



# City of Apache Junction, Arizona

## Meeting Minutes Planning and Zoning Commission

Meeting location:

City Council Chambers  
at City Hall  
300 E Superstition Blvd  
Apache Junction, AZ  
85119

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*Theresa Nesser, Chair*  
*Colleen Hill, Vice Chair*  
*Luciano Buzzin, Commissioner*  
*Michael Frank, Commissioner*  
*Peter Heck, Commissioner*  
*Willie Howard, Commissioner*  
*Robert Schroeder, Commissioner*

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Tuesday, December 8, 2015

7:00 PM

City Council Chambers

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### 1. Call to Order

Chair Nesser called the meeting to order at 7:00 pm.

### 2. Pledge of Allegiance

Chair Nesser led the Pledge of Allegiance.

### 3. Roll Call

Present                7 -     Chairperson Nesser  
                                     Vice Chair Hill  
                                     Commissioner Schroeder  
                                     Commissioner Buzzin  
                                     Commissioner Heck  
                                     Commissioner Howard  
                                     Commissioner Frank

Staff present:  
City Attorney Joel Stern  
Senior Planner Rudy Esquivias  
Director Larry Kirch

### 4. Consent Agenda

Yes:                    7 -     Chairperson Nesser, Vice Chair Hill, Commissioner Schroeder, Commissioner Buzzin, Commissioner Heck, Commissioner Howard and Commissioner Frank

No:                    0

Commissioner Hill made a motion to accept the Consent Agenda and approve the minutes of the November 24, 2015, meeting as presented. Commissioner Howard seconded the motion. The Planning and Zoning Commission accepted and approved the Consent Agenda and the minutes as presented.

[15-519](#) Consideration and approval of agenda.

[15-522](#) Consideration and approval of regular meeting minutes of November 24, 2015.

## 5. Public Hearings

[15-518](#) Presentation, discussion and decision on case CUP-2-15 (Planning and Zoning Commission Resolution No. CUP-2-15), a request by David House (property owner) and Perpetual Healthcare Inc. (applicants), represented by Tim Hammer, Mark Haile and Lindsay Schube, for approval of a Conditional Use Permit amendment to expand their existing medical marijuana cultivation and infusion kitchen facility on a B-5 (Industrial) -zoned property at 1575 E. 18th Avenue.

**Sponsors:** Rudy Esquivias

**Yes:** 5 - Chairperson Nesser, Vice Chair Hill, Commissioner Heck, Commissioner Howard and Commissioner Frank

**No:** 2 - Commissioner Schroeder and Commissioner Buzzin

Senior Planner Rudy Esquivias presented for discussion and decision case CUP-2-15, a request by David House (owner) and Perpetual Healthcare, Inc. (applicants), represented by Tim Hammer, Mark Halle and Lindsey Schube, for approval of a Conditional Use Permit amendment to expand their existing medical marijuana cultivation and infusion kitchen facility on a B-5 (Industrial) -zoned property at 1575 E. 18th Avenue. Senior Planner Esquivias reminded the commission that he had previously brought this to them for discussion on November 24, 2015.

Commission members had questions regarding high resolution cameras; cargo containers/mobile minis and storage; parking; waste and disposal; who oversees this process; possible odor issues. Senior Planner Esquivias addressed the commissions questions and deferred those he couldn't to the applicant. City Attorney Joel Stern read into record the minimum legal requirements pursuant to Apache Junction City Code Volume II, Zoning Ordinance, Section 1-6-1 Conditional Use Permits, Subsection C-4. Senior Planner Esquivias explained the appeal process should anyone choose to appeal the Commission's decision for approval or denial of the conditional use permit application.

The applicants representatives addressed the commission's concerns. Lindsey Schube presented a timeline of the facility and their change of ownership and CUP amendment application. She addressed the commission's concerns regarding size and growth of facility; safety of work environment in mobile mini's; safety of facility is monitored by Arizona Department of Health Services (ADHS); that Perpetual Healthcare is now sole operator of the facility; that they supply 2 dispensaries, one in Wellton and another in Gilbert; there are no spillage concerns in this type of facility; that New Horizons LLC is an agent of Perpetual Healthcare, they are separate entities that share management; that employees can also be medical marijuana patients, currently 3 of 9 employees are patients, but there is a zero tolerance policy in place; future expansion.

Chair Nesser opened the public hearing.

Eugene Barin, 1303 E. 18th Avenue, Apache Junction, Arizona, 85120 addressed the commission. He indicated he was not notified of the facility and thinks they should located in the industrial use south of the city. He said there is a constant odor at Tomahawk and 18th Avenue and he can smell it even at the far west end of 18th Avenue. He said the bus stop was moved because of the

facility. He feels that someone needs to deal with this issue.

Jackie Garcia, 2035 S. Mariposa Road, Apache Junction, 85120 addressed the commission. She said she has not smelled anything and maybe the bus stop was moved to an area where children are located. She didn't even know the facility was there. She is no a supporter, but thinks they are operating like a responsible business.

The Public Hearing was closed.

Chair Nesser asked City Attorney Joel Stern about the ramifications of one person having two cards; an agent card and a medical marijuana patient card. City Attorney Stern said a need for medical purposes would not disqualify a worker. Company policy, could be a liability for them.

Chair Nesser recommended to Mr. Barin to call the school to find out why school bus stop was moved.

Chair Nesser asked who monitors odors. Senior Planner Esquivias said it would probably be complaint driven and the state may also monitor.

Commissioner Schroeder asked if they could go into executive session. City Attorney Stern said not unless it is agendized.

Commissioner Buzzin suggested a continuance and asked if the commission is potentially allowing mobile minis everywhere. City Attorney Stern said no, it does not set a legal precedent, it is circumstantial from case to case.

Commissioner Schroeder asked if the commission can revisit the original conditional use permit. Chair Nesser said the commission can make a decision or continue this conditional use permit amendment. She said separately, they would need to bring the original CUP-2-14 back for reconsideration.

City Attorney Stern told the commission if they decided to deny the amendment they would need to list specific reasons why, as per the City Code.

Vice Chair Hill made a motion for approval with all conditions. Commissioner Frank seconded the motion. The commission approved the motion with a 5-2 vote.

## **6. Old Business**

None.

## **7. New Business**

### **Direction to Staff**

Development Services Director Larry Kirch addressed the commission and advised them that the City Attorney recommended to reschedule the item for the purpose of providing a better description of the request. No action requested tonight.

#### [15-517](#)

Presentation, discussion and direction to staff on proposed request for a corrective rezoning for the south +/- 350 feet of parcel #101-16-013C from Recreational Vehicle Park ("RVP") to General Commerical ("B-1").

**Sponsors:** Rudy Esquivias

## 8. Information and Reports

Development Services Director Larry Kirch advised the commission that he and Chair Nesser serve on the Phoenix-Mesa Gateway Airport land use study and attended a meeting last week and there will be another meeting in February.

## 9. Director's Report

Development Services Director Larry Kirch informed the commission the Planning and Zoning Fees were taken to City Council and received direction from them to move forward with a draft ordinance that will be presented to them in January for further direction. He also indicated staff is working on an amendment to landfill Ordinance No. 1034 per council direction. He also delivered Pat Richmond's plaque to her last week.

[15-520](#) Status of changes to Planning & Zoning fees.

Sponsors: Larry Kirch

[15-521](#) FYI - Council Direction to Staff regarding amendment to landfill Ordinance 1034.

Sponsors: Larry Kirch

## 10. Selection of Meeting Dates, Times, Location and Purpose

**Yes:** 7 - Chairperson Nesser, Vice Chair Hill, Commissioner Schroeder, Commissioner Buzzin, Commissioner Heck, Commissioner Howard and Commissioner Frank

**No:** 0

Commissioner Hill motioned and Commissioner Buzzin seconded to hold a Regular Meetings on January 12 and January 26, 2016, at 7:00 p.m. in the City Council Chambers located at 300 E. Superstition Boulevard.

## 11. Call to the Public

None.

## 12. Adjournment

Meeting adjourned at 8:35 p.m.

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Theresa Nesser  
Chairperson