



# City of Apache Junction, Arizona

## Meeting Minutes Planning and Zoning Commission

Meeting location:

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

www.ajcity.net  
Ph: (480) 982-8002

www.ajcity.net  
P: (480) 474-5083  
F: (480) 982-7010

---

Tuesday, January 24, 2017

7:00 PM

City Council Chambers

---

### 1. Call to Order

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

### 2. Pledge of Allegiance

Chair Nesser led the Pledge of Allegiance.

### 3. Roll Call

Staff present:

City Attorney Joel Stern

Director Larry Kirch

Senior Planner Rudy Esquivias

Assistant Planner Stephanie Bubenheim

Planning Intern Lindsay Bresnahan

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

### 4. Consent Agenda

Vice Chair Heck made a motion to accept the Consent Agenda as presented. Commissioner Schroeder seconded the motion. The Planning and Zoning Commission accepted and approved the Consent Agenda as presented.

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

No:                                0

[17-011](#)

Consideration of approval of agenda.

**5. Call to the Public**

None.

**6. Public Hearings**

17-009

Public hearing, presentation, discussion and consideration of case PZ-14-16, a request by Apache Mustang 1 & 2 LLC, represented by Mario Mangiamele, for approval of a Planned Development Major Amendment for the Mustang Center, a +/- 4.5 acre property located at 2540 W. Apache Trail, zoned General Commercial by Planned Development (B-1/PD) to expand or change the palette of business uses for the commercial center.

Planning Intern Lindsay Bresnahan gave a presentation on proposed case PZ-14-16, a request by Apache Mustang 1 & 2 LLC, represented by Mario Mangiamele, for approval of a Planned Development Major Amendment for the Mustang Center, a +/- 4.5 acre property located at 2540 W. Apache Trail, zoned General Commercial by Planned Development (B-1/PD) to expand or change the palette of business uses for the commercial center.

Commissioner McGraw asked if the list of conditions from the presentation was complete.

Planning Intern Bresnahan explained they are complete.

Director Kirch explained more about the conditions of the approval.

Chair Nesser asked for clarification on the information from the presentation. Director Kirch and Planning Intern Bresnahan explained in more detail what the staff recommendations are.

Mario Mangiamele from I Plan Consulting representing Apache Mustang 1 & 2 LLC addressed the commission.

Vice Chair Heck asked Mr. Mangiamele for clarification on the interested uses for the vacant stores.

Chair Nesser asked for clarification if the requested changes are for all B-1 areas or just this parcel. Director Kirch explained that it is just for this parcel and if other businesses in B-1 areas want to amend the allowed uses, then they would have to come before the commission and request the change.

Chair Nesser asked staff why there are some uses staff thought would not be suitable uses for the stores. Director Kirch explained that staff considers aspects of the use and how it would impact the area when making their recommendations of permitted uses.

Vice Chair Heck asked about why a pawn shop was not approved. Director Kirch stated they consider the character of the corridor and its long term direction of the businesses that will be there.

City Attorney Stern addressed the commission. He explained that the city cannot disallow a pawn shop based on morality. This is based on past case law involving a zoning case.

Chair Nesser asked for clarification on the three uses that staff was recommending not be allowed.

Director Kirch replied that the used merchandise store was a staff consideration as to whether a thrift store is a compatible use with the other tenants currently located at the center.

Director Kirch also explained when considering their recommendations, staff also took into consideration what other tenants might like in the area.

Commissioner McCraw asked for an explanation regarding a used merchandise store and the

current thrift store. If they allow this the remaining spaces could fill up with thrift stores or a pawn shop which would go against the city planned corridor.

Commissioner Schroeder asked if a pawn shop would be considered a used merchandise store. Director Kirch explained that pawn shops are listed as a separate use in the use table.

Vice Chair Heck asked if a used merchandise store would have to get a Conditional Use Permit. Director Kirch stated that could be done as part of the amendment.

Chair Nesser opened the public hearing.

Marie Pearce, 170 N. Delaware, addressed the commission regarding the noise level at the thrift store. She explained it is loud and transients go through their garbage looking for discarded items.

Having no others wishing to address the commission, Chair Nesser closed the public hearing.

The commission discussed the item.

Chair Nesser called for a motion on this item.

Vice Chair Heck moved that the Planning and Zoning Commission recommend to the city council the approval of Planned Development major amendment case PZ-14-16, a request by Apache Mustang 1, LLC and Apache Mustang 2, LLC represented by Mario Mangiamele proposing to expand or change the palette of uses in B-1/PD (General Commercial by Planned Development) for the Mustang Shopping Center, located at 2540 W. Apache Trail, subject to the following conditions of approval:

1) The uses particular to this parcel are restricted to the attached land use matrix (see attached exhibit), with the exception of the following uses: Pawn Shop, Check Cashing Store, Used Merchandise Sales, and Group Care Homes shall not be permitted; and

2) Any future use request that is not part of the land use matrix will be subject to a Planned Development Major Amendment.

Commissioner Buzzin seconded. The commission approved the motion with a 7-0 vote.

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

No: 0

## **7. Old Business**

None.

## **8. New Business**

17-010

Presentation and discussion of case AM-2-16, a proposed text amendment to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1 Zoning Ordinance, Article 1-6 Supplemental Regulations, Section 1-6-12 Medical Marijuana, requested by SVACCHA, LLC, represented by Jenifer Corey, to amend the city's non-profit medical marijuana use regulations to allow for medical marijuana facilities, including dispensaries, cultivation facilities and infusion facilities, as determined by the Arizona Department of Health Services for the Apache Junction Community Health Analysis Area. Other proposed amendments also include, but are not limited to: possibly allowing location of said facilities in planned development zoning districts; adding more land uses from which a proposed medical marijuana facility must keep a separation distance; better defining security requirements; and possibly allowing dispensaries to sell other products to registered medical marijuana patients.

Senior Planner Rudy Esquivias gave a presentation on case AM-2-16, a proposed text amendment to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1 Zoning Ordinance, Article 1-6 Supplemental Regulations, Section 1-6-12 Medical Marijuana, requested by SVACCHA, LLC, represented by Jenifer Corey, to amend the city's non-profit medical marijuana use regulations to allow for medical marijuana facilities, including dispensaries, cultivation facilities and infusion facilities, as determined by the Arizona Department of Health Services for the Apache Junction Community Health Analysis Area. Other proposed amendments also include, but are not limited to: possibly allowing location of said facilities in planned development zoning districts; adding more land uses from which a proposed medical marijuana facility must keep a separation distance; better defining security requirements; and possibly allowing dispensaries to sell other products to registered medical marijuana patients.

Chair Ness asked City Attorney Stern to clarify that the city does not have to grant this request. City Attorney confirmed that the city does not have to grant the request.

Commissioner Schroeder asked Senior Planner Esquivias if this request includes an additional cultivation kitchen, infusion site and dispensary. Senior Planner Esquivias confirmed that it does.

Commissioner McGraw asked Senior Planner Esquivias what codes our ordinances were modeled after. Senior Planner Esquivias replied that our code follows state law and the current ordinance is also modeled after several examples of other cities; and city staff picked out the best parts for our city.

City Attorney Stern reminded the commission that this item will be coming before them at the February 14th meeting for discussion.

Commissioner Howard asked Senior Planner Esquivias if the city was in compliance with state law. Senior Planner Esquivias replied yes, the city was in compliance.

Commissioner Schroeder asked if the applicant had any relation to the current facility in the city. Senior Planner Esquivias replied none that he was aware of.

Vice Chair Heck asked Senior Planner Esquivias if the applicant is applying for more than a dispensary. Senior Planner Esquivias replied that he would not know until the city receives their application.

Vice Chair Heck asked Senior Planner Esquivias if the text amendment changes had any connection to recreational marijuana. Senior Planner Esquivias replied that if recreational marijuana legislation is passed in the next state wide general election, the city would have to

create separate codes for that use.

Commissioner McGraw asked if there would be any 'head' shops associated with these amendments. Senior Planner Esquivias replied that any paraphernalia sold would not be to the general public.

Commissioner Schroeder asked for clarification on what staff was presenting to the commission.

Chair Nesser explained that the commission has four options for this request. The commission could make no changes, change it according to the applicant's requested changes, make changes according to staff recommendations or make changes that combine both.

The commission discussed the requested changes.

The commission asked Senior Planner Esquivias to research the following: 1) does Arizona law require camera surveillance systems for medical marijuana businesses; 2) did the city regulate hours of operation for the current two facilities; 3) commission directed Senior Planner Esquivias to research what the state regulations are on delivery service; and 4) Senior Planner Esquivias contact Chief Kelly regarding any public complaints on the existing facilities.

## **9. Information and Reports**

None.

## **10. Director's Report**

Director Kirch shared two articles from The Commissioner with the commission.

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

Vice Chair Heck motioned and Commissioner Howard seconded to hold a Regular Meeting on February 14, 2017, at 7:00 p.m. in the City Council Chambers located at 300 E. Superstition Boulevard.

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

No: 0

## **12. Adjournment**

Adjournment:

Meeting adjourned at 8:20 p.m.

---

Theresa Nesser  
Chairperson