



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

www.ajcity.net
P: (480) 474-5083

Tuesday, July 9, 2019

7:00 PM

City Council Chambers

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 6 - Chairperson Nesser
 Commissioner McGraw
 Vice Chair Heck
 Commissioner Howard
 Commissioner Kridler
 Commissioner Hantzsch

Excused 1 - Commissioner Ooley

Staff present:

Joel Stern, City Attorney
Larry Kirch, Department Director
Rudy Esquivias, Senior Planner
Lt. Thomas Parker

4. Approval of Agenda

[19-261](#) Consideration of approval of agenda.

Vice Chair Heck motioned, seconded by Commissioner McGraw, to accept the agenda as presented. Approved in a vote of 6 in favor and 0 opposed. (Yes: Hantzsch, Heck, Howard, Kridler, McGraw, Nesser. No: none.)

5. Approval of Minutes

[19-262](#) Consideration of approval of regular meeting minutes of May 14, 2019.

Vice Chair Heck motioned, seconded by Commissioner McGraw, that the Planning and Zoning Commission approve the minutes from the May 14th, 2019 regular meeting. Approved in a vote of 5 in favor and 1 opposed. (Yes: Nesser, Hantzsch, Heck, Howard, McGraw. No: Kridler.)

6. Public Hearings

19-329

Presentation, discussion, public hearing and consideration of possible revocation of case CUP-4-17 (Planning and Zoning Commission Resolution No. CUP-4-17), a conditional use permit amendment granted to Perpetual Healthcare Inc. (applicants), represented by Lindsay Schube of Gammage and Burnham PLC, to construct an additional permanent building at an existing non-profit medical marijuana cultivation and infusion kitchen facility, on a property owner by MBD Holdings LLC, at 1575 E. 18th Avenue, zoned B-5 (Industrial).

Senior Planner Esquivias gave a presentation on the proposed revocation of CUP-4-17.

The commission and staff discussed that the CUP can be revoked before the expiration date of November 21, 2019; that at the last site visit it appeared that the cultivation has been phased out but the infusion kitchen is still in use; that the mobile minis still on the property will need to be removed prior to November 21, 2019; that the date of November 21 will allow them to wind down and phase out the operations; that staff is recommending the commission give them until November 21 to close operations and be off the property; that the infusion kitchen was in place before CUP-4-17 was approved; that the commission can revoke the CUP immediately; that any marijuana violations are directed to the Arizona Department of Health Services; that if the CUP is revoked the property reverts back to a B-5 industrial zoned property which hasn't changed as the approved CUP is what allowed the medical marijuana activity on the property; that the operators will have to remove the mobile minis and any items related to the cultivation and infusion kitchen - anything that belongs to Perpetual Healthcare; that if they don't move out by the date stated, notices of violations and further action may be taken and staff will notify the Department of Health Services that the CUP will be expiring on November 21; staff will also continue with surprise inspections until the day Perpetual Healthcare moves out of the building; that there are rules in place for building access and if they are found to be ignored, city staff can report to DHS, DHS can do their own inspections to verify if they are in compliance; that the police department never actually found someone on the property that wasn't allowed to be there; that the feuding set of owners are providing information that the rules and laws are being violated and in return the police department has increased the unscheduled inspections; that an additional condition can be added that allows the immediate revocation of the CUP; that although there hasn't been any actual violations witnessed at the time of inspections and other than the CUP conditions found by staff, the reported violations have been reported to DHS.

Chair Nesser invited Mike Maerowitz, from Gammage and Burnham, representing the applicants, to address the commission.

The commission and Mr. Maerowitz discussed that Perpetual Healthcare understands the deadlines associated with CUP revocation and the continued unannounced inspections by the police department.

The commission and staff discussed that the unannounced visits by the police department are sufficient to receive the necessary information on the progress of the move from the property; that the police department feels that at this time there are no threats to the safety of the public by this business and their operations.

Chair Nesser opened the public hearing portion of the item.

Scott Tideman, representing the property owner David House, addressed the commission regarding the revocation of CUP-4-17. He asked that only CUP-4-17 be revoked and asked that CUP-2-14 be left alone and Mr. House understands that if a new tenant comes in, they would have to apply for a new CUP for their business.

The commission and staff discussed that if CUP-4-17 is revoked it removes the medical marijuana use; the property has certain rights for different uses and a new business outside those rights would have to apply for a new CUP.

Having no further discussion, Chair Nesser called for a motion.

Vice Chair Heck moved, seconded by Commissioner McGraw, that the Planning and Zoning Commission revoke case CUP-4-17, Planning and Zoning Commission Resolution No. CUP-4-17, a conditional use permit amendment to cases CUP-2-14 and CUP-2-15 approving Perpetual Healthcare's plans for a permanent building expansion to a non-profit medical marijuana cultivation and infusion kitchen facility located at 1575 E. 18th Avenue which includes the eventual removal of all temporary mobile minis and trailers, and constructing a new permanent 3rd building on the property because of the following findings; and I submit findings a, b and c from the July 2nd, 2019 staff report and subject to the following conditions; and I submit conditions 1 through 4 from the July 2nd, 2019 staff report, and add a fifth condition which is number 5 being expiration and revocation of CUP-4-17 incorporates by reference and also revokes any and all approvals granted under CUP-2-14 and CUP-2-15. Approved in a vote of 6 in favor and 0 opposed. (Yes: McGraw, Nesser, Hantzsche, Heck, Howard, Kridler. No: none.)

19-339

Presentation, discussion, public hearing and consideration of conditional use permit case CUP-1-19, an application by 88 Trails Corporation, represented by Chris Baxla of Signs Plus, requesting approval to affix signs that are larger than normally allowed under the city's sign code, on the canopy of the gas station and convenience store business located at 1571 W. Apache Trail, zoned B-2 (Old West Commercial).

Senior Planner Esquivias gave a presentation on case CUP-1-19.

The commission and staff discussed that future signs could potentially be on the building; that the canopy signs are longer, not taller; the configuration of the property makes the placement of monument signs difficult; the approval of the building plans can take a couple of weeks; that a condition to remove the monument sign before approval of the building signs can be added.

Chris Baxla of Signs Plus addressed the commission. Mr. Baxla said that removal of the monument signs before the building permits being issued would be difficult. He said it would remove all advertising of gas prices and essentially shut the station down. Instead he asked that the final inspection be delayed until the monument signs are removed which would be a better option and allow them to advertise their gas prices.

The commission and Mr. Baxla discussed that it could be about 3 months until the project is complete.

The commission discussed the findings of the case.

Vice Chair Heck moved, seconded by Commissioner McGraw, that the Planning and Zoning Commission approve case CUP-1-19, a conditional use permit application by 88 Trails

Corporation, represented by Chris Baxla of Signs Plus, requesting approval of canopy signs larger than normally allowed by the city's sign code, to be located on a 0.49-acre, B-2 (Old West Commercial) zoned property located at 1571 W. Apache Trail, at the southeast corner of S. Ironwood Drive and W. Apache Trail, in accordance with the following findings; and I submit the two findings, a and b, that are part of the July 9th staff report and subject to the following conditions of approval; and I submit the 6 conditions as presented in the July 9th staff report. Approved in a vote of 6 in favor and 0 opposed. (Yes: Kridler, McGraw, Nesser, Hantzsche, Heck, Howard. No: none.)

7. Old Business

None.

8. New Business

[19-331](#)

Presentation and discussion of a proposed amendment to Apache Junction City Code: Volume II, Chapter 1, Zoning Code, Article 1-13, Design Standards, creating section 1-13-4 Art in public and private development which provides for required art installations viewable by the public for commercial and multifamily developments and city capital improvement projects.

Director Kirch gave a presentation of the proposed amendments.

The commission and staff discussed the definition of art and an artist isn't finalized yet; there will be mechanisms in the amendments that account for liability and ownership; that the document is still in its draft phase and an updated version will be presented at the next meeting.

9. Information and Reports

Director Kirch announced that the Active Transportation Plan was submitted for a state planning award recently and hopes to hear of the outcome soon.

10. Director's Report

[19-330](#)

Presentation and discussion of the proposed Planning and Zoning Commission General Plan review schedule.

Director Kirch discussed the 2020 General Plan update, the role of the Planning and Zoning Commission, and the dates the Planning and Zoning Commission will start reviewing and making recommendations on the proposed plan.

11. Selection of Meeting Dates, Times, Location and Purpose

Vice Chair Heck moved, seconded by Commissioner McGraw, that the Planning and Zoning Commission hold a regular meeting on July 23, 2019 at 7:00 pm in the city council chambers located at 300 E. Superstition Boulevard. Approved in a vote of 6 in favor and 0 opposed. (Yes: Howard, Kridler, McGraw, Nesser, Hantzsche, Heck. No: none.)

12. Adjournment

Adjournment:
Meeting adjourned at 8:40 p.m.

Theresa Nesser
Chairperson