



# 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

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Tuesday, February 28, 2017

7:00 PM

City Council Chambers

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### NOTICE OF PUBLIC MEETING AND EXECUTIVE SESSION AND AGENDAS OF THE PLANNING AND ZONING COMMISSION MEETING OF THE CITY OF APACHE JUNCTION, ARIZONA

#### 1. Call to Order

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

#### 2. Pledge of Allegiance

Chair Nesser led the Pledge of Allegiance.

#### 3. Roll Call

City Attorney Joel Stern

Director Larry Kirch

Senior Planner Rudy Esquivias

**Present**            6 -    Chairperson Nesser  
                                 Commissioner Buzzin  
                                 Vice Chair Heck  
                                 Commissioner Howard  
                                 Commissioner Schroeder  
                                 Commissioner McGraw

**Excused**            1 -    Commissioner Frank

#### 4. Motion for Executive Session in the Development Services Department Conference Room.

Vice Chair Heck motioned that the Planning and Zoning Commission convene to an Executive Session in the Development Services Department Conference Room for the purpose of discussion/consultation with the city attorney for the purposes of legal advice regarding AM-2-16 in accordance with A.R.S. § 38-431.03 (A)(3) and as further outlined in this agenda. Commissioner McGraw seconded. The motion to convene into an Executive Session passed.

Chair Nesser reconvened the meeting at 7:57pm.

**Yes:**                    6 -    Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard, Commissioner Schroeder and Commissioner McGraw

**No:** 0

**Excused:** 1 - Commissioner Frank

## **5. Consent Agenda**

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

**Yes:** 6 - Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard, Commissioner Schroeder and Commissioner McGraw

**No:** 0

**Excused:** 1 - Commissioner Frank

[17-070](#) Consideration of approval of agenda.

## **6. Call to the Public**

None.

## **7. Public Hearings**

[17-069](#)

Presentation, discussion, public hearing and recommendation 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 Supplementary 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. (This item was continued from the P&Z Commission meeting of February 14, 2017.)

Senior Planner 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 Supplementary 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 (CHAA). 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 Esquivias presented answers to questions the commission requested at the February 14, 2017 Planning and Zoning Commission meeting.

The commission asked what the state's regulations say about the issue of transfers, i.e., a medical marijuana facility moving out of a CHAA to another location after three years. Senior Planner Esquivias answered that transfers are allowed after three years, where a dispensary can apply to move within a CHAA or to another CHAA. The Arizona Administrative Code, Section R9-17-306 and 307 contains detailed information regarding transfers. Senior Planner Esquivias also noted that staff is recommending additional language to our code, Section 1-6-12(B), to offer protection to the city on this issue.

The commission asked how many patients are served by the local dispensary. Senior Planner Esquivias explained that staff posed this question to Nature's Wonders attorney. At this time, staff has not received a response. However, the "Arizona Medical Marijuana Program January 2016 Monthly Report" issued by Arizona Department of Health Services states there are 971 medical marijuana patients in the Apache Junction CHAA. We could not find more recent numbers. He also recalls that at a recent meeting with the operators of Nature's Wonder, they mentioned that they had around 500 patients, many of whom come from outside the city.

The commission also asked for what diseases or ailments have most of the state's medical marijuana cards been issued to patients. Senior Planner Esquivias said that according to the "Arizona Medical Marijuana Program 2016 Fiscal Year-End Report," as of June 2016, there were 102,040 active cardholders in the state. Of those, 82,772 cards have been issued to patients with chronic pain. Patients with two or more conditions comprise 10,426 of cardholders. Patients with cancer and PTSD represent the other two categories with numbers in the thousands. Cards issued for other conditions number in the hundreds.

Senior Planner Esquivias reviewed the requested text amendments by the applicant and also recommendations by staff.

Vice Chair Heck asked for clarification on the recommended motions and where the motions are located.

Senior Planner Esquivias explained where they were located in their materials.

Having no questions from the commission, Chair Nesser invited the applicant to address the commission.

Jenifer Corey of Zoning Strategies, 3309 E. Rock Wren in Phoenix, addressed the commission as the SVACCHA, LLC representative. She addressed the commission regarding SVACCHA, LLC's requested text amendments.

Commissioner Schroeder asked Ms. Corey regarding closing hours for the dispensary and how that compares to regular pharmacies.

Ms. Corey replied that she was using a pharmacy and prescription as an analogy. The dispensary would not be supplying regular pharmaceutical drugs.

Chair Nesser opened the Public Hearing portion of the meeting.

Paul Shields, 2218 S. De Vul, Mesa, part owner of Nature's Wonder addressed the commission. He asked the commission not to make any changes to the current code.

William Lowery, 231 N. Thunderbird Dr., Apache Junction, addressed the commission. He spoke in support of Nature's Wonder.

Evan Pieser, 324 W. Santa Cruz Dr., Tempe, addressed the commission. He spoke in support of changes to the city code.

Christopher Rapp, 3200 N. Central, Phoenix, addressed the commission. Mr. Rapp asked that a provision for investigation on applicants at the city level be added to the text amendment. He also asked that the radius or proximity between dispensaries be increased.

Christopher Rogalski, 893 10th Ave., Apache Junction, addressed the commission. Mr. Rogalski spoke in favor of updating the city code.

Having no others wishing to address the commission, Chair Nesser closed the Public Hearing portion of the meeting.

The commission discussed the proposed text amendments.

Vice Chair Heck motioned that the Planning and Zoning Commission recommend to the Apache Junction City Council the approval 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, but in accordance with Planning Staff's suggested language contained in the February 28, 2017, P&Z staff report for case AM-2-16, along with the following changes:

Section 1-6-12(B) strike the last sentence that reads "Additional transfers as described by Arizona Administrative Code, Title 9, Chapter 17, Section R9-17-307 and R9-17-307, shall not be allowed in

the city limits."

Section 1-6-12(F)(2)(a) change the sentence to read "Delivery service shall be allowed per state statute."

Section 1-6-12(F)(3)(c) change the sentence to read "Hours of operation shall be addressed through the Conditional Use Permit approval process."

All other suggested changes remain as is.

Commissioner Buzzin seconded the motion. The commission approved the motion with a 5-1 vote.

**Yes:** 5 - Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard and Commissioner McGraw

**No:** 1 - Commissioner Schroeder

**Excused:** 1 - Commissioner Frank

## **8. Old Business**

None.

## **9. New Business**

None.

## **10. Information and Reports**

None.

## **11. Director's Report**

None.

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

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

**Yes:** 6 - Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard, Commissioner Schroeder and Commissioner McGraw

**No:** 0

**Excused:** 1 - Commissioner Frank

### **13.. Adjournment**

Adjournment:

Meeting adjourned at 8:57 p.m.

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Theresa Nesser  
Chairperson