



# City of Apache Junction

## Development Services Department



### PLANNING AND ZONING COMMISSION PUBLIC HEARING STAFF REPORT

**DATE:** May 13, 2025

**CASE NUMBER:** P-24-87-CUP

**REQUEST:** A Conditional Use Permit (CUP) amendment to continue the use of an existing marijuana cultivation and infusion kitchen under new ownership.

**PROPERTY OWNER:** Cortex Holdings LLC, C/O Scott Vargas

**APPLICANTS:** Scott Vargas of Border Health, Inc. and Cortex Holdings LLC, represented by Justin Brandt of Bianchi Brandt

**LOCATION:** The subject site is located at 1575 E. 18<sup>th</sup> Avenue, on the southwest corner of S. Tomahawk Road and E. 18<sup>th</sup> Avenue (Assessor parcel #102-07-216B).

**GENERAL PLAN/  
ZONING DESIGNATION:** Designated "Light Industrial/  
Business Park and Industrial";  
Zoned "B-5" (Industrial).

**SURROUNDING USES:**

**NORTH:** Vacant industrial lots (zoned B-5);

**SOUTH:** Palm Springs Mobile Homes Subdivision (zoned RS-7M);

**EAST:** Bel Agave Subdivision (zoned RS-5/PD);

**WEST:** Industrial business (zoned B-5).

#### BACKGROUND

The property at 1575 E. 18th Avenue has been utilized for marijuana cultivation and infusion kitchen operations since 2014, pursuant to multiple Conditional Use Permits approved under the City's marijuana regulations and conditional use

permitting procedures. The facility at 1575 E. 18<sup>th</sup> Avenue is neither a dispensary nor is it a retail facility, which means that on-site consumption and sales is prohibited. No medical marijuana patients, public recreational marijuana customers or anyone else (except authorized agents associated with the facility) are allowed to access the site.

The original conditional use permit ("CUP"), Case CUP-2-14, was approved in May of 2014 and began the use of the subject site as a marijuana infusion kitchen and cultivation facility. This CUP was then amended in December 2015 through Case CUP-2-15 to allow additional temporary storage. The temporary storage was later replaced by a permanent storage building proposed in the facilities through Case CUP-4-17. As part of these amendments, a condition of approval was added to the CUP requiring that any change involving a majority of the facility's officers or directors would require a new renewal of the CUP.

In 2019, CUP amendment Case CUP-2-19 was filed to update the facility's ownership and management information. This information was again changed in 2021 through Case P-21-66-CUP, which was filed by the prior property owner, David House, and his affiliated companies, R & J Green Investments and MariBrea Enterprises, LLC.

At that time, R & J Green Investments and MariBrea Enterprises, LLC worked with Border Health, Inc., the entity holding the Arizona Department of Health Services licenses - Dispensary Registration Certificate (No. 00000108DCVB00423429) and Marijuana Establishment License (No. 00000022ESMC44584355) - which permit marijuana cultivation. The cultivation rights under these licenses were allocated to this property, and the facility has operated under Border Health's state license since early 2022, shortly after the CUP was approved.

Cortex Holdings, LLC, as an affiliate of Border Health, Inc., has now purchased the property. Together they request an amendment to the CUP to reflect the new direct management and operation of the facility by Border Health, Inc.

#### **PROPOSAL DESCRIPTION**

Border Health, Inc. is requesting to renew the previously approved CUP to continue operating the property at 1575 E. 18<sup>th</sup> Ave. as a marijuana cultivation and infusion kitchen under new ownership. This renewal will satisfy Condition No. 16 of Case P-21-66-CUP, which requires a CUP amendment if, at any time during the operation of the cultivation and infusion facility, there is a change in the managing members or a majority of the members, directors or officers.

## **PLANNING STAFF ANALYSIS AND FINDINGS**

Planning Staff have reviewed the proposal with consideration of the extensive history of prior Conditional Use Permit approvals to allow the use of a marijuana cultivation and an infusion kitchen. Staff find that the proposed operations fall within the same use limits previously authorized, and that the request is to continue the established use rather than the introduction of new uses or elements.

### **FINDINGS OF FACT:**

A CUP may be granted upon a finding by the commission that the use covered by the permit, the manner of its conduct, and any structure involved will not be detrimental to persons residing or working in the area, to adjacent property, to the neighborhood, or to the public welfare in general. The burden of proof for satisfying the aforementioned requirements shall rest with the applicant.

In arriving at the above determination, the commission shall consider but not be limited to the following factors:

- a) Adequacy of roadways, off-street parking, public facilities and services to accommodate the proposed use.

*Applicant response:*

*The Property is located along a road used primarily for access to surrounding industrial properties. There is no dispensary located at the Property, meaning it is not used as a retail facility. The facility is not open to the public; only authorized agents are permitted at the facility. As such, there will be no increased traffic related to patients or recreational customers because no sales or consumption is permitted. Again, the Property has been used as an off-site cultivation and infusion kitchen since 2014 and has not caused any notable adverse impact to adjacent roadways, off-street parking, public facilities, or other applicable services.*

- b) Negative impacts arising from the emission of odor, dust, gas, noise, lighting, vibration, smoke, heat, or glare.

*Applicant response:*

*The facility is currently equipped with a comprehensive odor control system to help mitigate negative impacts related to the cultivation and infusion kitchen operations. The odor control system is regularly maintained to ensure that it is functioning properly. Additionally, all operations occur indoors within the structures located on the Property. Border Health will maintain current*

operations according to procedures that have been approved by AZDHS.

Again, the Property has been used as an off-site cultivation and infusion kitchen since 2014 and continuing operations will not result in emission of odor, dust, gas, noise, lighting, vibration, smoke, heat, or glare at a level exceeding ambient conditions.

- c) Contribution to the deterioration of the neighborhood or the negative impact of neighborhood property values.

*Applicant response:*

*This CUP amendment will not contribute in a measurable way to the deterioration of the neighborhood or the lowering of property values because the proposed amendment is purely administrative. Amending the CUP under new ownership will not impact surrounding property values because the same use will continue within the same existing structures that have been successfully operated as a cultivation and infusion kitchen since 2014. In other words, there will be no identifiable change associated with the existing use impacting the surrounding area/neighborhood.*

- d) Compatibility with surrounding uses and structures.

*Applicant response:*

*The CUP amendment is compatible with surrounding uses and structures, which primarily consists of various industrial properties. Amending the CUP under new ownership is compatible with surrounding uses and structures because the same use will continue within the same existing structures that have been successfully operated as a cultivation and infusion kitchen since 2014. Again, all operations associated with the cultivation and infusion kitchen will occur indoors—nothing will be visibly identifiable to the general public. The cultivation and infusion kitchen are permitted with a conditional use permit on an industrially zoned property.*

- e) Conformance with the 2020 General Plan and City policies.

*Applicant response:*

*There is no conflict with the 2020 General Plan: the General Plan designates this area for industrial uses, which includes the proposed use as a cultivation and infusion kitchen.*

- f) Screening and buffering of uses.

*Applicant response:*

*The site is currently developed and has a six foot high wall surrounding the entire Property. The entrance is gated, and the site has a robust security system as required by AZDHS. Residentially zoned areas to the east and south are screened from view by existing structures and the wall surrounding the Property.*

- g) Unique nature of the property, use and/or development's physical characteristics.

*Applicant response:*

*The Property is not located within a major flood zone. It was developed in the early 80's and does not have on-site retention. With respect to operations at the facility, there will be no signage related to the existing use, meaning the facility will be inconspicuous from the exterior of the building. The use as a cultivation and infusion kitchen will not be visible from the street or to the public.*

**PUBLIC NOTIFICATION**

CUP Case P-24-87-CUP has been advertised for the Planning and Zoning Public Hearing and letters were mailed to all property owners within 300 feet of the subject site. The applicant hosted a neighborhood meeting on Tuesday, April 8, 2025, and posted a public sign with notice of the May 13<sup>th</sup> public hearing.

At the time of this staff report, Staff have received two e-mails from the public regarding the request. One comment inquired if the location was within the Bel Agave subdivision, which it is not, and the second e-mail questioned if the marijuana facility was already in operation. They noted their concerns that, if the CUP was authorizing a new facility, that there would be odor and traffic impacts, however, they also noted that they have not experienced adverse effects from the existing facility. These e-mails have been provided as an attachment.

**PLANNING DIVISION RECOMMENDATION**

Staff find that the proposed operation falls within the same use previously authorized and that the applicant is acting in compliance with the requirements of P-21-66-CUP in seeking an amendment pursuant to the ownership change. Planning staff recommends approval of the conditional use permit Case P-24-87-CUP subject to the conditions listed under the recommended motion:

### **RECOMMENDED MOTION**

I move that the Planning and Zoning Commission approve case P-24-87-CUP, a request by Scott Vargas of Border Health, Inc. And Cortex Holdings LLC, represented by Justin Brandt of Bianchi Brandt, requesting a Conditional Use Permit Amendment to continue the use of an existing marijuana cultivation and infusion kitchen under new ownership at 1575 E. 18<sup>th</sup> Avenue, located on the southwest corner of S. Tomahawk Road and E. 18<sup>th</sup> Avenue, zoned Industrial (B-5), subject to the following conditions of approval:

- 1) The owners/operators of the marijuana cultivation and infusion kitchen facility shall obtain and/or keep in good standing all necessary approvals from the Arizona Department of Health Services ("ADHS") and the Pinal County Health Department for the marijuana cultivation and infusion kitchen operations.
- 2) The owners/operators of the facility shall obtain and hold an active city business license at all times during the operation of the marijuana cultivation and infusion kitchen operations.
- 3) Upon final approval from ADHS to operate the facility, a copy of said final approval letter shall be provided to the planning division and the Apache Junction Police Department ("AJPD") for the purpose of recordkeeping.
- 4) All marijuana agents associated with the facility shall register with AJPD for the purpose of background checks and recordkeeping (as applied to, owners, employees, directors and board members).
- 5) The facility shall not offer or allow the following: outdoor seating/break areas for anyone other than employees and agents of the facility; on-site consumption of marijuana; loitering in or around the premises; and the sale of any products from the facility.
- 6) Signage on the building shall conform to the city's sign code for industrial zoned properties. The marijuana leaf symbol shall not appear on any signs visible from outside the facility. The existing artwork on the building may remain.
- 7) The existing buildings housing the facility shall not be allowed any expansions, unless a new CUP or CUP amendment application is processed and approved by the city first.

8) The owners and operators of the facility shall keep and neatly maintain all landscape and screening improvements along the property's 18th Avenue and Tomahawk Road frontages, in accordance with the city's landscape and screening requirements.

9) All screening, fencing and security improvements on the property shall be kept in good condition and repair at all times.

10) The owners and operators shall continue to operate the facility in accordance with the submitted drawings and narrative documents submitted with P-24-87-CUP, or else the CUP shall be subject to review and possible revocation by the planning and zoning commission at an appropriately noticed future public hearing.

11) The operators of the facility shall cooperate with AJPD insofar as personnel updates, providing copies of agent registration cards, allowing and accommodating unannounced inspections by law enforcement officials at any time the facility is occupied and/or operating, exchanging emergency contact information as well as alarm permit documentation and contacts and other items for the reasonable, transparent and safe operation of the facility.

12) The owners and operators of the facility shall provide for parking accommodations (number, design and layout of parking spaces) as depicted in the approved site plans, including one (1) Americans with Disabilities Act compliant space.

13) The owners/operators of the facility shall work with city staff to continue to provide for high resolution security cameras and other security features and devices at the facility.

14) Border Health, Inc. shall provide to the city's planning division a copy of their articles of incorporation, including the names of the directors and officers, managers, principal contacts, responsible parties, as well as their respective terms and appointment durations.

15) Should management and/or ownership of the marijuana cultivation and infusion facility change at any time after approval of the CUP, the new owners or operators shall operate the site and facility subject to the exact same conditions of approval, including the provision of all new ownership, operator and marijuana agent information (and updates) to AJPD.

16) If there are any changes in the members, directors and officers occur, Border Health, Inc. shall keep the planning



division informed of said changes. If at any time during the operation of the cultivation and infusion facility, the managing members or a majority of the members, directors or officers changes, a CUP amendment shall be required.

17) Any proposed future expansions or additional buildings at the site, beyond the proposed storage building previously approved by P-21-66-CUP, will require approval of a CUP amendment through the city's planning and zoning commission first. This includes the possible future use of "mobile minis".

18) The operators of the facility shall always check with the city's building or planning departments for possible building permit requirements, prior to performing or conducting any new construction, electrical, plumbing, structural or other work which may require permits. Permits may also be required for the installation of security, odor control equipment and dark sky compliant outdoor lighting.

19) The planning and zoning commission shall reserve the right to reconsider or overturn the CUP approval, at an appropriately noticed future public hearing, for non-compliance with any condition prescribed as part of said CUP approval or if the use is demonstrated to be a nuisance or neighborhood hazard.

20) At such time as the "proposed structure" shown in the approved P-21-66-CUP submittal plan is to be constructed, half-street improvements on the adjacent streets shall be provided per city engineering standards and requirements, as follows:

- Half-street improvements on Tomahawk Road consisting of a minimum 24' driveway at the project entrance, solid drive surface from the back of the driveway to the gate, curb return at the intersection, detached concrete sidewalk, and streetlights.
- Half-street improvements on 18<sup>th</sup> avenue consisting of a minimum 30' driveway at the project entrance, concrete sidewalk, and streetlights.

*Nick Leftwich*

Prepared by Nicholas Leftwich  
Senior Planner

Attachments:

- Exhibit #1 - Draft Resolution P-24-87-CUP
- Exhibit #2 - P-24-87-CUP Narrative
- Exhibit #3 - P-24-87-CUP Aerial Map
- Exhibit #4 - P-24-87-CUP Zoning Map
- Exhibit #5 - Public Participation Report, including e-mails received
- Exhibit #6 - Resolution No. P-21-66-CUP
- Exhibit #7 - Approved Site Plan