

**TOWN OF FLORENCE
PLANNING AND ZONING COMMISSION
REGULAR MEETING
MINUTES**

REGULAR MEETING OF THE TOWN OF FLORENCE PLANNING AND ZONING COMMISSION HELD THURSDAY, JUNE 20TH, 2013 AT 6:00 PM AT TOWN HALL COUNCIL CHAMBERS LOCATED AT 775 NORTH MAIN STREET, FLORENCE, ARIZONA.

CALL TO ORDER

Chairman Wooley called the meeting to order at 6:00 pm.

ROLL CALL:

Present: Wooley, Putrick, Anderson, and Reed.

Absent: Petty

PLEDGE OF ALLEGIANCE

Chairman Wooley led the Pledge of Allegiance.

DISCUSSION/APPROVAL/DISAPPROVAL of the minutes of the special meeting conducted on September 25, 2012.

On motion of Commissioner Anderson, seconded by Commissioner Putrick and carried to approve the meeting minutes of September 25, 2012.

PUBLIC HEARING

CASE PZC-24-13-CUP (HEALING HEALTHCARE 3 INC.)

PRESENTATION/RECOMMENDATION for a request by Rakesh Pahwa/Healing Healthcare 3 Inc. on behalf of OM Shiv Radiology for approval of a Conditional Use Permit to allow for a proposed Medical Marijuana Dispensary on a Highway Business Commercial (B-2) zoned property located at 801 North Pinal Parkway, Florence, Arizona, AKA, APN 200-46-005V.

Mark Eckhoff, Community Development Director stated that staff has added additional letters the department has received in support and in opposition of the application.

On November 2, 2010, the voters of the State of Arizona approved Proposition 203, the "Arizona Medical Marijuana Act", which created a distinction between the medical and non-medical uses of marijuana under Arizona law for persons suffering from debilitating medical conditions who are in need of marijuana for medical purposes and who obtain and use medical marijuana under the circumstances specified in Arizona Revised Statutes, Title 36, A.R.S. § 36-2801 et seq. The Department of Health Services (AZDHS) is the State agency charged with regulating medical marijuana dispensaries, cultivation facilities and issuing licenses to prospective applicants.

Under the new State law, cities and towns were allowed to adopt reasonable regulations regarding the location and operations of medical marijuana dispensaries and growing operations. As such, the Town of Florence adopted new codes related to this new State law so that there were clear and concise local regulations pertaining to the emerging medical marijuana industry.

The plans to establish Healing Healthcare 3 Inc. to provide cannabis products for patients in the Florence and surrounding Pinal County area who have received a physician's medical recommendation to utilize medical marijuana for the management of their medical afflictions.

This Conditional Use Permit request is for approval of an application by Rakesh Pahwa/Healing Healthcare 3 Inc. to allow for a proposed medical marijuana dispensary in a Highway Business Commercial (B-2) Zoning District on property located at 801 North Pinal Parkway Avenue. The site is the former location of a Big O Tires business that has been vacant for close to five years.

The Town of Florence adopted a comprehensive approach to the new State law with regard to medical marijuana facilities. First and foremost, the new medical marijuana industry allowed by State law presented the need to better define the types of uses allowable under the new State law. Once those new uses were more clearly defined in a new chapter of the Town Code (Chapter 152) titled *Medical Marijuana*, the Town then developed requirements pertaining to the location and operation of these new uses. Locational criteria is first defined at the Zoning District level and then narrowed down by additional locational criteria, such as the distances between similar uses, distances to schools and other factors.

In general, the Town's medical marijuana ordinance allows all of the cultivation, operation and dispensary related medical marijuana uses to occur within the Town's Light Industrial (LI) Zoning District with a Conditional Use Permit (CUP). In addition, dispensary facilities are also allowed within the Town's Highway Business Commercial (B-2) Zoning District with a Conditional Use Permit. Any type of new facility related to this ordinance is subject to meeting the terms of their respective CUP and also would need to obtain require zoning clearance

from the Town. In addition, all such facilities must be in compliance with State law and the AZDHS rules and regulations.

The proposed dispensary facility would operate out of approximately 5,400 square foot building existing on the property. The applicant has produced plans to separate the building with a framed wall in order to comply with the 2,500 square foot limit on the dispensary size per Town codes. The unused portion of the building could be used for compatible commercial retail uses.

The building is proposed to include a reception desk, cashier area and a private patient conference room to discuss the medical marijuana products that will be available. Once a patient selects a product, it will be purchased from an automated dispensing machine inside the building. Other areas of the dispensary will be off limits to patients, including the medical director's office.

The facility would also include a prep room where the marijuana product will be held in a secured safe and can be packaged for distribution; supply closets; an employee kitchenette and lounge; restrooms; utility areas; and a file room where medical records will be kept.

The facility would have adequate parking and include parking spots designated for those patients who are physically disabled. There would be a wheelchair access ramp and the campus will be well lit area at night. The applicant has prepared a detailed security plan in order to maintain the security of the site and the building.

The dispensary owner plans on having three full time employees on site during the hours of operation. Hours of operation for the dispensary would be limited per Town codes. As such, the facility will have operating hours not earlier than 8:00 a.m. and no later than 8:00 p.m.

The Medical Director for Healing Healthcare 3 Inc. of Florence will be Donald W. Hill, M.D., F.A.C.P., Chief Executive Officer. Dr. Hill is a licensed physician in Arizona in the practice of hematology and medical oncology. He is board certified in internal medicine and also medical oncology. Dr. Hill has written and published 15 scientific articles to his credit and has established cancer clinics in Arizona over the last 24 years. Dr. Hill oversees the only active experimental cancer treatment clinical trial program between Tucson and Phoenix. Furthermore, Dr. Hill was the only physician in the State of Arizona with a Schedule I medical marijuana license from 2007 until 2010.

When the Planning and Zoning Commission considers a Conditional Use Permit request the applicant must show the following:

A. The site of the proposed use and the surrounding land uses;

Finding:

The site is zoned Highway Business Commercial (B-2). The proposed site was formerly utilized as a Big O Tires business. The site is adjacent to the Pinal County Superior Court and Administration Offices to the north, Behavioral Systems Southwest Inc. to the east and a McDonald's Restaurant to the south.

The subject site has established access for customers off of Pinal Parkway/Highway 79 and shared access with McDonalds off of Diversion Dam Road.

Surrounding Land Uses and Zoning Districts:		
	Zoning Classification	Existing Use
North	Light Industrial (LI)	Pinal County Superior Court and Administration Offices
East	Highway Business Commercial (B-2)	Vacant Office Building
South	Highway Business Commercial (B-2)	McDonald's Resturant
West	Planned Unit Development (PUD)	Vacant Land
Onsite	Highway Business Commercial (B-2)	Vacant Commercial Building

B. Access to the site; and

Finding:

The subject site has established access for customers off of Pinal Parkway/Highway 79 and shared access with McDonalds off of Diversion Dam Road. There is cross access with another vacant pad (former Grease Monkey facility) on the east end of the site and the McDonalds restaurant to the south.

The parking lot for the building would be re-paved and striped to define parking required by the Town of Florence. The site will require painted directional arrows

to help guide vehicular traffic on and off the site and provide curbing on the northwest side to limit access.

C. The impact on adjoining and surrounding property if the application is approved.

Finding:

The Town's General Plan identifies this area along Highway 79 as a future business and mixed use corridor. The site's General Plan land use and existing zoning designations support this site being used for traditional commercial purposes.

The evaluation of potential impacts of a conditionally permitted use to adjoining and/or surrounding properties is a factor that requires careful consideration. In general, a conditionally permitted use is a use that might work at one location within a given zoning district, but might be inappropriate at another location within the same zoning district.

The following have expressed concerns about the potential compatibility of this use with surrounding properties, existing developments and proposed developments.

- McDonalds Restaurant licensee Robert L. Souza operates the McDonald's immediately adjacent to this proposed facility. Mr. Souza contends now, as he did when a previous similar request was under review for this site, that the proposed use poses a threat to the reputation of his family business.
- The Arizona Department of Corrections (ADC) previously expressed very strong opposition to having a medical marijuana dispensary being located adjacent to their Florence facilities. Staff has received an updated letter from ADC, therefore staff contends that their opposition remains due to their contractual affiliation with the GEO Group correctional facility located within close proximity to this site.
- Lynn Londen represents Yole, LLC, which owns property across the highway from this proposed facility. Mrs. Londen has partnered with the Town on the Territory Square efforts and suggests in her letter that this use would be counterproductive to the efforts made on the Territory Square project.
- Pinal County has expressed verbal concerns about the proposed use. As of this writing, staff does not have any written comments from Pinal County.

- The Mayor and Town Council of Florence previously denied a Conditional Use Permit request for this site. Though this past decision is not binding on the current application and this is not an identical application, staff contends that their denial for non-compatibility reasons should be taken into consideration.

In making its recommendation, the Planning and Zoning Commission and Town Council may include conditions which are deemed necessary to protect the public health, safety, and general welfare. These conditions may include, but are not limited to:

1. Regulation of use;
2. Special yard requirements;
3. Special buffers, fences or walls;
4. Special parking areas;
5. Street dedications and/or improvements or appropriate bonds;
6. Regulation of access points;
7. Sign restrictions;
8. Required maintenance of yard;
9. Regulations of odors, noise, light or other special environmental factors;
10. Restrictions of hours of activity;
11. Duration of use;
12. Completion of development; and
13. Other conditions which will make the proposed use more compatible and harmonious with the surrounding land uses. In no case, however, shall these conditions be less restrictive than those found in the existing zoning classification.

In addition to any of the above special conditions, the Planning and Zoning Commission shall impose the following general requirements on every Conditional Use Permit which is granted:

1. No Conditional Use approval shall be final until all conditions imposed have been met;
2. All of the special conditions shall constitute restrictions which run with the land and which shall be binding upon the owner of the land, successors or assigns;
3. The special conditions imposed by the Planning and Zoning Commission and/or Council shall be consented to in writing by the applicant prior to issuance of a Conditional Use Permit; and
4. The Resolution of the Council granting the application together with all consent forms shall be recorded by the recorder of the county.

Staff presents the following findings for the consideration of the Planning and Zoning Commission and Town Council:

1. Public comments on this request call into the potentially compatibility of this use with surrounding properties.
2. Public comments on this request question the impact of this use on surrounding businesses, proposed businesses and the Town as a whole.
3. The Arizona Department of Corrections opposes this type of use in close proximity to their correctional facilities as it may present public safety concerns and could have negative impacts on their programming and rehabilitation efforts.
4. A Medical Marijuana Dispensary is a conditionally permitted use in a Highway Business Commercial (B-2) Zoning District, which means that it is a use that can be carefully evaluated and not allowed should it be deemed inappropriate for a specific location.
5. The proposed use would be incompatible with the Town's visionary plans for the Territory Square project, which has been promoted in various Town marketing materials and on the Town web page.

Based on the findings established for this case, staff recommended that the Planning and Zoning Commission send an unfavorable recommendation on this this Conditional Use Permit request to the Mayor and Town Council

Public Hearing

Rakesh Pahwa, owner of Healing Healthcare 3 Inc stated that he has been involved in this community for many years and had a business in Town on 200 South Main Street. Mr. Pahwa was presented a plaque from the Chamber of Commerce as the business of the year in 2001. Today, Mr. Pahwa desires to bring another business to the Town, which is going to be secured and only the patients who have been issued a card from the Department of Health will be allowed to enter the premises. Healing Healthcare is here to follow all of the guidelines mandated by the State and the Department of Health. Only card issued patients with a medical card will be allowed to enter the premises and this will be monitored by security cameras. The building will be secured by block walls for extra security so there should be no vandalism. Signage on the building displaying it is a medical marijuana facility will not exist. The building will have a very small sign and it's going to be destination place for the patients to procure their medicine. Healing Healthcare is not here to promote illegal drug traffic, but to fill a niche in the Florence market. Our request is for the Commission and

Town to reconsider and give them an opportunity to be a part of this community again. The group wants to promote the community and help the patients who are in need for this medicine. They're going to be medical professionals in scrubs dispensing the medicine as desired by the Department of Health.

Carson McWilliams of 6404 Yorktown Way in Anthem at Merrill Ranch stated that he is a current employee of the Department of Corrections, representing the Department and the Director Charles Ryan. The Director has written a letter in opposition and would like to elaborate on behalf of the Director. Mr. McWilliams is also here to speak as a citizen of this Town. Part of the Department of Correction's mission is public safety and The Department believes this facility will cause a conflict of interest in their mission to provide public safety to their inmates. Also the programing in this facility that has to do with inmates, there is a lot of tax dollars that are spent and used to rehabilitate people, especially in the realm of drug addiction. The other factor and main concern is the volume of inmates in this Town, and the number of visits generated in the Town from in and outside the State. This proposed dispensary opens the door for contraband concerns for the Department and the violation of State laws about transporting narcotics on State property. The Department would certainly be opposed to this or any other proposal to put a marijuana dispensary in the Town and certainly hope and recommend that the Commission would deny this request.

Pinal County Attorney Lando Voyles commented about two issues. First issue is that Marijuana is a schedule one drug and individuals who and/or groups who decided what schedule one drugs are the Drug Enforcement Agency(DEA) and the Food and Drug Administration; they decide together what our schedule one consist of and there are five different schedules. Schedule one means that it has in part no medical value whatsoever. Second point is if you don't want to buy into that concept, this violates the Town's Ordinance. Chapter 152 says that this use cannot be within 660 feet of any public library or any religious facility based on the fact that it's a sensitive use area. Directly behind the proposed dispensary is Behavioral Systems Southwest which is a religious facility, in part. Also, within 660 feet is the Law Library, which is the public Law Library over at the Pinal County Courthouse. Both of those would violate the Town's Ordinance. So based on those two reasons, verses a schedule one drug and two, it violates the Town's Zoning Ordinance. The County Attorney is asking that the Commission votes against this Conditional Use Permit application and not allow this facility to be installed.

John Gay at 1320 S. Elizabeth Florence Arizona stated he is a 30 year member of this community and his children have gone through kindergarten, High School and College. They have chosen to live in this community and purchased homes themselves. Mr. Gay also represents both of the Geo Group Inc. facilities off of Diversion Dam Road. The group has a high level interest of the security aspect of potentially having this dispensary in close proximity to their facility. Geo Group

Inc. spends a lot of labor, time and money trying to not only to rehabilitate the inmate population, but prevent those individuals who come in and visit family members to smuggle those types of narcotics into those institutions. Geo believes, and has been contacted by their regional offices in Los Angeles and their corporate offices in Florida, they are adamant that this is not good move for the community. Personally, the gentleman who wants to open the dispensary who gave his address in Phoenix, Arizona should open a dispensary in Phoenix, Arizona. Mr. Gay stated that they do not want this type of business in Florence. In conclusion, in reviewing the Commission's roles as a Zoning Commission, under C subcategory, the last item listed in their responsibilities, is to do or consider those things that are best for the Town. Mr. Gay adamantly believes that the best thing for the Town is not too introduce a location where schedule A, schedule 1 illegal narcotics can be distributed.

Steve Doran, program director for Behavioral Systems Southwest's Florence Residential Re-Entry Center (RRC), wanted to reiterate what the company does at Behavioral Systems Southwest facility. They are a residential re-entry center and their job is to get Federal inmates ready to transition back into the community. They do that a number of different ways. One of those ways is they are under State Law and are considered a private vocational program. All of the residences are required to go through various vocational training in order to go out and obtain employment and/or go to school in the community full time. Probably over 90% of their residents are there because of alcohol and drug abuse. They are required to take alcohol and drug abuse treatment classes which they must pass in order to not fail the program and return to prison. And last but not least, they did make an objection based on the fact that a specific portion of the site is a federally recognized place of worship. They are required under Federal mandate to provide the Native Americans with a separate location on the facility to worship as they see fit. It is protected under Federal law and they have to abide by all those rules. Based on the Town's own Ordinance, they believe that the Conditional Use Permit should not be granted based on that fact and the others he has mentioned.

Sherrie George, Chairman for the San Tan Valley Substance Abuse Coalition, stated that she handled and supports the community of Florence as well as part of the coalition. Since the inception of the coalition in October 2011, they have worked very hard and diligently to partner with Pinal County Sheriff's Department, the Pinal County Attorney's Office and the three unified school districts including Florence, Coolidge, and J.O. Combs to bring the Scottsdale base "Not My Kid" substance abuse program to all of the local schools and they just completed their first year. There are several other projects they have also brought to the Community to reduce substance abuse. The Coalition worked hard to get where they are at and if this proposed dispensary is allowed to open, it will do serious damage and thwart their efforts to reduce drug use in the Community due to increased access, especially to youth as well to everyone.

Since they do not have time to share all of the research and data, the Coalition wanted to impart to the Town a couple of statistics within Pinal County and this information is taken from the Arizona Youth Survey from 2012. One in ten students received marijuana from someone who had a medical marijuana card. If this dispensary is allowed to open, this statistic would skyrocket. The Coalition would like to submit the coalition research for Town Council review. The information includes all kinds of different statistics from other States that have adopted medical dispensaries.

Bob Souza, (McDonalds Owner adjacent to the subject site) has written two letters on the initial application and the present application. The owner has a family business and considers this is a terrible location for this proposed dispensary. Mr Souza has received a lot of comments and this will be detrimental to his business if approved. Unsolicited, they are starting to receive emails through the 1-800 McDonalds line that customers will not visit the restaurant if that facility opens. So, Mr. Sosa hopes the Commission makes the right decision.

Daniel Kingston of Phoenix Arizona said that he opposes the dispensary for a number of reasons. One is based on his research that there are 25,000 people in the Town and based on what the State is reporting, there are 90 patients in Florence and that is less than 1/3 of 1% of Florence's population that needs this dispensary. There are 40,000 patients in the State of Arizona and in time, the potential of 40,000 people descending on this Town, looking to buy marijuana is a bad thing next to a facility that is serving happy meals and kids running around. Point two is he has heard a lot about the security of this facility on the inside. Cameras ok, sounds like the employees are going to be secured. What about the person when they get to their car out in the parking lot, who's going to protect them? Third, there is a State Law but they also told the Federal government we do not care. Mr. Kingston said he implores the Commission to do the same as your own governing body, make your own stand because the Town does not want to make Florence the drug capital of Arizona. I implore you to not approve this Conditional Use Permit and I thank you for your time.

Will Jamison from Phoenix Arizona mentioned that he is a medical marijuana patient and over the past 20 years he has been a consultant to many State Agencies, dispensaries groups and including the dispensary group here tonight. Mr. Jamison in the past has helped dispensary groups manage the process. The two things are the individuals get into this industry for the profit first and they get into providing medicine for the patient. He believes that this group is one of those groups in it for the wrong reasons. This dispensary group has retained Dixie Elixirs and paid \$75,000 to have their right to have the largest medical marijuana infusion kitchen and products nationwide out of their dispensary. By reviewing their policy today and the application, the Commission has the ability to stop the dispensary from providing edibles to the tune of Dixie Elixirs vast variety of products being licensed through the Florence facility. Most recently, the CEO

of Dixie Elixirs was arrested due to possession of controlled substance. Mr. Jamison urged the Commission to take a look at the irresponsibility of that individual combined with a lack of experience in a small Town and he thinks it could be a detriment to the future of Florence.

Mathew Hum of Scottsdale Arizona stated that he has worked with different outfits and has taken on the task to formulate for the dispensary. Their group understands the public's concern is safety. The lower estimates is 90 medical marijuana patients in Florence, the dispensary group counts as many as 125 patients in the area. Due to the fact Florence has its own Community Health Analysis Area (CHAA), so its own 25 mile radius therefore each patient would be able to grow 12 plants, that's 90 x 12 which would be 1,080 plants unregulated within the State of Arizona. Grown with who knows what and sold to anyone. This dispensary is extremely regulated by the State of Arizona. So if the concern is a rampant drug problem by not having this dispensary, this will create a rampant drug problem. People selling unregulated marijuana from their house, at any location, to a school to anybody that's going to knock on the door and offer them money for their extra supply.

Councilmember Ruben Montaña said coming here from the Town Council he would like to make sure that the Commission understands the responsibilities to ensure that the local Ordinances are followed. Looking at the Town Ordinance, the Guidelines and Arizona Proposition 203, the concerns as a Councilmember or for the Town has been under three areas of concern, the library, the schools and religious services. Under religious services, one should consider the Incarcerated Persons Act which looks at determining a place of worship. This also comes into play with one of the documents that was provided by the American Indian Religious Freedom Act, which allows for the ability for Native Americans to worship in a sweat lodge. A sweat lodge is located approximately 80 to 100 yards from facility at 801 North Pinal Parkway. In the second area the Commission has to look at is the Pinal Public Law Library at the County Courthouse. Third is education which comes into play with the no child left behind or the 1986 Anti-Drug Abuse Act also comes into play as a drug free school zone. Pinal County Adult Detention Center currently has a school in its facility which is known as the Esperanza School. This school is provided in three parts; one is for the adult basic education of a General Equivalency Diploma (GED), another portion is for special education for students under the age of 21 and it also covers those that are juveniles under the age of 18.

Vice Chair Putrick expanded on Pinal County Attorney Mr. Voyles comments on the Federal Government and stated that the American Cancer Society and the International Cancer Board do not endorse the use of marijuana for medical reasons to help ease the pain of cancer. He also asked the Chief of Police if there is any statistical evidence that an increase of crime is associated with

medical marijuana facilities and if the Federal Government imposes into States who have passed laws legalizing marijuana.

Chief Hughes responded that he does not have statistics with him, but anecdotally, by other police departments, have shared that there has been a slight increase in crime in and around these facilities. The Drug Enforcement Agency (DEA) and other Federal departments enforce the Federal Laws on marijuana, but we also work with the DEA on these types of issues.

Mark Eckhoff stated that staff is not comfortable on the spot determining current uses such as religious institution or education institution locations that have been talked about here. But if the Pinal County Courthouse houses a public library, where the general public can go into, that would be considered a sensitive use. The Code specifically spells out these sensitive uses and the distance between medical marijuana facilities.

Chairmen Wooley stated that the Planning and Zoning Commissions job is not to decide what is right or wrong for Florence, but to decide what is right or wrong for the land use. There are a lot of things on the table, pros and cons that were brought up by both sides. But again, as appointees of the Town Council, it is our job to make a decision on the land use of a property. No shape or form is Planning and Zoning Commission saying they are for or against a medical dispensary.

On motion of Chairman Wooley, second by Vice Chairman Putrick, and carried to forward an unfavorable recommendation to Town Council for a Conditional Use Permit for the Healing Healthcare 3 Inc.

CALL TO THE PUBLIC/ COMMISSION RESPONSE:

Call to the Public for public comment on issues within the jurisdiction of the Planning and Zoning Commission. Individual Commission members may respond to criticisms made, may ask staff to review a matter raised or may ask that a matter be put on a future agenda.

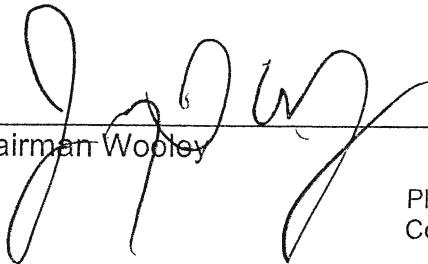
CALL TO THE COMMISSION

ADJOURNMENT

Meeting adjourned at 6:56 pm.

X

Chairman Wooley



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