



City of Apache Junction

Development Services Department



1

PLANNING AND ZONING COMMISSION PUBLIC HEARING STAFF REPORT

DATE: October 12, 2021

CASE NUMBER: P-21-66-CUP

REQUEST: A Conditional Use Permit (CUP) amendment to continue the use of an existing marijuana cultivation and infusion kitchen under new ownership.

PROPERTY OWNER: MBD Holdings LLC C/O David House

APPLICANTS: R and J Green Investments, LLC represented by Michael Roth

LOCATION: The subject site is located at 1575 E. 18th Avenue, on the southwest corner of S. Tomahawk Road and E. 18th Avenue (Assessor parcel #102-07-216B).

**GENERAL PLAN/
ZONING DESIGNATION:** Designated "Light Industrial/
Business Park and Industrial";
Zoned "B-5" (Industrial).

SURROUNDING USES:

NORTH: Vacant industrial lots (zoned B-5);

SOUTH: Palm Springs Mobile Homes Subdivision (zoned RS-7M);

EAST: Bel Agave Subdivision (zoned RS-5/PD);

WEST: Industrial business (zoned B-5).

BACKGROUND

The Palm Springs Unit 6 Industrial Subdivision, in which the subject site is located, was platted in 1966, 12 years before the city's incorporation. The existing buildings currently housing the cultivation and infusion kitchen facility were

constructed in 1981 and 1985, according to Assessor records. The west building, (see attached site plan Exhibit #4) and the ramada on the south end of the lot were constructed first; and the east building was the later addition. As of June 2014, the new zoning on the property is B-5 (Industrial), which was formerly the CI-1 zone (Light Industry and Warehouse Zone). The old CI-1 zoning was in place when the City incorporated.

This specific property has been the site of marijuana cultivation and infusion kitchens since 2014, subject to multiple Conditional Use Permits allowed pursuant to the city's marijuana regulations and conditional use permit processes. The history and explanation for repeated requests is as follows:

- **May 2014:** The P&Z Commission approved case **CUP-2-14**, allowing a marijuana cultivation facility and an infusion kitchen to operate out of the existing buildings. Nature's Wonder was to be the operator and Capital Care Connections LLC was the management company. (CUP-2-14 is attached as Exhibit #9).
- **After Initial Approval:** Capital Care applied for the permits for remodeling work. Nature's Wonder and Capital Care soon went their separate ways. Perpetual Healthcare then became the new facility operator. Perpetual Healthcare personnel installed "mobile-minis" on the property without the city's knowledge or permits. Once these structures were discovered and considered an expansion, a CUP amendment was required for the temporary mobile units and to note the change of operator.
- **December 2015:** The P&Z Commission approved case **CUP-2-15**, the first amendment to CUP-2-14, allowing Perpetual Healthcare to use cargo containers and "mobile-minis" for things such as temporary storage, work spaces, office, walk-in refrigerator, etc. The use of the temporary units had an expiration date of 24 months from the effective date of the resolution (December 15, 2015). Conditions of approval also required the operators to apply for a new CUP amendment for permanent facilities within 18 months and that any expansion or addition of buildings would also trigger sewer system connection. (CUP-2-15 is attached as Exhibit #8).
- **November 2017:** The P&Z Commission approved case **CUP-4-17**, the second amendment to CUP-2-14, allowing Perpetual Healthcare to construct a permanent building to replace the uses temporarily housed in the "mobile-minis." The new building was to be applied for within 6 months of CUP-4-17 approval and completed by November 21, 2019. The two lots

which comprise the site were also supposed to be combined into one and the property was to hook up to sewer.

- **July 2019:** By early 2019, the operators, Perpetual Healthcare, had failed to comply with the P&Z Commission's conditions of approval for CUP-4-17. Both the property owner and Perpetual Healthcare's counsel informed staff that for numerous reasons, the facility was closing. On July 9, 2019, the P&Z Commission voted to revoke CUP-4-17. All operations were required to end by November 21, 2019. Operations ended and the "mobile-minis" were removed from the site.
- **October 2019:** Perpetual Healthcare was acquired by Nabix Holdings Inc. which then submitted for another CUP (CUP-2-19) to allow the operation of a non-profit medical marijuana cultivation and infusion kitchen facility by a new ownership group.
- **December 2019:** The P&Z Commission approved case **CUP-2-19**, requested by Nabix Holdings Inc., again approving the use of a medical marijuana cultivation and infusion kitchen facility at the subject site. Per the conditions of the CUP, the operators then applied for and received a permit to hook up the property to sewer and did so. Additionally, the operators processed a lot combination (LCM-1-20) combining the two lots the property was operated on into one parcel. (CUP-2-19 is attached as Exhibit #9).
- **July 2021:** David House, the property owner, and R & J Green Investments, the applicant and prospective operator, met with city staff and explained that Nabix Holdings Inc. went out of business and ceased operations on the property, leading to inactivity and the expiration of CUP-2-19. In order to continue the operation of the site as a marijuana cultivation (now not limited to only medical marijuana due to the passage of 2020 AZ Proposition 207 legalizing recreational marijuana) and infusion kitchen under new management, the applicant applied for **P-21-66-CUP**.

The facility at 1575 E. 18th Avenue is not a dispensary and is not a retail facility. No sales or consumption is allowed on site. No medical marijuana patients, public recreational marijuana customers or anyone else (except authorized agents associated with the facility) are allowed to access the site.

PROPOSAL DESCRIPTION

R & J Green Investments is requesting to renew the previously approved conditional use permit in order to continue the use of a marijuana cultivation and infusion kitchen under new ownership. Per the plans provided for this request, this also includes the amendment

granted under CUP-4-17 that allowed the construction of a permanent building for storage in the rear of the property, which was never constructed.

If the CUP is approved, then the applicant will re-initiate the operation of marijuana cultivation and an infusion kitchen on the site and has indicated that they will proceed with the necessary building permits and inspections for the storage building at a later date (See the attached site plan). The proposed additional building does not affect on-site retention requirements, but will trigger the requirement for additional street improvements, as directed by the city Public Works Engineer (noted in condition 20).

The facility will be subject to inspections and approvals from the Arizona Department of Health Services. An additional third part inspection service, FOCUS (Foundation of Cannabis United Standards) has also been proposed to provide additional inspections to mitigate issues, ensure security, and provide assistance in quality control.

PLANNING STAFF ANALYSIS AND FINDINGS

Planning staff has reviewed the proposal with consideration of the extensive history of prior Conditional Use Permits approved to allow the use of a marijuana cultivation and an infusion kitchen. Staff finds that the proposed operations fall within the same use limits previously authorized and that the request is to continue the established use, rather than the introduction of new uses or elements.

On July 20th, 2021, the City Council adopted changes (see Exhibit #11) to the zoning ordinance prohibiting additional cultivation and infusion kitchens, but as the application for P-21-66-CUP was submitted and processed prior to that date and the subsequent amendment to the code taking effect on August 20th, 2021, and because the use has already been established the application has been accepted and is still considered a valid request.

In the Apache Junction Zoning Ordinance, Section 1-16-12, Conditional Use Permits, Administrative Use Permits and Building Permits (D) (3) (attached), the criteria for findings for conditional use permits are established. The CUP criteria which the commission should consider in evaluating any CUP request, and staff's comments on such (in grey tone) relative to this request are listed below. The applicant's responses to all of the criteria are listed in pages 2-5 of the application's project narrative, attached as Exhibit #1.

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 road used primarily for access to industrial properties. The site has all necessary services. Some minor public improvements (sidewalks, streetlights, a curb return, a new driveway, and a solid drive surface in the driveway) will be required at the time of development of the new storage building.

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

The facility uses filtration devices to keep odors from escaping. When odor complaints have historically been made, city staff has inspected the property, and will continue to do so if necessary. The applicant has indicated that additional measures have been taken to prevent odor leakage to the outside, which should mitigate these issues).

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

Staff expects no negative impact to the neighborhood with the re-establishment of this use under a new CUP.

- d) Compatibility with surrounding uses and structures.

Uses to the north and west are zoned industrial and should not be negatively affected. Properties to the south and east are single-family subdivisions, the industrial area has existed prior to city incorporation. The cultivation and infusion facility is permitted with a conditional use permit on an industrially zoned property.

- e) Conformance with the 2020 General Plan and City policies.

The 2020 General Plan designates this area for Industrial Uses, of which this use is included. There is no conflict with the General Plan.

f) Screening and buffering of uses.

The current site is developed and has a six (6) foot high wall surrounding the property with a gated entrance and security.

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

The property is not in a major flood zone, it was developed in and the early 80's and does not have on-site retention.

PUBLIC NOTIFICATION

The CUP case P-21-66-CUP has been advertised for the Planning and Zoning Public Hearing and letters were mailed to all property owners within 300 feet of the site. The applicant also sent out letters and posted flyers notifying neighbors and inviting them to Open House meetings hosted at the facility on September 14th, 23rd, and October 8th, 2021. As of October 6th, five neighbors had attended the open houses meetings held up to that point and expressed support for the use and had questions about why another CUP was required.

Staff has received two public comments regarding the request. One comment was received verbally over the phone, generally expressing acceptance of the project but with concern that odors may cause issues in the neighborhood. The other comment has been attached in the public participation report (Exhibit #5) and expresses strong opposition to the proposal because of concern that the odor will spread throughout the neighborhood and be a nuisance to neighbors.

PLANNING DIVISION RECOMMENDATION

Staff finds that the proposed operation falls within the same use previously authorized and, since the request is to continue the established use, the same CUP requirements required previously are again proposed, except those that have been fulfilled or the engineering improvements required by the future development of the proposed storage building. Planning staff recommends approval of the conditional use permit P-21-66-CUP subject to the conditions listed under the recommended motion:

RECOMMENDED MOTION

I move that the Planning and Zoning Commission (APPROVE/DENY) case P-21-66-CUP, a request by R and J Green Investments, represented by Michael Roth, requesting a Conditional Use Permit Amendment to continue the use of an existing marijuana cultivation and infusion kitchen under new ownership at 1575 E. 18th Avenue, located on the southwest corner of S. Tomahawk Road and E. 18th Avenue, zoned Industrial (B-5), subject to the following conditions of approval:

- 1) The owners/operators of the marijuana cultivation and infusion kitchen facility shall obtain and/or keep in good standing all necessary approvals from the Arizona Department of Health Services ("ADHS") and the Pinal County Health Department for the marijuana cultivation and infusion kitchen operations.
- 2) The owners/operators of the facility shall obtain and keep a city business license at all times during the operation of the 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 marijuana agents associated with the facility shall register with AJPD for the purpose of background checks and record keeping (including but not limited to, owners, employees, directors, board members, etc.).
- 5) 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 marijuana; loitering in or around the premises; the sale of any products from the facility.
- 6) 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.
- 7) 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.
- 8) The owners and operators of the facility shall keep and neatly maintain all landscape and screening improvements along the property's 18th Avenue and Tomahawk Road frontages, in accordance with the city's landscape and screening requirements.

9) All screening, fencing and security improvements on the property shall be kept in good condition and repair at all times.

10) The owners and operators shall continue to operate the facility in accordance with the submitted drawings and Narrative documents submitted with P-21-66-CUP, or else the CUP shall be subject to review and possible revocation by the planning and zoning commission.

11) The operators of the facility shall cooperate with local police officials (AJPD) insofar as personnel updates, providing copies of agent registration cards, allowing and accommodating 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.

12) The owners and 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 P-21-66-CUP application, including one (1) ADA compliant space.

13) The owners/operators of the facility shall work with city staff to continue to provide for high resolution security cameras and other security features and devices at the facility.

14) R & J Green Investment LLC shall provide to the city's planning division a copy of their articles of incorporation, including the names of the directors and officers, managers, principal contacts, responsible parties, etc.

15) Should management and/or ownership of the marijuana cultivation and infusion facility change at any time after approval of the CUP, the new owners or operators shall operate the site and facility subject to the exact same conditions of approval, including the provision of all new ownership, operator and marijuana agent information (and updates) to the city's police department.

16) If changes in the members, directors and officers occur, R & J Green Investments, LLC shall keep the planning division informed of said changes. If at any time during the operation of the cultivation and infusion facility, the managing members or a majority of the members, directors or officers changes, a CUP amendment shall be required.

17) Any proposed future expansions or additional buildings at the site beyond the proposed storage building included in the

plans submitted for P-21-66-CUP will require approval of a CUP amendment through the city's planning and zoning commission first. This includes the possible future use of "mobile minis".

18) The operators of the facility shall always check with the city's building or planning departments for possible building permit requirements, prior to performing or conducting any new construction, electrical, plumbing, structural or other work which may require permits. Permits may also be required for the installation of security, odor control equipment and dark sky compliant outdoor lighting.

19) The planning and zoning commission shall reserve the right to reconsider or overturn the CUP approval, at a new public hearing, for non-compliance with any condition prescribed as part of said CUP approval or if the use is demonstrated to be a nuisance or neighborhood hazard.

20) At such time as the "proposed structure" shown in the submitted plan is to be constructed, half-street improvements on the adjacent streets shall be provided per city engineering standards and requirements, as follows:

- Half-street improvements on Tomahawk Road consisting of a minimum 24' driveway at the project entrance, solid drive surface from the back of the driveway to the gate, curb return at the intersection, detached concrete sidewalk, and streetlights.
- Half-street improvements on 18th avenue consisting of a minimum 30' driveway at the project entrance, concrete sidewalk, and streetlights.

Nick Leftwich

Prepared by Nicholas Leftwich
Associate Planner

Attachments:

Exhibit #1 - P-21-66-CUP Narrative
Exhibit #2 - P-21-66-CUP Aerial Map
Exhibit #3 - P-21-66-CUP Zoning Map
Exhibit #4 - P-21-66-CUP Site Plan
Exhibit #5 - Public Participation Plan and Report
Exhibit #6 - FOCUS Partnership Report
Exhibit #7 - Resolution No. CUP-2-14
Exhibit #8 - Resolution No. CUP-2-15
Exhibit #9 - Resolution No. CUP-2-19
Exhibit #10 - Apache Junction City Code, Vol. I, Zoning Ordinance, Section 1-16-12
Conditional Use Permits, Administrative Use Permits and Building Permits.
Exhibit #11 - 2021 Medical and Recreational Marijuana Regulations

Exhibit #1 P-21-66-CUP Project Narrative

CONDITIONAL USE PERMIT

1575 EAST 18TH AVENUE

PINAL COUNTY ASSESSOR PARCEL NUMBER 102-07-216B

NARRATIVE

July 10, 2021

INTRODUCTION

R & J green investment LLC (R&J) is a newly formed Arizona based LLC. Dave House the current owner of the property has taken a larger role in this company. Michael Roth a former Judge and attorney in AZ is the manager of the company. Roth is also the operator of a ignition interlock company and a state licensed Outpatient Clinic that focuses on substance abuse issues and those convicted of DUI and domestic violence. To ensure compliance, we will be working with Foundation of Cannabis Unified Standards (FOCUS) a leader in compliance monitoring and certification in the cannabis market. The rest of the team is made up of cannabis professional who have been successful in the cannabis marketplace in AZ, California, and Nevada for over 10 years. The proposed location will be one of three locations in Arizona used by R&J for their grow, infusion/kitchen products.

The lawsuit settlement that caused Perpetual Health Inc to have to be sold, followed by Nabis (the company out of Canada) going bankrupt, due to issues that Mr. House had no knowledge of. Nabis went bankrupt in the middle of the project, further delaying it until Mr. House stepped in and completed it out of pocket.

We will be a good neighbor to the surrounding neighborhood as well as the city. Mr. House has lived in Apache Junction for over 15 yrs. The other partnership members plan on moving to Apache Junction to be close to where they will be working. We will be providing good paying jobs to community members, and we are a clean industry. We plan on breaking ground on a new building within the first year of operation, this will provide more revenue in the form of permits, construction jobs, property taxes and a few more permanent local area jobs. Mr. House is a disabled retired USAF officer and depend on the revenue from this property and look forward to a mutually beneficial partnership with the city of Apache Junction.

We are not only doing this for the money, but Mr. House has also personally seen what the medical benefits of marijuana when used in a responsible manner. Mr House brother has suffered from stage four cancer for nearly 5 years now after being given a diagnosis of 6-12 months to live. His treatment he has not only involved Chemo and Interferon the last five years, it included CBD oils and Rick Simpson Oil (RSO). These medicines have relieved many of the side effects, especially of the Chemo treatments, and eased his suffering. We realize that marijuana is misused by many people, but it also has undeniable medical properties that are many and varied and the research is just scratching the surface. This facility will only grow marijuana and infuse / Kitchen marijuana products like edibles that are sold and used as medical marijuana.

There have been two CUP applications applied for and granted on this property. The requested CUP is compatible with the prior two granted CUP's.

R&J in conjunction with the landowner have updated and made the improvements required in the recently expired CUP.

- modifications to meet the latest handicap regulations, rebuilding staircases, moving toilets, widening doors, and reserving handicap parking among others.
- We have install extensive landscaping.
- We have installed backflow devices.
- We did a lot combination.
- We eliminated all oder issues.
- We completed a huge sewer project.

PROPERTY

The Property is zoned B-5 (Industrial) and located within a primarily industrial area of the City of Apache Junction ("City"). The surrounding area is primarily industrial with a mix of low-density residences. Specifically.

- The properties to the north across 18th Avenue are zoned B-5 (Industrial) and are either vacant or consist of a variety of automobile repair shops.
- The properties to the east across Tomahawk Road are zoned RS-7 PD and consist of low-density single-family homes advertised for active adults.
- The properties to the south are zoned RS-7M and consist of an existing mobile home park.
- The properties to the west are zoned B-5 (Industrial) and include Highways Custom Canvas (automobile manufacturing) and Harman's Recycling (automobile recycling center).

REQUEST

This application requests approval of a new Conditional Use Permit to allow for a medical marijuana cultivation and infusion / kitchen facility within the Property's two existing and one purposed permanent building.

In accordance with Section 1-16-12(D)(3) of the Apache Junction Zoning Ordinance, a CUP may be granted upon a finding by the Planning and Zoning 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 Planning and Zoning Commission is to consider the following factors in arriving at this determination:

- (a) The adjacent roadways. off-street parking. public facilities and services are adequate to accommodate this Application.

The approval of this application will not detrimentally impact or require improvements to adjacent roadways, off-street parking, public facilities, and services. The Property is zoned B-5, which permits industrial uses by-right, such as manufacturing, distribution, warehousing, and certain retail and service uses. These uses, again which are permitted by-right on the Property, are more intense than the Proposed Facility. As it relates to vehicular traffic, the Proposed Facility will generate significantly less vehicle trips than many of the surrounding uses and the other more-intense industrial uses that are permitted by right under the Property's B-5 zoning. Unlike medical marijuana dispensaries, medical marijuana cultivation and infusion / kitchen facilities are not open to the general public (i.e., only employees and agents are permitted in the building), which means the Proposed Facility will generate no "passerby traffic" (like other uses that are open to the public and permitted on the Property by-right). The limited vehicular traffic that is generated by the Proposed Facility will be accommodated by the Property's convenient access to Tomahawk Road, a major north-south thoroughfare. It is also important to note that the Proposed Facility will function similarly to the Property's existing medical marijuana cultivation and infusion facility, which, since beginning operations in 2014, has not caused any adverse impacts to adjacent roadways, off-street parking, public facilities or services.

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

RESPONSE:

This Application will not cause a significant increase in the emission of odor, dust, gas, noise, lighting, vibration, smoke, heat or glare. All operations associated with the Proposed Facility will be conducted entirely indoors within the Property's buildings. In addition, the Proposed Facility will include only limited growing/cultivation of medical marijuana in order to comply with AZDHS requirements. The primary operations of the Proposed Facility will be medical marijuana manufacturing/kitchen with a small grow, this will eliminate much of the activities most associated with producing odor. Moreover, R&J has and will install additional if required odor control system capable of accommodating any emission of odor that is caused by the Proposed Facility.

The Proposed Facility will therefore not cause a significant increase in the emission of odor, dust, gas, noise, lighting, vibration, smoke heat or glare at a level exceeding ambient conditions commonly associated with industrial areas-particularly the high ambient conditions of the surrounding area, which includes many large-scale, intense industrial uses.

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

This Application will not contribute in a measurable way to the deterioration of the neighborhood or the lowering of property values. The existing facility on the Property has not caused any adverse impacts on properties in the surrounding area. The Proposed Facility, which will function similarly to the existing facility, will also be compatible with the surrounding area, which includes numerous existing intense industrial uses, including manufacturing, outdoor storage, auto repair and other uses. Importantly, because the Proposed Facility is not open to the public, there will be no signage on the exterior of the building relating to the Proposed Facility. As such, the Proposed Facility will be inconspicuous from the exterior of the Property's existing buildings and will not be visibly identifiable from the street or otherwise to the general public.

In addition, R&J will ensure the safe operation of the Proposed Facility by complying with all applicable security and operational requirements set forth by the State of Arizona, AZDHS and the City. The Proposed Facility will therefore not contribute to the deterioration of the neighborhood or the lowering of property values.

(d) Compatibility with surrounding uses and structures.

This Application is compatible with the surrounding uses and structures. The Property is located within an area that includes many properties that are zoned B-5, which allows for a variety of intense industrial uses, including manufacturing, warehousing, and storage. In fact, all immediately surrounding properties to the north, northwest and west are zoned B-5, many of which consist of existing industrial uses. The Proposed Facility is similar in intensity to, if not less intense than, these surrounding industrial uses. All operations associated with the Proposed Facility will be conducted indoors. There will also be .D.Q signage relating to the Proposed Facility meaning, the Proposed Facility will not be visibly identifiable to the general public. Accordingly, the Proposed Facility is consistent with the surrounding uses and will not have a detrimental impact on the surrounding area.

(e) Conformance with the general plan and City policies.

RESPONSE

This Application is consistent with the Property's existing zoning and with the surrounding land uses. The current 2020-2050 Apache Junction General Plan designates the Property as Medium Density Residential land use. However, it is very unlikely the Property would be developed with a residential development. The Property is already zoned B-5 for industrial uses and all adjacent properties along 18th Avenue (the Property's north street frontage) are also zoned industrial and include a variety of existing, intense industrial uses. Medical marijuana cultivation and infusion are (i) conditionally permitted uses in the B-5 zoning district, (ii) are previously approved and operated uses on the Property and (iii) are consistent with the existing industrial uses that surround the Property.

Importantly, the proposed use is in compliance with 2020-2050 Apache Junction General Plan and designates the Property for 'light Industrial/Business Park and Industrial - a land use designation consistent with the Proposed Facility. The Proposed Facility is therefore consistent with the City's vision for this Property and the area.

(f) Screening and buffering of uses.

RESPONSE

No additional screening or buffering is required as part of this Application. The residential community to the east is buffered from the Proposed Facility by Tomahawk Road (a major north-south thoroughfare) and screened from view by the existing building and block walls that surround the perimeters of both the Property and the residential community. The mobile home park to the south is similarly buffered by an approximate 16- foot wide alley and screened from view by the Property's block wall.

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

RESPONSE

In December 2010, Arizona voters passed the Arizona Medical Marijuana Act (AMMA), which went into effect in April 2011. The AMMA designated AZDHS as the licensing and issuing authority for the Arizona Medical Marijuana Program ("AMMP"), which includes regulating the production (growing, infusing, extracting, etc.) and dispensing of medical marijuana. AZDHS assigned once license to each Community Health Analysis Area ("CHAA") within the State, which permitted one medical marijuana dispensary and one off-site cultivation and/or infusion facility associated with the medical marijuana dispensary.

The Smart and Safe Arizona Act, Proposition 207 was a voter initiative that appeared on the November 3, 2020, Arizona general election ballot. Passing with about 60% of the vote, the proposition allowed the legalization, taxation, and recreational use of cannabis for adults 21 and over.

Apache Junction's Zoning Ordinance requires that a medical marijuana cultivation and infusion facility be located on property zoned 8-5 and that such property be located more than: 1,320-feet from another medical marijuana use; 750-feet from a school, day care center, place of worship, or drug/alcohol rehabilitation facility; and 750-feet from other sensitive land uses as determined by the Zoning Administrator. Because of these stringent zoning and separation requirements as well as the development patterns around properties zoned 8-5, there are few properties that qualify for medical marijuana uses, making it exceedingly difficult to find available property to satisfy the tremendous increase in demand for medical and adult use cannabis. This Property is properly spaced from all protected uses and is located alongside many other industrial uses. It is therefore among the scarce Properties that are eligible and appropriate for a medical marijuana use.

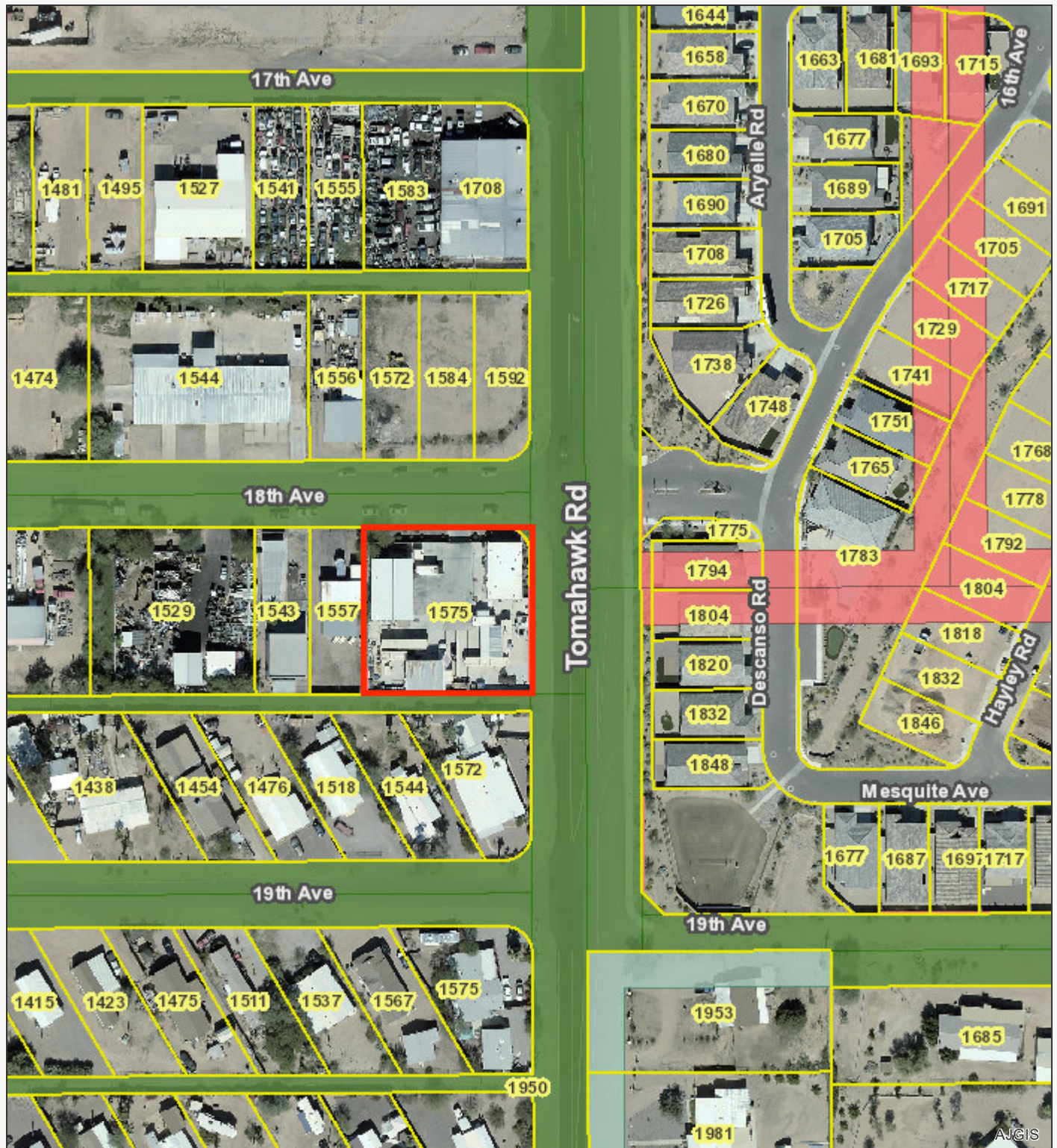
Lastly, as previously stated, because there will be no signage on the Property relating to the Proposed Facility-unlike many other industrial uses that are open to the public and permitted on the Property by right. The Proposed Facility will be inconspicuous from the exterior of the building and will not be visibly identifiable from the street or to the general public.

Conclusion

As detailed by the foregoing, this Application satisfies all approval criteria of the requested CUP. From a land use perspective, the Property remains an appropriate location for a medical/ adult use marijuana facility, as was the case when medical marijuana cultivation and infusion/ kitchen was first approved on the Property in 2014. From an operations standpoint, R&J, the new company, will use its experience in managing and operating medical marijuana facilities in Arizona to ensure safe and successful operations of the Proposed Facility in full compliance with all applicable requirements and laws of the State of Arizona, AZDHS and the City of Apache Junction. We appreciate your consideration of this Application and look forward to discussing this request with you in the near future.

GIS Map

DISCLAIMER: This map was produced without benefit of a field survey and is not the intended use. The use of this map is for informational purposes only and the City of Apache Junction makes no warranty, expressed or implied, regarding the reliability of the information provided.



LEGEND

- | | | |
|---------------------------|-------------------------|-----------|
| Street Names | County Boundary | Addresses |
| Municipal Boundary | Parcels | |
| Apache Junction | CITY OF APACHE JUNCTION | |
| Pinal County | PINAL COUNTY | |

City of Apache Junction

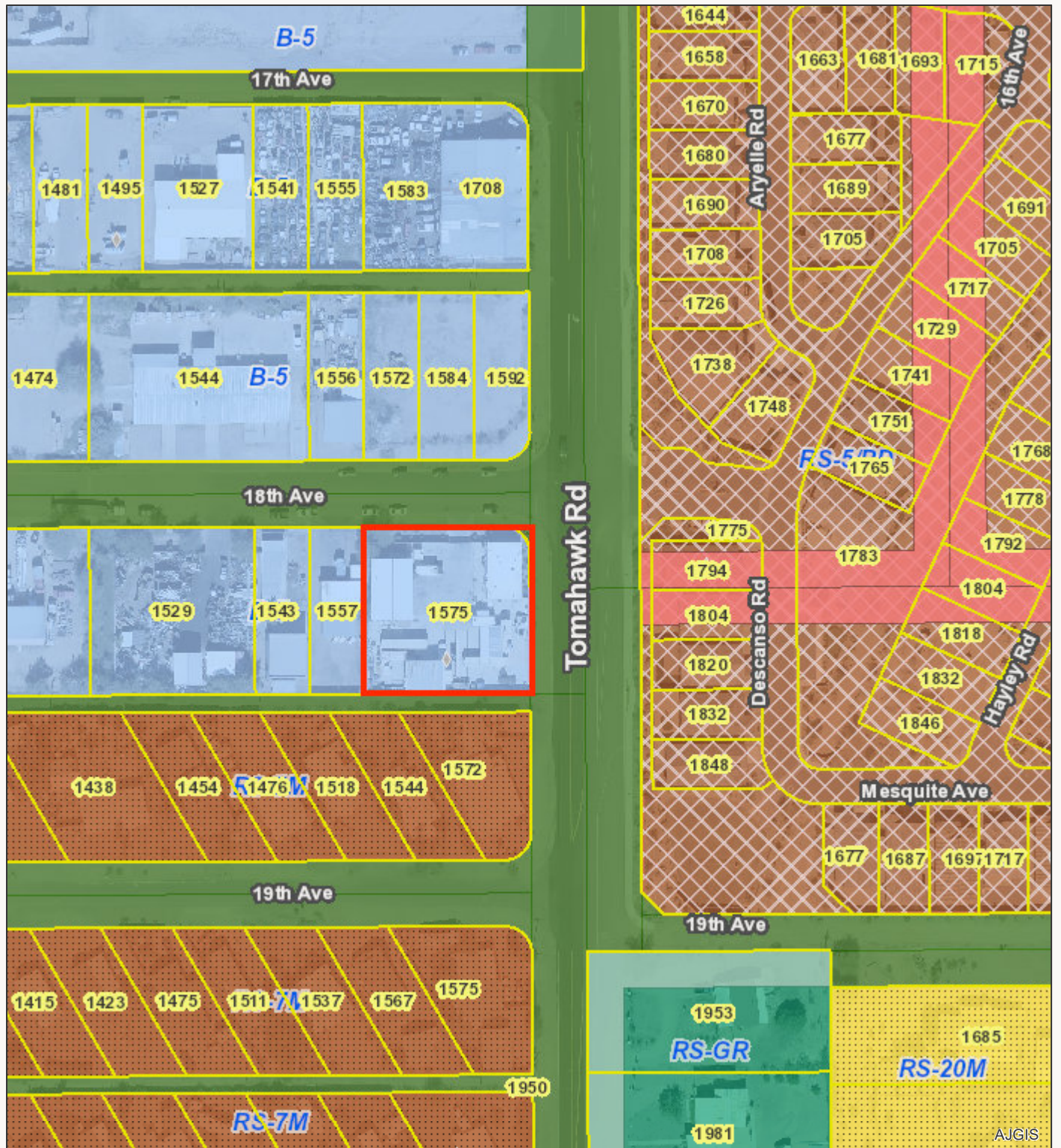


October 6, 2021



GIS Map

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LEGEND

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City of Apache Junction

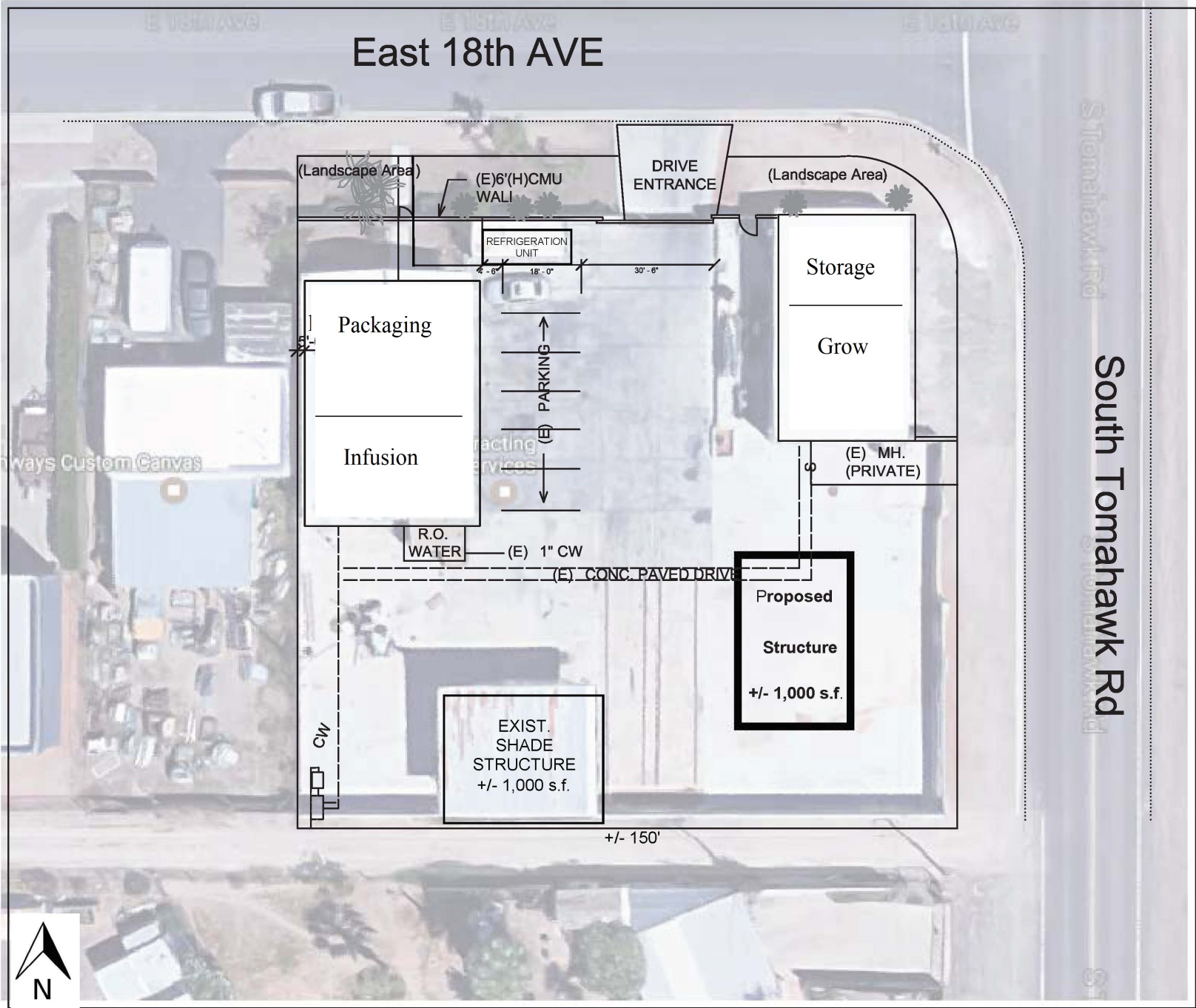


October 6, 2021



Exhibit #4- Site Plan

Site Plan
for
1575 East 18th Avenue



Public Participation Plan

To ensure that the neighborhood has adequate understanding and notice of the proposed CUP R&J will hold a neighborhood meeting at the location. We will have an open house where the neighbors can come and see where we will be growing Cannabis as well as what products will be made out of the Cannabis.

This will give R&J the opportunity to show the neighborhood the following.

- New technologies for odor control
- Canning / Bottling / molds / ingredients for products storage and location
- Infusion, Micronization, Nanoization and other process that the cannabis go through to become an edible product.
- That there will be NO retail or dispensary at this location
- Security and legal requirements for a Cannabis location
- FOCUS certification and monitoring.



Roth Legal Group, PLLC

October 4th 2021

Nicholas Leftwich

RE: CUP application Neighborhood comments and issues

Nick, I wanted to send you an update on the Open house meetings and other communications from the neighborhood about the proposed cannabis grow and production facility .

We have sent out, dropped off in mailboxes and left in doors the flyer attached, for opportunities to see what we are doing on September 14th, 23rd and October 8th.

We have had five neighbors come by the facility and ask questions about what we were doing and why we needed to post for the CUP again.

All of the neighbors were supportive of the use. They relayed that they have had no issues with the prior use and appreciated the cleanliness of the property. The second most relayed comment was about the products made at the facility, what they were and how they were made. Neither Dave House or myself have received any calls regarding the CUP or the property.

We have received NO complaints or negative comments from any of the neighbors.

Sincerely,

Michael Roth

Michael Roth, Esq.

13430 N. Scottsdale Road, Suite 206, Scottsdale, Arizona 85254

T 480.945.7684

F 480.480.393.8641

mroth@rothandroth.net

HI NEIGHBOR

your invited to come see what we are doing

We have asked the city of AJ for a conditional use permit to cultivate and manufacture cannabis products at this location. We will be here to answer your questions September 14th 10:00 AM to 4:00 PM, the 23rd from 10:00 AM to 4:00 PM and October 8th from 5:00 PM to 6:00 PM.

What we do

We will be growing hydroponic indoor marijuana with proper filtration to eliminate odors. We will also be making edible products with cannabis. Some products are Brownies, cookies, sodas and tinctures.

We are committed to continue to be a good neighbor and keep you informed as to what we are doing and what we do not do.

What we don't do

We do not sell directly to the public. We only sell to approved medical and adult use cannabis dispensaries There will be NO sales or consumption on the premises.

Friday October 8, 2021 is our last open house. If you haven't been able to come by or have your questions answered you can always call Dave or Michael at their numbers below.

We want to hear from you

How to let us know how you feel about this or answer any questions that you have.

CONTACT DAVE HOUSE @ 480-330-8858

CONTACT MICHAEL ROTH @ 480-945-7684

[External] APN 102-07-216B - NO!!!!

Slone Bell <slones@huntercontracting.com>

Thu 9/30/2021 9:28 AM

To: Nicholas Leftwich <nleftwich@apachejunctionaz.gov>;

Importance: High

P-21-66-CUP

In response to the "Request by Michael Roth of R & J Green Investments LLC for a Conditional Use Permit to continue the use of marijuana cultivation and infusion kitchen under new ownership. The subject property, APN 102-07-216B"

Dear Nick Leftwich,

WE would like to voice OUR concern about this request received at our residence. WE would like it noted, that WE are **completely AGAINST** this request. The reason for our **BIG NO** is because of the odor! It is absolutely disgusting. It is a very strong skunky smell, and even worse, in the morning. You can't even sit and enjoy the weather outside with that skunky smell. It is not fair to us as property owners who pay taxes, and live here FULL TIME, to have to endure that hideous smell, that you can't even mask.

Again, NO on this request.

Please let me know if you will need any further information.

Sincerely,
Slone M Bell
Ross T Bell

1567 E. 19th Ave.
Apache Junction, Az. 85119



Slone Bell

H.R. / Staffing Specialist

D (480) 507-7036 | C (602) 359-2363

sloneb@huntercontracting.com

huntercontracting.com

701 N. Cooper Road

Gilbert, AZ 85233



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FOCUS

Foundation of
Cannabis Unified Standards

Exhibit #6 – FOCUS Partnership Report

The Importance of Standards from a Risk Perspective

The Cannabis Health & Safety Organization

By Lezli Engelking

Founder, Foundation of Cannabis Unified Standards (FOCUS)

The disconnect between state and federal cannabis laws has left financial institutions in an untenable situation, much like it has left cannabis business owners in the United States. Banks are caught between their mission to serve the financial needs of their communities, and the threat of federal enforcement action. Financial institutions, including those with no interest in directly banking cannabis business, face rising legal and regulatory risks, as the cannabis industry continues to grow at an exponential rate, and ancillary businesses grow as quickly as licensed operators.

Financial institutions must develop and improve their risk management programs to effectively measure and monitor their risks around the cannabis industry. This begins with a comprehensive understanding of the inherent risks within the industry. Without thorough knowledge of what occurs in cannabis businesses, as well as how it is occurring, it is impossible to understand how potential money laundering can exist. Third-party certification, compliance monitoring, and operational oversight allows financial institutions to understand real time compliance status, as well as transparency into the processes - providing tremendous value. With the implementation of FOCUS standards and certification, banking in the cannabis industry does not have to be high-risk.

Inversion (bringing product and/or ingredients into a licensed business from the illicit sector) and diversion, are two of the biggest risks to financial institutions. This is compounded because the industry as a whole is not generally supportive of risk management and compliance transparency. Focusing on transactions isn't effective in identifying inversion and diversion, because those activities happen at the operations level, through cultivation, manufacturing and retail transactions, that are never documented or reported.

It is impossible to identify what you can't see. For this reason, a partnership with a dedicated operational compliance expert is the most effective way for financial institutions to truly understand what is happening within a business from a compliance/noncompliance perspective. Financial institutions rely on transparency in terms of data gathering to support risk analysis and mitigation. As a true, unbiased, independent third-party, with no financial stake in nor funding from the cannabis industry, FOCUS certification provides this much needed transparency, along with early identification of non-compliant activities, and real time accessibility to policies and procedures, internal controls, financials, legal documents, etc.

FOCUS Standards and third-party certification define ideal conditions to avoid, mitigate, control, or accept potential risk and liability within a cannabis operation. They protect and guide business owners, workers, consumers and the public, as well as other industry sectors, like banking and insurance, from unintended consequences while enhancing the beneficial economic impacts of the emerging cannabis industry.



FOCUS

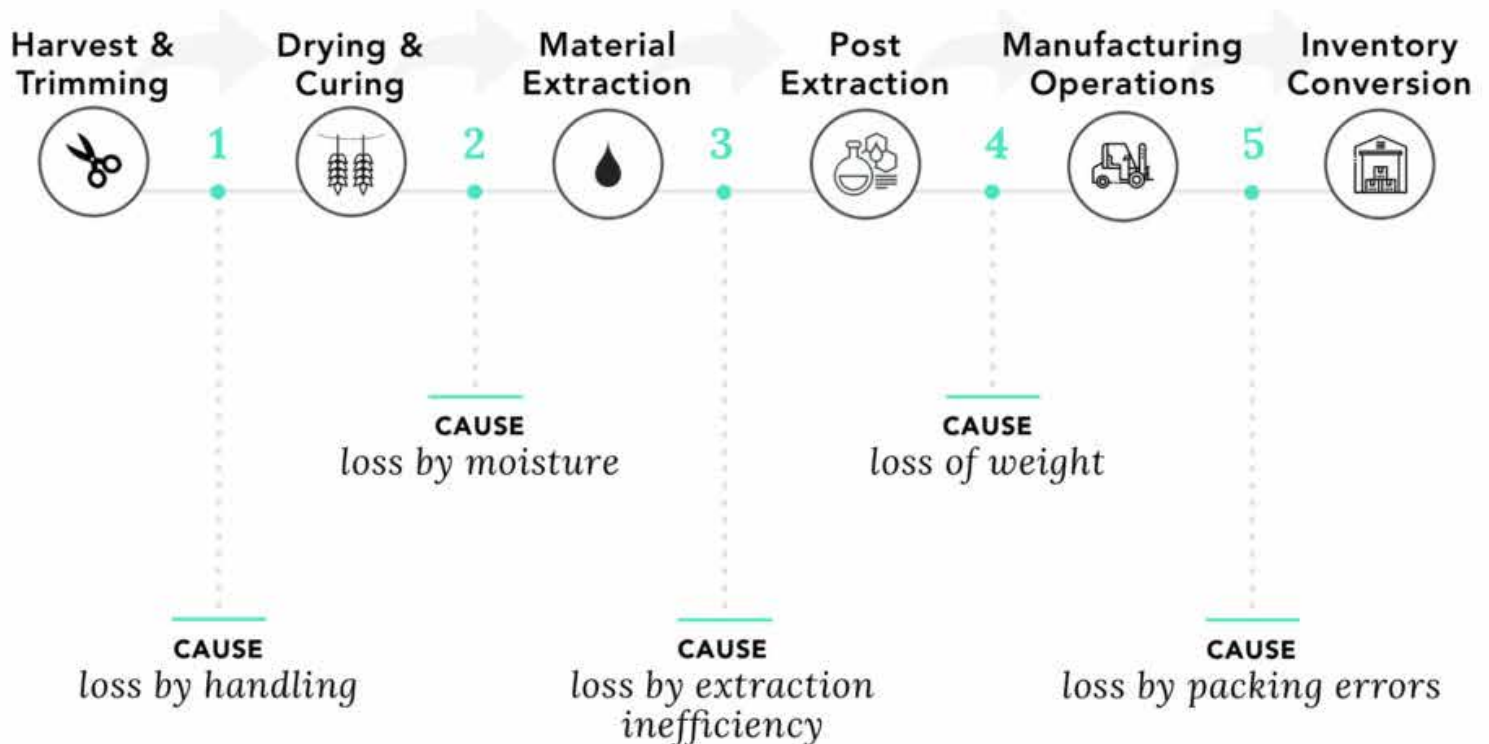
Foundation of
Cannabis Unified Standards

The Importance of Standards from a Risk Perspective

The Cannabis Health & Safety Organization

Causes of loss

HOW CANNABIS CHANGES FORM THROUGH MANUFACTURING



PLANNING AND ZONING COMMISSION
RESOLUTION NO. CUP-2-14

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING A CONDITIONAL USE PERMIT, CASE NO. CUP-2-14, TO ALLOW NATURE'S WONDER INC. AND CAPITAL CARE CONNECTIONS LLC, REPRESENTED BY MICHAEL J. CURLEY OF EARL, CURLEY AND LAGARDE, P.C., TO OPERATE A NON-PROFIT MEDICAL MARIJUANA CULTIVATION AND INFUSION KITCHEN FACILITY ON A PROPERTY OWNED BY DAVID A. HOUSE AT 1575 E. 18TH AVENUE.

WHEREAS, on or about March 13, 2014, a Conditional Use Permit ("CUP") application was submitted to the City of Apache Junction by David A. House (property owner), Nature's Wonder Inc. and Capital Care Connections LLC (applicants), represented by Michael J. Curley of Earl, Curley and Lagarde, P.C., requesting approval 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 May 13, 2014, the City of Apache Junction Planning and Zoning Commission held a Work Session meeting to discuss case CUP-2-14 with Planning Staff and raised several questions about the proposed Facility, including questions about odor control equipment, packaging of infused products, truth in labeling of infused products, what happens to excess inventory and other questions; and

WHEREAS, on May 27, 2014, the Planning and Zoning Commission held a Public Hearing on case CUP-2-14, wherein the Commissioners heard the staff evaluation and recommendations pertaining to the case, the Applicant's response to the Commission's questions from the earlier Work Session, as well as new questions, and where public input was heard; and

WHEREAS, on May 27, 2014, after: 1) receiving satisfactory responses to the questions raised on May 13 and responses to the questions raised at the public hearing; 2) hearing and considering all of the facts presented, including reviewing the land use criteria relevant to the granting of a CUP for a medical marijuana use; and 3) hearing testimony and concerns from the public, applicants and staff, the Planning and Zoning Commission voted 5-2 in favor of case CUP-2-14, with conditions.

NOW THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission of the City of Apache Junction, Arizona, that a CUP is hereby approved, allowing Nature's Wonder Inc. and Capital Care Connections LLC, to operate a non-profit medical marijuana cultivation and infusion kitchen Facility on a property owned by David A. House, as described in the plans, narrative and other materials submitted with case CUP-2-14, pursuant to Apache Junction City Code, Volume II, Land Development Code, Chapter 2 Zoning Ordinance, Article 1-6 General Provisions and Exceptions, Section 1-6-1 Conditional Use Permits, subject to the following conditions:

- 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.
- 2) The owners/operators of the Facility shall obtain a City business license prior to beginning 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) Proper building permits shall be obtained and inspections and approvals received for any electrical, plumbing, remodeling, signage, security or other property improvements which require permits (in accordance with the submitted plans and narrative received for CUP-2-14), prior to beginning Facility operations.
- 6) No other non-profit medical marijuana cultivation, infusion or dispensary facilities shall be established in the Apache Junction city limits by Nature's Wonder Inc. and/or Care Capital Connections LLC, or any other entity, without first applying through the city's CUP process.
- 7) 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.
- 8) 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, but the name "A&H Contracting" shall be removed from the building (and the façade repaired afterward) to avoid any confusion.
- 9) The 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.
- 10) Nature's Wonder Inc./Care Capital Connections LLC, shall hire a landscape architect or landscape professional to work with Planning Staff to design, install and complete landscape improvements where needed along the property's 18th Avenue and Tomahawk Road frontages, in accordance with the city's Landscape and Screening Requirements.

- 11) The dilapidated 5' chain link fence on the west property boundary shall be replaced with a new 6-foot-high block wall.
- 12) The Applicants shall develop and begin operating the Facility in accordance with the submitted drawings and narrative documents within 12 months of the granting of CUP-2-14, or within the timeframe prescribed by the ADHS, whichever is sooner, or else the CUP shall become void.
- 13) 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.
- 14) 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-2-14 application.
- 15) The operators of the Facility shall work with City staff to provide for high resolution security cameras at the Facility.
- 16) 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 permit approval.

PASSED AND ADOPTED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, ON THIS 27TH DAY OF MAY, 2014.

SIGNED AND ATTESTED TO THIS 4th DAY OF June, 2014.



THERESA NESSER, Chairwoman
Planning and Zoning Commission

ATTEST:



BRAD STEINKE
Development Services Director

APPROVED AS TO FORM:

 6.4.14

RICHARD J. STERN
City Attorney

PLANNING AND ZONING COMMISSION
RESOLUTION NO. CUP-2-15

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING CASE NO. CUP-2-15, A CONDITIONAL USE PERMIT AMENDMENT, AMENDING PLANNING AND ZONING COMMISSION RESOLUTION NO. CUP-2-14 TO ALLOW PERPETUAL HEALTHCARE INC., REPRESENTED BY LINDSAY SCHUBE OF GAMMAGE AND BURNHAM, TO EXPAND THEIR NON-PROFIT MEDICAL MARIJUANA CULTIVATION AND INFUSION KITCHEN FACILITY ON A PROPERTY OWNED BY DAVID A. HOUSE 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, 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, 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, Perpetual Healthcare Inc., the new properly licensed operator of the facility wishes to comply with all conditions of approval and bring the property into compliance with Reso. #CUP-2-14; and

WHEREAS, all conditions of approval of Reso. #CUP-2-14 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 David A. House at 1575 E. 18th Avenue, with temporary mobile minis (or office trailers), as described in the plans, narrative and other materials submitted with case CUP-2-15, 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-2-14 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, including inside the temporary mobile minis and the walk-in refrigerator.
- 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) Proper building permits shall be obtained and inspections and approvals received for any electrical, plumbing, remodeling, signage, odor control, security or other property improvements which require permits, including for the use of temporary mobile minis (in accordance with the submitted plans and narrative received for CUP-2-14 and CUP-2-15), prior to beginning Facility operations including inside the mobile minis.
- 6) No other non-profit medical marijuana cultivation, infusion or dispensary facilities shall be established in the Apache Junction city limits by Nature's Wonder Inc., Capital Care Connections LLC, Perpetual Healthcare Inc. or any other entity, without first applying through the city's CUP process.
- 7) 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.
- 8) 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, but the name "A&H Contracting" shall be removed from the building (and the façade repaired afterward) to avoid any confusion.


- 9) The buildings housing the Facility, including the use of the mobile minis, shall not be allowed any expansions, unless a new CUP or CUP amendment application is processed and approved by the City first.
- 10) 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.
- 11) All screening, fencing and security improvements on the property shall be kept in good condition and repair at all times.
- 12) The Applicants shall continue to operate the Facility in accordance with the submitted drawings and narrative documents submitted with CUP-2-14 and as otherwise amended herein by CUP-2-15, or else the CUP shall be subject to revocation by the Planning and Zoning Commission.
- 13) 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.
- 14) The operators of the Facility shall provide for parking accommodations (number, design and layout of parking spaces) as depicted in the site plans submitted as part of the CUP-2-14 and CUP-2-15 applications.
- 15) The operators of the Facility shall work with City staff to provide for high resolution security cameras at the Facility, including in and around the mobile minis and walk-in refrigerator.
- 16) The use of the cargo containers and mobile minis as temporary storage and work spaces for an office and

trim room, dry storage and break-room, lab, bottling room, and walk-in refrigerator, shall be allowed for a maximum of 24 months from the effective date of Planning and Zoning Commission Resolution No. CUP-2-15. Within 18-months of said effective date, the operators of the Facility shall apply for another CUP amendment to construct permanent storage facilities and/or additional buildings to suit the needs and operations of the Facility, as well as additional time for the use of the storage containers and mobile minis during construction of the permanent buildings.

- 17) If septic system failure occurs at the site and if there is sewer service available, the Facility shall be required to connect to the sewer system. Sewer system connection shall be required as part of any future CUP approval for permanent expansion. The owners and operators of the Facility shall work with the Sewer District to tie in to the sewer system, including the provision of any pre-treatment equipment or infrastructure which may be required.
- 18) 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. As changes in directors and officers occur, Perpetual Healthcare shall keep the Planning Division informed of said changes. If at any time during the operation of the Facility, a majority of the directors and officers changes, a CUP amendment shall be required.
- 19) 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 permit approvals.

PASSED AND ADOPTED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, ON THIS 8TH DAY OF DECEMBER, 2015.


SIGNED AND ATTESTED TO THIS 15TH DAY OF DECEMBER, 2015.


THERESA NESSER, Chairwoman
Planning and Zoning Commission

ATTEST:


LARRY KIRCH
Development Services Director 12-15-15 JK

APPROVED AS TO FORM:

 12.9.15
RICHARD J. STERN
City Attorney

PLANNING AND ZONING COMMISSION
RESOLUTION NO. CUP-2-19

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING CASE NO. CUP-2-19, A CONDITIONAL USE PERMIT REQUEST BY NABIS HOLDINGS INC. AND PERPETUAL HEALTHCARE INC., REPRESENTED BY LINDSAY SCHUBE OF GAMMAGE AND BURNHAM, TO OPERATE A NON-PROFIT MEDICAL MARIJUANA CULTIVATION AND INFUSION KITCHEN FACILITY ON A PROPERTY OWNED BY MBD HOLDINGS LLC AT 1575 E. 18TH AVENUE.

WHEREAS, a non-profit medical marijuana cultivation and infusion kitchen facility was previously approved in 2014 and allowed to operate at 1575 E. 18th Avenue, pursuant to original conditional use permit ("CUP") CUP-2-14, later amended by CUP-2-15 and CUP-4-17, but said CUP approvals were revoked by the planning and zoning commission on July 9, 2019, for reasons of non-compliance with the original and amended conditions prescribed therein; and

WHEREAS, as of November 21, 2019, all cultivation and infusion kitchen operations at the facility ended and all temporary buildings previously allowed (modular offices, cargo containers and "mobile minis") were removed from the property; and

WHEREAS, the facility addressed as 1575 E. 18th Avenue 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 Parcel numbers 102-07-215 and 102-07-216A); and

WHEREAS, as of October 2019, Nabis Holdings Inc. assumed 100% ownership of Perpetual Healthcare Inc., and operates in a management capacity; and

WHEREAS, Nabis Holdings Inc. and Perpetual Healthcare Inc. wish to obtain a new CUP to resume medical marijuana cultivation and infusion kitchen operations at the subject property, but on a smaller scale and without need for additional temporary or permanent buildings; and

WHEREAS, on November 14, 2019, Nabis Holdings Inc. and Perpetual Healthcare Inc., represented by Lindsay Schube, applied for a new CUP, case CUP-2-19.

NOW THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission of the City of Apache Junction, Arizona, with positive findings of fact and compatible criteria, that case CUP-2-19 is hereby approved, allowing Nabis Holdings Inc. and Perpetual Healthcare Inc. to operate a non-profit medical marijuana cultivation and infusion kitchen facility on the property owned by MBD Holdings LLC at 1575 E. 18th Avenue, as described in the plans, narrative and other materials submitted with case CUP-2-19, 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 and Article 1-16: Administration, Section 1-16-12 Conditional Use Permits, Administrative Use Permits and Building Permits, subject to the following conditions of approval:

- 1) The owners/operators of the non-profit medical marijuana cultivation and infusion kitchen facility shall obtain and/or keep in good standing all necessary approvals from the Arizona Department of Health Services ("ADHS") and the Pinal County Health Department for the medical marijuana cultivation and infusion kitchen operations.
- 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 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 Nabis Holdings Inc., 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) The owners and operators of the facility shall keep and neatly maintain all landscape and screening 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 owners and operators shall continue to operate the facility in accordance with the submitted drawings and narrative documents submitted with CUP-2-19, or else the CUP shall be subject to review and possible revocation by the planning and zoning commission.
- 12) The operators of the facility shall cooperate with local police officials (AJPD) insofar as personnel updates, providing copies of agent registration cards, allowing and accommodating 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 owners and operators of the facility shall provide for parking accommodations (number, design and layout of

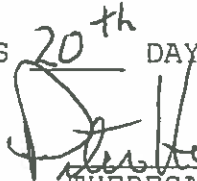
parking spaces) as depicted in the site plan submitted as part of the CUP-2-19 application, including one (1) ADA compliant space.

- 14) The owners/operators of the facility shall work with city staff to continue to provide for high resolution security cameras and other security features and devices at the facility.
- 15) Nabis Holdings Inc. and 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, managers, principal contacts, responsible parties, etc.
- 16) Should management and/or ownership of the medical marijuana cultivation and infusion facility change at any time after approval of the CUP, the new owners or operators shall operate the site and facility 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, Nabis Holdings Inc. and 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 members or a majority of the members, directors or officers changes, a CUP amendment shall be required.
- 18) Within 90 days of approval of the CUP, Nabis Holdings Inc. and/or Perpetual Healthcare Inc. and the property owner, shall apply for a lot combination of parcels 102-07-215 and 102-07-216A, through the city's development services department.
- 19) Within 180 days of the effective date of approval of Resolution No. CUP-2-19, the facility operators and property owner shall apply to the Superstition Mountains Community Facilities District #1 ("Sewer District") for sewer hookup to the property. Said sewer hookup improvements must be completed within one year of the effective date of the resolution.

- 20) Any proposed future expansions or additional buildings at the site will require approval of a CUP amendment through the city's planning and zoning commission first. This includes the possible future use of cargo containers or "mobile minis".
- 21) The operators of the facility shall always check with the city's building or planning departments for possible building permit requirements, prior to performing or conducting any new construction, electrical, plumbing, structural or other work which may require permits. Permits may also be required for the installation of security, odor control equipment and dark sky compliant outdoor lighting.
- 22) The planning and zoning commission shall reserve the right to reconsider or overturn the CUP approval, at a new public hearing, for non-compliance with any condition prescribed as part of said CUP approval or if the use is demonstrated to be a nuisance or neighborhood hazard.

PASSED AND ADOPTED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF APACHE JUNCTION, ARIZONA, ON THIS 10TH DAY OF DECEMBER, 2019.

SIGNED AND ATTESTED TO THIS 20th DAY OF December, 2019.


Vice chair for
THERESA NESSER, Chairwoman
Planning and Zoning Commission

ATTEST:


LARRY KIRCH
Development Services Director

APPROVED AS TO FORM:


RICHARD J. STERN
City Attorney

§ 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 (see Vol. II, §§ 1-5-1 and 1-5-3).

(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 (see Vol. II, §§ 1-5-1 and 1-5-3). 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 300 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 Vol. II, § 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 Vol. II, § 1-6-19 of this Chapter may be modified.

(b) *Accessory structures.* Accessory structure size, height, design and setback standards required in Vol. II, § 1-6-5 may be modified.

(c) *Landscaping.* Landscaping size, type, amount and location standards required in Vol. II, Article 1-8 may be modified.

(d) *Signs.* Sign size, type, amount and location standards required in Vol. II, 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.

(Ord. 1402, passed 5-6-2014)

Exhibit #11 - 2021 Medical and Recreational Marijuana Regulations

2021 AMENDMENTS TO THE APACHE JUNCTION CITY CODE,
VOLUME II, LAND DEVELOPMENT CODE, CHAPTER 1:
ZONING ORDINANCE, ARTICLE 1-5 ZONING BULK AND USE
REGULATIONS, § 1-5-3 NON-RESIDENTIAL USE
REGULATIONS, TABLE 5-3 NON-RESIDENTIAL USE
REGULATIONS; ARTICLE 1-6: SUPPLEMENTAL
REGULATIONS, § 1-6-12 MEDICAL MARIJUANA; AND
ARTICLE 1-17: DEFINITIONS, § 1-17-1 DEFINITIONS

The articles noted below are modified as follow:

A) Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-5 Zoning Bulk and Use Regulations, § 1-5-3 Non-Residential Use Regulations, Table 5-3 Non-Residential Use Regulations, includes the following new uses:

Use Category	Specific Use Type¹	B-1 Gen.	B-2 Old West	B-3 City Cen.	B-4⁴ Bus Park	B-5⁴ Ind.	PI Pub/Inst
	Medical Marijuana Facilities	CUP	CUP	NO	CUP	CUP	NO
	Standalone Recreational Marijuana Establishments	NO	NO	NO	NO	NO	NO
	Dual Licensee Facilities	CUP	CUP	NO	CUP	CUP	NO
	Marijuana Cultivation Site	NO	NO	NO	NO	NO	NO
	Marijuana Testing Facility	NO	NO	NO	NO	NO	NO
	Marijuana Cultivation and Infusion Kitchens	NO	NO	NO	NO	NO	NO

B) Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-6: Supplemental Regulations, § 1-6-12 Medical Marijuana, is repealed and amended in its entirety as follows:

1-6-12 **MEDICAL AND RECREATIONAL MARIJUANA**

A. Medical Marijuana:

1. Permit Required. A Conditional Use Permit ("CUP") shall be required for the establishment of nonprofit medical marijuana facilities, including dispensaries, and/or dual licensees. 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.

2. All provisions in this section are pursuant to A.R.S. Title 36, Chapter 28.1 Arizona Medical Marijuana Act.
3. Number of Facilities Allowed in City. Within the city limits of Apache Junction, the total number of nonprofit medical marijuana dispensaries, including dual licensees, shall be limited to two.
4. Allowed Zoning Districts.
 - a) Nonprofit medical marijuana dispensaries, or dual licensees, shall be allowed in the city's B-1, B-2, B-4 and B-5 zoning districts.
 - b) An existing medical marijuana facility, or dual licensee, that has received CUP 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.
5. Facility Security. Medical marijuana dispensaries shall be located in a fully enclosed locked facility, to include only a permanent building (walls and a roof) 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.
6. Applications. A CUP application for medical marijuana dispensaries shall include all the information required on the CUP application form and the following supplemental information:
 - a) 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.

- b) A copy of the preliminary approval from the Arizona State Department of Health Services ("ADHS"), such as a registration certificate, for the nonprofit medical marijuana dispensary or dual licensee 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 ADHS, as well as a copy of said final approval document.
- c) 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.
- d) 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.

7. Conditions of Approval. The conditions of approval which may be considered by the planning and zoning commission in evaluating these requests include the following:

a) Required Spacing Requirements:

- i. A minimum of 1,320 feet between another dispensary as measured from nearest building wall to nearest building wall.
- ii. A minimum of 750 feet between a dispensary and any public or private education institution (inclusive of public or private charter schools), library, public park, commercial-zoned day care facility, free-standing church, drug and/or alcohol rehabilitation center, or group home, as measured from nearest building wall of the business to the nearest building wall of the protected use.

8. 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 shall not be allowed.
- c) A medical marijuana facility shall submit a security plan containing the following information:
 - i. Proof that any storage of medical marijuana will take place in an "enclosed locked facility (with walls and a roof and not a manufactured or factory built building or cargo container)" 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. Explanation, narrative, or protocols against medical marijuana diversion and theft.
 - iv. Provide and continuously update as needed a current list of all persons who are authorized to access the dispensary.
- d) On-site consumption of medical marijuana at a dispensary shall not be allowed.
- e) 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.
- f) 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.

9. 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.
- d) Allowing and accommodating 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.

3. Medical Marijuana 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 calendar days.
4. Medical Marijuana 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 qualified patient or patients home, all cultivation of marijuana plants for that qualified patient or patients in the designated caretakers 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 calendar days.

B. Recreational Marijuana:

1. All provisions in this section are pursuant to A.R.S. Title 36, Chapter 28.2 Responsible Adult Use of Marijuana.

2. To the fullest extent allowable by law, the operation of a standalone marijuana establishment is prohibited in Apache Junction, except where authorized for an existing dual licensee who:

- a) Operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and
- b) Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

3. Home Cultivation.

- a) It shall be unlawful for any individual who is at least twenty-one (21) years of age to possess, transport, cultivate or process more than six (6) marijuana plants.
- b) It shall be unlawful for two or more individuals who are at least twenty-one (21) years of age to possess, transport, cultivate or process more than twelve (12) marijuana plants at the individuals' primary residence.

- c) Except as provided by A.R.S § 36-2801 *et al.* and this Section, it shall be unlawful for an individual to otherwise cultivate marijuana in a residential zoning district within Apache Junction.
- d) Individuals shall not process or manufacture marijuana by means of any liquid or gas, other than alcohol, that has a flashpoint below one hundred (100) degrees Fahrenheit.
- e) Kitchen, bathrooms, and primary bedroom(s) shall be used for their intended use and shall not be used primarily for residential marijuana processing, manufacturing, or cultivation.
- f) A residence shall not emit dust, fumes, vapors, or odors into the environment and individuals shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirement of adopted building codes of Apache Junction.
- g) Cultivation shall be limited to a closet, room, greenhouse, or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors.
- h) Cultivation shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft, or other optical aids.
- i) Cultivation as part of a home based occupation is not allowed.

C. Marijuana Testing Facility: To the fullest extent allowable by law, the operation of a marijuana testing facility is prohibited in Apache Junction.

D. Marijuana Cultivation Site: To the fullest extent allowable by law, the operation of a cultivation site is prohibited in Apache Junction.

C) Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-17, § 1-17-1 Definitions, is amended by adding the following definitions:

RECREATIONAL MARIJUANA USES.

- a. **CHEMICAL EXTRACTION.** The process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
- b. **CHEMICAL SYNTHESIS.** Production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.
- c. **CITY.** The City of Apache Junction.
- d. **CONSUME, CONSUMING, AND CONSUMPTION.** The act of ingesting, inhaling or otherwise introducing marijuana into the human body, including the inhaling or exhaling of smoke or vapor from an electronic device that can be used to deliver marijuana or marijuana products to a person, including, but not limited to, an electronic or vaping cigarette, equipment, or pipe.
- e. **CONSUMER.** An individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
- f. **CULTIVATE AND CULTIVATION.** To propagate, breed, grow, prepare and package marijuana.
- g. **CULTIVATION SITE.** A location where marijuana may be cultivated, infused, or prepared for sale by and for a dispensary.
- h. **DELIVER AND DELIVERY.** The transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the designated retail location of a marijuana establishment.
- i. **DEPARTMENT.** The State of Arizona Department of Health Services or its successor agency.
- j. **DUAL LICENSEE.** An entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
- k. **ENCLOSED AREA.** A building, greenhouse, or other structure that has:

- i. A complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;
 - ii. Is secure against unauthorized entry;
 - iii. Has a foundation, slab or equivalent base to which the floor is securely attached; and
 - iv. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aids and is equipped with a lock or other security device that prevents access by minors
- l. **EXTRACTION.** The process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.
- m. **MANUFACTURE AND MANUFACTURING.** To compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- n. **MARIJUANA.** All parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin; and includes cannabis as defined in A.R.S. § 13-3401; but does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.
- o. **MARIJUANA CONCENTRATE:**
- i. Resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.
 - ii. Does not include industrial hemp or the weight of any

other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

- p. **MARIJUANA ESTABLISHMENT.** An entity licensed by the Department to operate a single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
- q. **MARIJUANA PRODUCTS.** Marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.
- r. **MARIJUANA TESTING FACILITY.** The Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.
- s. **NONPROFIT MEDICAL MARIJUANA DISPENSARY.** A nonprofit entity as defined in A.R.S. § 36-2801(12).
- t. **OPEN SPACE.** A public park, public sidewalk, public walkway or public pedestrian thoroughfare.
- u. **PERSON.** An individual, partnership, corporation, association, or any other entity of whatever kind or nature.
- v. **PROCESS AND PROCESSING.** To harvest, dry, cure, trim or separate parts of the marijuana plant.
- w. **PUBLIC PLACE.** The same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.
- x. **SMOKE.** To inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic