



City of Apache Junction
Development Services Department



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

DATE: July 3, 2018

CASE NUMBER: CUP-3-18

REQUEST: A Conditional Use Permit (CUP) amendment request by Svaccha Medical Marijuana Dispensary to inform the city of a change in ownership and management, to request a 6-month time extension for the completion of the project and to increase the floor area of the dispensary by 190 square feet.

APPLICANT: Svaccha LLC, represented by Adam Baugh of Withey Morris PLC

LOCATION: The subject site is located at 1985 W. Apache Trail, Suite #4 (Assessor parcel #101-09-001).

PROPERTY OWNER: Palo Verde Plaza LLC

**GENERAL PLAN/
ZONING DISTRICT:** Designated "Downtown Mixed Use"/Zoned B-2 (Old West Commercial)

**SURROUNDING
LAND USES:**

- NORTH:** Various businesses (zoned B-2) and Recreational Vehicle Park (zoned RVP)
- SOUTH:** Boila Tracts single-family residential neighborhood (zoned RS-10)
- EAST:** Used cars sales business (zoned B-2)
- WEST:** Various businesses and apartment homes (zoned B-2)

BACKGROUND:

At their meeting of September 12, 2017, the planning and zoning commission approved a conditional use permit ("CUP") request for the operation of a non-profit medical marijuana dispensary for applicant Svaccha LLC, to be located at 1985 W. Apache Trail, Suite #4. See Planning and Zoning Commission Resolution No. CUP-5-17 and appurtenant site and floor plan exhibits (pages 17-23 of attachments). The CUP was approved subject to 16 conditions. In particular, condition number 13 read as follows:

"Svaccha LLC 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, Svaccha 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."

The dispensary has in fact, not yet opened, nor has the suite at Palo Verde Plaza been remodeled. Furthermore, since the approval of CUP-5-17, the Svaccha LLC has changed ownership and management entities, thus requiring this CUP amendment request pursuant to condition #13. According to the narrative provided by Mr. Baugh (pages 6-7 attached): *"Recent changes to Svaccha necessitate an update to the existing CUP-5-17 approval. The sole member of Svaccha is Harvest Dispensaries, Cultivations & Production Facilities, LLC and the new manager of Svaccha, LLC is Paul Nowak. The management company for Svaccha is Randy Taylor Consulting, LLC, an Arizona limited liability company, who is contracting with SSW Investments III, LLC to manage the dispensary. Accordingly, this application requests an amendment to the CUP to reflect this change. To be clear though, the Arizona State dispensary certificate at this location will still be Svaccha as it has always been since the original CUP approval."*

To refresh the commissioner's memories, the existing multi-tenant commercial building in which the Svaccha dispensary was allowed is known as Palo Verde Plaza, and is located at the southwest corner of W. Apache Trail and S. Palo Verde Drive. The property is zoned B-2 and said zone is one of the zoning

districts where a medical marijuana dispensary may be located, subject to approval of a CUP. The dispensary will not have any on-site cultivation of medical marijuana, nor will they manufacture infused products. It is a dispensary open to medical marijuana card-carrying patients only. Other businesses presently located in Palo Verde Plaza include a restaurant, bar, gold dealer, tattoo shop and pawn shop.

PROPOSAL:

The applicants are processing this CUP amendment request for the purpose of staying in compliance with their conditions of approval, condition #13 specifically. However, because the opening of the dispensary stalled under the previous ownership group and because there are new owners involved, the new owners of Svaccha are also taking this opportunity to request a 6-month time extension to improve the building and open the dispensary, and they are also asking for an increase in floor area of about 190 square feet (see original conceptual floor plan, attached page 23; and newly revised drawings, pages 8-11). The building footprint is not expanding. The increase in floor space is strictly internal, within the walls of the existing building. Suite #4 will go from about 1500 square feet to about 17 square feet under this proposal.

In addition to interior remodeling and security improvements, the applicants will still be required to provide outdoor perimeter security improvements, such as lighting and cameras. The east exterior of the suite will also be improved with the completion of the stucco treatment of the building, with landscape planters on the north side, and with entry improvements also on the east side, in accordance with the wishes of the other tenants under the existing CUP.

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 last year, staff's evaluation and commentary on the

criteria for a medical marijuana use is provided for the commissioners again (in grey tone) as follows:

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. *(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. *(See narrative; staff has also asked Mr. Baugh for a current registration certificate to present to the commission.)*
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. *(CUP process fees are paid. Applicants must apply for their City business license, along with providing their non-profit status information for said business license, prior to beginning dispensary operations.)*
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. *(Site plan, floor plan, area maps and basic operations narrative provided.)*

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. *(Complies - the nearest dispensary is over 1 mile away; the infusion facility is over two miles away.)*
- 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. *(Complies - to the best of staff's knowledge, other protected uses do not appear to be within 750 feet.)*

2. Operating Requirements:

- a. Drive-through pickup windows shall not be allowed. Delivery service shall be allowed as per state statute. *(See floor plan exhibit - no pick-up windows possible, nor allowed.)*
- b. Outdoor seating areas at dispensaries, cultivation facilities or infusion facilities shall not be allowed. *(See floor plan exhibit - no such areas proposed, nor 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. *(Proposal appears to comply with this criteria; staff will review eventual permit submittal for required items, including detailed security plan.)*
- d. On-site consumption of medical marijuana at a dispensary, cultivation facility or infusion facility shall not be allowed. *(None proposed, nor 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. *(Dispensary must comply with 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. *(Building is pre-existing, has recently constructed façade improvements and no building expansion is proposed, only a minor floor space expansion.)*
- 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. *(Dispensary must comply with this*

provision; staff will review eventual sign permit submittal for compliance.)

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. *(Permits will be needed for some of the interior and/or exterior electrical and remodeling work; staff recommends the installation of planters to improve the curb appeal of the business. Parking is at minimum or less, but it is pre-existing. More parking intensive uses have existed in the occupancy previously, with no major problems of which staff is aware.)*
 - 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. *(Dispensary must comply with applicable ordinances and any conditions of approval requested by Commission.)*
 - c. Hours of operation will be addressed through the CUP process. *(Dispensary had previously proposed hours of operation from 8am to 10pm.)*

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 request. Staff's commentary on said criteria (in grey tone) and suggested findings for the commission's discussion and consideration, are as follows:

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. (The site is located along a major commercial corridor in the central core of the city. The surrounding streets and access points are fully improved and the site has all necessary services. The on-site improvements pre-date the city, but include paved parking and drive isles.)
- b) Negative impacts arising from the emission of odor, dust, gas, noise, lighting, vibration, smoke, heat or glare. (Although most of the remodeling work will be inside, any outside lighting being added will be required to be "dark sky" compliant. The dispensary should not generate any gas, smoke, heat or glare. The narrative for CUP-5-17 stated that Suite #4 is on a separate air conditioning and ventilation system than the rest of the building. Even so, staff will request that odor control devices be installed in the facility to further mitigate possible odor migration issues.)
- c) Contribution to the deterioration of the neighborhood or the negative impact on neighborhood property values. (Based on the city's experience with and example of the Nature's Wonder dispensary, staff expects no negative neighborhood impacts from the proposed use. The impact of these uses appears to be similar to that of a small medical clinic. If problems emerge, the City may bring the CUP back for further review, additional mitigating conditions or reconsideration at a future public hearing, should any activity allowed under the CUP become a neighborhood nuisance.)
- d) Compatibility with surrounding uses and structures. (Surrounding self-contained uses to the west, north and east are zoned commercial, so those properties should not be negatively affected. The residential neighborhood to the south should not be negatively affected either, since the site is already built out and the dispensary is a

relatively low intensity use compared to, for example, the restaurant and commercial sign company which existed in the same suite in years past. By offering a closing time of 10pm, the dispensary should not conflict with the bar's peak hours. Patient visits to the dispensary should be short in nature, thus not take up parking spaces for long periods of time. If patients stay to patronize other businesses in the plaza, the synergy would benefit all.)

- e) Conformance with the General Plan and City policies. (The proposed dispensary does not conflict with the General Plan's Downtown Mixed Use land use designation, is allowed in the zoning district by CUP and appears to comply with the criteria for a CUP, as well as the criteria for a medical marijuana use.)
- f) Screening and buffering of uses. (The site was developed long before screening and buffering requirements were in place. Such improvements are not being requested by staff. And in this case, would not be practical because of the site's open-to-the-street character and all-around parking accessibility. We will ask for modest improvements to the suite itself, including landscape planters [mentioned above] and that the stucco treatment on the east side of the building be completed.)
- g) Unique nature of the property, use and/or development's physical characteristics. (The property has driveway and parking access off of three adjacent streets; Apache Trail, Palo Verde and 1st Avenue. It is not in a major flood zone, but having been constructed under Pinal County standards many years ago as part of the Boila Tracts subdivision, it also does not have on-site retention. The property also has a service alley along its west side.)

PUBLIC NOTICE:

The CUP case was advertised for the commission's public hearing of July 10, 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. Although a dispensary at this location has already been approved, the applicants conducted their own neighborhood outreach. Their citizen participation plan is

attached. Staff has not received any public comment or inquiries relative to this CUP amendment request

PLANNING DIVISION COMMENTS AND RECOMMENDATION:

Planning staff conveyed the new ownership and management information to the police department and asked to be alerted of any concerns. As of the writing of this report, no concerns have been expressed by PD.

The securing of proper building remodeling permits, providing for optimal and safe internal design, sealing up of access points or doors between Suite #4 and other suites in Palo Verde Plaza, the provision of security lighting and high resolution security cameras in and around the suite, exterior aesthetic improvements and other items were all discussed as part of the previous CUP proposal, as part of this CUP proposal and staff will check for said items as part of the building permit review process. The provision of these items and the mitigation of these concerns are being addressed in the form of recommended conditions of approval below. The building permit review process will also include a review by Fire and Police personnel.

The applicants are informing us of new ownership and management entities in compliance with CUP-5-17, condition #13. Said information should probably simply be accepted without affecting the approved CUP, unless concerns about these groups or individuals are raised by law enforcement representatives.

The applicants' additional requests for a 6-month time extension and an expansion of 190 square feet fall more under the commission's discretion. The commission may or may not choose to grant these amendments, in which case the applicants will have to complete their improvements and be open for business on or before September 19, 2018 (one year from the date of the signing of the CUP resolution) and within the 1500 square feet originally proposed for the dispensary's use.

Staff accepts the new ownership and management information and recommends approval of the applicant's proposed CUP amendments; and as such, 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. 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-3-18, a Conditional Use Permit amendment request by Svaccha Medical Marijuana Dispensary, located at 1985 W. Apache Trail, Suite #4, represented by Adam Baugh of Withey Morris PLC, to inform the city of a change in ownership and management as described in the narrative dated June 14, 2018, to request a 6-month time extension for the completion of the project to March 12, 2019, and to increase the floor area of the dispensary by 190 square feet in accordance with drawings submitted with case CUP-3-18, subject to the findings and conditions of approval listed below:

Findings:

- A) Adequacy of roadways, off-street parking, public facilities and services to accommodate the proposed use. *(The site is located along a major commercial corridor in the central core of the city. The surrounding streets and access points are fully improved and the site has all necessary services. The on-site improvements pre-date the city, but include paved parking and drive isles.)*
- B) Negative impacts arising from the emission of odor, dust, gas, noise, lighting, vibration, smoke, heat or glare. *(Although most of the remodeling work will be inside, any outside lighting being added will be required to be "dark sky" compliant. The dispensary should not generate any gas, smoke, heat or glare. The narrative for CUP-5-17 stated that Suite #4 is on a separate air conditioning and ventilation system than the rest of the building. Even so, the city will request that odor control devices be installed in the product storage rooms to further mitigate possible odor migration issues.)*
- C) Contribution to the deterioration of the neighborhood or the negative impact on neighborhood property values. *(Based on the city's experience with and example of the Nature's Wonder dispensary, no negative neighborhood*

impacts are expected from the proposed use. The impact of these uses appears to be similar to that of a small medical clinic. If problems emerge, the City may bring the CUP back for further review, additional mitigating conditions or reconsideration at a future public hearing, should any activity allowed under the CUP become a neighborhood nuisance.)

- D) Compatibility with surrounding uses and structures. (Surrounding self-contained uses to the west, north and east are zoned commercial, so those properties should not be negatively affected. The residential neighborhood to the south should not be negatively affected either, since the site is already built out and the dispensary is a relatively low intensity use compared to, for example, the restaurant and commercial sign company which existed in the same suite in years past. By offering a closing time of 10pm, the dispensary should not conflict with the bar's peak hours. Patient visits to the dispensary should be short in nature, thus not take up parking spaces for long periods of time. If patients stay to patronize other businesses in the plaza, the synergy would benefit all.)
- E) Conformance with the General Plan and City policies. (The proposed dispensary does not conflict with the General Plan's Downtown Mixed Use land use designation, is allowed in the zoning district by CUP and appears to comply with the criteria for a CUP, as well as the criteria for a medical marijuana use.)
- F) Screening and buffering of uses. (The site was developed long before screening and buffering requirements were in place. Such improvements are not being requested now. And in this case, would not be practical because of the site's open-to-the-street character and all-around parking accessibility. The city will require modest improvements to the suite itself, including landscape planters on the north side of the building and that the stucco treatment on the east side of the building be completed.)
- G) Unique nature of the property, use and/or development's physical characteristics. (The property has driveway and parking access off of three adjacent streets; Apache Trail,

Palo Verde and 1st Avenue. It is not in a major flood zone, but having been constructed under Pinal County standards many years ago as part of the Boila Tracts subdivision, it also does not have on-site retention. The property also has a service alley along its west side.)

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 Svaccha LLC dispensary, 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) Svaccha LLC dispensary or its doing-business-as entity shall obtain their City of Apache Junction business license prior to beginning dispensary operations and shall keep their business license updated at all times.
- 3) Proper building permits shall be obtained and inspections and approvals received for any electrical, plumbing, remodeling, signage, odor control filters in the product storage rooms, dark sky compliant outdoor lighting, high resolution security cameras or other property improvements which require permits. Said improvements shall be in accordance and in substantial compliance with state requirements, the submitted plans and narrative received for CUP-3-18, prior to beginning dispensary operations. The applicants shall also submit a revised floor plan which provides for secure physical barriers between patient accessible areas and inventory and/or product storage room areas.
- 4) In addition to the improvements required in #3 above, the dispensary operators shall: (a) complete the stucco treatment (with matching paint) on the east exterior of the building; (b) provide their clearly marked main entrance on the east side of the building; (c) provide

above-ground landscape planters across the north side of their occupancy; (d) permanently seal or secure any other unnecessary exterior or interior access points to the dispensary from other suites or areas of the building; and (e) submit a detailed security plan for the dispensary, which includes perimeter lighting, and interior and exterior security cameras, but which also allows for minimal surveillance of and privacy intrusions of other businesses in the plaza (these improvements shall also be subject to review and approval by city staff) .

- 5) No other non-profit medical marijuana cultivation, infusion or dispensary facilities shall be established in the Apache Junction city limits by Svaccha LLC or any other entity without first applying through the city's conditional use permit process.
- 6) Svaccha LLC dispensary shall not offer or allow the following: on-site medical marijuana cultivation or manufacture of infused products; pick-up or drive-through windows; outdoor seating; on-site consumption of medical marijuana; loitering in or around the premises; the sale of medical marijuana or other products to any persons who do not possess a valid, current, Arizona issued, medical marijuana card.
- 7) Exterior signage for the dispensary on the north and/or east sides of their occupancy shall be subject to proper permits. The marijuana leaf symbol and the word "marijuana" shall not appear on any signs visible from outside the dispensary.
- 8) The Svaccha LLC dispensary in Suite #4 at Palo Verde Plaza shall not be allowed any expansions without the operators first processing a CUP amendment application.
- 9) Svaccha LLC shall construct all building and general property improvements in substantial compliance with the drawings submitted with the CUP application and subsequent approved submittals, and in accordance with timelines established under their operating permit from the state.

- 10) The applicants shall begin operating the dispensary no later than March 12, 2019, as requested in CUP-3-18, or within the timeframe prescribed by the Arizona Department of Health Services, whichever is sooner, or else the conditional use permit shall become void. The planning and zoning commission shall not allow any additional requests for time extensions.
- 11) 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 permits and other items for the reasonable, transparent and safe operation of Svaccha LLC dispensary.
- 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) Svaccha LLC 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, Svaccha LLC 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.
- 14) Svaccha LLC shall inform the city within 90 days of CUP approval, the name of the management company overseeing the day-to-day operations of the dispensary, and its members, directors and officers. Any change in the managing entity or its members, officers or directors shall immediately be provided to the planning division.
- 15) The Planning and Zoning Commission shall reserve the right to reconsider or overturn Svaccha's conditional

use permit approval at a new public hearing for non-compliance with any condition prescribed as part of said CUP-3-18 permit approval and/or if the use becomes a demonstrated hazard.

- 16) The owner/management company will assure the presence of two disabled/handicap parking spaces located near the east entrance.

Prepared by:



Rudy Esquivias
Senior Planner/Zoning Administrator

Attachments:

- CUP-3-18 Application (pgs. 1-3)
- CUP-3-18 Zoning & Aerial Exhibits (pgs. 4-5)
- CUP-3-18 Narrative, Site, Floor Plan & Elevation Exhibits (pgs. 6-11)
- Citizen Participation Plan (pgs. 12-16)
- Approved P&Z Resolution #CUP-5-17 (pgs. 17-21)
- Approved CUP-5-17 Conceptual Site Plan & Floor Plan (pgs. 22-23)
- Section 1-6-12 Med-Mar regs. from City of A.J. Zoning Ordinance (pgs. 24-27)
- Section 1-16-12 CUP regs. from City of AJ Zoning Ordinance (pgs. 28-31)

CITY OF APACHE JUNCTION
CONDITIONAL USE PERMIT APPLICATION FORM

RECEIVED

MAY 29 2013

Owner/Agent Information:

Name: PAVO VERDE PLAZA LLC

Telephone: 602-230-0600

Address: 500 N ESTRELA PKWY, #B-2002, GOODYEAR AZ 85338

Property Information:

Zoning Classification

Current: B-2 CUP

Requested: B-2 CUP

Property Size: .57 ☒ acres ☐ square feet County Tax Assessor Parcel #: 101-09-0010

Legal Description of Property (found on County Tax Bill Notices): SEE ATTACHED

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

1985 W. APACHE TRAIL

List all improvements to Property: COMMERCIAL BUILDING

Structures/Use of Adjacent Properties:

North: COMMERCIAL BUILDINGS

South: RESIDENTIAL

East: AUTO DEALER - USED

West: COMMERCIAL BUILDINGS

Reason for Conditional Use Permit Request:

TO AMEND EXISTING #CUP-5-17 TO UPDATE CHANGE IN NEW MANAGEMENT COMPANY.

FOR OFFICE USE ONLY

Case No: _____

Date Filed: _____

Receipt No: _____

Fee Amount: \$ _____

Application Received By: _____

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 Withey Morris PLC 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

PALO VERDE PLAZA, LLC

Property Owner Name Robert Jeremy Hoerack, Trustee
Maria Catherine Ricarte-Hoerack, Trustee

Signature

Maria Ricarte-Hoerack

Street Address

500 N. ESTRELLA PKWY APT B2602

City, State, Zip GOODYEAR, AZ 85339

Telephone

623-444-5588

PALO VERDE PLAZA, LLC

Property Owner Name

Signature

Maria Ricarte-Hoerack

Street Address

City, State, Zip

2525 E. Arizona Biltmore A-212

Agent Name PHOENIX AZ 85016

Telephone

602 230 0600

Signature

ADAM BAUGH / WITHEY MORRIS PLC

Street Address

A. Baugh

City, State, Zip

Telephone

STATE OF ARIZONA)

SS

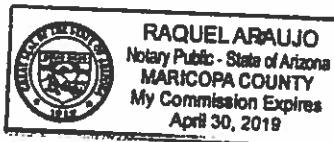
COUNTY OF PINAL)

MARICOPA

The foregoing instrument was acknowledged before me this 3 day of MAY, 2018.

Notary Public

My Commission Expires: 04/30/2019

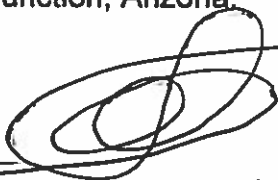


April 25, 2018

Re: Owner Authorization / Verification

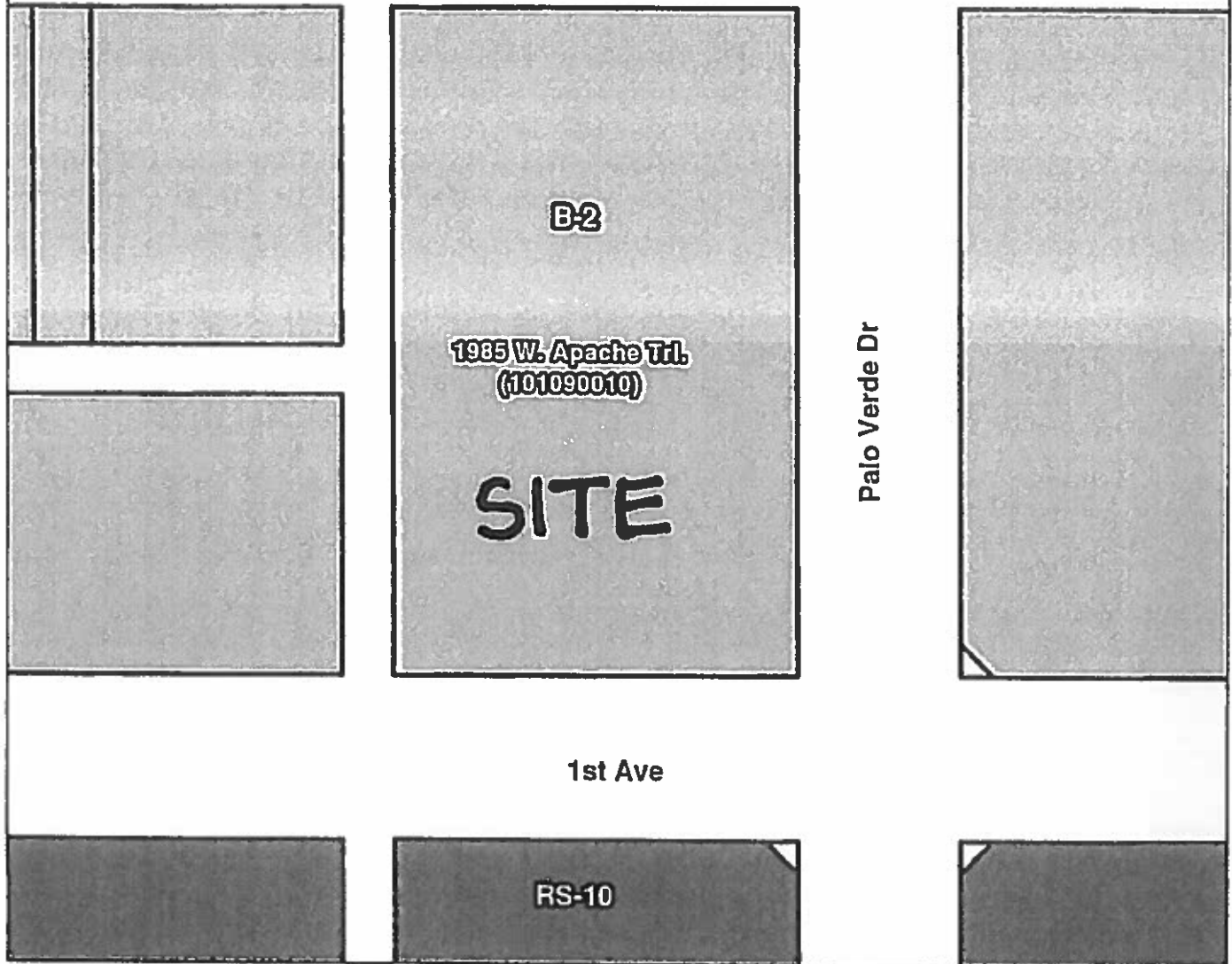
To Whom It May Concern:

Please accept this letter and signature below as my consent and authorization to Withey Morris PLC to file a conditional use permit amendment application with the City of ~~Phoenix~~ ^{Apache Junction} for the property located at 1985 W. Apache Trail Suite #4 (APN 101-09-0010) in Apache Junction, Arizona.

By:  Maria Ricatta-Hoenack
Name: Jeremy Hoenack, TRUSTEE
Palo Verde Plaza, LLC Maria Ricatta-Hoenack, trustee

CONDITIONAL USE PERMIT AMENDMENT REQUEST FOR AN APPROVED MEDICAL MARIJUANA DISPENSARY.

Apache Trl



City of Apache Junction Zoning Exhibit

LEGEND

- Subject Site
- Parcel

Zoning

- B-2
- RS-10

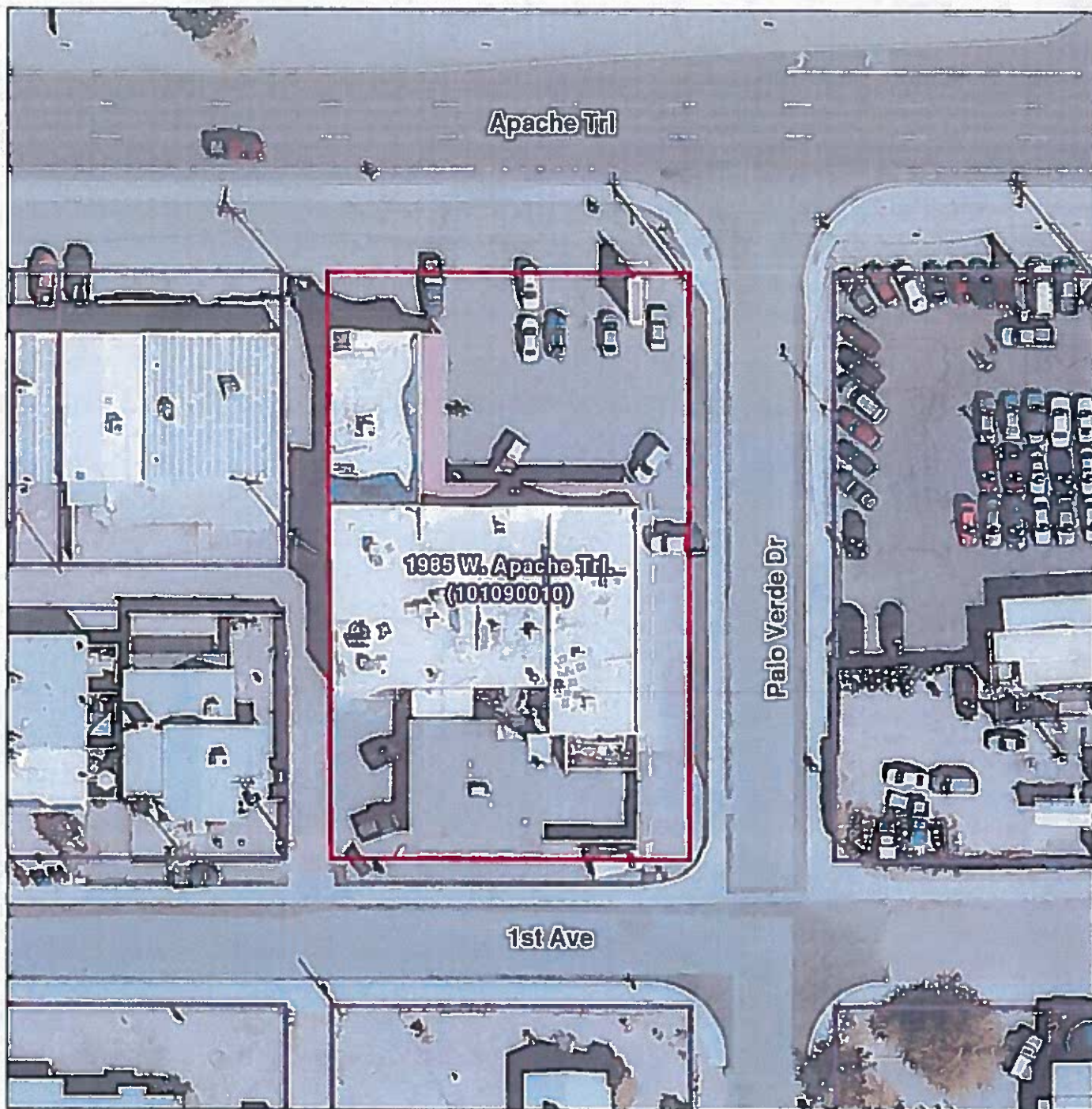
DISCLAIMER This exhibit was produced without benefit of a field survey and is not intended to represent a survey document of any kind. Distances shown hereon are approximate. Parcel lines shown hereon are approximate and may not reflect the exact position or alignment of parcel lines, roadway center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



July 27, 2017



Created By: Joseph Kiner



City of Apache Junction Aerial Exhibit

LEGEND

-  Subject Site
-  Parcel

CUP-3-18

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.



July 27, 2017

0 10 20 30 40 50 100 Feet





PHONE: 602-230-0600

FAX: 602-212-1787

2525 E. Arizona Biltmore Circle, Suite A-212, Phoenix, AZ 85016

⑥

June 14, 2018

Rudy Esquivas
Senior Planner/ Zoning Administrator
Planning & Development Department
300 E. Superstition Blvd
Apache Junction, AZ 85119

RE: Case No. CUP5-17 (Medical Marijuana Dispensary) Svaccha LLC

Dear Mr. Esquivas:

This office represents the controlling party of the non-profit entity SVACCHA, LLC ("Svaccha"), the successful Applicant of the Apache Junction CHAA for a Medical Marijuana Dispensary to be located at 1985 W. Apache Trail Suite #4. Aerial Map at **Tab 1**. The purpose of this request is to amend the approved CUP 5-17 to update the ownership/management team, update the floor plan, and request a minor time extension.

On September 12, 2017, the Planning and Zoning Commission approved a Conditional Use Permit (CUP 5-17), allowing for a Medical Marijuana Dispensary to be located at 1985 W. Apache Trail. Approval Ordinance at **Tab 2**. This approval was conditioned upon the following:

13) Svaccha LLC 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, Svaccha 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.

Recent changes to Svaccha necessitate an update to the existing CUP5-17 approval. The sole Member of Svaccha is Harvest Dispensaries, Cultivations & Production Facilities, LLC and the new manager of Svaccha, LLC is Paul Nowak. The management company for Svaccha is Randy Taylor Consulting, LLC, an Arizona limited liability company, who is contracting with SSW Investments III, LLC to manage the dispensary. Accordingly, this application requests an amendment to the CUP to reflect this change. To be clear though, the Arizona State dispensary certificate at this location will still be Svaccha as it has always been since the original CUP approval

The dispensary will be doing business as (DBA) Nirvana, which is a well-respected, quality operator who has multiple locations across Arizona, including stores in Phoenix, Oro Valley, Glendale, and Prescott Valley. Nirvana has been an Arizona medical marijuana dispensary operator for many years and will continue to operate responsibly and in full compliance with all state and local regulations across their group of Arizona stores.

As with the original SVACCHA CUP5-17 approval, the operator will continue to observe all

requirements of the State law, Apache Junction Zoning Ordinance, including security plan, operations and procedures, and any attendant stipulations of approval. Essentially, the status quo remains the same and the dispensary will open at this location.

Per Stipulation 8, this application amends the floor plan to show a storage and inventory area within the dispensary. This results in only a minor increase of 190 square feet. The storage area is internal within the suite and will comply with all state and regulatory requirements.

Along with this CUP amendment, the application requests an additional 6-month time extension from September 12, 2018 to March 12, 2019, as permitted in Stipulation 10: "*A CUP extension request may be requested in a timely fashion by the operators of the dispensary if more time is needed*". This will allow the necessary time to complete the required plans for building permits and construct the site improvements as stipulated in Stipulations 3, 4, 7, and 15.

We respectfully request that you accept this letter as a formal request to amend CUP5-17. Please let me know if you require additional information or documents to address this request.

Sincerely

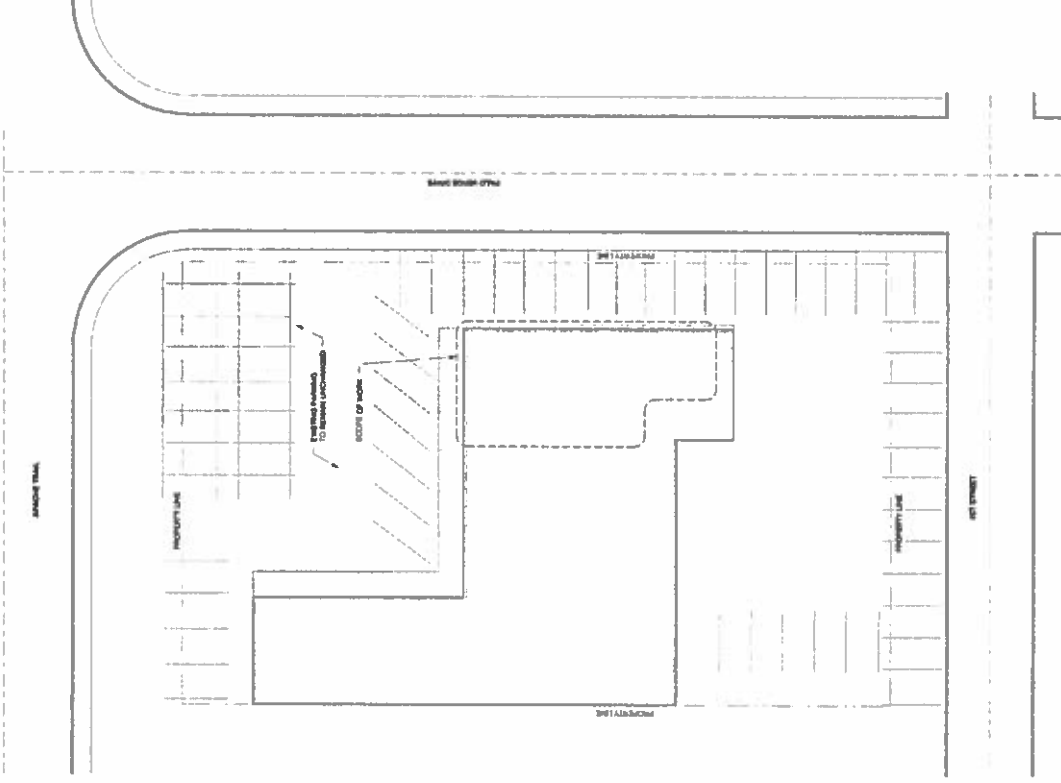
Withby Morris, PLC

A handwritten signature in black ink, appearing to read 'A. Baugh'.

Adam Baugh



DRAWN BY:	Author
CHECKED BY:	Checker
DATE:	MAY 27 2018



1 SITE PLAN
 SCALE: 1/8" = 1'-0"



DESIGN BY: A.V.
 CHECKED BY: D.E.S.
 DATE: MAY 27, 2018

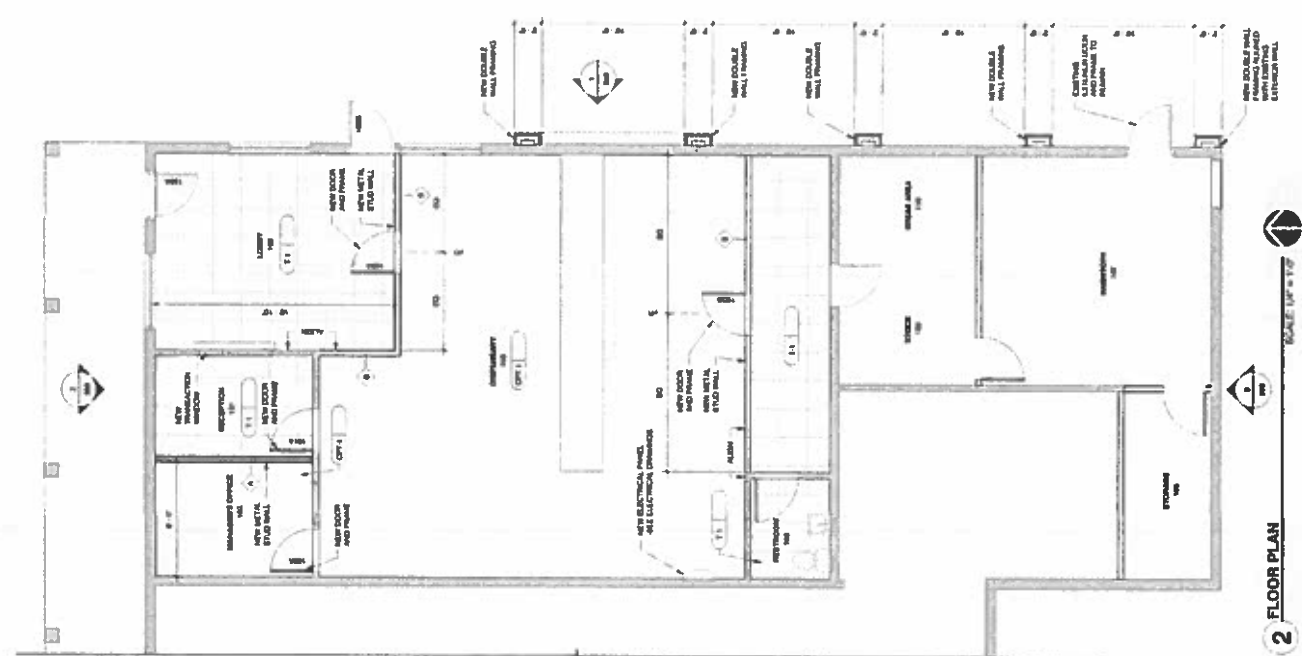
201
A

FLOOR PLANS

9



1 DEMO FLOOR PLAN
 SCALE 1/4" = 1'-0"



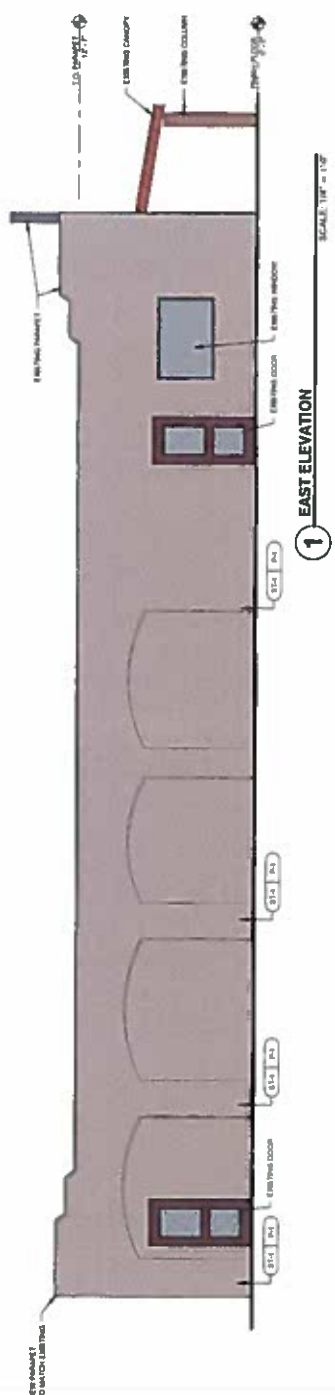
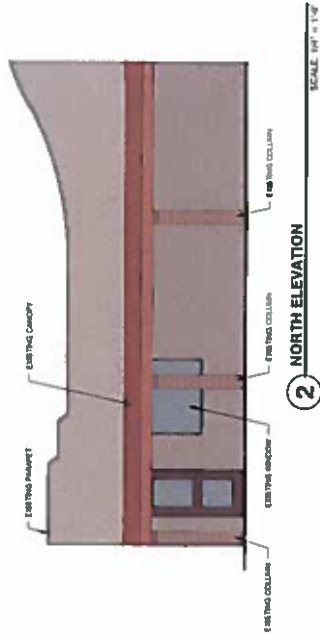
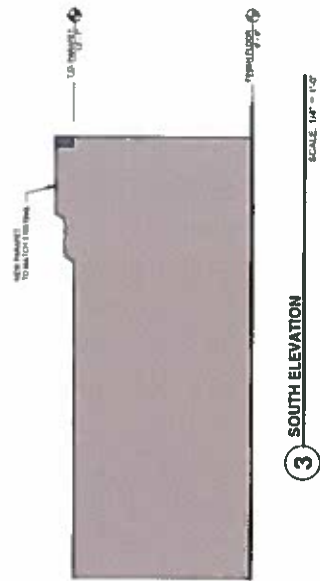
2 FLOOR PLAN
 SCALE 1/4" = 1'-0"



DRAWN BY: A.V.
CHECKED BY: D.B.R.
DATE: JUNE 11, 2018

A
300

**PAVING
ELEVATIONS**



**Citizen
Participation
Plan**

Svaccha

1985 W. Apache Trail

Prepared by:

Withey Morris, PLC
2525 East Arizona Biltmore Circle
Suite A-212
Phoenix, Arizona 85016

Submitted to:

City of Apache Junction
300 E. Superstition Blvd.
Apache Junction, AZ 85119

Date:
May 23, 2018

1. Project Description and Possible Impacts

The subject property is located at 1985 W. Apache Trail, in Apache Junction (the "Property"). The Property is zoned B-2 Commercial and is part of a larger commercial area fronting Apache Trail.

In accordance with State law, on September 12, 2017, the Planning and Zoning Commission approved a Conditional Use Permit (CUP 5-17), allowing for a Medical Marijuana Dispensary to be located at the Property. Per the conditions of approval, the operator is required to file an amendment to the approved CUP when there is a change in the management company.

Recent changes to Svaccha necessitate an update to the existing CUP5-17 approval. The new management company for Svaccha is Randy Taylor Consulting, LLC, an Arizona limited liability company, and the new managing member is Paul Nowak. Accordingly, this application requests an amendment to the CUP to reflect this change.

No impacts are expected by this change in management. The proposed use remains compatible with the existing commercial area and will create minimal traffic since only state-qualified patients and designated caregivers will visit the dispensary. Nothing will be sold to any other members of the public. No other prescription medicine will be sold.

Per section §1-6-12 of the Apache Junction Zoning Ordinance, a Medical Marijuana Dispensary is permitted in the B-2 district, subject to spacing requirements to which this site already complies as affirmed by the prior Planning Commission approval. As part of the prior CUP approval, the public was appropriately informed and participated in the process.

By providing this notification, area residents will be given the opportunity to provide comments on the proposed use permit amendment.

2. Notification Technique

A notification letter will be sent to all property owners located within 300' of the Property. The letter will describe the amendment purpose and will be sent by first class mail. The letter will include a general explanation of the intended use and the name and contact information for the applicant if the public has any questions or comments.

An outlined map of the 300' notification area is attached as **Exhibit 1**. All property owners on this map will be notified by letter. See Mailing List attached at **Exhibit 2**.

The applicant will work closely with Rudy Esquivias, the City Planner assigned to this project, to keep staff apprised on the status of our Citizen Participation efforts. The Planner will be notified of all contact with neighbors.

3. Public Response

All persons listed on the Mailing List will receive a letter prepared by the applicant describing the project and the proposed use. The letter will include a general explanation of the desired use as well as contact information for the applicant. Individuals will be able to contact the applicant at any time during the application process with questions and/or comments. Additionally, those who wish may attend the public meeting to discuss the project with the applicant and development team.

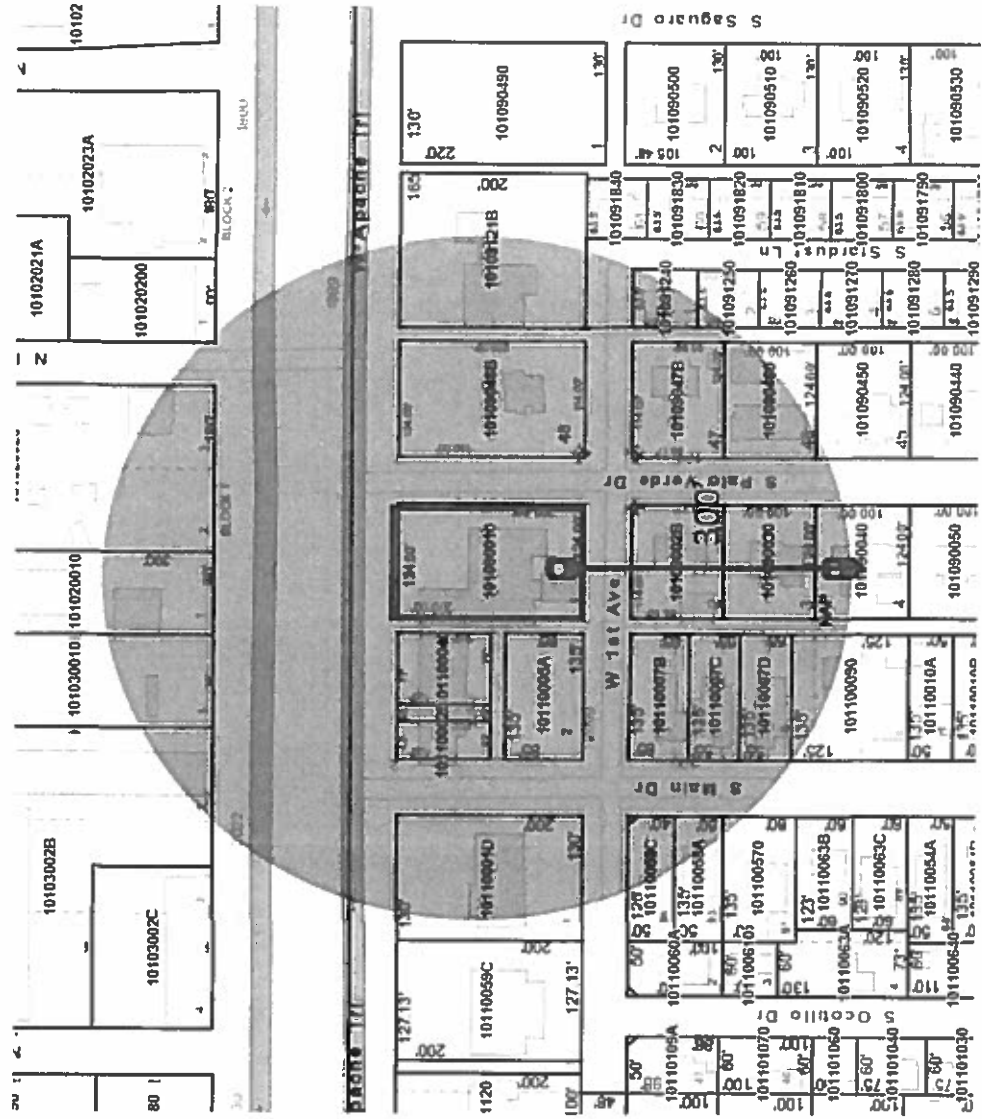
4. Notification of Amendments

If major changes of substance are made to the application prior to the hearing date, the applicant will discuss with those who have shown interest in the project during the process or, if need be, an updated notification letter will be sent out.

5. Updates on Citizen Participation Efforts

The applicant intends to work closely with City Staff during the processing of this application and, as such, pertinent information regarding Citizen Participation efforts will be provided to the assigned Staff for this project as needed.

Parcel Map and 300' buffer





5160®

Easy Peel® Address Labels
Bend along line to expose Pop-up Edge®Go to avery.com/templates !
Use Avery Template 5160 !

16

ALMON LORNA
163 S PALO VERDE DR
APACHE JUNCTION , AZ 85120

E KATE PROPERTIES LLC
94 S MOUNTAIN VIEW RD
APACHE JUNCTION , AZ 85119

GUTIERREZ TRINIDAD
104 S MAIN DR
APACHE JUNCTION , AZ 85120

HUTSELL NICK & PAM
1880 W APACHE TRL
APACHE JUNCTION , AZ 85120

KOPP TODD M & KATHIE N
PO BOX 3474
APACHE JUNCTION , AZ 85117

MARTINEZ JESSE & JULIA C
110 S PALO VERDE DR
APACHE JUNCTION , AZ 85120

OSUNA ROXZY
140 S STARDUST LN
APACHE JUNCTION , AZ 85120

PITNEY FLOYD E & BECKY A
393 E CAMPBELL RD
CHANDLER, AZ 85225

SANSTEAD JERRY & CATHERINE
11131 E SLEEPY HOLLOW TRL
GOLD CANYON, AZ 85118

WILLIAMS DONALD
120 S STARDUST LN
APACHE JUNCTION , AZ 85120

AVALANCHE INVESTMENTS LLC
146 S PALO VERDE DR
APACHE JUNCTION , AZ 85120

ENPOWERMENT SYSTEMS INC
2066 W APACHE TRL STE 116
APACHE JUNCTION , AZ 85120

HERRING WAYNE G & CHRISTINE M
107 S PALO VERDE DR
APACHE JUNCTION , AZ 85120

J & I MANAGEMENT LLC
3025 S MESITA
MESA, AZ 85212

L R K INC
6424 S TOPAZ CT
GOLD CANYON, AZ 85118

MAYO GERRAN & WRIGHT MELISSA
121 S MAIN DR
APACHE JUNCTION , AZ 85120

PALO VERDE PLAZA LLC
500 N ESTRELLA PKWY APT B2602
GOODYEAR, AZ 85338

PLEASANT ACRES RV PARK LLC
1155 S POWER RD STE 114
MESA, AZ 85206

SONGSTAD JAMES R JR & STACEY L
501 MAPLE AVE
SNOHOMISH, WA 98290

CALDERON CHRISTINA
4008 FARM HILL BLVD APT 201
REDWOOD CITY, CA 94061

FORD JOHN E & ARDITH R TRS FORD
FAM TRUST
5322 E 36TH AVE
APACHE JUNCTION , AZ 85119

HUISH DALE A
312 S TUCANA CT
GILBERT, AZ 85296

KLEIN JULIE A
135 S MAIN DR
APACHE JUNCTION , AZ 85120

LEON CLINT M & MINDY A
156 S PALO VERDE DR
APACHE JUNCTION , AZ 85120

MORENO MARIA DE LA LUZ CASTILLO
686 S MAIN DR
APACHE JUNCTION , AZ 85120

PERKINS NOLA L
145 S PALO VERDE DR
APACHE JUNCTION , AZ 85120

POMYKALA RONALD J TR
PO BOX 2148
GILBERT, AZ 85299

SONGSTAD JAMIE R JR & STACEY L REV
LIV TRUST
12507 REINER RD
MONROE, WA 98272

PLANNING AND ZONING COMMISSION
RESOLUTION NO. CUP-5-17

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING A CONDITIONAL USE PERMIT, CASE NO. CUP-5-17, TO ALLOW SVACCHA LLC, REPRESENTED BY JAREB MACKIN AND JENIFER COREY, TO OPERATE A NON-PROFIT MEDICAL MARIJUANA DISPENSARY AT 1985 W. APACHE TRAIL, SUITE #4.

WHEREAS, in 2016, the Arizona Department of Health Services ("ADHS") made available a second round of non-profit medical marijuana dispensary certificates to qualified applicants; and furthermore, determined that the Apache Junction Community Health Analysis Area ("CHAA") could support another non-profit medical marijuana dispensary; and

WHEREAS, Svaccha LLC was the successful applicant for the Apache Junction CHAA; and

WHEREAS, pursuant to Ordinance No. 1444, approved on March 7, 2017, the city's medical marijuana regulations were amended and updated to bring the city's ordinance closer into compliance with current state law and ADHS policies, to better define and identify protected uses, to make necessary adjustments and clarifications in the ordinance, and to allow for an additional dispensary in the City of Apache Junction; and

WHEREAS, on or about June 20, 2017, a new conditional use permit application was submitted to the City of Apache Junction by Palo Verde Plaza LLC (property owner) and Svaccha LLC, represented by Jareb Mackin and Jenifer Corey (applicants), requesting approval to locate a new dispensary at 1985 W. Apache Trail, Suite #4, which is part of a property legally described as:

Lot 1, Boila Tracts Subdivision, according to Book 8 of Maps, Page 47, records of Pinal County, Arizona (also known as Pinal County Assessor Parcel #101-09-001); and

WHEREAS, on August 8, 2017, the City of Apache Junction Planning and Zoning Commission held a meeting to discuss case CUP-5-17 with planning division staff; and then on August 22,

2017, held a public hearing on the case, but decided to continue the case until their meeting of September 12, 2017, for the purpose of seeking input from an affected business owner in the multi-tenant plaza and for the purpose of allowing all of the commission members to hear and decide the case, since only four out of the seven commission members were present; and

WHEREAS, on September 12, 2017, after public hearing and deliberation, the Planning and Zoning Commission decided to approve case CUP-5-17, with conditions.

NOW THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission of the City of Apache Junction, Arizona, that a conditional use permit ("CUP") is hereby approved, allowing Svaccha LLC, to locate and operate a non-profit medical marijuana dispensary at 1985 W. Apache Trail, Suite #4, as described in the plans, narrative and other materials submitted with case CUP-5-17 on file with the planning division, pursuant to Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-6: Supplemental Regulations, Section 1-6-12 Medical Marijuana; and Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-16: Administration, Section 1-16-12 Conditional Use Permits, Administrative Use Permits and Building Permits, Section (D) Conditional Use Permits, 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 Svaccha dispensary 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) Svaccha dispensary shall obtain their City of Apache Junction business license prior to beginning dispensary operations and shall keep their business license updated at all times.

- 3) Proper building permits shall be obtained and inspections and approvals received for any electrical, plumbing, remodeling, signage, odor control filters in the product room, dark sky compliant outdoor lighting, high resolution security cameras or other property improvements which require permits. Said improvements shall be in accordance and in substantial compliance with state requirements, the submitted plans and narrative received for CUP-5-17, prior to beginning dispensary operations. The applicants shall also submit a revised floor plan which provides for secure physical barriers between patients in the product room and access to the product safes.
- 4) In addition to the improvements required in #3 above, the dispensary operators shall: (a) complete the stucco treatment (with matching paint) on the east exterior of the building; (b) provide their main entrance on the east side of the building; (c) provide above-ground landscape planters across the north side of their occupancy; (d) permanently seal or secure any other exterior or interior access points to the dispensary from other suites or areas of the building; and (e) submit a detailed security plan for the dispensary, which includes perimeter lighting, and interior and exterior security cameras, but which also allows for minimal surveillance of and privacy intrusions of other businesses in the plaza (these improvements shall also be subject to review and approval by city staff) .
- 5) No other non-profit medical marijuana cultivation, infusion or dispensary facilities shall be established in the Apache Junction city limits by Svaccha or any other entity without first applying through the city's conditional use permit process.
- 6) Svaccha dispensary shall not offer or allow the following: on-site medical marijuana cultivation or manufacture of infused products; pick-up or drive-through windows; outdoor seating; on-site consumption of medical marijuana; loitering in or around the premises; the sale of medical marijuana or other products to any persons who do not possess a valid, current, Arizona issued, medical marijuana card.

- 7) Exterior signage for the dispensary on the north and/or east sides of their occupancy shall be subject to proper permits. The marijuana leaf symbol and the word "marijuana" shall not appear on any signs visible from outside the dispensary.
- 8) The Svaccha dispensary in Suite #4 at Palo Verde Plaza shall not be allowed any expansions without the operators first processing a CUP amendment application.
- 9) Svaccha shall construct all building and general property improvements in substantial compliance with the drawings submitted with the CUP application and subsequent approved submittals, and in accordance with timelines established under their operating permit from the state.
- 10) The applicants shall begin operating the dispensary within 12 months of the granting of CUP-5-17, 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.
- 11) 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 Svaccha dispensary.
- 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) Svaccha LLC 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, Svaccha 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.

- 13A) Svaccha LLC shall inform the city within 90 days of CUP approval, the name of the management company overseeing the day-to-day operations of the dispensary, and its members, directors and officers. Any change in the managing entity or its members, officers or directors shall immediately be provided to the planning division.
- 14) The Planning and Zoning Commission shall reserve the right to reconsider or overturn Svaccha's conditional use permit approval at a new public hearing for non-compliance with any condition prescribed as part of said CUP-5-17 permit approval and/or if the use becomes a demonstrated hazard.
- 15) The owner/management company will assure the presence of two disabled/handicap parking spaces located near the entrance.

PASSED AND ADOPTED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, ON THIS 12TH DAY OF SEPTEMBER, 2017.

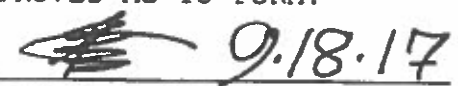
SIGNED AND ATTESTED TO THIS 19th DAY OF September 2017.


THERESA NESSER, Chairwoman
Planning and Zoning Commission

ATTEST:


LARRY KIRCH
Development Services Director

APPROVED AS TO FORM:

 9.18.17
RICHARD J. STERN
City Attorney

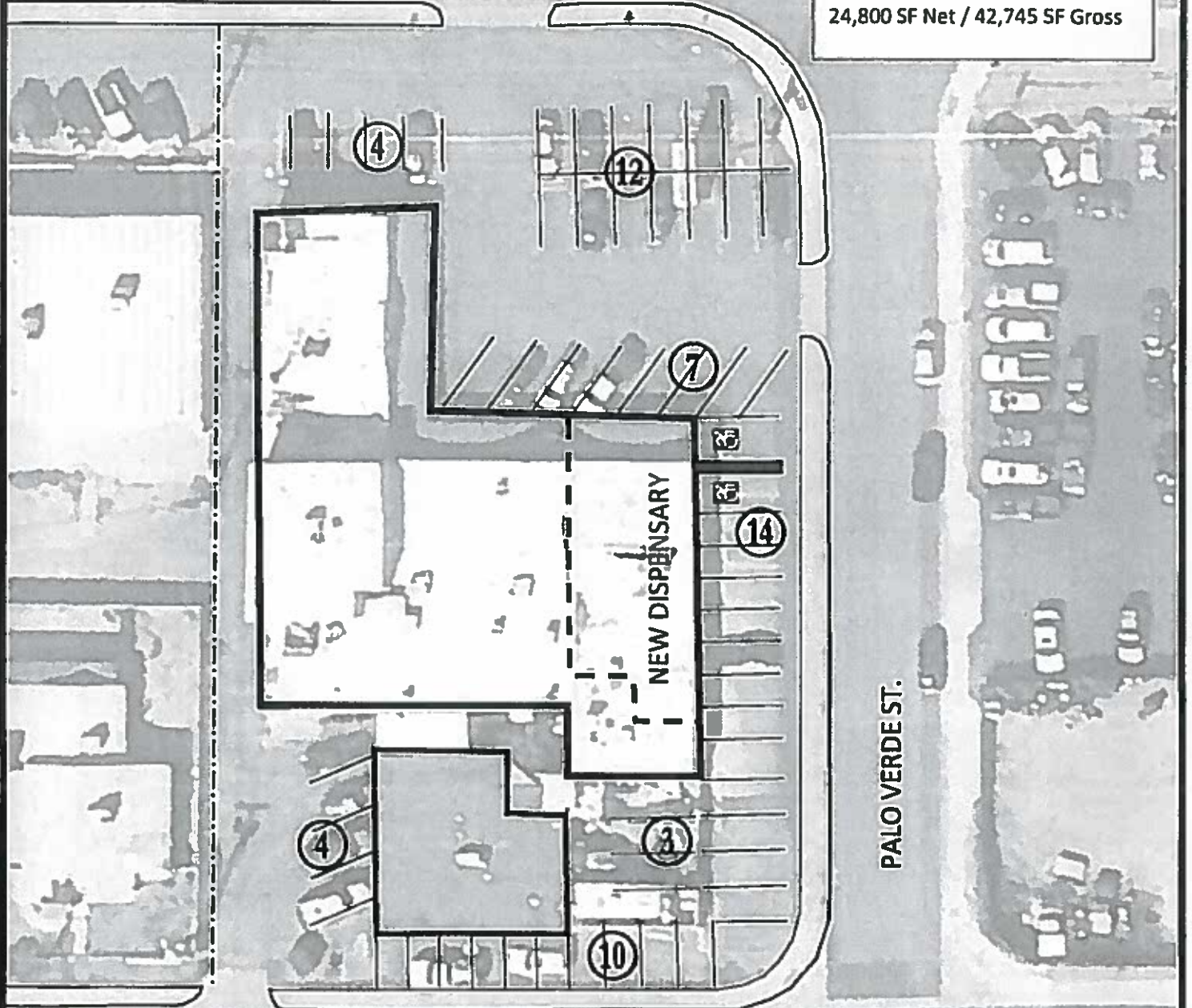
APACHE TRAIL

MEDICAL MARIJUANA DISPENSARY

1985 W. APACHE TRAIL, STE 4

APN: 101-09-001

24,800 SF Net / 42,745 SF Gross



PALO VERDE ST.

1st ST

PARKING ANALYSIS:

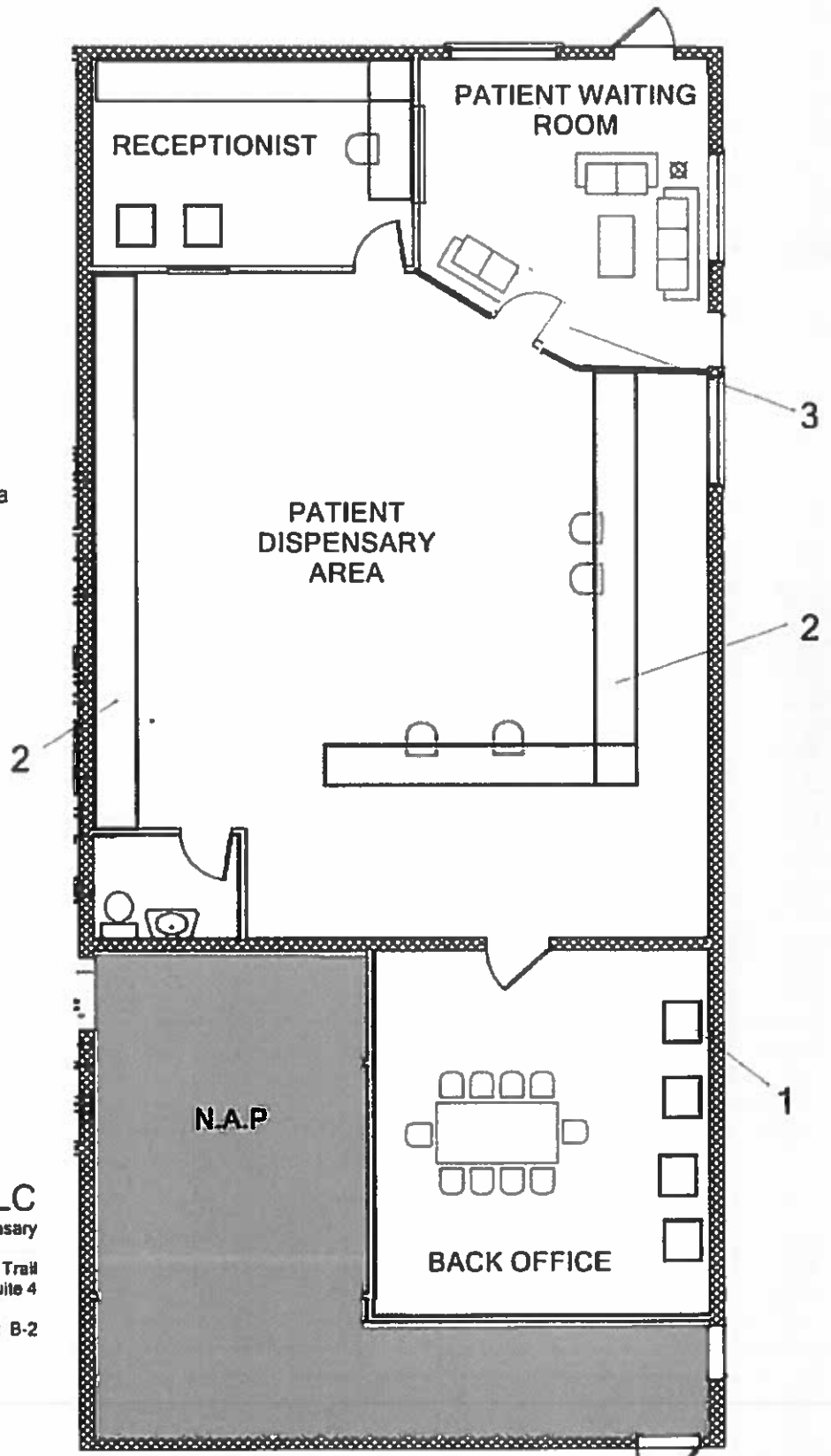
EXISTING PARKING: 54 spaces

1A (Pawn):	400sf @ 1:300sf
1B (Tattoo):	1050sf @1:300sf
2 (Bar):	3000sf@1:100sf
3 (Restaurant):	875sf @1:100sf
4 (MM Disp):	1500sf @ 1:300sf
5 (Apartment):	2 spaces
=	51 spaces required

© 2017 Google

1. Floor Mounted Safes
2. Display Cabinets
3. Restricted Door to Dispensing Area

NOTE: All required security devices will be installed in accordance with State Law



SVACCHA LLC
a medical marijuana dispensary

1985 W Apache Trail
Suite 4

ZONING: B-2

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.