

PLANNING AND ZONING COMMISSION
RESOLUTION NO. CUP-4-17

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING CASE NO. CUP-4-17, A CONDITIONAL USE PERMIT AMENDMENT, AMENDING PLANNING AND ZONING COMMISSION RESOLUTION NO. CUP-2-15 TO ALLOW PERPETUAL HEALTHCARE INC., REPRESENTED BY LINDSAY SCHUBE OF GAMMAGE AND BURNHAM, TO CONSTRUCT A PERMANENT BUILDING AT THEIR NON-PROFIT MEDICAL MARIJUANA CULTIVATION AND INFUSION KITCHEN FACILITY ON A PROPERTY OWNED BY MBD HOLDINGS LLC AT 1575 E. 18TH AVENUE.

WHEREAS, on or about May 27, 2014, the City of Apache Junction Planning and Zoning Commission approved case CUP-2-14, Planning and Zoning Commission Resolution No. CUP-2-14 ("Reso. #CUP-2-14"), a Conditional Use Permit request from Nature's Wonder Inc. and Capital Care Connections LLC (applicants), represented by Michael J. Curley of Earl, Curley and Lagarde, P.C., to operate a non-profit medical marijuana cultivation site and infusion kitchen facility (the "Facility") in existing buildings located at 1575 E. 18th Avenue; and which property is legally described as:

Lots 43, 44 and 45, Palm Springs Unit Six, according to Book 13 of Maps, Page 48, Records of Pinal County, Arizona (also known as Pinal County Assessor Parcels #102-07-215 and 102-07-216A); and

WHEREAS, on or about August 17, 2015, City staff was informed by the Arizona Department of Health Services that "mobile minis" had been added at the facility and queried if the City had approved the use of said mobile minis; and

WHEREAS, in late August 2015, City staff met with the new operators of the facility, Perpetual Healthcare Inc., and informed their representatives that the use of cargo containers required an administrative use permit and the use of mobile minis as additional work spaces was considered an expansion of the facility, according to the conditions of approval of Reso. #CUP-2-14 and thus required the processing and approval of a conditional use permit amendment; and

WHEREAS, on or about December 8, 2015, the City of Apache Junction Planning and Zoning Commission approved case CUP-2-15

("Reso. #CUP-2-15"), a Conditional Use Permit Amendment request from Perpetual Healthcare Inc. (applicant), represented by Lindsay Schube of Gammage and Burnham, to expand the non-profit medical marijuana cultivation and infusion facility with temporary "mobile-mini" and cargo container units, including a condition that application for a second Conditional Use Permit Amendment be filed to remove the "mobile-mini" and cargo container units and replace them with a permanent structure within 18 months of approval of Reso. #CUP-2-15; and

WHEREAS, since May 27, 2014, both Nature's Wonder Inc. (around November of 2014) and later Capital Care Connections LLC became disassociated from said facility, although the remodeling work on the buildings was permitted to and performed by Capital Care Connections; and

WHEREAS, all conditions of approval of Reso. #CUP-2-14, and Reso. #CUP-2-15 are still in full force and effect, except as otherwise modified or amended by this new resolution.

NOW THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission of the City of Apache Junction, Arizona, that a CUP amendment is hereby approved, allowing Perpetual Healthcare Inc. to operate and expand the non-profit medical marijuana cultivation and infusion kitchen Facility on the property owned by MBD Holdings LLC at 1575 E. 18th Avenue, with a permanent "building #3", as described in the plans, narrative and other materials submitted with case CUP-4-17, pursuant to Apache Junction City Code, Volume II, Land Development Code, Chapter 2 Zoning Ordinance, Article 1-6 Supplemental Regulations, Section 1-6-12 Medical Marijuana. The conditions of approval of Reso. #CUP-4-17 are hereby restated, modified and/or amended as follows:

- 1) The owners/operators of the non-profit medical marijuana cultivation and infusion kitchen Facility shall obtain all necessary approvals from the Arizona Department of Health Services ("ADHS") and the Pinal County Health Department prior to beginning medical marijuana cultivation and infusion kitchen operations in the new building.
- 2) The owners/operators of the Facility shall obtain and keep a City business license at all times during the operation of the medical marijuana cultivation and infusion kitchen operations.

- 3) Upon final approval from the ADHS to operate the Facility, a copy of said final approval letter shall be provided to the Planning Division and the Apache Junction Police Department ("AJPD") for the purpose of record keeping.
- 4) All non-profit medical marijuana agents associated with the Facility shall register with the AJPD for the purpose of background checks and record keeping (including but not limited to, owners, employees, directors, board members, etc.).
- 5) No other non-profit medical marijuana cultivation, infusion or dispensary facilities shall be established in the Apache Junction city limits by New Horizons Services LLC, Perpetual Healthcare Inc. or any other entity, without first applying through the city's CUP process.
- 6) The Facility shall not offer or allow the following: outdoor seating/break areas for anyone other than employees and agents of the Facility; on-site consumption of medical marijuana; loitering in or around the premises; the sale of any products from the Facility.
- 7) Signage on the building shall conform to the city's Sign Code for industrial zoned properties. The marijuana leaf symbol shall not appear on any signs visible from outside the Facility. The existing artwork on the building may remain.
- 8) The existing buildings housing the Facility shall not be allowed any expansions, unless a new CUP or CUP amendment application is processed and approved by the City first.
- 9) Perpetual Healthcare Inc. shall keep and neatly maintain all landscape improvements along the property's 18th Avenue and Tomahawk Road frontages, in accordance with the city's Landscape and Screening Requirements.
- 10) All screening, fencing and security improvements on the property shall be kept in good condition and repair at all times.

- 11) The Applicants shall continue to operate the Facility in accordance with the submitted drawings and narrative documents submitted with CUP-4-17, or else the CUP shall be subject to revocation by the Planning and Zoning Commission.
- 12) The operators of the Facility shall cooperate with local police officials insofar as personnel updates, providing copies of agent registration cards, unannounced inspections by law enforcement officials at any time the Facility is occupied and/or operating, emergency contact information, alarm permit and other items for the reasonable, transparent and safe operation of the Facility.
- 13) The operators of the Facility shall provide for parking accommodations (number, design and layout of parking spaces) as depicted in the site plan submitted as part of the CUP-4-17 applications with a total of 11 parking spaces, including one (1) ADA compliant space.
- 14) The operators of the Facility shall work with City staff to provide for high resolution security cameras at the Facility, including the new building #3.
- 15) Perpetual Healthcare Inc. shall provide to the city's Planning Division a copy of their articles of incorporation, including the names of the directors and officers.
- 16) 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.
- 17) If changes in the members, directors and officers occur, Perpetual Healthcare Inc. shall keep the planning division informed of said changes. If at any time during the operation of the cultivation and infusion facility, the managing member of the LLC or a

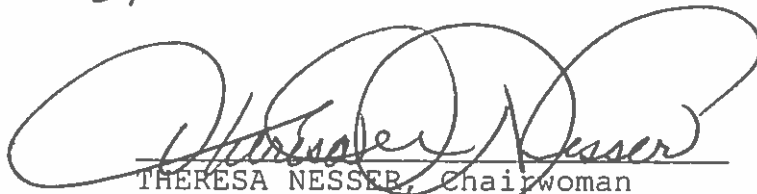
majority of the members, directors or officers changes, a CUP amendment shall be required.

- 18) The Planning and Zoning Commission shall reserve the right to reconsider or overturn the Applicant's CUP approval, at a new public hearing, for non-compliance with any condition prescribed as part of said CUP-2-14 and CUP-2-15 and CUP-4-17 permit approvals.
- 19) Upon approval of the CUP, a building permit will be required and applied for with Development Services for building #3 within 180 days of the effective date of approval for Resolution No. CUP-4-17, the applicant will have a maximum of two (2) years from the effective date of Resolution No. CUP-4-17 to obtain a certificate of occupancy. The building permit shall require electrical, plumbing, odor control filters and dark sky compliant outdoor lighting. Any lighting proposed on the south side of the building shall follow dark sky regulations for light glare onto adjacent residentially-zoned properties.
- 20) Over the course of the two years from the effective date of approval, the two parcels shall be combined into one through a lot combination with Pinal County.
- 21) The applicant shall provide a site plan detailing what mobile mini units will be used during construction of the permanent building #3, and relocation if necessary. Relocation, including changes to utilities for the units will be subject to applicable building permits.
- 22) The new building #3 will have architectural details as depicted on the plans submitted with the CUP, have a stucco finish, and be painted desert neutral colors.
- 23) The applicant shall work with Superstition Mountain Community Facilities District #1 and/or adjacent property owners to connect to sewer as part of the building permit requirements.
- 24) Any future expansions or additional buildings will require an amendment to the CUP and be subject to applicable zoning, building, and engineering code requirements.

- 25) The Planning and Zoning Commission will issue no extension on the current CUP amendment under any circumstances
- 26) The Planning and Zoning Commission is requiring a public hearing meeting no later than January 23, 2018 for an update from the applicant relative to the completion of the CUP.
- 27) The Planning and Zoning Commission reserves the right to withdraw the approval of the CUP amendment for failure to demonstrate acceptable progress to the commission.

PASSED AND ADOPTED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, ON THIS 14th DAY OF November, 2017.

SIGNED AND ATTESTED TO THIS 21st DAY OF November 2017.


THERESA NESSER, Chairwoman
Planning and Zoning Commission

ATTEST:


LARRY KIRCH
Development Services Director

APPROVED AS TO FORM:

 11-20-17
RICHARD J. STERN
City Attorney