



Cochise County

Development Services

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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-21-06 (Green Desert Patient Center Expansion)
DATE: March 25, 2021 for the April 14, 2021 Meeting

APPLICATION FOR A SPECIAL USE AUTHORIZATION

The Applicant, Green Desert Patient Center requests a Special Use Authorization modification/expansion of their approved medical marijuana cultivation, storage, and infusion facility. The modifications include the following (all approximate):

- 1,016 hoop houses, 130 acres
- Two greenhouses, 24 acres
- 27 shade structure, 7 acres
- Two water storage areas, 10 acres
- Two drying rooms, 22 acres
- Two infusion/processing spaces, 6 acres
- Three irrigation and storage areas, 6 acres
- One office, 1.4 acres

The project is located at 5655 E. Gaskill Road in Willcox, Arizona and includes parcel numbers 305-43-056G, 305-43-056F, 401-01-003E, and 401-01-003F.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 304.43 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: Existing Medical Marijuana facility, fallow farmland
 Proposed Uses: Expansion of 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	Vacant land
East	RU-4	Agricultural land

Planning, Zoning and Building Safety

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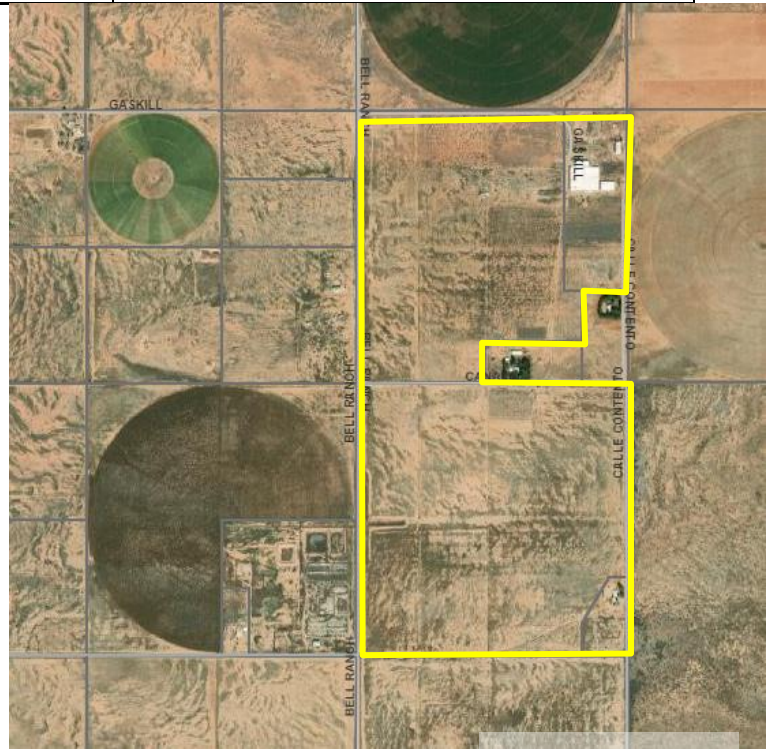
West	RU-4	Agricultural land and support services
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II. PARCEL HISTORY

Special Use, SU18-06 approved:

- One 60,000 square foot greenhouse
- One 10,000 square foot greenhouse building
- One, 7,250 square foot storage warehouse
- One, 672 square foot pump house used for the well servicing the property
- One 576 square foot generator building
- One 50' by 100' pellet mill (not in use)
- 2.5 acres of unimproved land approved for cultivation of marijuana

Lot Modification, LM-19-01 approved silo height of 32' 5".



Location Map



III. NATURE OF REQUEST

The Applicant, Green Desert Patient Center of Peoria, requests a Special Use Authorization to approve the construction of a medical marijuana cultivation and infusion facility on multiple parcels totaling 304.43 acres. The Applicant proposes a phased construction schedule, as follows. The facility shall include all the following elements (all numbers are approximate)

Phase 1 (4 to 6-month duration):

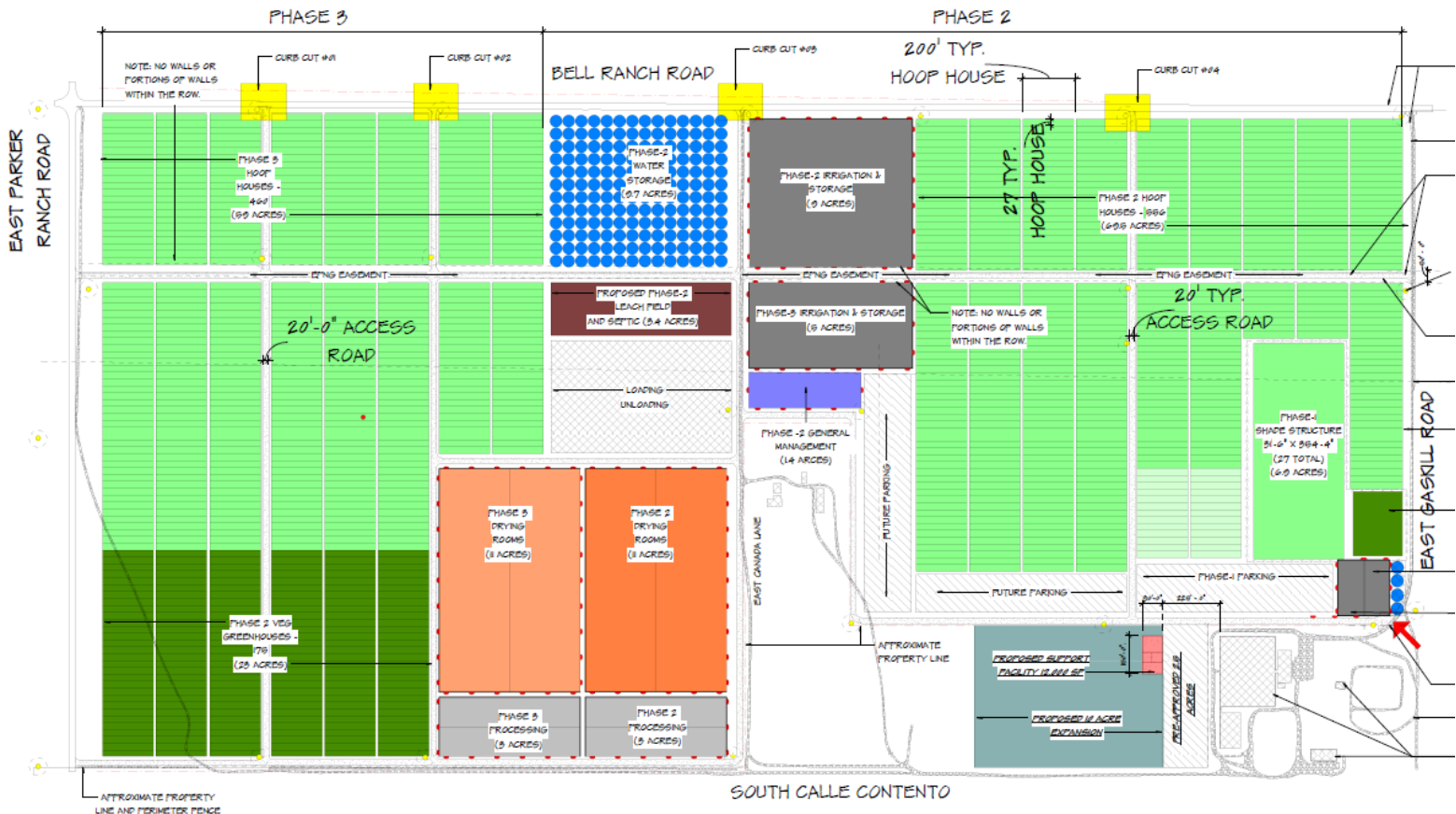
- One irrigation and storage building covering 1 acre
- One flower greenhouse covering 1.09 acres
- 27 cultivation shade structures covering 6.9 acres
- Four water tanks holding 1500m3 covering 0.3 acres
- 10-acre outdoor cultivation area (in addition to the pre-approved 2.5 acres approved
- 12,000 square foot post-harvest support facility

Phase 2 (6 to 8-month duration):

- 556 hoop houses covering 69.5 acres
- One veg’s greenhouse covering 23 acres
- One irrigation and storage building covering 9 acres
- One water storage area covering 9.7 acres
- One drying room covering 11 acres
- One infusion/processing space covering 3 acres
- One leach field and septic area covering 3.4 acres
- One general management office area covering 1.4 acres

Phase 3 (6 to 8-month duration):

- 460 hoop houses covering 59 acres
- One drying room covering 11 acres
- One infusion/processing space covering 3 acres
- One irrigation and storage building covering 5 acres



The Project is in a very rural area of the County where agricultural farmland is prevalent. Nearby is the large Coronado Dairy.

All processing buildings will be in metal-sided structures, future greenhouses will be made of steel and plastic material. The hoop houses will be equipped with gutters that will convey the rainwater to storage areas to be used on the plants. The proposed wall surrounding the open-grown fields will be a solid material and 10' in height, as required by state law.

IV. 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, ten (10) factors apply to this request. The Project, as submitted, fully complies with six (6) of the factors. With the proposed conditions and modifications it complies the remaining four (4) factors.

1. Compliance with Duly Adopted Plans: Complies

The Comprehensive Plan describes the Rural Designation as follows:

[Areas identified as Rural] are identified by one or more of the following characteristics: sparsely populated; larger lot sizes, agricultural production or grazing, availability of sites large enough for intensive industrial uses that cannot be accommodated in other growth areas, large expanses of private and public lands, and/or have developed and undeveloped recreational resources.



The subject parcel is within a larger area that could be categorized in the manner described above.

The proposed agricultural use is also consistent with the following Comprehensive Plan Elements:

- The Agriculture and Ranching Element goal 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 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 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. Being located in a very rural area of the County with minimal residences, no public input, and the industrial nature of the nearby Coronado dairy the project fits into the area. Staff **has not** conditioned this project to install perimeter landscaping due to the rural location and additional water use required.

2. Compliance with the Zoning District Purpose Statement: 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.

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 parcels and the scale of the operation. The site has already been growing medical marijuana for a few years without any complaints received by surrounding property owners. Additionally, no public comments have been received on the proposed expansion.

If it were not for the State requirement of a ten foot tall wall the proposed project would blend into and be fully compatible with the surrounding agriculture. Section 601.07 does allow for more intense non — residential uses that would be inappropriate in more suburban areas. This area of the County is a good location for this type of facility as the area is rural, there are existing, industrial scale agricultural operations, there are minimal nearby residents and existing odors from the nearby dairy operation.

3. Development Along Major Streets: Complies with conditions



Bell Ranch Road is county-maintained and classified as a Declared County Highway roadway and is paved along the entire frontage of the property. The right-of-way department requires additional dedication of 35 feet along the western boundary of the parcels.

The main entrance at Gaskill has a concrete apron and gravel to the existing facility. The site plan indicates four (4) additional driveways to Bell Ranch Road. County Engineering will only allow two additional access locations. These are Beel Ranch Road and Canada Road and Bell Ranch Road and Parker Ranch Road. The new access points are required to be chipsealed. The Applicant is required to work with the Engineering Department to ensure that intersection improvements and locations comply with all requirements.

Condition:

1. The Engineering Department will allow two additional accesses onto Bell Ranch Rd. One (1) at Bell Ranch Rd and East Canada Lane, and one (1) at Bell Ranch Rd and Parker Ranch Road. Chip seal road access aprons are required. Additionally, the project cannot block properties including state land.

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.

5. Adequate Services and Infrastructure: Complies

As previously mentioned Bell Ranch Road is a County maintained paved road.

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 and modification

Setbacks: Complies with condition



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 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. A condition of approval is included requiring a

detailed and dimensioned site plan to be provided. That site plan shall demonstrate that all structures (including walls) are setback a minimum of 20 foot from all property lines.

Lot Coverage: Waiver requested

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 75% site coverage, which exceeds the 25% and has requested a modification to the requirement. Due to the ten (10) foot high wall required to be constructed around the site it would be difficult for the traveling public to visually discern if there is an increase of the site coverage, therefore staff

recommends approval.



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.

Conditions:

1. A detailed, dimensioned site plan shall be provided in conjunction with the permit submittal.

Waiver:

1. Allow perimeter wall to be constructed at ten (10) for compliance with State requirements.

Lighting: Complies with Conditions

Although the Applicant indicates the use of fully shielded, International Dark Skies Association approved fixtures there are many proposed throughout the facility. The light is required to fully comply with the Outdoor Light Regulations. Additionally, staff is requesting either complete removal of the outdoor pole mounting lights or perhaps a lower bollard to help with light pollution.

Finally, should the hoops houses be proposed with lights now or in the future, the hoop house shall be constructed with black out curtains which will prevent any light spillage from the site.

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 on the request.



8. Hazardous Materials: Complies with Conditions

The Applicant provided the hazardous materials supplement in conjunction with the application. The form did not include all potential sources. Current research suggests it is not uncommon for cannabis facilities to produce hazardous wastes including 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 modified 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: Complies with condition

There is a significant amount of outdoor activity associated with this request. Primarily this includes approximately 180 acres of outdoor grow area (located in hoop houses/shade structures). 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 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:

Onsite driveways and parking areas will be treated with gravel to keep the dust down. Water will be utilized during grading or tilling operations are under way.

Smoke Complies:

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

Noise Complies:

The proposed use will not generate significant noise while in operation.

Lights Complies with conditions:

As discussed above, the lighting is required to comply with the Outdoor Lighting regulations. The applicant is

proposing fixtures that are International Dark Skies compliant. Staff would request that applicant reduce the amount of lighting proposed. Currently there are numerous pole light proposed. The preference would be for these to be removed entirely or replaced with lower lighting such as bollards.

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.

Drainage Complies:

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.

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. The total gallons of water per day to be approximately 1.65 million. In terms of water conservation, the Applicant indicates large areas of water harvesting. The hoop house will include a gutter system that will convey the water to onsite storage areas." In addition, 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.

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 on the application.

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.

A waiver is also requested on lot coverage. The applicant is covering approximately 75% with impervious surfaces and 25% is allowed.

VII. SUMMARY AND CONCLUSION

This request is for a Special Use authorization to approve the cultivation and processing of medical marijuana on a 304.43-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 (6) of the criteria used to evaluate special use requests. It complies, with the recommended conditions and waivers for the other four (4) criteria;
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;

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:

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 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;
3. 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;
4. 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;
5. All lighting shall fully comply with the County's Outdoor Light Regulations. Greenhouses, hoop houses, etc. shall employ the "blackout panels" (or similar equal) to reduce the glow from grow lights, where applicable.
6. The Applicant shall provide an updated 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 Engineering Department will allow two additional accesses onto Bell Ranch Rd. One (1) at Bell Ranch Rd and East Canada Lane, and one (1) at Bell Ranch Rd and Parker Ranch Road. Chip seal road access aprons are required. Additionally, the project cannot block properties including state land.
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 Clearing Permit is required from Cochise County.
 - C. A Notice to Clear Native Plants must be obtained from the Arizona Department of Agriculture and a copy submitted to Cochise County.
 - D. 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.

Sample Motions:

Mr. Chairman, I move to approve Docket SU-21-06, with the Conditions of Approval recommended by staff; the Factors of Approval constituting Findings of Fact.