage
- 2 cargo containers (**not to be used for infusion 1825.03A**)

Phase Two (2022):

- 717,120 square feet of greenhouse

**Figure 3: Site Plan allocates 170 acres to outdoor grow. Staff recommends a condition limiting the amount of outdoor grow to no more than 20% (63 acres) of the site. This would impact both on-site and off-site impacts.*

As proposed, the Project would be located on agricultural farmland/vacant land approximately 10 miles northwest of the City of Willcox. All processing buildings will be in metal-sided structures, future greenhouses will be made of steel and polycarbonate material. There is approximately 4,948' of 8' tall fencing on the north, south, and western sides of the parcel. There is an additional approximately 17,058' of the proposed wall. The proposed wall surrounding the open-grown fields will be a solid material and 10' in height, as required by state law.

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 states: "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 subject property is not within a Special Area Plan.

While the proposed use is consistent with the goals of the Agricultural and Ranching Element, the Economic Development Element and the Rural Character Element, it is the opinion of staff that the proposed site plan is inconsistent with the Policy A of the Rural Character Element, which states: "*With property rights considered, protect rural character from the intrusion of urban uses and recognize that resources, such as agricultural lands, open space, and scenic viewsheds, provide economic, social, and environmental benefits.*"

While the use is agricultural, the impact of the site plan, and the character it projects, is more consistent with an industrial use. The required 10' tall walls and security measures will likely detract from the scenic quality of the immediate area and Fort Grant corridor. Consequently, staff recommends a condition of approval to address the visual impacts of the proposed development. (See Section 9. Off-Site Impacts for further discussion).

2. Compliance with the Zoning District Purpose Statement: Partially Complies

As stated in Section 601 (Purpose) of the zoning regulations:

RU (Rural) Zoning Districts are established to achieve the following purposes:

- 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;
- 601.04** To provide space for people, minimize traffic congestion, and preserve the existing rural environment of unincorporated areas of the County situated outside of existing communities;
- 601.05** To provide recreational support services that are compatible with rural living;
- 601.06** To protect the quality of the natural environment as it relates to safeguarding the health, safety and welfare of the people in Cochise County; and
- 601.07** To allow consideration of some more intense non-residential uses as Special Uses that are inappropriate in more densely populated urban/suburban areas that may under some circumstances be appropriate in rural areas if designed to be sensitive to the general character of rural districts and natural environment and harmonious and in scale with existing development near the proposed site and in conformance with Section 601.06.



Photos from the Adjacent Use to the South (Approved medical marijuana)



Photos from adjacent use to the southwest (General agriculture)

Similar to concerns stated in the previous criterion, there is staff concern regarding how to successfully blend the proposed use into the surroundings, particularly given the size of the parcel and the scale of the operation. On the one hand, there is an existing medical marijuana facility directly to the south of the parcel. The latest improvement on this parcel, permitting outdoor grow, was approved for a special use by the Planning and Zoning Commission in 2019. While significantly larger, the proposed use would be consistent with the adjacent operation's look and function to the south. On the other hand, Apple Annie's Produce and Pumpkins is located directly southwest of the subject property. The focus of that property's operation is agritourism, which, unless mitigated, could be negatively impacted visually by the industrial look of the proposed use and by the odor produced by the outdoor-grown marijuana crop.

Staff further points out that there is a difference in scale between the existing marijuana farm to the south and what is being proposed on the subject parcel. The existing marijuana farm, which is partially constructed, was approved for 14 acres of outdoor grow, on a 67-acre parcel. The proposed development will include up to 62 acres of outdoor grow, on a 318-acre parcel. The visual impact of a large-scale operation will be greater, as will be the seasonal odor produced by the crop. In addition, as shown in Figure 3, there are two other approved marijuana farms near the Ft Grant corridor. While clustering land uses is a traditional approach to zoning, the potential cumulative odor impacts from this cluster are of concern. Consequently, in this case, staff has requested, and the applicant has tentatively agreed to, much more stringent conditions to mitigate odor and visual impacts that have historically been attached to marijuana farms in Cochise County.

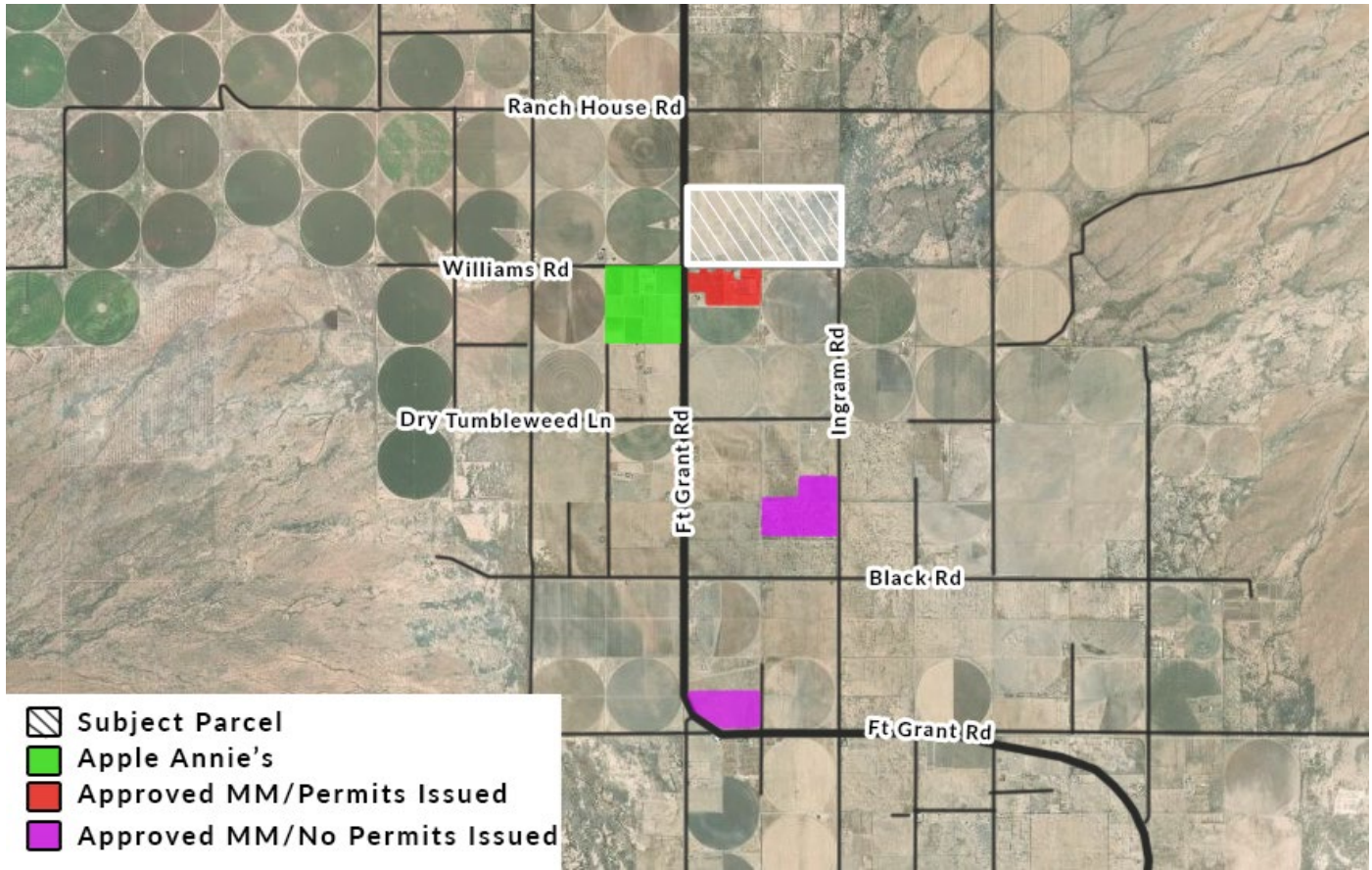


Figure 4: Adjacent Uses

3. Development Along Major Streets: Complies

Fort Grant Road is county-maintained and classified as a Federal Functional Rural Major roadway and is paved with chip-seal the entire frontage of the property. The Applicant has indicated on their site plan intersection improvements at one ingress/egress point 550' north of the intersection of Williams Road with Ft Grant Road. The limiting of access points complies with the requirement to "minimize road cuts that are associated with unsafe traffic conflicts."

4. Traffic Circulation Factors: Complies

This type of use is similar to larger-scaled agricultural use. However, average trip generation rates specifically for this type of growing operation have not been developed either at a national or state level. The Applicant is proposing greenhouse grow field cultivation and processing. Greenhouses tend to stabilize the typical seasonal variations inherent in open agricultural activities. Since both are proposed on-site, traffic is anticipated to be fairly consistent throughout the year, with slightly higher traffic demands in October/November. See *Part 9. Offsite impacts – traffic* for additional traffic analysis.

5. Adequate Services and Infrastructure: Complies

Electrical service is provided to the site by Sulphur Springs Valley Electric Cooperative; a private well will supply water, and sewage will be disposed of by a septic system. An existing well and power already serve the site. The State of Arizona regulates and issues permits for wells.

6. Significant Site Development Standards: Complies with conditions

Setbacks: Complies

The Zoning Regulations have applicable standards for setbacks regarding this application in Section 1825.02 (Medical Marijuana setbacks) and Section 604.03 (RU-4 setbacks). Section 604.03 requires a minimum of a twenty feet measured from the closest point on the property line or the edge of the road travelway to the structure/use, whichever is closer. Section 1825.02 further states that the minimum setbacks for dispensaries, infusion facilities, on-site dispensary cultivation, and offsite dispensary-affiliated cultivation facilities shall be no closer than 500-feet, as measured from the property boundary, from any other Medical Marijuana Dispensary or Infusion Facility. The proposed site plan complies with all setback requirements, as follows:

- The southern boundary of the project site, adjacent to unimproved Williams Road, shows perimeter fencing/wall 500' from the southern property line, which includes marijuana cultivation as an approved use.
- The western boundary, adjacent to Fort Grant Road, includes a 100' landscaped buffer within the setback. All proposed structures are an additional 180' east of a proposed 8' tall fence.
- The northern boundary includes a 100' setback from the property line to a proposed fence/wall
- The eastern boundary includes a 100' setback from the property line to a proposed fence/wall

Lot Coverage: Complies

The Rural Land Use district restricts overall site coverage to a maximum of 25%. Site coverage is defined as "the total percentage of the site covered with structures, buildings, paving, and impervious surfaces other than landscaping, gravel, walls, and fences." The Applicant proposes 7.2% site coverage.

Height: Waiver Requested

The maximum height for structures within RU-4 zoning are as follows:

- Principal structure: 30' above grade
- Accessory structure: 30' above grade
- Wall or fence: 8' above grade

The site plan indicates that all proposed principal or accessory structures will be equal to or less than 30' in height. Arizona State Law requires that medical marijuana grow operations be surrounded by a ten (10) foot tall solid screen, which exceeds what is allowed by zoning; consequently, the Applicant has requested a waiver (see Section VI. Waivers).

Lighting: Complies with Conditions

Although the Applicant initially indicated the use of fully shielded, motion-sensor security for outdoor lighting along the perimeter of the site on their application, the lighting plans were subsequently amended prior to the scheduled public hearing. According to the letter dated February 23, 2021, the Applicant states the following, " we are proposing a drone security system (or similar) to reduce the required lighting around the perimeter of the property. This system uses infrared and therefore works best without additional lighting. The only lighting that is provided will be automatic security lighting at any door locations that will be facing toward the door and will fully comply with the Cochise County Outdoor Lighting Regulations."

Due to the potentially conflicting needs of providing security while protecting neighboring property and right-of-way from light spillover/pollution, staff recommends a condition of approval reinforcing the requirement to comply with all County-imposed outdoor lighting standards in the manner suggested by the Applicant.

7. Public Input: Complies

The Applicant mailed letters to property owners within 1,000 feet of the property before application submittal.

The case planner 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 0 responses in support and 4 responses in opposition. See Section V. Public Comment for additional discussion.

8. 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, and the Applicant has agreed to, 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.

9. Offsite Impacts: Does Not Comply

There is a significant amount of outdoor activity associated with this request. Primarily this includes approximately 63 acres of outdoor grow area. Major offsite impacts could include traffic, fugitive dust, glare/glow, visual impacts and odor. In terms of mitigating each of these factors, the Applicant has proposed the following:

- Odor – the Applicant has provided an odor mitigation plan, which is included as an attachment to this docket. Odor remains at the top of air pollution complaints to regulators nationwide. Odor in the community may be a distraction or a nuisance to citizens. An "odor occurrence" is comprised of odor quality, strength, duration and frequency. On February 23, 2021, the odor mitigation plan was expanded to encompass outdoor mitigation measures. The mitigation measures recommended by staff are intentionally broad in scope and are results-focused. The conditions are as follows:
 - All indoor grow facilities shall be equipped with odor control filtration and ventilation system(s) based on current industry-specific best control technologies and best management practices. No operable windows or exhaust vents shall be located on any building façade that abuts a residential use or zone. Exhaust vents on rooftops shall direct exhaust away from residential uses and Ft Grant Road.
 - All proposed outdoor grow locations shall be equipped and maintained at their perimeter of the site with odor control devices, based on current industry-specific best control technologies and best management practices, that generally results in neutralization of the odor from the cannabis under normal circumstances.

The intent of the condition wording is to restrict the odor emission from the facility to a level that generally cannot be detected offsite. In addition, staff recommends limiting the total amount of allowable outdoor grow. The applicant's original site plan and application originally showed approximately 53% of parcel area, or 170 acres, dedicated to outdoor grow cultivation. The request was significantly reduced to no more than 63 acres, or 20% of the parcel area, dedicated to outdoor grow where indicated on Figure 3 Site Plan. Staff recommends conditioning approval to this amount of outdoor grow, which is consistent with the percent that was allowed for outdoor grow on the adjacent parcel to the south.

- Glare/Glow – While typically indoor lighting is not a land-use concern, in cases where greenhouses with grow lights are used, there can be offsite impacts in the form of a glow if not mitigated. Staff recommends a

condition in the form of "blackout panels" to reduce this impact, where grow lights are required.

- Noise – the proposed use will not generate significant noise while in operation.
- Traffic – (as included in the application)
 - Vehicles entering and leaving the site per day: 20
 - Total trucks per day: One 18-wheel truck
 - Estimate the direction and which roads the traffic will travel from the site: Both north and south on Ft Grant Rd
 - Estimate the percentage travel in each direction: 80% north on Ft Grant Road, 20% south on Ft Grant Road
 - At what time of day or season will traffic be heaviest: October/November
 - Initially, the applicant estimate 20 employees, but eventually 200 future employees.

The traffic generated by this use is an increase over the existing use, but it is the opinion of staff that Ft Grant Road, which is classified as a major road, can adequately accommodate the additional anticipated traffic volume.

- Dust – The Applicant states that fugitive dust will be mitigated with "dust suppression water systems placed around the site to reduce dust created." The exact or even approximate location of this system is not indicated on the site plan, nor are performance standards provided.
- Visual Impacts/Compatibility – as previously mentioned, marijuana farms tend to have an industrial look that is not visually consistent with the rural, agricultural Ft. Grant corridor. The adjacent marijuana farm to the south is an example of a currently permitted facility where no conditions were imposed to address visual impacts (see photo below). Staff recommends two conditions related to visual quality mitigation. They are as follows: *Proposed fencing and wall shall not diminish the visual quality of the premises or surrounding area, nor shall it impede surface water flow. Razor wire or similar material is not permitted. Elevations and proposed material of the fencing/wall must be approved by the County prior to its construction (Condition 10). Also, the (2,308'x 100') landscape buffer, as indicated in the site plan adjacent to Ft Grant Road, shall include drought-tolerant vegetation, with proposed shade trees no greater than 40' on center. This buffer shall be irrigated. Prior to the issuance of a building permit the applicant shall provide a landscape maintenance and irrigation plan, including fertilization schedule and guarantee of all plant material for no less than three years from date of final inspection. The installation of this buffer shall occur in Phase One. In addition, a minimum of a 100-foot buffer area shall be maintained around the north, west and east sides of the parcel, and a minimum of a 500-foot buffer area shall be maintained on the south side of the parcel. In this area, any existing vegetation shall remain to provide screening of the use. This does not include removing annual grasses, dead trees, bushes, and required utility installations. (Condition 4)*

An improvement of the fencing type and inclusion of a maintained, irrigated landscape buffer could help lessen the proposed use's visual impact.



Figure 5: Ft Grant Road buffer and fence of the adjoining marijuana farm to the south



Figure 6: Facing north on Ft Grant Road from the intersection of Ft Grant Road and W Dry Tumbleweed Lane. The western side of the road has a fairly consistent line of planted shade trees.

- Stomwater – this parcel lies within AO-1, AO-2 and X flood zones, consequently the following will be required in conjunction with permitting:
 - a floodplain use permit

- a stormwater pollution prevention plan
- a clearing permit (for more than one acre of land cleared)
- a Notice to clear native plants
- drainage analysis
- Wall/fencing must not impede surface water flow.

10. Water Conservation: Complies

The project site is not located within the Sierra Vista Sub-Watershed. The project site will be served by a private well, where indicated in the site plan, and the total gallons of water per day to be 100,000. In terms of water conservation, the Applicant indicates there will be "future installation of above-ground water retention" installed on site. "In addition, special drip irrigation will be installed to reduce water waste on-site." Drip irrigation is widely considered the most water-efficient way of irrigating a crop. Staff recommends a condition of approval requiring irrigation of the landscaped buffer, which would increase the site's water needs.

V. PUBLIC COMMENT

The Applicant mailed letters to property owners within 1,000 feet of the property prior to their application submittal.

The case planner 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 0 responses in support and 4 responses in opposition.

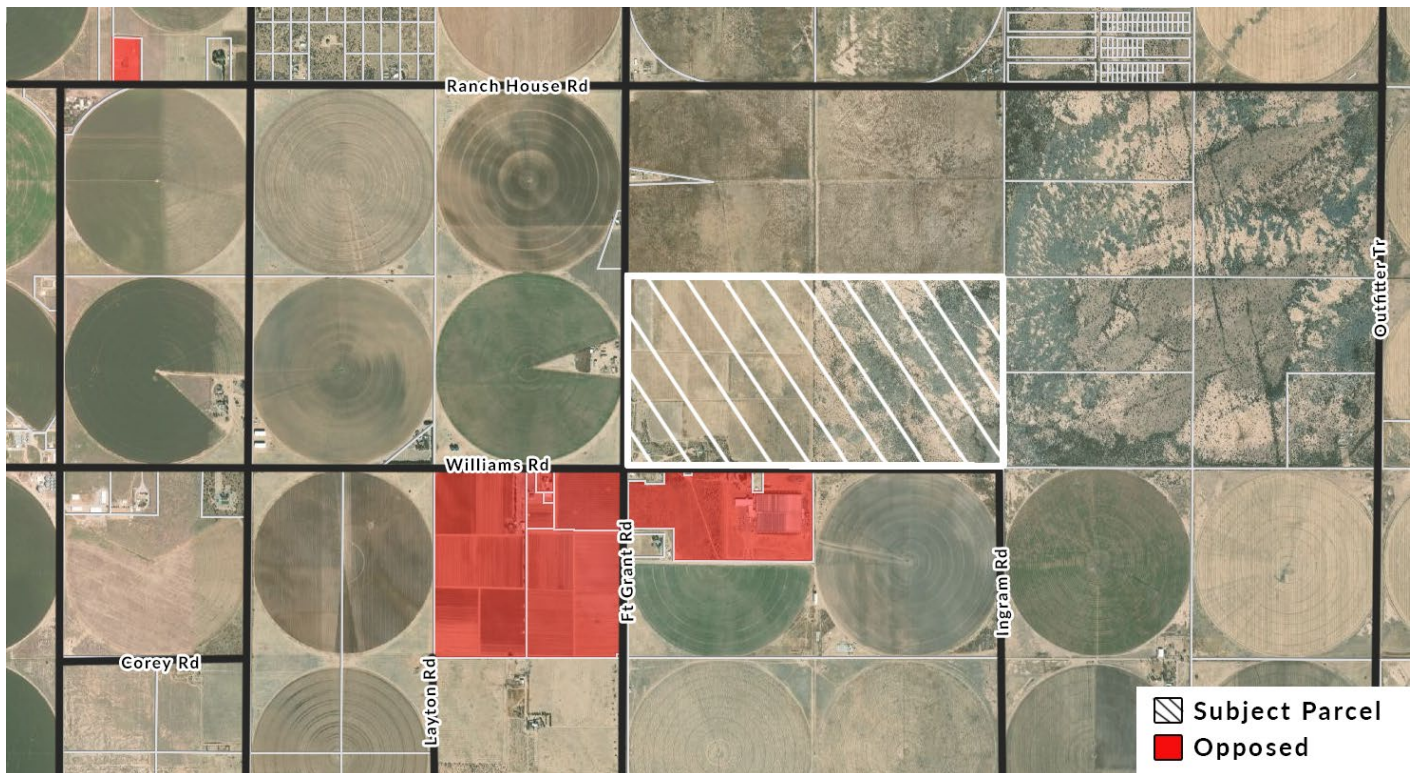


Figure 9: Public Input Map

VI. WAIVERS

The Applicant is requesting a waiver to the height requirement for the wall. The Zoning Regulations allow a maximum

of an eight (8) foot wall, and State Law requires a ten (10) foot tall wall.

VII. SUMMARY AND CONCLUSION

This request is for a Special Use authorization to approve the cultivation and processing of medical marijuana on a 318.31-acre parcel.

Factors in Favor of Approving the Special Use

1. The Project is consistent with the applicable policies of the Comprehensive Plan and the Purpose of the Rural Zoning Districts;
2. The Project complies with six of the criteria used to evaluate special use requests. It complies, with conditions, for two criteria and partially complies with one criterion;
3. The site plan submitted complies with most applicable site development standards and condition contained in section 1825 of the Zoning Regulations; and
4. The Project would provide generate employment.

Factors Against Approving the Special Use

1. Offsite impacts: odor
2. Visual impacts – marijuana farms tend to appear more industrial than other agricultural operations due to their unique security, fencing, and lighting requirements;
3. General compatibility concerns – there is scattered residential in the area and a nearby agritourism farm; and
4. Four letters of opposition were received.

VIII. RECOMMENDATION

Based on the factors in favor of approval, staff recommends **Conditional Approval** of the Special Use request. If the Commission chooses to approve the request, staff recommends the approval be 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 18-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 24-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 apply 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 Division and may require additional modification and approval by the Planning and Zoning Commission;
4. The (2,308'x 100') landscape buffer, as indicated in the site plan adjacent to Ft Grant Road, shall include drought-tolerant vegetation, with proposed shade trees spaced no greater than 40' on center. This buffer shall be fully irrigated. Prior to the issuance of a building permit, the Applicant submit to the County a landscape maintenance and irrigation plan, including fertilization schedule and guarantee of all plant material for no less than three years from the final inspection date. The installation of this buffer shall occur in Phase One. In addition, a minimum of a 100-foot buffer area shall be maintained around the north, west and east sides of the parcel, and a minimum of a 500-foot buffer area shall be maintained on the south side of the parcel. In this area, any existing vegetation shall remain to provide screening of the use. This does not include removing annual grasses, dead trees, bushes, and required utility installations.
5. Any lighting still required shall fully comply with the County's Outdoor Light Regulations. Greenhouses shall employ the "blackout panels" (or similar equal) to reduce the glow from grow lights, where applicable.

6. 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 the 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.
7. All on-site commercial sale/activity is prohibited.
8. The amount of outdoor grow is limited to no more than 20% (63 acres) of the total parcel acreage.
9. Prior to the start of construction:
 - A. A Stormwater Pollution Prevention Plan (SWPPP) will be required from the Arizona Department of Environmental Quality (ADEQ). This will also include a Notice of Intent (NOI) to clear land.
 - B. A Notice to Clear Native Plants must be obtained from the Arizona Department of Agriculture and a copy submitted to Cochise County.
 - C. A Drainage Analysis will be required for all parcels (hydrology and hydraulic report) as well as a Floodplain Use Permit. This includes, but not limited to, Grading Plans, Site Plans, Drainage Reports prepared by an Arizona Registered Civil Engineer.
10. Proposed fencing and wall shall not diminish the visual quality of the premises or surrounding area, nor shall it impede surface water flow. Razor wire or similar material is not permitted. Elevations and proposed material of the fencing/wall must be approved by the County prior to its construction.
11. All indoor grow facilities shall be equipped and maintained with odor control filtration and ventilation system(s) based on current industry-specific best control technologies and best management practices. No operable windows or exhaust vents shall be located on any building façade that abuts a residential use or zone. Exhaust vents on rooftops shall direct exhaust away from residential uses and Ft Grant Road.
12. All proposed outdoor grow locations shall be equipped and maintained at their perimeter of the site with odor control devices, based on current industry-specific best control technologies and best management practices, that results in neutralization of the odor from the cannabis under normal circumstances.

Sample Motions:

Mr. Chairman, I move to approve Docket SU-21-000005, with the Conditions of Approval recommended by staff; the Factors of Approval constituting Findings of Fact.