



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, November 14, 2017

7:00 PM

City Council Chambers

1. Call to Order

Chair Nesser called the meeting to order at 7:01 pm.

2. Pledge of Allegiance

Chair Nesser led the Pledge of Allegiance.

3. Roll Call

Staff present:

City Attorney Joel Stern

Development Services Director Larry Kirch

Development Services Senior Planner Rudy Esquivias

Development Services Assistant Planner Stephanie Bubenheim

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

4. Consent Agenda

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

No: 0

[17-498](#) Consideration of approval of agenda.

5. Public Hearings

17-497

Presentation, discussion, public hearing, and consideration on case CUP-4-17, a request by MBD Holdings LLC (owner) and Perpetual Healthcare Inc. (applicant) represented by Lindsay Schube of Gammage and Burnham PLC, for an amendment to a Conditional Use Permit to construct a permanent building at an existing medical marijuana cultivation and infusion facility located at 1575 E. 18th Avenue, on the southwest corner of S. Tomahawk Road and E. 18th Avenue.

Assistant Planner Bubenheim gave a presentation on case CUP-4-17, a request by MBD Holdings LLC (owner) and Perpetual Healthcare Inc. (applicant) represented by Lindsay Schube of Gammage and Burnham PLC, for an amendment to a Conditional Use Permit to construct a permanent building at an existing medical marijuana cultivation and infusion facility located at 1575 E. 18th Avenue, on the southwest corner of S. Tomahawk Road and E. 18th Avenue.

Chair Nesser asked what guarantee the city has that the buildings will be built within two years since they were given two years before. Assistant Planner Bubenheim answered they have two years to get a certificate of occupancy. Chair Nesser said that is true but it allows them to operate the way they have been for the past two years. What guarantee does the city have at this point in time that the building will be built within two years. Director Kirch pointed out that in Condition #19 they have to apply for a building permit within 180 days. If they don't, the CUP can be revoked. Chair Nesser asked why it can't be 90 days. Director Kirch replied that the commission can ask the applicant if there are any issues in getting things done within the requested time frame. Chair Nesser asked if they could apply for a building permit tomorrow. Director Kirch said they have to have a complete set of building plans when they submit the application. Chair Nesser asked again what a reasonable amount of time. Director Kirch replied that the commission can ask the applicant that question. City Attorney Stern agreed that the commission should ask the applicant.

Chair Nesser asked about the parking on 18th Avenue and parking complaints. Assistant Planner Bubenheim answered that the employee to parking space ratio doesn't match. They have more employees than parking spaces inside the facility property. She added that under this amendment, staff is requesting additional parking spaces to alleviate the street parking situation. Chair Nesser asked if the city can restrict employee parking on the street and require the applicant have enough parking on their property to alleviate street parking. Assistant Planner Bubenheim replied that it is possible although the property is small which limits the amount of parking. Director Kirch pointed out the map, the current parking issue on the property, and how their request allows them to add parking on their property.

Commissioner Howard commented the parking issue will continue to be an issue until the construction is completed. Assistant Planner Bubenheim replied that is a fair assumption and added that there will be construction traffic as well.

Vice Chair Heck asked about Conditions #21 and 22. He asked if Condition #21 can be removed and not allow them to use mobile mini units during construction. City Attorney Stern said that the condition can be removed but the commission should hear from the applicant first. He added that an alternative might be that the commission pass the request tonight but add another condition that the applicant come back in six months to update the commission of the construction progress. Assistant Planner Bubenheim suggested that another condition can be added that doesn't allow for any more time extension.

Commissioner Schroeder agreed with Vice Chair Heck and asked that what the point is for approving a CUP if the conditions aren't being followed by the applicant. He added that the point of these meetings is to let the applicant know what the city expects from them and if the

conditions are ignored it seems there isn't a good relationship with the city.

Commissioner McGraw asked what is going to happen with the freezer. Assistant Planner Bubenheim said the refrigerator on the existing site plan and part of building 1 will be removed and will not be replaced. Commissioner McGraw asked if there will be one on the property any more. Assistant Planner Bubenheim replied that there are other refrigerators on the property. The one that is being removed will not be replaced.

Commissioner Kridler asked for clarification on Condition #16 in CUP-2-15 and the time frame outlined in the condition. Assistant Planner Bubenheim replied that they did meet the requirement as they applied within the 18 months for a CUP. Commissioner Kridler answered that they followed this condition. Assistant Planner Bubenheim replied that they did follow that condition.

Having no other questions or comments from the commission, Chair Nesser invited the applicant's representative Lindsay Schube to address the commission.

Ms. Schube gave a presentation to the commission on proposed case CUP-4-17.

Commissioner Schroeder commented that Ms. Schube mentioned that finances were a reason things weren't going as planned. He also added that the business operations is unknown to those in the area. He added that over the last two years he's seen an increase in cargo containers and cars and added the finances seem to be there. He feels that they had the money to hire additional employees and add mobile minis but not the money to make the improvements. Ms. Schube replied that it was always their intention to operate as they were for the eighteen months. Ms. Schube explained the financial situation of the applicant two years ago and that they didn't have the money two years ago to connect to sewer. She also added that there wasn't sewer there to connect to and they couldn't build without the sewer connection. Commissioner Schroeder asked if plans have been drawn for this building. Ms. Schube replied that an architect was commissioned to do the elevation and site plan but hasn't started the cd's until they were approved.

Chair Nesser asked what would have happened if Bel Agave wasn't being built. Ms. Schube replied that she didn't know. She added that two years ago they were talking about major improvements to a property that they didn't own.

Chair Nesser asked staff if there is any possibility that the sewer wouldn't be put in for Bel Agave. Director Kirch replied that staff has spoken to the sewer district enough to know there will be a sewer pipe in front of the property. Assistant Planner Bubenheim replied that sewer is available and is only required for a new building. She added that the expiration date on the one condition was remove the mobile minis. She also said if sewer wasn't available or too costly, they would have to remove the mobile minis and keep the existing buildings. Senior Planner Esquivias added that Condition #17 of CUP-2-15 addressed the sewer issue that they would need to connect and the mobile minis would have to be removed.

Vice Chair Heck said it's troubling to him because they are applying for this as the time is ending for the CUP and the applicant is looking for more time to build. He added he believes there is a credibility issue and the applicant wasn't forthcoming during their first CUP process. He continued by saying additional structures should be added to the conditions to protect the commission and its efforts to work through the applicant's request.

Commissioner Howard stated that this business is a growing business and asked if the new layout accommodate business in Apache Junction. Ms. Schube replied that she tries to stay out of the business any financial aspects and relies on the business owner and other professionals for information. She added the owner is working on the site and they believe it will accommodate

growth but this is changing and some things can be done in smaller space. She added that it is enough space for their plans but doesn't have the answer for the future. She replied that the owner knows if there are any changes to the other two buildings, they will need building permits.

Chair Nesser asked City Attorney Stern if she could ask a question to the property owner. He replied she can because he's part of the package. Chair Nesser asked the owner to come to podium. Chair Nesser asked the property owner, Dave House of 325 S. Mountain View Road, Apache Junction, if he had any concern over building for this type of business and what will he do with the buildings if the present tenant leaves. Mr. House replied that he is confident the building will be occupied if the current tenant moves. He added that since the tenant is investing in new buildings he is confident they will be there for a long time.

Having no further questions for the applicant, Chair Nesser welcomed discussion from the commission.

Chair Nesser commented that improving the site and removing the mini mobiles is a big improvement and a benefit to the city. She added that she feels the applicant should give staff an update in 90 days. Senior Planner Esquivias reminded Chair Nesser that this is a public hearing and there may be someone in the audience wishing to address the commission.

Chair Nesser opened the public hearing portion of the item.

Having no one wishing to address the commission, Chair Nesser closed the public hearing portion of the item.

City Attorney Stern addressed Chair Nesser suggesting the condition should state the applicant should come before the commission to provide the update so that discussion can take place. This would be better than just an update from staff. Chair Nesser asked at what time the 90 days would start. City Attorney Stern replied that the condition can have the date and should be very specific. He added the commission should pick a date which states the year as well.

Commissioner Howard agreed that a 90 day update to commission should be added.

Commissioner Frank agreed as well.

Commissioner Schroeder added that April 20th should be the day of the update.

Commissioner Kridler agreed with the 90 day update as well.

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

Vice Chair Heck moved that the Planning and Zoning Commission recommend approval case CUP-4-17, a request by MBD Holdings LLC, represented by Lindsay Schube of Gammage and Burnham PLC for Perpetual Healthcare Inc., requesting a Conditional Use Permit Amendment to construct a permanent structure 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: Approval of Conditions 1 through 24 of the Public Hearing Staff Report dated November 14, 2017 along with three additional conditions. Condition #25 The commission will issue no extension on the current CUP amendment under any circumstances; Condition #26 The commission is requiring a public hearing no later than January 23, 2018 for an update from the applicant relevant to the completion of the CUP; Condition #27 The commission reserves the right to withdraw approval of the CUP amendment for failure to demonstrate acceptable progress to the commission. Commissioner Schroeder seconded the motion. The item passed with a 7-0 vote.

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

No: 0

6. Old Business

None.

7. New Business

None.

8. Information and Reports

None.

9. Director's Report

Director Kirch announced there are two interns starting on Monday. One of the interns is Suleima Barrerra, a past intern, and Danielle Jordan. Suleima will be working on the GIS and Danielle will be working on rezonings. He added that the city received a project through MAG to do a bicycle pedestrian plan which the commission will receive more information on soon.

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

Vice Chair Heck made a motion that the Planning and Zoning Commission hold a regular meeting on November 28, 2017 at 7:00 PM in the Apache Junction City Council Chambers located at 300 E. Superstition Boulevard. Commissioner Schroeder seconded the motion. The item passed with a 7-0 vote.

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

No: 0

11. Call to the Public

None.

12. Adjournment

Adjournment:
Meeting adjourned at 8:06 p.m.

Theresa Nesser
Chairperson