



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 SU21-15, Modification of SU-13-14A (The Pharm Expansion)
DATE: May 5, 2021, for the May 12, 2021 Meeting

APPLICATION FOR A SPECIAL USE AUTHORIZATION

The Applicant, Quihuis Architecture Co, LLC, requests a Special Use Authorization modification/expansion of their approved medical marijuana cultivation, storage, and infusion facility. The modifications include an additional 15 acres of outdoor medical marijuana cultivation and a new ~100,000 square foot processing building.

The project is located at 5900 Greenhouse Road in Willcox, Arizona, and includes parcel numbers 201-20-001G and 201-20-001D.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 73.5 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: Indoor/outdoor medical marijuana cultivation and processing
Proposed Uses: Same, with additional 15 acres of outdoor grow and a new 100,000 square foot processing building

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Vacant land/former agriculture Docket SU-21-05 for medical marijuana (denied on appeal to Board)
South	RU-4	Agricultural land
East	RU-4	Agricultural land
West	RU-4	Ft Grant Road ROW, Agricultural land

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Figure 1: Parcel Location Map



Figure 2: Zoning Map

II. PARCEL HISTORY

Special 13-14 (West Edge) was approved in September of 2013 to allow a 7.75-acre greenhouse to be used for marijuana cultivation and infusion. The Special Use was amended (SU13-14A) to allow 14 acres of outdoor grow and additional storage/maintenance buildings.

III. NATURE OF REQUEST

The Applicant, Quihuis Architecture Co, LLC, requests a Special Use Authorization modification/expansion of their approved medical marijuana cultivation, storage, and infusion facility. The modifications include an additional 15 acres of outdoor medical marijuana cultivation and a new ~100,000 square foot processing building.

As proposed, the project would be located on agricultural farmland/vacant land approximately 10 miles northwest of the City of Willcox. There are approximately 700 feet of 10-foot-tall fencing located adjacent to Fort Grant Road.



Figure 3: Wall Location

There is also fencing along the north, south, and eastern extent of the outdoor grow (as shown in black above). The proposal extends the wall south along Fort Grant and Greenhouse Roads (as shown blue above). The proposed wall surrounding the open-grown fields will be a solid material and 10' in height, as required by state regulations. Landscaping is proposed along Fort Grant Road.

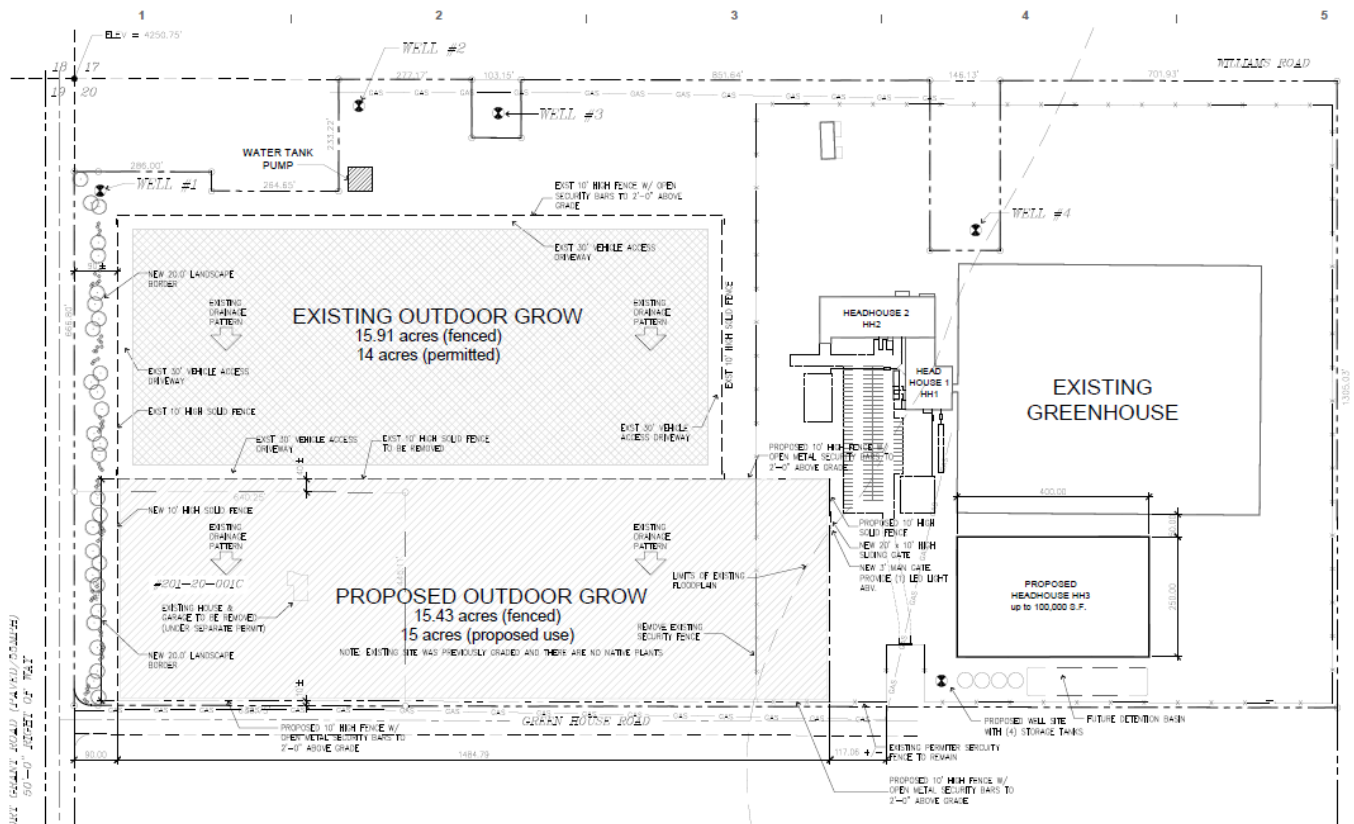


Figure 4: Site Plan

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, ten (10) factors apply to this request. The project, as submitted, fully complies with five (5) of the factors. It partially complies with one (1) factor, and it complies with conditions/waiver four (4) factors.

1. Compliance with Duly Adopted Plans: Complies with Conditions

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 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 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."



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 existing and new 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.



The area is not included within a Special Area Plan.

1. **Condition:** The (~1,000 by 90') 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 irrigated. The installation of this buffer shall occur prior to final inspection.

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 of the existing facility



Photos from adjacent use to the west (General agriculture)



Photos from adjacent use to the south (General agriculture)

Similar to concerns stated in the previous criterion, there is staff concern regarding how to blend the proposed use into the surroundings successfully. On the one hand, there are already 14 acres of outdoor grow with a 10-foot-high wall existing. The Planning Commission approved the expansion in 2019. On the other hand, Apple Annie's Produce and Pumpkins are directly west of the subject property. The focus of that property's operation is agritourism, which will potentially be directly impacted visually by the industrial look of the proposed use and the odor produced by the outdoor-grown marijuana crop.

Staff is concerned about the existing and potential future impacts of the operation. The Owner of Apple Annie's has already stated that the existing odor is a problem for the business. Adding 15 additional acres will only increase the impacts. The last Medical Marijuana Docket heard by the Commission was located directly north of this site. On that application, approved by the Commission (denied by the Board on appeal), staff recommended limiting the outdoor grow to 20% of the total acreage. Staff has included a condition with that same recommendation on the application. Therefore, at 73.5 acres, that maximum area of outdoor grow is limited to 14.7 acres. That would allow an outdoor expansion of .7 acres. That, in combination with odor and visual screening, will help to ensure the project remains compatible with the neighboring uses.

In addition, as shown in Figure 5, 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.

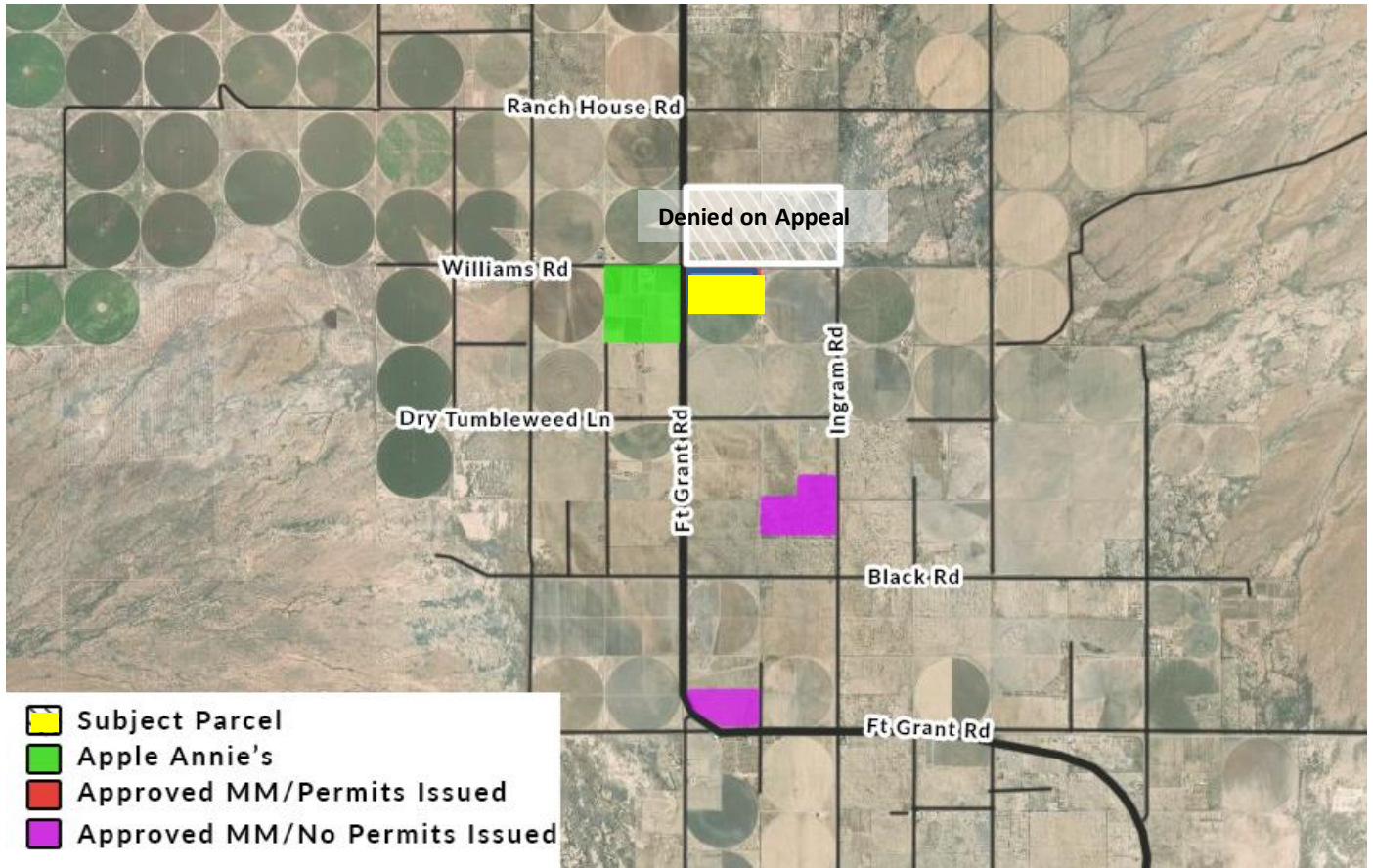


Figure 5: Adjacent Uses

Credit: Christine McLachlan

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 site takes access off of Greenhouse Road (private dirt road with a paved approach to Fort Grant), which connects to Fort Grant Road. No additional access points are requested.



4. Traffic Circulation Factors: Complies

This type of use is similar to larger-scaled agricultural use. However, average trip generation rates specifically for this 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 will be consistent throughout the year. See *part 9. Offsite impacts – traffic for additional traffic analysis.*

5. Adequate Services and Infrastructure: Complies

Fort Grant Road is a public road and provides adequate access to the site.

Electrical service is provided to the site by Sulphur Springs Valley Electric Cooperative; private wells supply water, and sewage is 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 waiver

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 travel way to the structure/use, whichever is closer. The proposed site plan does not comply with setbacks along Greenhouse Road. Zoning Regulations require a minimum of a twenty-foot setback. The site plan shows 10 feet. Therefore, staff is recommending a condition that the applicant meet the required setback.

Lot Coverage: Complies with condition

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 ~19% site coverage. Staff has included a condition requiring an area calculation to be shown on the site plan submitted at the permit stage.

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 application indicates that no waivers to the zoning regulations are requested. However, the wall required by the state is ten feet in height, where only eight feet is allowed. Therefore, a waiver is required for the additional two feet.

All structures shall comply with other height regulations and be demonstrated in the permit process.

Lighting: Complies with Conditions

The application indicates that only one additional light will be added to the site. This will be at the door to the proposed facility. That light shall comply with Outdoor Lighting requirements.

Conditions:

1. In conjunction with the commercial permit submittal, the site plan shall be revised to show a minimum 20-foot setback from the southern property line.
2. In conjunction with the commercial permit submittal, the site plan shall provide complete area tabulations (proposed and existing) demonstrating less than a 25% lot coverage.

7. Public Input: Complies

The applicant mailed letters to property owners within 1,000 feet of the property prior to application submittal. 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 four letters, two in support and two in opposition. It should be noted that one letter in support is from The Pharm. Letters are attached as "public comment."



Figure 6: Public Input Map

8. Hazardous Materials: Complies with Conditions

The Applicant states 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 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 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.

9. Offsite Impacts: Complies with reduction and conditions

- Odor –The request proposes to add 15 acres of outdoor grow, bringing the total acreage of outdoor cultivation to 29 acres. As discussed previously, staff is recommending the no more than 20% of the overall site be used for outdoor cultivation. That will allow for an additional ~¾ acre of outdoor grow. The addition would have

a minimal impact. 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. The applicants' own Odor Mitigation plan states that outdoor odor mitigation has not been successfully documented. The mitigation measures recommended by staff are intentionally broad in scope and are results-focused. The conditions are as follows:

- All new indoor 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 outdoor grow shall be equipped with odor control based on current industry-specific best control technologies and best management practices to reduce the odor from cannabis.
- Glare/Glow – No additional greenhouses are proposed with this expansion, and only one new exterior light is proposed.
 - 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: increase of 7 vehicles initially
 - Total trucks per day: No increase
 - 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 through December
 - Initially, the applicant estimates 24 employees' additional employees, but eventually 48 additional future employees.

The traffic generated by this use is an increase over the current 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 there will be no fugitive dust. Staff is recommending a condition that any bare ground be either seeded or otherwise treated to prevent fugitive dust. This includes both the grow areas when not planted, parking and driveways.
- 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. Staff recommends a condition related to visual quality mitigation. As indicated in the site plan adjacent to Ft Grant Road, a landscape buffer shall be provided. This shall include drought-tolerant vegetation, with proposed shade trees no greater than 40' on center. This buffer shall be irrigated. Prior to issuing a building permit, the applicant shall provide a landscape maintenance and irrigation plan, including a fertilization schedule and guarantee of all plant material for no less than three years from the final inspection date.

An irrigated landscape buffer could help lessen the proposed use's visual impact. Despite the recommended conditions, staff remains concerned about the nearly 1,000-foot span of continuous fencing along Ft. Grant Road proposed by the applicant.



Existing fencing



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.

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

- floodplain use permit
- stormwater pollution prevention plan
- clearing permit (for more than one acre of land cleared)
- 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 is served by private wells, indicated in the site plan, and the total gallons of water per day to be 9,500. The applicant indicates there will be "future installation detention basin" and water storage tanks installed on-site in terms of water conservation. Drip irrigation will be utilized for watering the plants to reduce water loss.

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 a legal notice on the property. To date, staff has received two responses in support and one response in opposition. As stated above, one letter in support was from a representative of the Pharm.

VI. WAIVERS

The applicant is requesting a waiver of 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 expansion of an existing marijuana cultivation facility and processing on a 73.5-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 five of the criteria used to evaluate special use requests. It complies, with conditions and a waiver with four additional criteria and partially complies with one criterion;
3. The site plan submitted complies with most applicable site development standards and condition contained in section 1826 of the Zoning Regulations; and
4. The project would 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 and fencing;
3. General compatibility concerns – there is scattered residential in the area and a nearby agritourism farm; and
4. One letter of opposition was 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 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 will be considered a Modification to this Special Use and will require review and approval of the Planning and Zoning Commission;
4. The (~1,000 by 90') 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 irrigated. The installation of this buffer shall occur prior to final inspection.
5. Any lighting still required shall fully comply with the County's Outdoor Light Regulations.
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 sales/activity is prohibited.
8. Outdoor grow is limited to no more than 20% (14.7 acres) of the total parcel acreage.
9. In conjunction with the commercial permit submittal, the site plan shall be revised to show a minimum 20-foot setback from the southern property line.
10. Any bare ground shall be seeded or otherwise treated to prevent fugitive dust. This includes the grow areas when not planted, parking, and driveways.
11. In conjunction with the commercial permit submittal, the site plan shall provide complete area tabulations (proposed and existing) demonstrating less than a 25% lot coverage.
12. 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.
13. All new indoor 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.
14. All outdoor grow shall be equipped with odor control based on current industry-specific best control technologies and best management practices to reduce the odor from cannabis.

Sample Motions:

Mr. Chairman, I move to approve Docket SU21-15, on parcels 201-20-001G and 201-20-001D with the Conditions of Approval recommended by staff; the Factors of Approval constituting Findings of Fact.