

MINUTES OF THE REGULAR MEETING OF THE SHOW LOW PLANNING AND ZONING COMMISSION HELD ON OCTOBER 27, 2020 AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS, 181 NORTH 9TH STREET, SHOW LOW, NAVAJO COUNTY, ARIZONA

1. CALL TO ORDER

Chairman Bishop called the meeting to order 7:00 p.m.

2. ROLL CALL

COMMISSION MEMBERS PRESENT: Chairman Bishop, Commissioner Bess, Commissioner Wilson, Commissioner Jon Adams, and Commissioner Josh Adams

COMMISSION MEMBERS ABSENT: Vice Chairman Hephner and Commissioner Roberts

STAFF MEMBERS PRESENT: Justen Tregaskes, Planning and Zoning Director; Morgan Brown, City Attorney; Katie Fechtelkotter, Planner and Linda Haynes, Administrative Assistant

GUESTS PRESENT: Heather Decarlo and Guests

3. INVOCATION

Commissioner Jon Adams gave the invocation.

4. Pledge of Allegiance

Commissioner Wilson led the Commission and audience in the Pledge of Allegiance

5. OLD BUSINESS

NONE

6. NEW BUSINESS

- A. Consideration of a Conditional Use Permit application submitted by Compassionate Care of AZ, Inc., to allow for a Medical Marijuana Dispensary located at 1350 N. Penrod Rd., that being A.P.N. 210-49-123.

Ms. Fechtelkotter read the staff summary.

Compassionate Care of AZ, Inc. has submitted Conditional Use Permit (CUP) to allow for a medical marijuana dispensary (MMD) located at 1350 N. Penrod Road, that being A.P.N. 210-49-123. Staff has reviewed the application and

has found that it meets the requirements outlined in 15-1-67 *Medical marijuana-related facilities*. Several items have been excluded from the packet due to those items' confidential nature; those items are available to Commission members upon request. The policies and procedures manual has been included for review, however some information has been redacted for safety and security reasons.

In November 2010, Arizona voters approved Proposition 203, which allowed the use of marijuana for medical purposes. The proposition stated local jurisdictions cannot prohibit MMDs; however cities may enact reasonable zoning regulations that limit the use of land for registered non-profit MMDs to specified areas. At its regular meeting of September 1, 2020 the City Council voted to approve a zone change request to change the zoning of the subject property from I-1 (Light Industrial) to C-2 (General Commercial). As stated, the purpose of the zone change was to allow for a MMD at the subject property. Per section 15-1-67(D)(1) medical marijuana dispensaries are limited to the C-2 zone through a CUP. Medical marijuana cultivation facilities are limited to the I-1 and I-2 (Heavy Industrial) zones. Because this will be a medical marijuana dispensary and not a medical marijuana cultivation facility, a rezone of the subject property to C-2 was required.

The subject property was previously utilized by Western Grade and is currently vacant. The applicant has indicated that they plan to relocate from their current location in Taylor to the subject property. The applicant will utilize a portion of the building for a medical marijuana dispensary; a floor plan has been attached to the Commission packet for review.

At its regular meeting of June 4, 2013, the City Council Approved CUP 602-04-156 submitted by Green Hills Patient Center, Inc. (Green Hills) to allow for a MMD at 3191 S. White Mountain Rd.

The Council included 17 conditions as a part of the approval. These conditions were;

1. All development shall comply with all applicable state and local requirements including Arizona Department of Health Services requirements, City zoning, and business license requirements.
2. This conditional use permit is non-transferable. Should a change in ownership or location occur, a new conditional use permit shall be required.

3. The applicant shall comply with all documents submitted to the City as part of this conditional use permit, including the Operational Procedures and supplemental materials.
4. Signage shall only display the facility name.
5. Hours of operation shall be limited to seven days a week from 9:00 a.m. to 6:00 p.m.
6. Submission of an application for a dispensary registration certificate constitutes permission for the City to enter and inspect the dispensary.
7. An on-site inspection of the dispensary shall occur at a date and time agreed to by the dispensary and the City that is no later than five working days after the date the City submits a written request to the dispensary to schedule the certification or compliance inspection, unless the City agrees to a later date and time.
8. The City may, after receiving allegations of the dispensary's noncompliance with this conditional use permit or state law from a verified source, inspect the property for compliance with notice.
9. If the City identifies a violation of City Code section 15-1-67 or any condition of approval, the City may schedule a hearing related to the revocation of this conditional use permit.
10. The applicant shall be responsible for installing and maintaining exterior lighting to facilitate surveillance.
11. A security plan meeting the approval of the Arizona Department of Health Services with a copy provided to the City shall be required prior to the opening of the business. All alarm systems shall comply with Article 4-2, Alarm System Regulations, of the City Code. Panic buttons shall be installed in the interior of the building. A security guard shall be on the premises at all times the dispensary is open for business.
12. No loitering shall be permitted on the exterior of the proposed business.
13. Only qualifying individuals, employees of the business, or other qualified individuals, including City and state staff members shall be permitted inside the proposed business.
14. The dispensary shall not dispense, deliver, or otherwise transfer marijuana to an entity other than another dispensary with a valid dispensary registration certificate issued by the Arizona Department of

Health Services, a qualifying patient with a valid registry identification card, or a designated caregiver with a valid registry identification card; or acquire usable marijuana from any entity other than another dispensary with a valid dispensary registration certificate issued by the Arizona Department of Health Services, or cultivation facility with a valid cultivation registration certificate issued by the Arizona Department of Health Services.

15. This permit is for the sale of medical marijuana only; no other product other than medical marijuana shall be sold from the site. On-site cultivation is prohibited.

16. The hours of operation are limited to six days a week from 9:00 AM to 6:00 PM with Council review in six months regarding the days and hours of operation.

17. A certified security guard is on the premises during hours of operation.

At its regular meeting of June 20, 2017, the City Council considered a request by Green Hills to amend conditions 4, 5, and 15. Condition No. 15 was amended to read, "This permit is for the sale of medical marijuana and related paraphernalia only. On-site cultivation is prohibited." Condition No. 5 was eliminated, with condition No. 16 to remain, which limited the hours of operation to six days a week from 9:00 AM to 6:00 PM.

To be consistent with the conditions outlined for the Green Hills, MMD staff recommends that the same conditions of approval shall apply to Compassionate Care of AZ, Inc. In their policies and procedures, Compassionate Care of AZ, Inc. has indicated that they plan to be open seven days a week from 9:00 AM to 6:00 PM. However, staff recommends that the operation be limited to six days a week from 9:00 AM to 6:00PM, as outlined in the previously approved condition No. 16 for Green Hills.

Ms. Fechtelkotter read the findings of fact.

Compassionate Care of AZ, Inc. has submitted a CUP to allow for a Medical Marijuana Dispensary located at 1350 N. Penrod Rd., that being A.P.N. 210-49-123.

Current zoning of the surrounding properties include;

North: I-1(Light Industrial)

South: I-1 (Light Industrial)

East: C-2 (General Commercial)
West: I-1 (Light Industrial)

The current land uses of the surrounding properties include;

North: Vacant Industrial
South: Quality Ready Mix
East: Northern Arizona Automall
West: Quality Ready Mix

Transmittal memos were sent to all affected agencies. No applicable comments were received.

The property was posted and letters were sent to all property owners within three hundred (300) feet of the subject property. No public comment has been received regarding the proposed development.

After reviewing the Zoning Ordinance, Standards for Review, Findings of Fact, discussions with the applicant, and because the request is consistent with the City of Show Low General Plan, staff recommends that the Planning and Zoning Commission approve Conditional Use Permit 602-04-233 submitted by Compassionate Care of AZ, Inc. to allow for a Medical Marijuana Dispensary located at 1350 N. Penrod Rd., that being A.P.N. 210-49-123 subject to the following conditions;

1. All development shall comply with all applicable state and local requirements including Arizona Department of Health Services requirements, City zoning, and business license requirements.
2. This conditional use permit is non-transferable. Should a change in ownership or location occur, a new conditional use permit shall be required.
3. The applicant shall comply with all documents submitted to the City as part of this conditional use permit, including the Operational Procedures and supplemental materials.
4. Signage shall only display the facility name.
5. Submission of an application for a dispensary registration certificate constitutes permission for the City to enter and inspect the dispensary.
6. An on-site inspection of the dispensary shall occur at a date and time agreed to by the dispensary and the City that is no later than five working days after the date the City submits a written request to the

dispensary to schedule the certification or compliance inspection, unless the City agrees to a later date and time.

7. The City may, after receiving allegations of the dispensary's noncompliance with this conditional use permit or state law from a verified source, inspect the property for compliance with notice.
8. If the City identifies a violation of City Code section 15-1-67 or any condition of approval, the City may schedule a hearing related to the revocation of this conditional use permit.
9. The applicant shall be responsible for installing and maintaining exterior lighting to facilitate surveillance.
10. A security plan meeting the approval of the Arizona Department of Health Services with a copy provided to the City shall be required prior to the opening of the business. All alarm systems shall comply with Article 4-2, Alarm System Regulations, of the City Code. Panic buttons shall be installed in the interior of the building. A security guard shall be on the premises at all times the dispensary is open for business.
11. No loitering shall be permitted on the exterior of the proposed business.
12. Only qualifying individuals, employees of the business, or other qualified individuals, including City and state staff members shall be permitted inside the proposed business.
13. The dispensary shall not dispense, deliver, or otherwise transfer marijuana to an entity other than another dispensary with a valid dispensary registration certificate issued by the Arizona Department of Health Services, a qualifying patient with a valid registry identification card, or a designated caregiver with a valid registry identification card; or acquire usable marijuana from any entity other than another dispensary with a valid dispensary registration certificate issued by the Arizona Department of Health Services, or cultivation facility with a valid cultivation registration certificate issued by the Arizona Department of Health Services.
14. This permit is for the sale of medical marijuana and related paraphernalia only. On-site cultivation is prohibited.
15. The hours of operation are limited to six days a week from 9:00 AM to 6:00 PM with Commission review in six months regarding the days and hours of operation.

Commissioner Jon Adams asked for clarification on days and hours. Ms. Fechtelkotter said it would be open 6 days a week from 9:00 AM to 6:00 PM. Mr. Tregaskes clarified by saying that the intent was for them to be open Monday through Saturday and closed on Sundays.

COMMISSIONER JOSH ADAMS MOVED TO APPROVE CUP 602-04-233 SUBMITTED BY COMPASSIONATE CARE OF AZ, INC. TO ALLOW FOR A MEDICAL MARIJUANA DISPENSARY LOCATED AT 1350 N. PENROD ROAD, THAT BEING A.P.N. 210-49-123, SUBJECT TO STAFF RECOMMENDATIONS. COMMISSIONER WILSON SECONDED THE MOTION. PASSED 5 TO 0 WITH, CHAIRMAN BISHOP, COMMISSIONERS JON ADAMS, BESS, WILSON, AND JOSH ADAMS VOTING IN FAVOR.

Mr. Tregaskes said as with any Conditional Use Permit, there is a seven day appeal period. If no appeal is received by the City Clerk within those seven days, this Conditional Use Permit will be considered effective.

- 7. CALL TO THE PUBLIC – Any citizen desiring to speak on a matter that is within the jurisdiction of the Planning and Zoning Commission may do so at this time. Comments may be limited to three minutes per person and shall be addressed to the Planning and Zoning Commission as a whole, and not to any individual member. Issues raised shall be limited to those within the jurisdiction of the Planning and Zoning Commission. Pursuant to the Arizona Open Meeting Law, the Planning and Zoning Commission cannot discuss or act on items presented at this time. At the conclusion of the call to the public, individual Planning and Zoning Commission members may (1) respond to criticism made by those who have spoken, (2) ask staff to review a matter, and (3) ask that a matter be put on a future agenda.**

None.

8. APPROVAL OF MINUTES

- A. Planning and Zoning Commission Regular Meeting of October 13, 2020.

COMMISSIONER WILSON MOVED TO APPROVE THE PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES ON OCTOBER 13, 2020. COMMISSIONER JON ADAMS SECONDED THE MOTION.

COMMISSIONER BESS STATED HE WANTED HIS COMMENT ABOUT REDUCTION OF SETBACKS AFFECTING THE RESIDENTS AND HIS SUGGESTION ON THE VISUAL CORRIDOR SETBACK TO BE ADJUSTED

AS IT ONLY AFFECTS THE TRAFFIC FOR A FEW SECONDS, BUT THE RESIDENTS 24/7 ADDED TO THE MINUTES.

COMMISSIONER WILSON MOVED TO APPROVE THE AMENDED MOTION TO APPROVE THE PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES ON OCTOBER 13, 2020 WITH THE CONDITIONS TO ADD COMMISSIONER BESS COMMENTS TO THE MINUTES. COMMISSIONER JON ADAMS SECONDED THE MOTION. PASSED 5 TO 0 WITH, CHAIRMAN BISHOP AND COMMISSION MEMBERS WILSON, BESS, JOSH ADAMS AND JON ADAMS VOTING IN FAVOR.

9. SUMMARY OF CURRENT EVENTS

Commission Members

Commissioner Josh Adams said to drive safe, wear a mask and stay healthy.

Commissioner Wilson stated she attended the Film Festival and it was amazing. She thanked the Commission for allowing her to serve and will take office on the Council on December 1, 2020.

Commissioner Jon Adams thanked the commission for allowing him serve on the Commission for seven years as he enjoyed the experience and looks forward to the next part with the Council.

Commissioner Bess said to be safe, mask up and vote.

Chairman Bishop said he appreciated Commissioner Wilson and Commissioner Jon Adams and wished them luck. He mentioned that the Northland Pioneer College President Mark Vest resigned and the Interim President, Jeanne Swarthout was appointed today.

Planning and Zoning Director

Mr. Tregaskes appreciated the service from Commission members Wilson and Jon Adams. The Commission did hear the Conditional Use Permit submitted for a monopine cell tower and that was appealed. There will be a Public Hearing at the November 17th City Council meeting. The City is currently in Stage one fire restrictions and even though we have had some moisture it is not enough.

This Saturday on Halloween, the City is sponsoring the Haunted Halloween Drive thru at the City Park from 6:00 PM to 8:00 pm for a trunk or treat. Enter off of the Deuce of Clubs by the City Pool. The Community Fast of Compassion starts around this time and community members are asked to for go one or two meals and donate what they would have spent on those meals to give to families or

individuals who are in need. Last year they raised over \$20,000.00 to local families in need. Donations can be made at City Hall or any local bank. With the departure of two Commission Members, the Commission will have two seats open and will be accepting applications until the end of the month. Applications can be received at City Hall from the City Clerk.

10. ADJOURNMENT

There being no further business to be brought before the Planning and Zoning Commission, CHAIRMAN BISHOP ADJOURNED THE REGULAR MEETING OF THE SHOW LOW PLANNING AND ZONING COMMISSION OF OCTOBER 27, 2020 AT 7:26 PM.

ATTEST:

APPROVED:

Justen Tregaskes
Planning and Zoning Director

Eric Bishop
Chairman

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the **REGULAR MEETING** of the Planning and Zoning Commission of Show Low held on October 27, 2020. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 20____.

Linda Haynes
Administrative Assistant