



PINAL COUNTY
wide open opportunity

**PINAL COUNTY PLANNING AND ZONING COMMISSION
REGULAR MEETING
February 21, 2013**

PRESENT: Mr. Hartman, Chairman Mr. Riggins, Vice-Chairman
Ms. Aguirre-Vogler, Member Mr. Brown, Member
Mr. Gutierrez, Member Ms. Moritz, Member
Mr. Del Cotto, Member

ABSENT: Mr. Ellis, Member Mr. Tameron, Member
Mr. Salas, Member

LEGAL STAFF PRESENT:
Ms. Grieb, Deputy County Attorney

PLANNING STAFF PRESENT:
Mr. Stabley, Director Mr. Abraham, Planning Manager
Ms. MacDonald, Planner II Mr. Ashbaugh, Planner I
Ms. Cortez, Administrative Secretary

PUBLIC WORKS STAFF PRESENT:
Mr. Chow, Development Section Chief

The meeting was called to order at 9:06 a.m., this date by Chairman Hartman in the Emergency Operations Center (EOC) Hearing Room, Building F, Florence, Arizona.

Chairman Hartman introduced Mr. Rand Del Cotto the new Planning and Zoning Commission Member representing District 4.

DISCUSSION/APPROVAL/DISAPPROVAL OF MEETING MINUTES: January 17, 2013
Commissioner Aguirre-Vogler stated on page two (2) third to the last paragraph needs clarification, regarding the question asked by Chairman Hartman and the response by the applicant.

Chairman Hartman stated also on page two (2) second to the last paragraph also needs clarification.

MOTION
Commissioner Aguirre-Vogler made a motion to approve the minutes of January 17, 2013, with the clarifications. Commissioner Moritz seconded the motion. Motion passed unanimously.

Mr. Stabley stated representatives from The Department of Transportation and Union Pacific Railroad will be attending the March 21, 2013 meeting to address any questions or concerns the Planning Commission may have.

Mr. Fritz Behring County Manager will also be making a presentation for the Commission on March 21, 2013.

Chairman Hartman stated City of Maricopa and the City of Casa Grande, conducted a joint meeting to provide an update on the study on a new east-west transportation corridor through western Pinal

County. Chairman Hartman suggested having Pinal County Public Works and Planning staff members present.

REPORT ON BOARD OF SUPERVISORS ACTION ON P & Z CASES

Mr. Stabley gave an update from the January 30, 2013 meeting; case PZ-008-12: Elba Bonfiglio landowner/applicant, the Board of Supervisors approved the zone change.

No cases on February 13, 2013 presented to the Board of Supervisors.

Chairman Hartman requested the members of the Planning Commission to introduce themselves, and the district they represent.

Commissioner Del Cotto recused himself from case SUP-010-12 due to conflict of interest. Commissioner Del Cotto exited the room at 9:19 a.m.

NEW CASES

SUP-010-12 – PUBLIC HEARING/ACTION: Paul Shaub, applicant, Glenn Wilt Jr., agent requesting a Special Use Permit to operate the Pinal County Wellness Center medical marijuana dispensary on a 1.59± acre parcel in the CB-2 zone (**PZ-518-77**); situated in a portion of the NW¼ of Section 8, T6S, R16E G&SRB&M, tax parcel 300-20-007B (legal on file) (located on the west side of Highway 77, south of Valentine Road in the Dudleyville area).

Ms. MacDonald read a portion of the staff report and used a PowerPoint Presentation.

Chairman Hartman called the applicant forward.

Commissioner Aguirre-Vogler asked Ms. MacDonald why the case needs a SUP if it is under the CB-2 zoning. Ms. MacDonald responded the zoning ordinance requires that medical marijuana dispensaries be located in a CB-2 zone and must receive a SUP.

David Dow, 3104 E. Camelback Road #281, Phoenix, Arizona, came forward to address the Commission. Mr. Dow gave a brief presentation of the project, and stated that the marijuana would be purchased from another dispensary.

Chairman Hartman asked Mr. Dow where the majority of the clients would be coming from. Mr. Dow responded he believes there will be some clients that are embarrassed about using a local dispensary who will travel to this dispensary. He added there are seventy-five (75) people in the specific area that are approved cardholders.

Chairman Hartman asked what are the laws regarding driving and transporting marijuana for approved cardholders? Mr. Dow responded under current law, qualified patients may purchase 2.5 ounces of marijuana every two weeks. However, despite the fact that a person may be a qualified as an approved cardholder, possession of a legal card will not prevent a motorist from getting a DUI. The effects of marijuana can stay in a person's system for days, weeks, and even months depending on how much and often they use it.

Commissioner Brown asked Mr. Dow if there were specific factors in picking the location for the dispensary. Mr. Dow responded the area was picked because it is relevantly vacant; there are no schools nearby or public buildings.

Commissioner Moritz asked Mr. Dow who will be operating the dispensary. Mr. Dow responded that Mr. Shaub and Dr. Wilt would be in the location on a day-to-day basis. Commissioner Moritz stated she is opposed to the concept but the presentation by the applicant and the choice of location by the applicant;

make her feel more comfortable with the dispensary. Commissioner Moritz stated there are many people who are opposing the dispensary and perhaps they are only opposed to the concept, since it is still new. Commissioner Moritz stated she does not see any major concerns approving the case, since the applicant seems to be following all the regulations.

Chairman Hartman spoke regarding an article the Chandler Republic published speaking regarding the pro's and con's on consuming medical marijuana.

Commissioner Gutierrez asked Mr. Dow if there would be onsite prescriptions given, now or in the future. Mr. Dow responded no, and clarified that it isn't considered a prescription, rather the doctors recommend. Mr. Dow stated by law the medical director cannot recommend medical marijuana. Commissioner Gutierrez asked what background research is done on the cardholders. Mr. Dow responded once the identification has been issued by the State of Arizona the Department of Health Services (DHS) requires the dispensary to scan the identification card into the DHS database for confirmation of card approval. Once the identification is scanned and sent to the DHS database, it will also tell the dispensary how much medical marijuana that client can receive on that specific visit.

Commissioner Gutierrez asked about the stipulation regarding off-site delivery of medical marijuana by the dispensary being prohibited. Mr. Dow stated that is a stipulation that they would like to remove since DHS has specific rules that need to be followed to deliver the marijuana. DHS does not prohibit deliveries. Mr. Dow also stated the applicant would like to modify stipulation one (1), the SUP only being good for two (2) years. The applicant would like to increase it to three (3) years due to DHS having three (3) years for their review, and this way it would line up with the State's requirements.

Commissioner Gutierrez asked Mr. Dow if comments were sought from the tribal area while the community meetings were being held. Mr. Dow responded he had not personally spoken to the Indian reservation, but Dr. Hartman had and he had not received any negative input from them. Commissioner Gutierrez asked Mr. Dow where the product would be delivered from, since it will not be grown on site. Mr. Dow stated it would be initially purchased from another dispensary, and in time, Dr. Hartman plans to grow in his own facility.

Commissioner Gutierrez asked Mr. Dow if the law was to change, does the dispensary have a plan to change with the law. Mr. Dow responded the business plan would not be changed, but the bylaws would be amended to conform to the DHS requirements. Commissioner Gutierrez asked Mr. Dow if the wellness center and or other facilities in Globe area would be advertising the dispensary. Mr. Dow responded it would be very rare to do so, but information about the dispensary will be available online.

Dr. Glenn Wilt Jr., no address provided, came forward to address the Commission. Dr. Wilt stated Dr. Hartman would have seminars from time to time for massage therapists, yoga instructors, and other professionals that could add to the dispensary business. Mr. Dow stated that Dr. Hartman has been trying to perfect the methods used in California with the dispensaries to make sure none of the problems that have occurred there occur here.

Commissioner Brown stated the best advertisement would be to advertise to the medical profession, not online. Advertising online would meet a younger demographic. Mr. Dow stated advertising online is not just for the younger demographic. Direct contact with health professionals would be a helpful way. Commissioner Brown stated advertising is normally when a business is in competition and asked if the dispensary is in competition. Mr. Dow responded there would be some competition, and you would hope the business succeeds and advertising is more about introducing to the public what is available.

Commissioner Moritz stated the Commission is not here to establish what the marketing plan is, but to decide if the dispensary meets the comprehensive plan of the County and if it meets the health and

welfare of the citizens of the County. Commissioner Moritz asked if the doctors are medical or academic. Mr. Dow responded Dr. Hartman is medical, and Dr. Wilt is not.

Vice Chairman Riggins asked Mr. Dow to describe why he believes the landowners around the dispensary are in opposition. All of the correspondence received by staff has been in opposition; no one is in support of the dispensary. Mr. Dow responded he does not have an explanation why they are opposing the dispensary.

Chairman Hartman stated during the public meeting there were only three (3) members of the public present, and the meeting only lasted 10-20 minutes. In the packet presented by staff there were approximately 100 (one hundred) letters opposing the dispensary. Commissioner Brown stated he believes if it would have been advertised in the medical field there would have been more public turn out. Commissioner Gutierrez agreed with Commissioner Brown. Vice Chairman Riggins stated that it does not matter what the business is or how the marketing is conducted; what needs to remain in focus is that this is an SUP and it needs to be treated as any other SUP would be treated.

Paul Shaub, P.O. Box 723, Winkelman, Arizona, came forward to address the Commission. Mr. Shaub stated there were three (3) members of the community who attended the public meeting.

Commissioner Moritz stated on the application, there is a fee that covers advertising. There is no reason to have the applicant pay for that fee again to hold another public meeting. If the residents of the area were opposed to the dispensary, they would have been present for the first meeting. It is much easier for someone to sign a petition than to actually show up to a meeting.

Chairman Hartman opened the meeting to the public. Hearing none, Chairman Hartman closed the public portion of the meeting.

Vice Chairman Riggins stated there have been SUPs with a lot of public support; there have been other cases when there is great opposition. It is clear that the people in the proximity of this dispensary are not in favor, there were 105 people opposed and none in favor. Furthermore, a SUP needs to have access and this case clearly states, "The subject property does not have legal access through state land, or approved access from the highway," that should be clarified before coming to the Commission. It is a public business and it needs to have access.

Commissioner Brown stated the access to this site has always been illegally used. Granting access to the site will not change the outcome from the public. The neighboring residents are opposed, and what needs to be understood is that the dispensaries are going to be done and what is best for everyone is to have them administered by someone who knows what they are doing, and be done the right legal way.

Commissioner Gutierrez asked Ms. MacDonald if the County would not issue the permit until legal access to the site has been obtained. Ms. MacDonald responded one of the stipulations states they have to receive site plan approval before they begin operating, and staff will not approve the site plan until the applicant provides proof of legal access.

Commissioner Moritz stated there are many people in opposition in this case, but none are present at this Planning and Zoning public hearing. Vice Chairman Riggins agrees with Commissioner Moritz, if there is great disagreement, there should be physical presence but there is not and we only have numerous letters in opposition and no letters in support.

Ms. MacDonald reviewed the stipulations for the Commission. Mr. Dow would like to change stipulation one (1), to renewing the SUP in three (3) years instead of two (2). Ms. MacDonald explained the two (2) years are a requirement from the Zoning Ordinance, and it cannot be extended to three (3) years. Ms. MacDonald also suggested modifying the wording on stipulation eleven (11), to clarify that off-site

delivery of medical marijuana to a patient is prohibited. Ms. MacDonald suggested adding stipulation eighteen (18) to clarify there will not be any on site cultivation based on the applicant's presentation.

Chairman Hartman asked if the SUP was issued to the land or to the applicant. Ms. MacDonald stated it is issued to the land. When the Zoning Ordinance was updated, the language was changed in the SUP section to have them issued to the land rather than the applicants.

Commissioner Brown agreed with the applicant regarding changing stipulation one, regarding the renewal of the permits being every three (3) years instead of two (2) years.

Mr. Dow stated they do not have a problem with the stipulation stating no cultivation, but would like to have the off-site deliveries stipulation removed. The dispensary has older patients that would need deliveries made to their homes. Ms. MacDonald stated the Zoning Ordinance prohibits the deliveries. Commissioner Brown stated the people who would best benefit are the ones who cannot drive out to the dispensary to pick it up.

Ms. Grieb stated this is all new to everyone; we do need to follow the Zoning Ordinance. If we find out that this does not work for dispensaries, we can always do a Zoning Ordinance Amendment in the future.

Mr. Stabley stated it was going to be difficult to prove to the delivery person that the person receiving the medical marijuana was really an authorized cardholder.

MOTION

Vice Chairman Riggins made a motion to forward case SUP-010-12 to the Board of Supervisors with a recommendation of denial. There was no second on the motion.

Vice Chairman Riggins stated that when we are reviewing a SUP application we need to consider the feelings of the people that have to live around it.

MOTION

Commissioner Moritz made a motion to forward case SUP-010-12 to the Board of Supervisors with a favorable recommendation, with changes to stipulation eleven (11) to read "off-site delivery of medical marijuana from the dispensary to a patient is prohibited;" and adding stipulation eighteen (18) "there shall be no cultivation of marijuana at the dispensary, as stated by the applicant;". Commissioner Brown seconded the motion.

Chairman Hartman requested a roll call vote.

Commissioner Aguirre-Vogler Yes, it is the wave of the future and was approved by the voters.

Commissioner Brown Yes, it is the law, and if someone is going to do it, it should be a responsible party and the applicant seems to be the right candidate.

Commissioner Gutierrez Yes, the applicant gave a good presentation and they are in compliance with the state law, as well as with Pinal County.

Commissioner Moritz Yes, and agrees with the other Commissioners.

Vice-Chairman Riggins No, it is not a discussion about medical marijuana it is really about zoning, and the many citizens whom opposed the case.

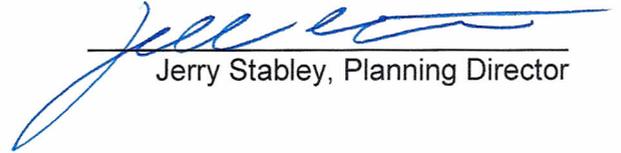
Chairman Hartman No, because of the public safety and welfare.

Motion passed, four (4) in favor and two (2) opposed.

ADJOURNMENT

Commissioner Moritz made a motion to adjourn. Commissioner Aguirre-Vogler seconded the motion. Chairman Hartman accepted the motion. Meeting adjourned at 10:52 a.m.

RESPECTFULLY submitted March 21, 2013



Jerry Stabley, Planning Director