



City of Apache Junction
Development Services Department



**PLANNING AND ZONING COMMISSION
PUBLIC HEARING STAFF REPORT**

DATE: September 25, 2018

CASE NUMBER: CUP-4-18

REQUEST: A Conditional Use Permit (CUP) renewal request by Nature' Wonder, a non-profit medical marijuana dispensary currently licensed in the City, and currently operating at 260 W. Apache Trail since 2015.

APPLICANT: Nature's Wonder Inc., represented by Lesli Sorensen and Chris Rapp of Ryan Rapp & Underwood PLC.

LOCATION: The subject site is the former bank building located at 260 W. Apache Trail (Assessor Parcel #101-11-010F).

PROPERTY OWNER: East Valley Shopping Center LLC.

**GENERAL PLAN/
ZONING DISTRICT:** Designated "Downtown Mixed Use"/Zoned B-3 (City Center).

**SURROUNDING
LAND USES:** NORTH: Various businesses in old Basha's buildings (zoned B-3)
SOUTH: Various retail businesses (zoned B-1);
EAST: Various retail and offices (zoned B-3)
WEST: Skyhaven Mobile Home Park (zoned MHP) and various businesses (zoned B-3).

BACKGROUND: The existing building for the dispensary is the former bank building at the old Basha's Plaza (originally, AJ Bayless Plaza). The building also housed the Bead Depot business. The shopping center site first began development in 1958, with the construction of the AJ Bayless grocery store and various adjacent shops and businesses. The bank was built sometime after the shopping center and predates the city's 1985 zoning ordinance.

For many years, the shopping center property was zoned CB-2 (General Business Zone). The property was rezoned CCD in 2006 as part of a major downtown rezoning and revitalization effort. As of May of 2014, under the city's new Zoning Ordinance, the name of the new zoning district for the old CCD area is B-3. Among the uses allowed in the B-3 zone, subject to approval of a conditional use permit (CUP), is a medical marijuana dispensary.

Nature's Wonder was granted a CUP to operate their dispensary at 68 S. Ironwood Drive back in 2013. At that time the applicants expressed that they outgrew their facility and needed a new larger facility. In 2015, the applicants requested approval for a CUP at 260 W. Apache Trail. The Planning Commission granted an approval for a CUP for at the proposed location of 260 W. Apache Trail for three (3) years. There was some concern regarding the compatibility of the dispensary next to a planned city park. The commission thought it would be good to review the CUP after three (3) years to evaluate if any issues had come up.

PROPOSAL:

According to the submitted narrative (attached), the applicants are requesting renewal of their Conditional Use Permit which was originally granted in 2015. They continue to operate their non-profit medical marijuana dispensary which is in compliance with the state's medical marijuana act and local ordinances.

Before occupying the old bank building, the building was falling into a state of disrepair and deterioration. Nature's Wonder significantly improved the exterior and interior of the building, as well as the parking lot, landscaping and provided security improvements. The focus of their plan is to provide aesthetic improvement to the commercial center, security, and service to their medical marijuana patients. The dispensary will not have any on-site cultivation of medical marijuana, nor will they manufacture infused products. It is a dispensary only.

ANALYSIS:

The city's medical marijuana regulations, Section 1-6-12 (pages 24-27 attached), is the section that allows for non-profit medical marijuana uses in the City, subject to approval of a CUP. There are a number of spacing and operational requirements which the Commission should consider when evaluating this type of request. Although staff does not believe that circumstances or conditions have changed in the general vicinity since approval of the CUP, staff's evaluation and commentary on the criteria for a medical marijuana use is provided for the commissioners as follows:

A CUP application for medical marijuana dispensaries, cultivation facilities or infusion facilities shall include all the information required on the CUP application form and the following supplemental information:

1. Signature and consent on the application form by the property owner of record that he or she is aware the property will be used for medical marijuana dispensing, cultivating or infusion.

Staff Response: (Provided - see CUP application.)

2. A copy of the preliminary approval from the State Department of Health Services ("DHS"), such as a registration certificate, for the nonprofit medical marijuana dispensary, nonprofit medical marijuana dispensary off-site cultivation facility or stand-alone nonprofit medical marijuana infusion facility, and a written assurance that all nonprofit medical marijuana dispensary agents associated with the approved facility shall register with the Apache Junction Police Department upon final approval to operate from DHS, as well as a copy of said final approval document.

Staff Response: (Provided - Staff has received certificates.)

3. Application and all applicable fees paid as required by Apache Junction City Code, Volume I; Chapter 8, Business, and the Apache Junction City Tax Code as amended.

Staff Response: (CUP process fees are paid. Applicants hold a current business license, and have also provided their non-profit status information.)

4. A detailed site plan and floor plan for the facility prepared in accordance with Section 1-16-9, and narrative explaining the operation of the facility and hours of operation.

Staff Response: (Site plan, floor plan, area maps and basic operations narrative provided.)

Conditions of Approval. The conditions of approval which may be considered by the Planning and Zoning Commission in evaluating these requests include the following:

Required Spacing Requirements:

1. A minimum of 1,320 feet between another dispensary, cultivation facility or infusion facility, as measured from nearest building wall to nearest building wall;

Staff Response: (Complies - the stand alone cultivation and infusion facility in the City is approximately 1.5 miles away; the other approved dispensary is over a mile away.)

2. A minimum of 750 feet between a dispensary, cultivation facility or infusion facility and any public or private education institution, library, public park, commercial-zoned day care facility, free-standing church, or drug and/or alcohol rehabilitation center, as measured from nearest building wall of the business to the nearest building wall of the protected use;

Staff Response: (To the best of staff's knowledge, there are no protected uses within 750' of the site. The nearest church is about over 1300' away.)

Operating Requirements:

1. Drive-through pickup windows and delivery service shall not be allowed. Delivery service shall be allowed as per state statute;

Staff Response: (See floor plan exhibit - no pick-up windows possible; no delivery service mentioned in their narrative, nor will our ordinance allow it.)

2. Outdoor seating areas at dispensaries, cultivation facilities or stand-alone infusion facilities shall not be allowed;

Staff Response: (None proposed, nor allowed.)

3. A medical marijuana facility shall submit a security plan containing the following information:
 - i) Proof that any cultivation and storage of medical marijuana will take place in an "enclosed, locked facility" equipped with locks or other security devices that permit access only by persons authorized to enter pursuant to state and local law.
 - ii) A floor plan that details the security measures required by state law, including an on-site alarm system, video surveillance devices and a single secure entrance.
 - iii) Additional protections, if any, against medical marijuana diversion and theft.
 - iv) Provide and update as needed a current list of all persons who are authorized to access the dispensary, off-site cultivation site or infusion facility.

Staff Response: (Narrative addresses these items; proposal appears to comply with this criteria; building permits have been obtained and approved ensuring security features.)

4. On-site consumption of medical marijuana at a dispensary, cultivation facility or infusion facility shall not be allowed;

Staff Response: (None proposed, nor allowed.)

5. Dispensaries selling marijuana related products such as pipes, water pipes, rolling paper, screens, vaporizers, mills, concealing devices, etc., shall be restricted to selling only to patients displaying the required Arizona Department of Health Services medical marijuana card and to be used only in conjunction with a physician's

certification or recommendation. Cookbooks and educational materials are excepted from this provision.

Staff Response: (Dispensary must comply with this provision.)

6. The size of facility in terms of square footage, building height or other factors shall be consistent with the character of existing or planned surrounding development.

Staff Response: (Building is pre-existing; no expansions proposed.)

7. Signage that will be visible from the exterior of the facility may be approved by the City if all sign regulations have been met. The use of the marijuana leaf symbol shall not be allowed on any exterior signage.

Staff Response: (Signage has been approved and installed.)

Other Conditions. The Planning and Zoning Commission may deem it necessary to apply other conditions to conserve and promote the public health, safety, convenience and general welfare, including:

1. Compliance with all City-adopted zoning, landscaping, engineering, building, design guidelines, overlay district and/or planned development district requirements;

Staff Response: (Permits and approvals have been obtained for interior and/or exterior electrical and remodeling work; the applicants have also improved the landscaping and parking lot as part of their development plan.)

2. The Commission shall reserve the right to revoke a CUP for non-compliance with any condition prescribed as part of the permit approval or if the use is demonstrated to be a nuisance or hazard to the neighborhood or community.

Staff Response: (Dispensary must comply with applicable ordinances and any conditions of approval requested by Commission.)

3. Hours of operation will be addresses through the CUP process.

Staff Response: (Dispensary had previously proposed hours of operation from 9:00 am to 8:00 pm, Monday through Saturday, and Sunday from 9:00 am to 5:00 pm.)

The city's Zoning Ordinance, Section 1-16-12(D)(3) (pages 28-31 attached), is the section that lists the criteria for CUPs in general. The commission should specify findings relative to the criteria when evaluating any CUP requests:

Findings. 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: Nature's Wonder sits along Apache Trail, in a central area of Apache Junction. The roadways adequately handle the business traffic to the property. There have been no issues in the years that the Dispensary has been open. Nature's Wonder has dedicated parking surrounding the building, including two disabled parking spaces. There are adequate public facilities and services.

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

Applicant Response: Nature's Wonder has worked to mitigate any noise, odor, or other potential disturbances at the dispensary, and operates at times that are compatible with surrounding uses. The dispensary has passed ten inspections by DHS, which is a comprehensive inspection of the dispensary and includes a review of cleaning, sanitation, and physical plant. There have been no complaints regarding these issues in the years the Dispensary has been open.

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

Applicant Response: Because this application involves a renewal of an existing dispensary, its track record speaks for itself. The dispensary has had no detrimental impact on the adjacent property or properties in the area largely because of its ambient conditions. If anything, the extensive renovation and presence of security cameras enhances the neighborhood.

- d) Compatibility with surrounding uses and structures.

Applicant Response: The Property is part of a larger commercial area, and has been successfully operating for nearly three years. The site is located on an arterial street. There has been no impact on any of the surrounding areas resulting from an unusual volume or character of traffic, since only customers with a valid qualifying patient identification card issued by the state are able to obtain medical marijuana at this location.

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

Applicant Response: Applicant Response: Nature's Wonder has been and will continue to be in compliance with all provisions of the General Plan, zoning ordinance and city, county, and state laws.

- f) Screening and buffering of uses.

Applicant Response: When the City established a park next to the Dispensary, Nature's Wonder worked with the City on property improvements, including a wall the City sought to erect between the Park and the Dispensary. Nature's Wonder staff have worked to ensure that its patients are not interfering with the operation or enjoyment of the park. Further, signage is consistent in design and type with the current location, and does not include a marijuana leaf symbol. There is no outdoor seating, patients are not permitted to linger on the property after completing their purchases, and on-site consumption is strictly prohibited.

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

Applicant Response: Nature's Wonder recognizes its unique use, but believes it has been a good partner with the City for the 5 years that it has been operating in Apache Junction. Nature's Wonder provides a valuable service to the community as its medicine contributes to a reduction in opioid addiction and the

devastating effects that has on us all. Beyond that, there is nothing particularly unique about the property itself, though when Nature's Wonder relocated to the current building, it had been vacant so long that it took a significant amount of renovation to address a multitude of appearance and safety issues.

Staff concurs with the applicants findings on the above noted criteria.

PUBLIC NOTICE:

The CUP case was advertised for the commission's public hearing of September 25, 2018, and letters were mailed to all property owners within 300 feet of the site. Notice of the public hearing was also posted on-site. Staff has not received any public comment or inquiries relative to this CUP amendment request

PLANNING DIVISION COMMENTS AND RECOMMENDATION:

Staff recommends approval of the applicant's proposed CUP approval; and has prepared recommended conditions of approval for the commission's consideration and action. The motion contains very similar conditions as were required of the previous CUP approval in 2015. The commissioners may also amend the recommended conditions or propose other conditions they deem prudent.

RECOMMENDED MOTION

I move that the Planning and Zoning Commission (APPROVE/DENY) case CUP-4-18, a Conditional Use Permit request by Nature's Wonder Dispensary, located at 260 W. Apache Trail, represented by Lesli Sorensen of Ryan Rapp & Underwood PLC., subject to the conditions of approval listed below:

CONDITIONS:

- 1) No other non-profit medical marijuana cultivation, infusion or dispensary facilities shall be established in the Apache Junction city limits by Nature's Wonder or any other entity without first applying through the city's Conditional Use Permit process.
- 2) Nature's Wonder dispensary shall not offer or allow the following: on-site medical marijuana cultivation or manufacture of infused products; pick-up or drive-

through windows; delivery service; outdoor seating; on-site consumption of medical marijuana; loitering in or around the premises; the sale of tobacco or marijuana smoking, carrying or concealing products to any persons who do not possess a valid, current, Arizona issued, medical marijuana card.

- 3) The building housing the dispensary shall not be allowed any expansions without the operators first processing a CUP amendment application.
- 4) The operators of the dispensary shall cooperate with local Police officials insofar as personnel updates, providing copies of agent registration cards, occasional unannounced spot checks for compliance, emergency contact information, alarm permit and other items for the reasonable, transparent and safe operation of Nature's Wonder Dispensary.
- 5) Should ownership of the dispensary change at any time after approval of the CUP, the new owners shall operate the dispensary subject to the exact same conditions of approval, including the provision of all new ownership, operator and medical marijuana agent information (and updates) to the city's Police Department.
- 6) Nature's Wonder shall provide to the city's planning division a copy of their articles of incorporation, including the name of the managing member, members, directors and officers. As changes in the members, directors and officers occur, Nature's Wonder shall keep the planning division informed of said changes. If at any time during the operation of the dispensary, the managing member of the LLC or a majority of the members, directors or officers changes, a CUP amendment shall be required.
- 7) The Planning and Zoning Commission shall reserve the right to reconsider or overturn Nature's Wonder's Conditional Use Permit approval, at a new public hearing, for non-compliance with any condition prescribed as part of said CUP-4-18 permit approval.

Prepared by:



Sidney Urias
Planner

Attachments:

1. CUP-4-18 Application
2. Aerial Exhibit
3. Zoning Exhibit
4. CUP-4-18 Narrative
5. Approved Floor Plan and Elevations
6. Approved P&Z Resolution CUP-1-15
7. Section 1-6-12 Med-Mar regs. from City of A.J. Zoning Ordinance
8. Section 1-16-12 CUP regs. from City of AJ Zoning Ordinance

RECOMMENDED MOTION

I move that the Planning and Zoning Commission APPROVE/DENY) case CUP-4-18, a Conditional Use Permit renewal request by Nature's Wonder Dispensary, located at 260 W. Apache Trail, represented by Lesli Sorenson of Ryan Rapp & Underwood PLC., subject to the following findings and conditions of approval listed below:

Findings (*commissioners may use staff findings or their own*):

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

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

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

- D) Compatibility with surrounding uses and structures.

- E) Conformance with the General Plan and City policies.

- F) Screening and buffering of uses.

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

Conditions:

- 1) No other non-profit medical marijuana cultivation, infusion or dispensary facilities shall be established in the Apache Junction city limits by Nature's Wonder or any other entity without first applying through the city's Conditional Use Permit process.

- 2) Nature's Wonder dispensary shall not offer or allow the following: on-site medical marijuana cultivation or manufacture of infused products; pick-up or drive-through windows; delivery service; outdoor seating; on-site consumption of medical marijuana; loitering in or around the premises; the sale of tobacco or marijuana smoking, carrying or concealing products, other than cookbooks, medical brochures or medical marijuana educational materials.

- 3) The building housing the dispensary shall not be allowed any expansions without the operators first processing a CUP amendment application.

- 4) The operators of the dispensary shall cooperate with local Police officials insofar as personnel updates, providing copies of agent registration cards, occasional unannounced spot checks for compliance, emergency contract information, alarm permit and other items for the reasonable, transparent and safe operation of Nature's Wonder Dispensary.

- 5) Should ownership of the dispensary change at any time after approval of the CUP, the new owners shall operate the dispensary subject to the exact same conditions of approval, including the provision of all new ownership, operator and medical marijuana agent information (and updates) to the city's Police Department.

- 6) Nature's Wonder shall provide to the city's planning division a copy of their articles of incorporation, including the name of the managing member, members, directors and officers. As changes in the members, directors and officers occur, Nature's Wonder shall keep the planning division informed of said changes. If at any time during the operation of the dispensary, the managing member of the LLC or a majority of the members,

directors or officers changes, a CUP amendment shall be required.

- 7) The Planning and Zoning Commission shall reserve the right to reconsider or overturn Nature's Wonder's Conditional Use Permit approval, at a new public hearing, for non-compliance with any condition prescribed as part of said CUP-4-18 permit approval.

CITY OF APACHE JUNCTION CONDITIONAL USE PERMIT APPLICATION FORM

Owner/Agent Information:

Name: Nature's Wonder (Paul and Kim Shields) Telephone: 480-982-1549

Address: 260 W. Apache Trail, Apache Junction, AZ 85120

Property Information:

Zoning Classification

Current: B-3 Requested: (no change requested)

Property Size: 10.68 acres square feet County Tax Assessor Parcel #: 101-11-010F*

Legal Description of Property (found on County Tax Bill Notices): 101-11-010C: A PCL OF LAND IN S1/2 NE OF SEC 20-1N-8E LYING NW OF APACHE TRAIL ROW AND BORDERED ON THE EAST BY TRAILWAY APTS BK-12 PG-34 AND BORDERED ON THE WEST BY APACHE JUNCTION MOBILE HOME PARK 10.68 +/- ACRES

Address/Location of Property (if different from Owner Address, above): _____

List all improvements to Property: Current building was extensively renovated in 2015. City erected a wall on the east side. Dumpsters were recently relocated.

Structures/Use of Adjacent Properties:

North: Commercial South: Roadway/commercial
East: Public park West: Commercial, residential

Reason for Conditional Use Permit Request:

Please see attached Project Narrative. Nature's Wonder seeks a permanent renewal of its CUP so that it may continue to operate at its current location in Apache Junction.

FOR OFFICE USE ONLY

Case No: _____ Date Filed: _____
Receipt No: _____ Fee Amount: \$ _____
Application Received By: _____

* Nature's Wonder is currently located in APN 101-11-010C, which is being divided into 101-11-010E and 101-11-010F. Nature's Wonder will remain in 101-11-010F, but parcel description is not yet available.

Planning and Zoning Division
Development Services Department

I/We certify that:

I/We are the owner(s) of the property described in this application for a Conditional Use Permit and have submitted copies of deeds or title reports as proof of ownership.

I/We have read the application instructions and have truthfully completed this application. I/We understand that this Permit is conditional upon time requirements, that the filing and investigation fee is non-refundable, and that the City has the option of either approval or denial of this request following conduct of a Public Hearing.

I/We, being the owner(s) of the property in this application, have appointed _____
Lesli Sorensen and Chris Rapp _____ as my/our representative agent. I/We have authorized him/her to do whatever is necessary to have this request considered favorably by the City of Apache Junction and agree that all correspondence relation to this matter should be delivered to him/her.

PLEASE PRINT

Kimberly R. Shields

Property Owner Name

Signature



260 W. Apache Trail

Street Address

Apache Junction AZ 85120

City, State, Zip

602-487-1888

Telephone

Paul Shields

Property Owner Name

Signature



Street Address

260 W. Apache Trail

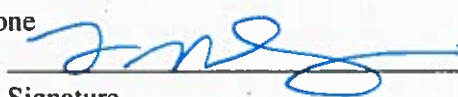
City, State, Zip

Lesli Sorensen

Agent Name

480-277-9050

Telephone



Signature

3200 N Central Ave #2250

Street Address

Phoenix, AZ 85012

City, State, Zip

602-280-1000

Telephone

STATE OF ARIZONA)

) SS

COUNTY OF ~~PINAL~~)

Maricopa

The foregoing instrument was acknowledged before me this 9th day of July, 2018.

Linda Eaton

Notary Public

My Commission Expires: 6-14-22



I/We, Paul Shields and Kim Shields,
 hereby certify that this is a complete list of property owners within 300 feet of the property proposed
 for rezoning or other permit approval as obtained from the Pinal County Assessor's Office on:
 (date obtained) May 30, 2018.

I/We further certify that this list is not older than thirty (30) days at the time of filing of said application.
Per Rudy Esquivias on July 10, 2018, May 30 list was acceptable.
WMS

PLEASE PRINT

Kimberly R Shields *KRS*
 Property Owner Name Signature

260 West Apache Trail
 Street Address

Apache Junction Az 85120 602-487-1188
 City, State, Zip Telephone

Paul Shields *[Signature]*
 Property Owner Name Signature

260 West Apache Trail
 Street Address

Apache Junction Az 85120 480-277-9050
 City, State, Zip Telephone

Lesli Sorenson *[Signature]*
 Agent Name Signature

3200 N Central Ave #2250
 Street Address

Phoenix, AZ 85012 602-280-1000
 City, State, Zip Telephone

STATE OF ARIZONA)
) SS
 COUNTY OF PINAL)
Maricopa

The foregoing instrument was acknowledged before
 me this 9th day of July, 2018.

Linda Eaton
 Notary Public

My Commission Expires: 6-14-22



Planning and Zoning Division
Development Services Department

I/We certify that:

I/We are the owner(s) of the property described in this application for a Conditional Use Permit and have submitted copies of deeds or title reports as proof of ownership.

I/We have read the application instructions and have truthfully completed this application. I/We understand that this Permit is conditional upon time requirements, that the filing and investigation fee is non-refundable, and that the City has the option of either approval or denial of this request following conduct of a Public Hearing.

I/We, being the owner(s) of the property in this application, have appointed _____
Lesli Sorensen and Chris Rapp _____ as my/our representative agent. I/We have authorized him/her to do whatever is necessary to have this request considered favorably by the City of Apache Junction and agree that all correspondence relation to this matter should be delivered to him/her.

PLEASE PRINT

Simran Lamba
Property Owner Name

Signature

300 - 350 west apache trail
Street Address

Telephone

Apache Junction AZ, 85120
City, State, Zip

East Valley Shopping Ctr
Property Owner Name

Signature

Street Address

City, State, Zip

Telephone

Lesli Sorensen
Agent Name

Signature

3200 N Central Ave, #2250
Street Address

Phoenix, AZ 85012
City, State, Zip

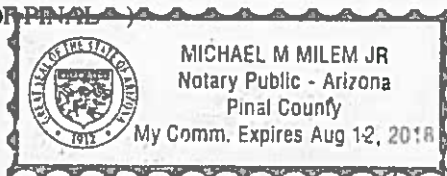
Telephone

STATE OF ARIZONA)

) SS

The foregoing instrument was acknowledged before me this 12 day of July, 2018.

COUNTY OF PINAL)



Signature

My Commission Expires: 46122018

* Document provisionally submitted. Application will be replaced and supplemented in September 2018.
Revised 7/1/2016

City of Apache Junction
Development Services Department

PLANNING and ZONING

LEGAL ADVERTISING FEES

Arizona Revised Statute 9-812b states "in cases of laws or ordinances enacted on behalf of a private person, he shall pay the expense of publication, and may designate the newspaper." Chapter 4, Fees, Article 4-4, Planning, Zoning Review and Subdivision Fees, Section C of the City Code states that "all legal advertising and legal publication costs exceeding (\$500.00) per case shall be charged to and paid by the applicant."

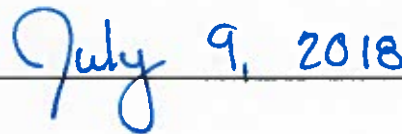
A deposit of five hundred dollars (\$500.00), over and above the application fee, is required to cover the anticipated cost of advertising or publications. If the advertising and/or publication cost exceeds the five hundred dollars (\$500.00) deposit, the applicant shall be responsible for the overage before final consideration of their application. If the advertising and/or publication cost is less than five hundred dollars (\$500.00), the remainder shall be reimbursed to the applicant.

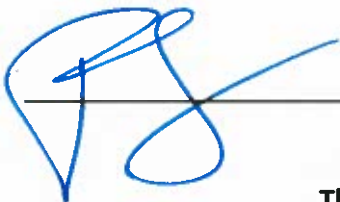
Your signature below signifies you agree with the above and this form shall act as a receipt.

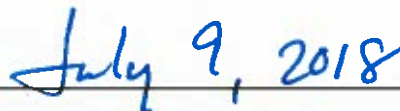
Signatures

Date









The \$500.00 Legal Advertising Fee will be required to be submitted on a check separate from the Application fee.

NOTICE OF PUBLIC HEARING

PART A: Print name of applicant(s).

Nature's Wonder (Paul and Kim Shields)

PART B: Specify the purpose of the Conditional Use Permit.

Nature's Wonder is seeking a permanent renewal of its Conditional Use Permit so that it may continue

operating a medical marijuana dispensary in Apache Junction.

PART C: Legal description of property (may be obtained from County Assessor's Tax Notice):

Nature's Wonder operates from a building on the southeast corner of the subject property. Owners are currently

dividing the parcel, which is APN 101-11-010C, into new APNs 101-11-010E and 101-11-010F. Updated legal

description of the property is not yet available from the County Assessor. Nature's Wonder will be in 101-11-010F

when the parcel is divided. Current 101-11-010C is: A PCL OF LAND IN S1/2 NE OF SEC 20-1-N-8E LYING NW

OF APACHE TRAIL ROW AND BORDERED ON THE EAST BY TRAILWAY APTS BK-12 PG-34 AND

BORDERED ON THE WEST BY APACHE JUNCTION MOBILE HOME PARK 10.68 +/- ACRES

When recorded return to:
City of Apache Junction
Development Services Department
300 East Superstition Blvd.
Apache Junction, AZ 85119

PROPOSITION 207 CLAIM WAIVER/INDEMNIFICATION/ACKNOWLEDGEMENT

We Kimberly Shields and Paul Shields, as owner of property identified as Pinal County Assessor Parcel No. 101-11-010F, which is the subject of Apache Junction City Council, Planning & Zoning/Board of Adjustment or other Case No. _____, hereby waive any and all potential diminution in value and just compensation claims or lawsuits that could be pursued against the City of Apache Junction, its elected officials, appointees, and employees pursuant to Proposition 207 as a result of the Planning and Zoning Commission/Board of Adjustment/Council's approval of the above-referenced matter. I acknowledge I have read and understand the language set forth in Proposition 207. This waiver is authorized pursuant to A.R.S. § 12-1134(l). I also hereby warrant and represent I am owner of the title to the above-referenced property and that no other person has any ownership in such property.

Kimberly R. Shields / Paul L. Shields Jr.
Printed Name of Owner

[Handwritten Signatures]
Signature of Owner

7/9/18
Date

State of Arizona)
County of Maricopa) ss

SUBSCRIBED AND SWORN TO before me this day of 9th,
2018 by Kimberly Shields and Paul Shields

[Handwritten Signature]
Notary Public

My commission expires:
6-14-22



When recorded return to:
City of Apache Junction
Development Services Department
300 East Superstition Blvd.
Apache Junction, AZ 85119

PROPOSITION 207 CLAIM WAIVER/INDEMNIFICATION/ACKNOWLEDGEMENT

I, Simran Lamba, as owner of property identified as Pinal County Assessor Parcel No. 101-11-010F, which is the subject of Apache Junction City Council, Planning & Zoning/Board of Adjustment or other Case No. _____, hereby waive any and all potential diminution in value and just compensation claims or lawsuits that could be pursued against the City of Apache Junction, its elected officials, appointees, and employees pursuant to Proposition 207 as a result of the Planning and Zoning Commission/Board of Adjustment/Council's approval of the above-referenced matter. I acknowledge I have read and understand the language set forth in Proposition 207. This waiver is authorized pursuant to A.R.S. § 12-1134(I). I also hereby warrant and represent I am owner of the title to the above-referenced property and that no other person has any ownership in such property.

Simran Lamba

Printed Name of Owner

[Signature]

Signature of Owner

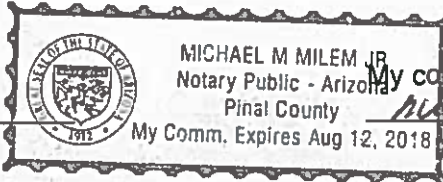
7/12/18

Date

State of Arizona)
County of Pinal) ss

SUBSCRIBED AND SWORN TO before me this day of July, 2018 by Simran Lamba.

[Signature]
Notary Public



My commission expires: Aug 12, 2018

* Document provisionally submitted. Application will be replaced and supplemented in September 2018.



Nature's Wonder
Dispensary
10111010F



City of Apache Junction
Aerial Exhibit
CUP-4-18

LEGEND

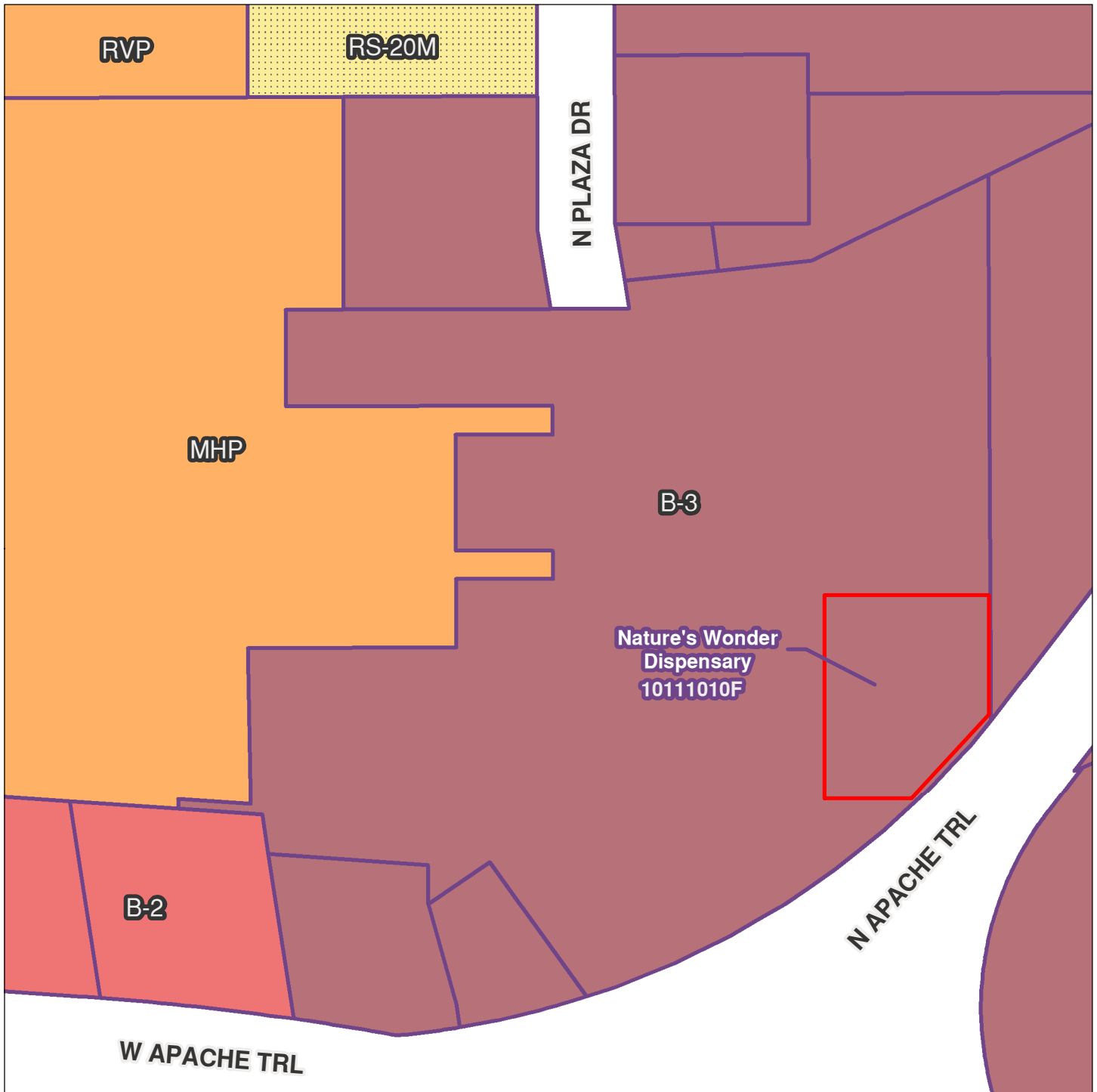
- ▭ Nature's Wonder Subject Site
- ▭ Parcel

DISCLAIMER: This exhibit was produced without benefit of a field survey and is not intended to represent a survey document of any kind. Distances shown hereon are approximate. Parcel lines shown hereon are approximate and may not reflect the exact position or alignment of parcel lines, roadway center lines, or easement lines.



September 05, 2018

0 75 150 300 Feet



City of Apache Junction Zoning Exhibit CUP-4-18

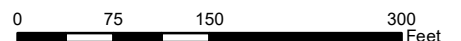
LEGEND

- Nature's Wonder Subject Site
 - Parcel
- Zoning**
- RVP/ MHP
 - B-3
 - B-2
 - RS-20M

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September 05, 2018



Nature's Wonder, Inc.

Conditional Use Permit Renewal

Project Narrative

I. Introduction

Nature's Wonder is applying for a permanent Conditional Use Permit (CUP) to continue operations of its medical marijuana dispensary at 260 W. Apache Trail, Apache Junction, AZ 85120. They believe they have been a good partner with the Apache Junction community, and that the dispensary provides a safe and secure place for people to receive their medicine.

II. Background

The purpose of this application is to request a permanent CUP renewal for an existing medical marijuana dispensary located at 260 W. Apache Trail, in Apache Junction (Property).

In November 2010, Arizona voters approved Proposition 203, which allows the use of medical marijuana as an alternative pain treatment for a limited number of debilitating medical conditions such as cancer, glaucoma, and Alzheimer's disease.

In 2011, the Arizona Department of Health Services (DHS) adopted a Community Health Analysis Area (CHAA) map system to distribute dispensaries across the State. The CHAA map divides the State into 126 geographic areas. Apache Junction (City) is part of one of the CHAA areas and Nature's Wonder (Applicant) has been operating a medical marijuana dispensary in Apache Junction since 2013.

In accordance with State law, Nature's Wonder applied for a Conditional Use Permit (CUP-1-13) for a dispensary located at 68 S. Ironwood Drive in Apache Junction, which was approved by the Apache Junction Planning and Zoning Commission ("the Commission"). In 2015, Nature's Wonder sought to relocate and applied for CUP-1-15 to operate at the current location, which was also approved by the Commission.

The dispensary has complied with all of the stipulations contained in CUP-1-15, holds a current Business License from the City of Apache Junction (proof attached as Exhibit 1), and an Approval to Operate from DHS (certifying the dispensary has satisfied all State law and regulatory requirements, attached as Exhibit 2). Accordingly, the Applicant submits this request for a renewal of its Conditional Use Permit to allow a medical marijuana dispensary to continue to operate on the Property permanently.

III. Community Partner

Since it began operating in Apache Junction in 2013, Nature's Wonder has demonstrated that it is committed to supporting and improving the City. It actively seeks opportunities to give back through various charitable causes and events, including:

- **The Head Start Association in Apache Junction.** Head Start is a comprehensive, quality, and unique program designed for eligible 0-5 year old children and their families.

They meet the needs of children and families through the content areas of: Early Childhood Development, and Health Services, Family and Community Partnerships, Program Design and Management.

- **Paws 4 Life.** Paws 4 Life is a non-profit organization serving the community through pets, service dogs, and volunteers working together to bring affordable training and unique services to the East Valley. They also offer training to out of state dogs and handlers for informational purposes through videos on their web site.
- **Imagine Prep Superstition Golf Tournament.** Nature's Wonder has been a regular sponsor of the Golf Tournament that supports Imagine Prep's Athletic Program and Student Clubs.
- **Project Help.** Project Help provides support to the Apache Junction community by collecting school supplies (Backpacks, Notebooks, Pencils, Paper, Markers, Colored Pencils, Crayons, Glue Sticks, Highlighters, Erasers, Dividers, and Folders) through the Apache Junction School District.
- **Genesis Project.** Genesis Project provides food to those in need in Apache Junction area.
- **Phoenix Children's Hospital Toy Drive.** Nature's Wonder purchased and donated over 100 toys for the Phoenix Children's Hospital Toy Drive. This program provides toys to patients and families served by Phoenix Children's Hospital, helping to make their day a little brighter.

Nature's Wonder has been grateful to serve its patients over the last 5 years, providing them with much-needed relief from debilitating illnesses and injuries. We believe that we provide a valuable service to the community, and that our medicine contributes to a reduction in opioid addiction and the devastating effects that has on us all.

When the City decided to establish a park next to our facility, we worked with the City on property improvements, including the wall the City sought to erect between the Park and our building. And we have worked to ensure that our patients are not interfering with the operation or enjoyment of the park.

We look forward to continuing our partnership with the City and citizens of Apache Junction.

IV. Property Information

The Property is identified on the aerial map attached as Exhibit M-1 and the Assessor's Tax Parcel Map attached as Exhibit M-2. The Property is zoned B-3, and is part of a commercial shopping center. See zoning map attached as Exhibit M-3.

Although the City amended Section 1-6-12 of the Code in 2017 to exclude medical marijuana facilities from locating in B-3 zoning districts, Section 1-6-12(C)(3) (attached as Exhibit 3) states:

“[a]n existing medical marijuana facility that has received a conditional use permit approval from the city prior to the effective date of this ordinance, shall be allowed to continue operating at the approved location, regardless of any newly defined spacing requirements; and as long as said operation remains in strict compliance with the conditions of approval of said facility, or as may otherwise be approved by a CUP amendment or renewal.”

The current facility meets the conditions of Section 1-6-12(C)(3) because the CUP was issued in 2015 (before the March 7, 2017 effective date of Ordinance 1444) and it has remained in strict compliance with its CUP.

Nature’s Wonder understands that the City has an interest in ensuring that compatible businesses locate in the B-3 zoning district, and it believes it has been a good partner with the City. When Nature’s Wonder relocated to the current building, it had been vacant so long that it took a significant amount of renovation to address a multitude of appearance and safety issues.

Further, when the City developed Flatiron Park next to the facility, Nature’s Wonder agreed to erect a wall between the facility and the Park to ensure that families could enjoy the Park without worrying about a medical facility nearby.

V. Conditions of Approval

Per Section 1-6-12, the conditions of approval to be considered in evaluating this request include: (1) required spacing requirements, (2) operating requirements, and (3) other conditions related to public health, safety, convenience, and general welfare.

The following items demonstrate compliance with all provisions of the zoning ordinance and City, County, and State laws.

1) Required Spacing Standards

Section 1-6-12 establishes minimum spacing standards from certain uses such as schools, churches, libraries, parks, daycares, substance abuse facilities, and other medical marijuana facilities. This site meets and exceeds every spacing standard in the City Code, other than for public parks, which is discussed further below.

The Property is more than the required 750’ from any public or private education institution, library, commercial-zoned daycare facility, free-standing church, or drug and/or alcohol rehabilitation center.

Although the facility is located within the distance standard for a public park, Ordinance 1444, which included public parks in the 750’ spacing standard, specifically permits Nature’s Wonder “to continue operating at the approved location, regardless of any newly defined spacing requirements.”

There are no other approved dispensary or cultivation facilities within 1,320' of the site as required by Section 1-16-12(F)(1)(a).

See various maps and distances from the specified uses attached as Exhibits M-4 through M-10 and the table below:

Use	Zoning Standard	Actual Distance	Name and Address
Public or Private Education Institution	750'	2,064'	Apache Trail HS 945 W. Apache Trail
Library	750'	2,881'	Apache Junction Public Library 1177 N Idaho Road
Public Park	750'	63'	Flatiron Park 100 N. Apache Trail
Commercial-Zoned Daycare Facility	750'	1,489'	Little Einstein Preschool 183 W. Apache Trail #110
Free-Standing Church	750'	1,301'	Family of Faith Bible Church 555 W. Apache Trail, Suite A
Drug/Alcohol Rehab Facility	750'	10,038' (1.9 miles)	Drug Addiction Treatment Center 2080 W. Southern Ave. #101
Other MM facilities	1,320'	5,473' (1.04 miles)	[Name Unknown] 1985 W. Apache Trail

2) Operating Requirements

Nature's Wonder has a proven track record of strictly complying with every operating requirement set forth in the zoning ordinance, and will continue to do so.

Specifically:

- There is no delivery service.
- There is no drive-through pick up window.
- There is no outdoor seating.
- The dispensary complies with state-mandated security requirements including appropriate lighting, monitored alarm system, indoor and outdoor camera surveillance system, secure medicine storage, and other necessary building safety measures as required by Arizona Revised Statutes §36-2806 and Arizona Administrative Code §R9-17-318.
- All employees will continue to register with the Apache Junction Police Department per Code Section 1-6-12.
- On-site consumption of medical marijuana is not permitted.
- If the facility sells marijuana related products, they are only sold to patients with a medical marijuana card.
- The facility remains consistent with the character of existing or 'planned surrounding development, although is "grandfathered" in some situations per Ordinance 1444.
- Signage is consistent in design and type with the current location, and does not include a marijuana leaf symbol.

Operating Hours

The dispensary is open Monday through Saturday from 9:00 am to 8:00 pm and Sunday from 9:00 am to 5:00 pm.

Patient Experience

Nature's Wonder's knowledgeable and compassionate team are dedicated to providing patients safe access to the highest quality, lab tested medicinal marijuana. It is a not-for-profit organization, reinvesting time and effort into the community and patients it serves. Nature's Wonder is a patient centered organization, focusing on individual wellness and safe access for all qualified patients.

The dispensary is similar to a medical office. Patients enter into a lobby/waiting room and are greeted by a receptionist. Much like a standard medical office, there are a number of informational pamphlets provided to patients for their education.

Upon entry, the patient presents a state-issued patient card to the attendant, who verifies the identification. The card is scanned into the DHS computer system, which confirms the card accuracy, validity, patient address, and medication quantities available. The patient waits in the lobby for an attendant to retrieve him or her and escort him or her to the secured back office and dispensing area.

Access to the back office is restricted by a locked door controlled by access key cards accessible only by employees. There is a secondary door that is also accessible only by key card before a patient can visit the back office and dispensing area. Only qualified dispensary agents and qualified patients, who have checked in with the receptionist and been verified by a dispensary agent, are granted access to the dispensing area.

Upon visiting the dispensing area, the patient consults with an employee about the specific ailments that necessitate medication. Medication type differs vastly by the grower, strain, potency, efficacy, effects, fertilizer, etc. Hence, it's critical that the attending employee and patient understand the condition in order to recommend and select the correct type of medication for their specific ailment.

Once a medication is selected, the employee scans the patient card a second time to sync with the DHS computer system and verify the card is active and valid. The DHS system also tracks the amount used during a 2-week period to make sure the legally permitted quantity (2.5 ounces) is not exceeded. The medication is scanned, the DHS system automatically updates, payment is made, and the transaction is complete. The transaction is recorded in an electronic database which is audited regularly by DHS. The patient is then escorted back to the front lobby by an employee possessing the necessary access key cards.

Every step of the process is video and audio recorded, from the moment the patient parks and enters the premises, to the selection and payment of product, and to the escorting back to the front lobby and exiting to the parking lot. There are both exterior and interior cameras, and all recordings are kept on file for 30 days per DHS regulations.

3) Security and other conditions related to public health, safety, convenience, and welfare.

Nature's Wonder has had a top-notch security plan in place, even before the City required such a detailed plan to be submitted as part of the Code amendments last year. The Security Plan is attached as Exhibit 4.

Alarm Monitoring and Surveillance

Electronic (alarm) security is provided by ON Guard Security. Cameras are located to provide coverage of all entrances to and exits from the building and are capable of identifying any activity occurring in or adjacent to the building. All areas of the interior building are monitored by cameras (except restrooms), including the lobby, consultation rooms, product storage rooms, and hallway.

Video cameras have a recording resolution of at least 704 x 480 pixels. The recordings are electronically stored for a minimum 30-day period and have a battery back-up system in case of power loss. The security system has the capability to provide authorized remote viewing of live and recorded video with internet connectivity with at least 184kb upstream and a static IP address to allow for remote connection. Six panic buttons are located throughout the building, including at the reception desk, checkout area, counseling room, and prep room. Written procedures state that access to areas of the dispensary containing medical marijuana will only be permitted by the Medical Director and authorized dispensary agents.

Policies and Procedures

Policy and procedures prohibit loitering in the lobby and outside the building. The manual also outlines the appropriate use of the panic button and regulations regarding electronic monitoring. All individuals entering a secured zone must be identified and recorded in a log, and that information is archived. The Policies and Procedures are attached as Exhibit 5.

Physical Security

A floor plan of the facility is attached as Exhibit M-11, and has the following configurations:

- Areas where medication is handled and stored have no external doors or windows.
- Walls separating the lobby from the dispensing area are 4" steel studded sheetrock walls with a solid-core wood door.
- The reception window is equipped with 1" thick bulletproof plexi-glass.
- All main access door hinges are equipped with hinge-pin-locking screws to increase security.

This configuration yields optimal conditions for surveillance, prevention of unauthorized access, and discouraging theft.

Lighting

A well-lit property is an excellent deterrent against criminals. Security lighting is one of the most practical and effective ways to prevent crime in or around the facility.

The main objective of the security lighting system is to illuminate dark areas and detect and recognize movement in the protected area. The best vision with outdoor lighting is obtained from downward directed and shielded security lighting that is constantly on, supplemented with instant-on lighting triggered by motion detectors. The facility, its perimeter, and all walkways are illuminated to maximize visibility. Lighting is operated automatically by a photo-sensor, ensuring that lighting at all times will be optimal for video capture.

Public Safety

Since Nature's Wonder received authorization to open the facility at the new location on November 2, 2015, the City's Police Department has received 117,973 calls for service citywide. Sixty-two of them were for service at Nature's Wonder's address (0.0526%), and five resulted in Reports (0.0042%). The five Reports consisted of:

- Two traffic stops unrelated to the business.
- One theft of medicine from a customers.
- One theft-related follow-up.
- One trespass onto Nature's Wonder's property, reported by Nature's Wonder staff.

The dispensary operation has had little impact on the City's Police Department or the safety of the community. In fact, Nature's Wonder believes that the building renovations have enhanced the safety of the general public.

Medicinal Safety

In addition to the extensive security measures and vigilant staff, Nature's Wonder believes it owes it to the public to ensure that the medicine it dispenses is safe for consumption. The dispensary's Medical Director is Dr. Amit Waghray, MD.

Nature's Wonder ensures every strain of medicine is rigorously evaluated, through both microscopic inspection and liquid chromatography. All medication is third party tested for its unique cannabinoid make up and tested for mold and pathogens to ensure each product is of the highest quality. This ensures safety and consistency for both raw medicine and edibles. Every product is tested for THC, THCA, CBD, CBN, and CBG. The educated staff is knowledgeable in regards to each product's looks, tastes, smell, and effects—ensuring the best strain for a variety of medical conditions.

Nature's Wonder prides itself in procuring the highest quality medicine—in flower, concentrates and infused edibles. It is able to ensure quality by growing and infusing its own medicine right in Arizona. The strategy for producing the highest quality premium medicine possible is utilizing the cleanest plant based bio-available nutrients known, utilizing classic growing techniques and applying methodologies that work.

Other Health Safety

Nature's Wonder has worked to mitigate any noise, odor, or other potential disturbances at the dispensary, operating at times that are compatible with surrounding uses, providing information to patients about medical marijuana laws and regulations, and generally operating pursuant to all of those laws and regulations.

The dispensary has passed ten inspections by DHS, which is a comprehensive inspection of the dispensary and involves a twelve page form that is completed by DHS staff covering everything from operations, policies and procedures, patient verification/sales, records, inventory control, labeling, security, cleaning and sanitation, and physical plant.

VI. Compatibility with Surrounding Area

Because this application involves a renewal of an existing dispensary, its track record speaks for itself. The dispensary has had no detrimental impact on the adjacent property or properties in the area largely because of its ambient conditions. The Property is part of a larger commercial area, and has been successfully operating for nearly three years. The site is located on an arterial street which is to be expected with any commercial uses, including a medical office or dispensary.

There has been no impact on any of the surrounding areas resulting from an unusual volume or character of traffic, since only customers with a valid qualifying patient identification card issued by the state are able to obtain medical marijuana at this location.

Since opening, there have been no complaints about our dispensary creating an increase emission of odor, dust, gas, noise, vibration, smoke, or heat.

Compliance with CUP Conditions and Laws

Nature's Wonder has been and will continue to be in compliance with all provisions of the zoning ordinance and city, county, and state laws.

VII. Conclusion

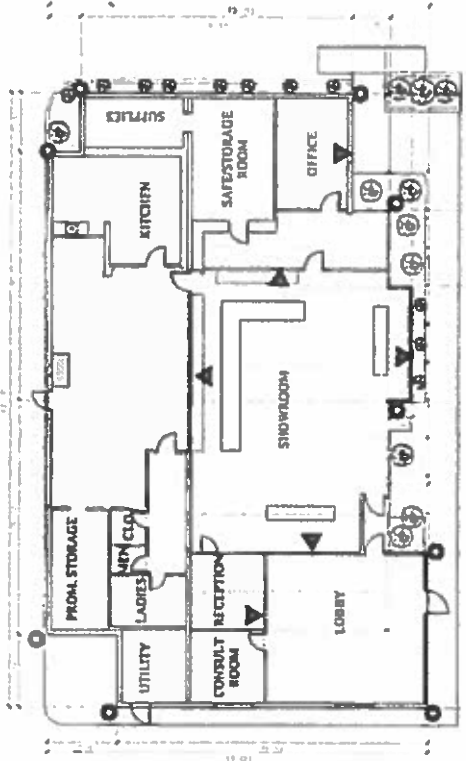
The existing dispensary has not had any adverse impact on the adjacent property, properties in the area, or the health and safety of the public. It will not result in any adverse impacts such as an increase in vehicular or pedestrian traffic, emission of odor, dust, gas, noise, vibration, smoke, or heat. A renewed CUP will not change the status quo—the dispensary will continue to operate and comply with all City and State standards.

Granting a permanent CUP to Nature's Wonder ensures that a well-run business that operates as a community partner will continue to thrive in Apache Junction.

226 North Apache Trail
 Apache Junction, Arizona

Matthew Kravinski
 Licensed Architect
 3209 North Linnard Court
 Queen Creek Arizona 85142
 Phone: (602) 999-6556

01/5/15
 SHEET
 A-1



FLOOR PLAN
 SCALE: 1/8" = 1'-0"
 SHEET
 01/5/15
 SHEET
 A-1

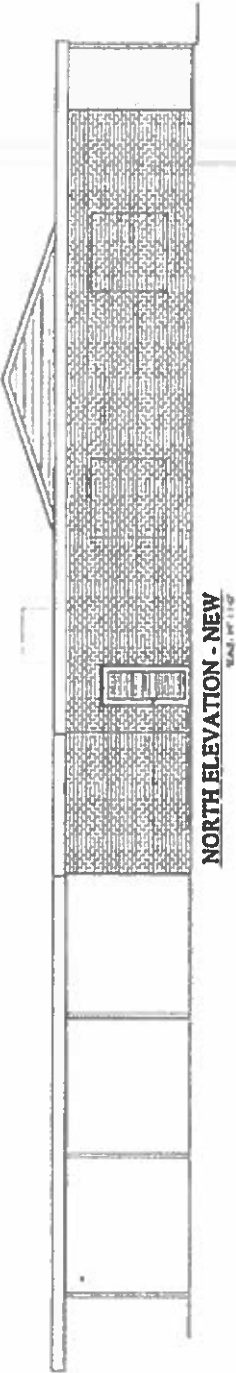




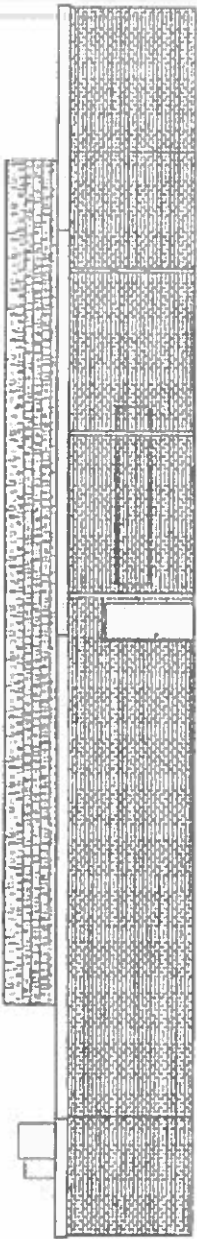
226 North
Apache Trail
Apache Junction, Arizona

Matthew Krainski
Licensed Architect
3209 North Central Court
Queen Creek, Arizona 85142
PHONE: (482) 888-8888

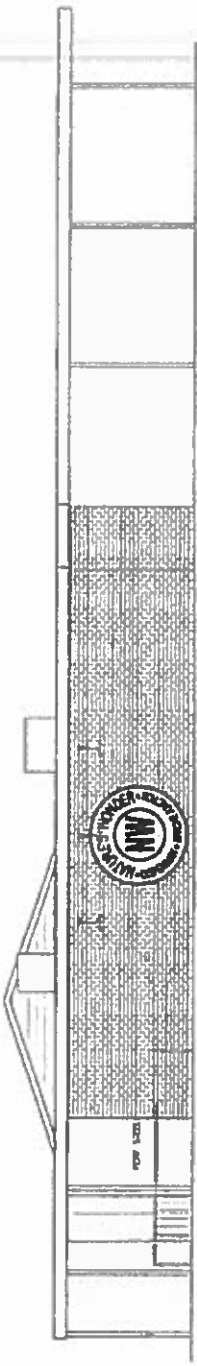
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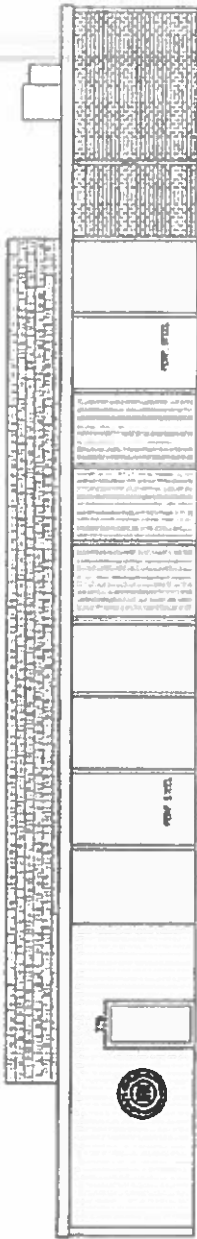
NORTH ELEVATION - NEW
SCALE: 1/4" = 1'-0"



WEST ELEVATION - NEW
SCALE: 1/4" = 1'-0"

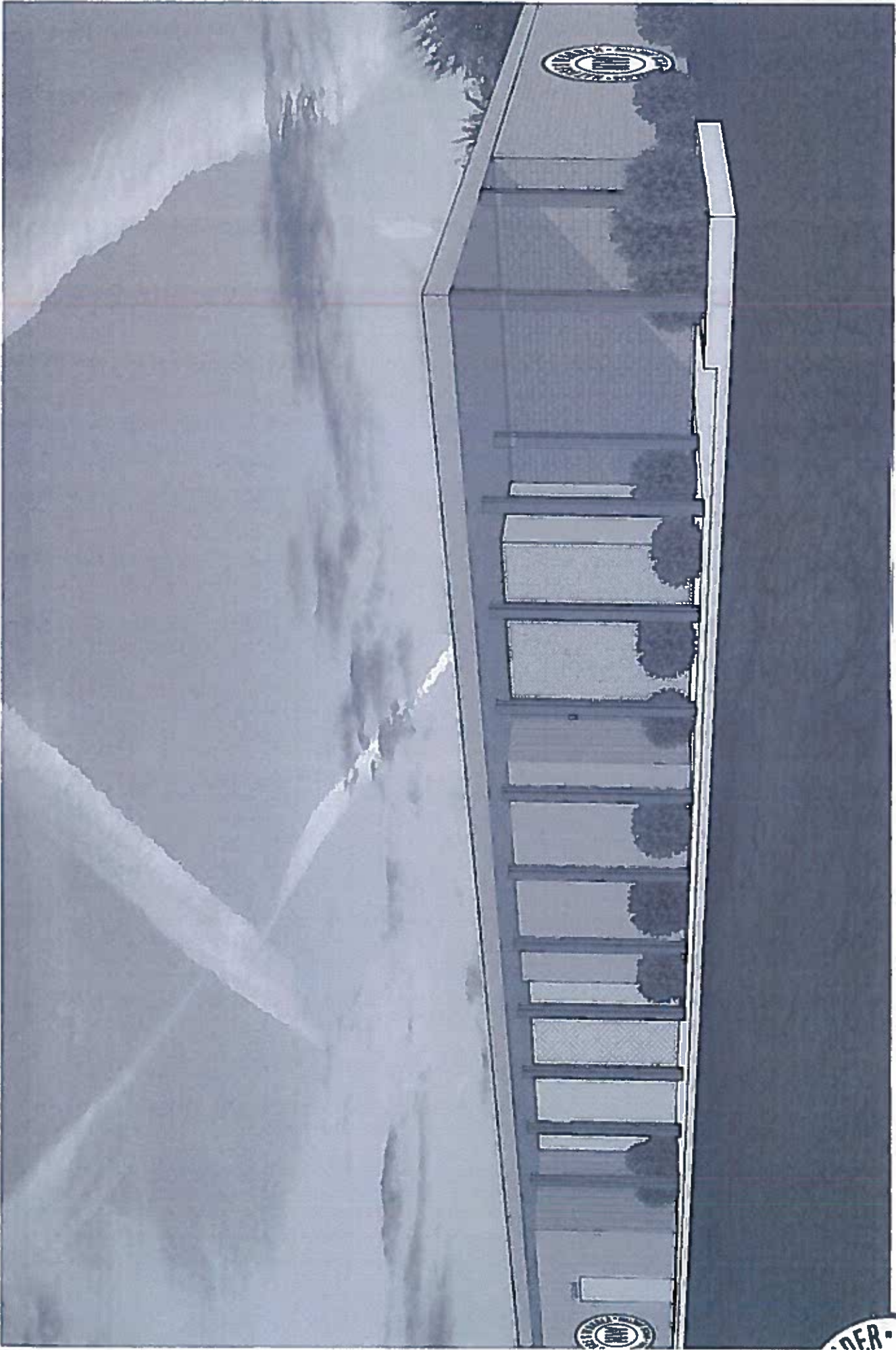


SOUTH ELEVATION - NEW
SCALE: 1/4" = 1'-0"



WEST ELEVATION - NEW
SCALE: 1/4" = 1'-0"

66



FER - NOLL

PLANNING AND ZONING COMMISSION
RESOLUTION NO. CUP-1-15

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING A CONDITIONAL USE PERMIT, CASE NO. CUP-1-15, TO ALLOW NATURE'S WONDER INC., REPRESENTED BY ADAM BAUGH OF WITHEY MORRIS PLC, TO OPERATE A NON-PROFIT MEDICAL MARIJUANA DISPENSARY AT 260 W. APACHE TRAIL.

WHEREAS, on May 28, 2013, the Apache Junction Planning and Zoning Commission approved a Conditional Use Permit application (case CUP-1-13) by Nature's Wonder Inc., to operate a non-profit medical marijuana dispensary in an existing building located at 68 S. Ironwood Drive; and

WHEREAS, said dispensary has operated successfully at 68 S. Ironwood Drive and in compliance with the conditions of approval of CUP-1-13, but the operators contend that they have outgrown their current facility and need a larger building and better parking accommodation to better serve the needs of their medical marijuana patients; and

WHEREAS, on or about August 12, 2015, a new Conditional Use Permit application was submitted to the City of Apache Junction by East Valley Shopping Center LLC (property owner) and Nature's Wonder Inc. (applicant), represented by Adam Baugh of Withey Morris PLC, requesting approval to relocate their existing dispensary to a new properly zoned location with an existing larger building and better parking, located at 260 W. Apache Trail, which is part of a property which is generally legally described as:

A parcel of land in the South half of the Northeast quarter of Section 20, Township 1 North, Range 8 East, lying northwest of the N. Apache Trail right-of-way and bordered on the east by Trailway Apartments Subdivision (recorded in Book 12 of Maps, Page 34, Pinal County Records) and bordered on the west by Apache Junction Mobile Home Park. The property is also known as Pinal County Assessor Parcel #101-11-010C (a complete metes and bounds legal description is available for viewing in case file CUP-1-15, Apache Junction Development Services Department); and

WHEREAS, on October 13, 2015, the City of Apache Junction Planning and Zoning Commission held a Work Session meeting to discuss case CUP-1-15 with Planning Division staff; and Commissioners expressed concerns related to the proximity of the Mountain Health and Wellness facility located to the northwest of the proposed dispensary, and of a planned park to the east of the proposed dispensary; and

WHEREAS, Planning Division staff confirmed that the Mountain Health and Wellness facility is over 1500 feet away (building to building) from the proposed dispensary, and that public parks or proposed public parks are not specifically identified as sensitive land uses by the city's medical marijuana regulations; and

WHEREAS, it is understood that the Zoning Administrator may refer the Conditional Use Permit for Nature's Wonder back to the Planning and Zoning Commission, at a new public hearing, for further review, discussion and possible revocation, upon finding that there has been material noncompliance with any condition prescribed in conjunction with the granting of this Conditional Use Permit.

NOW THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission of the City of Apache Junction, Arizona, that a Conditional Use Permit is hereby approved, allowing Nature's Wonder Inc., to relocate and operate a non-profit medical marijuana dispensary at 260 W. Apache Trail, as described in the plans, narrative and other materials submitted with case CUP-1-15, pursuant to Article 1-6 Supplemental Regulations, Section 1-6-12 Medical Marijuana, of the Apache Junction, Arizona, Zoning Ordinance, subject to the following conditions:

- 1) Upon final approval from the Arizona Department of Health Services to operate the dispensary, a copy of said final approval letter and/or certificate shall be provided to the Planning Division and the Police Department for the purpose of record keeping. Furthermore, all non-profit medical marijuana agents associated with Nature's Wonder shall register with the city's Police Department for the purpose of background checks and record keeping (including but not limited to, owners, employees, directors, board members, etc.).

- 2) Nature's Wonder shall update and obtain their City Business License prior to beginning dispensary operations at their new location.
- 3) Proper building permits shall be obtained and inspections and approvals received for any electrical, plumbing, remodeling, signage, security or other property improvements which require permits (in accordance with the submitted plans and narrative received for CUP-1-15), prior to beginning dispensary operations.
- 4) No other non-profit medical marijuana cultivation, infusion or dispensary facilities shall be established in the Apache Junction city limits by Nature's Wonder or any other entity without first applying through the city's Conditional Use Permit process.
- 5) Nature's Wonder dispensary shall not offer or allow the following: on-site medical marijuana cultivation or manufacture of infused products; pick-up or drive-through windows; delivery service; outdoor seating; on-site consumption of medical marijuana; loitering in or around the premises; the sale of tobacco or marijuana smoking, carrying or concealing products, other than cookbooks, medical brochures or medical marijuana educational materials.
- 6) Signage on the building shall conform substantially to the sign concept plan shown on the elevation drawings submitted with this CUP-1-15 request. The marijuana leaf symbol shall not appear on any signs visible from outside the dispensary.
- 7) The building housing the dispensary shall not be allowed any expansions without the operators first processing a CUP amendment application.
- 8) Nature's Wonder shall construct all building and general property improvements in substantial compliance with the drawings submitted with the CUP application and in compliance with the proposed schedule of development dated September 22, 2015.

- 9) The applicants shall begin operating the dispensary within 12 months of the granting of CUP-1-15, or within the timeframe prescribed by the Arizona Department of Health Services, whichever is sooner, or else the Conditional Use Permit shall become void. A CUP time extension request may be requested in a timely fashion by the operators of the dispensary if more time is needed.

- 10) The operators of the dispensary shall cooperate with local Police officials insofar as personnel updates, providing copies of agent registration cards, occasional unannounced spot checks for compliance, emergency contact information, alarm permit and other items for the reasonable, transparent and safe operation of Nature's Wonder Dispensary.
- 11) The Conditional Use Permit for Nature's Wonder must be renewed within three (3) years from the effective date of approval. If the permit is not renewed prior to the 3rd anniversary of the effective date, the CUP shall automatically expire without further legislative action and all dispensary operations must cease.
- 12) Should ownership of the dispensary change at any time after approval of the CUP, the new owners shall operate the dispensary subject to the exact same conditions of approval, including the provision of all new ownership, operator and medical marijuana agent information (and updates) to the city's Police Department.
- 13) The Planning and Zoning Commission shall reserve the right to reconsider or overturn Nature's Wonder's Conditional Use Permit approval, at a new public hearing, for non-compliance with any condition prescribed as part of said CUP-1-15 permit approval.

PASSED AND ADOPTED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, ON THIS 27th DAY OF October, 2015.

SIGNED AND ATTESTED TO THIS 2nd DAY OF NOVEMBER, 2015.



COLLEEN HILL, Vice Chairwoman
Planning and Zoning Commission

ATTEST:



LARRY KIRCH
Development Services Director

APPROVED AS TO FORM:

 11-2-15

RICHARD J. STERN
City Attorney

CITY OF APACHE JUNCTION MEDICAL MARIJUANA REGULATIONS
AMENDED ON 3-7-17 (ORDINANCE NO. 1444)

1-6-12 MEDICAL MARIJUANA

- A. Permit Required. A CUP shall be required for the establishment of nonprofit medical marijuana facilities, including dispensaries, cultivation facilities, and infusion facilities. The requirements of this section, for the establishment of a nonprofit medical marijuana use, may also be accomplished through a planned development (“PD”) rezoning process or PD major amendment process.
- B. Number of Facilities Allowed in City. The total number of nonprofit medical marijuana dispensaries, cultivation facilities, and infusion facilities shall be as allowed by state statute for the Apache Junction Community Health Analysis Area (“CHAA”). (See A.R.S. Title 36, Chapter 28.1 Arizona Medical Marijuana Act, for definitions and statutes pertaining to medical marijuana.)
- C. Allowed Zoning Districts.
- 1) Location of nonprofit medical marijuana dispensaries shall be allowed in the city's B-1, B-2, B-4 and B-5 zoning districts.
 - 2) Location of a cultivation facility and/or a stand-alone nonprofit medical marijuana infusion facility which serves one or more nonprofit medical marijuana dispensaries shall be limited to the city's B-5 zoning district.
 - 3) An existing medical marijuana facility that has received a conditional use permit approval from the city prior to the effective date of this ordinance, shall be allowed to continue operating at the approved location, regardless of any newly defined spacing requirements; and as long as said operation remains in strict accordance with the conditions of approval of said facility, or as may otherwise be approved by a CUP amendment or renewal.
- D. Facility Security. Medical marijuana dispensaries, cultivation facilities, and infusion facilities shall be located in an enclosed locked facility, such as a permanent secure building and not in a cargo container, RV, trailer, or motor vehicle. If a green house is used as a cultivation facility, reasonable measures shall be taken to obscure the visibility of the marijuana plants from outside the building.
- E. Applications. A CUP application for medical marijuana dispensaries, cultivation facilities or Infusion facilities shall include all the information required on the CUP application form and the following supplemental information:
1. Signature and consent on the application form by the property owner of record that he or she is aware the property will be used for medical marijuana dispensing, cultivating or infusion.

2. A copy of the preliminary approval from the State Department of Health Services (“DHS”), such as a registration certificate, for the nonprofit medical marijuana dispensary, nonprofit medical marijuana dispensary off-site cultivation facility or stand-alone nonprofit medical marijuana infusion facility, and a written assurance that all nonprofit medical marijuana dispensary agents associated with the approved facility shall register with the Apache Junction Police Department upon final approval to operate from DHS, as well as a copy of said final approval document.
 3. Application and all applicable fees paid as required by Apache Junction City Code, Volume I; Chapter 8, Business, and the Apache Junction City Tax Code as amended.
 4. A detailed site plan and floor plan for the facility prepared in accordance with Section 1-16-9, and narrative explaining the operation of the facility and hours of operation.
- F. Conditions of Approval. The conditions of approval which may be considered by the planning and zoning commission in evaluating these requests include the following:
1. Required Spacing Requirements:
 - a. A minimum of 1,320 feet between another dispensary, cultivation facility or infusion facility, as measured from nearest building wall to nearest building wall.
 - b. A minimum of 750 feet between a dispensary, cultivation facility or infusion facility and any public or private education institution, library, public park, commercial-zoned day care facility, free-standing church, or drug and/or alcohol rehabilitation center, as measured from nearest building wall of the business to the nearest building wall of the protected use.
 2. Operating Requirements:
 - a. Drive-through pickup windows shall not be allowed. Delivery service shall be allowed as per state statute.
 - b. Outdoor seating areas at dispensaries, cultivation facilities or infusion facilities shall not be allowed.
 - c. A medical marijuana facility shall submit a security plan containing the following information:
 - i) Proof that any cultivation and storage of medical marijuana will take place in an “enclosed, locked facility” equipped with locks or other security devices that permit access only by persons authorized to enter pursuant to state and local law.

- ii) A floor plan that details the security measures required by state law, including an on-site alarm system, video surveillance devices and a single secure entrance.
 - iii) Additional protections, if any, against medical marijuana diversion and theft.
 - iv) Provide and update as needed a current list of all persons who are authorized to access the dispensary, off-site cultivation site or infusion facility.
 - d. On-site consumption of medical marijuana at a dispensary, cultivation facility or infusion facility shall not be allowed.
 - e. Dispensaries selling marijuana related products such as pipes, water pipes, rolling paper, screens, vaporizers, mills, concealing devices, etc., shall be restricted to selling only to patients displaying the required Arizona Department of Health Services medical marijuana card and to be used only in conjunction with a physician's certification or recommendation. Cookbooks and educational materials are excepted from this provision.
 - f. The size of facility in terms of square footage, building height or other factors shall be consistent with the character of existing or planned surrounding development.
 - g. Signage that will be visible from the exterior of the facility may be approved by the city if all sign code regulations have been met. The use of the marijuana leaf symbol shall not be allowed on any exterior signage.
3. Other Conditions. The planning and zoning commission may deem it necessary to apply other conditions to conserve and promote the public health, safety, convenience and general welfare, including:
- a. Compliance with all city-adopted zoning, landscaping, engineering, building, design guidelines, overlay district and/or planned development district requirements.
 - b. The commission shall reserve the right to revoke a CUP for noncompliance with any condition prescribed as part of the permit approval or if the use is demonstrated to be a nuisance or hazard to the neighborhood or community.
 - c. Hours of operation will be addressed through the CUP process.
4. Patient Home Cultivation. In the event that a qualifying patient residing in the city lives 25 miles or farther from a dispensary, said individual or his or her designated caregiver may cultivate no more than 12 marijuana plants at the place of primary residence (including a manufactured home or a recreational vehicle) of the qualifying patient, with owner's permission, without need to apply for a CUP.

However, said individual or his or her designated caregiver shall apply the same types of precautions as above for security, use, documentation and must advise the chief of police of his or her intent to cultivate marijuana at home. At such time as a dispensary is located within 25 miles from the qualifying patient's home, all cultivation of marijuana plants in the home must cease or shall be considered a zoning violation, among other possible local, state and federal law violations. Any change in residence location shall be reported to the chief of police within 30 days.

5. Caregiver Home Cultivation. In the event that a designated caregiver whose residence is in the city limits is cultivating marijuana for the qualifying patient or patients in his or her care, and whose qualifying patient or patients in his or her care live 25 miles or farther from a dispensary, said designated caregiver may cultivate no more than 12 marijuana plants per patient at the place of primary residency of the designated caregiver (including a manufactured home or a recreational vehicle), with homeowner's permission, without need to apply for a CUP. However, said designated caregiver shall apply the same types of precautions as above for security, use, documentation and must advise the chief of police of his or her intent to cultivate marijuana at home for the benefit of his or her qualifying patient or patients. At such time as a dispensary is located within 25 miles from the designated caregiver's home, all cultivation of marijuana plants in the home must cease or shall be considered a zoning violation, among other possible local, state and federal law violations. Any change in residence location shall be reported to the chief of police within 30 days.

4. Any legal lot or parcel of land duly recorded in the County Recorder's Office prior to the effective date of this Ordinance and having an area, width, depth, or street frontage less than that required in the Zoning District regulations in which such lot or parcel is situated, shall be deemed to be a lot and may be used as a building site, provided that all other regulations for the City zoning district shall apply.
5. Building setbacks established by County overlay zoning or special use permit for existing residential developments shall be enforced. Conventional residential developments without county overlay zoning or special use permit shall have setbacks as specified in the City's zoning ordinance.

1-16-11 AMENDMENTS TO THE GENERAL PLAN

- A. Submittal and Approval Process. Proposed amendments to the General Plan shall comply with the amendment process and requirements established in the most current version of the Apache Junction General Plan, or any subsequent update to the Plan.

1-16-12 CONDITIONAL USE PERMITS, ADMINISTRATIVE USE PERMITS AND BUILDING PERMITS

- A. Authorization and Applicability. It shall be unlawful to erect, construct, reconstruct, alter or change the structure, land and/or use of any property within the City without first obtaining the required building permit, administrative use permit, and/or conditional use permit from the Development Services Department.
- B. Building Permits. The City of Apache Junction Building Official and the City's adopted building codes establish the requirements and procedures for building permits.
- C. Administrative Use Permits. An Administrative Use Permit ("AUP") may be approved by the Zoning Administrator following review of the application and a finding that the use and/or structure complies with specific standards specified for such use and/or structure in the Zoning Code. Uses and/or structures requiring approval of an AUP, along with permit approval criteria, are identified in Tables 5-1 and 5-3.
- D. Conditional Use Permits. Conditional uses are those uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual Planning and Zoning Commission review and Conditional Use Permit ("CUP") approval of their location, design, operation and configuration along with the imposition of conditions in order to ensure the appropriateness of the use at a particular location. Uses requiring a CUP are identified in Tables 5-1 and 5-3. The CUP application and process requirements are as follows:

1. CUP Application. An application for a CUP shall be filed with the Development Services Department in accordance with the “*City of Apache Junction Conditional Use Permit Application Checklist*” available at the Development Services Department.

2. CUP Public Hearing and Notice. The Commission shall hold a public hearing on any proposed CUP or CUP amendment, and provide the following notice. The failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the actions of the Commission or Council.
 - a. Newspaper Publication. Notice of the time, date and place of the hearing, including a general description of the matter to be considered and a general description of the area affected, shall be published in a newspaper of general circulation that is published or circulated in the community. The publication notice shall be at least 15 calendar days before the hearing, and shall be published as required by A.R.S. § 9-462.04, as amended.
 - b. Property Posting. The notice of public hearing shall be posted by the applicant in accordance with the instructions provided in the application form.
 - c. Mailing Notice. The City shall notice by first class mail each real property owner, as shown on the last assessment of the property, within three hundred feet of the property subject to the CUP proposal.

3. Findings. 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;
- b. Negative impacts arising from the emission of odor, dust, gas, noise, lighting, vibration, smoke, heat or glare;
- c. Contribution to the deterioration of the neighborhood or the negative impact on neighborhood property values;

- d. Compatibility with surrounding uses and structures;
 - e. Conformance with the General Plan and City policies;
 - f. Screening and buffering of uses; and
 - g. Unique nature of the property, use and/or development's physical characteristics.
4. CUP Modification of Dimensional Zoning Standards. When a proposed development exhibits unique characteristics related to land, topography, architectural style, scale, historical interest or other distinguishing feature that necessitates a measure of regulatory relief, CUP modification of certain dimensional zoning standards may be approved by the Commission in accordance with the findings described above in Section 1-16-12(D)(3). The following dimensional zoning standards may be subject to this type of modification:
- a. Accessory Dwelling Units. Accessory dwelling unit size and height standards required in Section 1-6-19 of this Ordinance may be modified.
 - b. Accessory Structures. Accessory structure size, height, design and setback standards required in Section 1-6-5 may be modified.
 - c. Landscaping. Landscaping size, type, amount and location standards required in Article 1-8 may be modified.
 - d. Signs. Sign size, type, amount and location standards required in Article 1-11 may be modified.
5. Expiration. CUPs granted by the Commission shall be void if the use is not commenced within 12 months of the approval date or within the time stipulated by the Commission.
6. Revocation. An approved CUP may be revoked by the Commission following public hearing and a finding that there has been material noncompliance with any condition prescribed in the permit and/or the use generates a demonstrated public safety, health or welfare concern.
7. Appeal and City Council Review. The approval or denial of a CUP by the Commission shall be final unless, within 20 calendar days from the date of the Commission's decision, the applicant or any persons aggrieved by the decision appeals the decision to the Council. The appeal shall be in writing, filed with the Development Services Department, and shall indicate how the Commission was in error. The appeal shall

be accompanied by a fee equal to 50% of the original filing fee. The appeal shall require a Council public hearing and notification provided in the same manner as required for the Planning and Zoning Commission hearing. The Council, at its public hearing, shall uphold, modify or overrule the decision of the Commission. The decision of the Council shall be final.

1-16-13 DEVELOPMENT AGREEMENTS

- A. Intent and Purpose. A development agreement is a contract between a local jurisdiction and a person who has ownership or control of property within the jurisdiction. The purpose of the agreement is to specify the standards and conditions that will govern development of the property. The development agreement provides assurance to the developer that he/she may proceed to develop the project subject to the rules and regulations in effect at the time of approval and that the development will not be subject to subsequent changes in regulations. Development agreements must also benefit the local jurisdiction with sufficient legal consideration. The City may include conditions (mitigation measures) that must be met to assure that a project at a specific location does not have unacceptable impacts on neighboring properties or community infrastructure. The agreement may clarify how the project will be phased, the required timing of public improvements, the developer's contribution toward funding system-wide community improvements, economic incentives and other conditions. The agreement can also facilitate enforcement of requirements, since it is a contract that details the obligations of the developer and City.
- B. Applicability. The use of development agreements will be based on a case by case determination by City staff.
- C. Administrative Responsibility. The City department responsible for administering development agreements will be assigned on a case by case basis. If the development agreement is focused on economic development incentives, the Economic Development Division will be responsible for administering the agreement. If, however, the development agreement is focused on land use, infrastructure and zoning requirements, the Development Services Department's Planning Division will be responsible for administering the agreement.
- D. Legal Review. In all cases, the City Attorney shall be responsible for legal review and modification of the development agreement prior to City Council consideration.
- E. City Council Approval Required. The City Council has the final authority in approving or denying development agreements. Development agreements shall be presented to the Council for consideration at a public hearing.