

**Gila County Planning and Zoning Commission
Gila County, AZ.**

MINUTES OF FEBRUARY 3, 2011 APPROVED March 17, 2011

Item 1. Call to Order/ Pledge of Allegiance

The Gila County Planning and Zoning Commission met in regular session at 10:00 a.m. this date in the GUERRERO COMPLEX conference room located at 1400 East Ash Street in Globe, AZ. Don Ascoli, Chairman led the Pledge of Allegiance.

Item 2. Roll Call

PRESENT: Don Ascoli, Chairman	Lori Brown, Absent
Jay Spehar, Member	Ron Christensen-via telephone
Mickie Nye, Member	Travis Williams, Absent
Jack Larimore, Member	Renee Zeising, Absent
Randy Slapnicka, Absent	

STAFF PRESENT: Robert Gould, Director of Community Development
Berthan DeNero, Human Resources Director
Angela Parker, Planner in training
Beverly Valenzuela, Administrative Assistant to the Director of Community Development

Item 3. Review and approval of December 16, 2010 minutes

Commissioner Jay Spehar motioned to approve minutes and Commission Jack Larimore seconded the motion; motion unanimously passed.

Item 4. Director/Commission Communication

Bob Gould, Director of Community Development updated the commission on the small subdivision for the LeBarron property and stated that the application has not been submitted. Updated the Commission on State Senate Bills, updated the commission on the move to the new facility and stated that a rezoning application will soon be coming to them on the Canyon River Ranch property.

Item 5. ZOA-11-01 Amendment to the Gila County Zoning Ordinance due to the passing of Proposition 203-Use of Medical Marijuana: Proposition 203 passed in the general election held November 2, 2010. This proposition allows the establishment of dispensaries, cultivation sites and designated caregivers solely for the purpose of growing and distributing medical marijuana. The Director of the Department of Health Services has been charged with responsibility to develop the rules for this program within 120 days of the date the Secretary of State ratifies this proposition.

Mr. Gould stated that he's asked Birdie DeNero to be present due to the confidentiality issues with the qualified patient and the designated caregiver's information. Mrs. DeNero stated that what she's read is that it is not a prescription and does not go into your medical history therefore believes that it would not fall under HEPPA.

Mr. Gould went over recommendations from the sub-committee work session (held February 24th, 2011- present were Mickie Nye, Jay Spehar, Jack Larimore, Don Ascoli, Robert Gould, Angela Parker & Beverly Valenzuela):

Added definitions: Medical Marijuana Designated Caregiver Cultivation Location, Medical Marijuana Dispensary, Medical Marijuana Dispensary Offsite Cultivation Location, Medical Marijuana Qualifying Patient Cultivation Location and Medical Marijuana Infusion (or Manufacturing) Facility.

Allowed private growth from caregivers and qualified patients with a Use Permit and an unnoticed provision.

Nobody grows within 25 miles of a dispensary.

M1 Zoning and expanded notification requirements from 1000 to 1500'; Mr. Gould expressed his concern with this.

Hours of operation are Monday – Friday 8:00 am to 5:00 pm only.

Commissioner Christensen asked if ADHS was going to do all the enforcement; Mr. Gould replied that Angela Parker (Community Development Planner in training) had heard from Mr. Humble, ADHS Director, that he's not confident that all the enforcement was going to be done. Angela Parker stated that Mr. Humble had stated that they have enforcement for dispensaries and cultivation sites but the caregivers and qualified patients are not being inspected.

Commissioner Jay Spehar asked why they were not recommending a fee for an unnoticed Use Permit? Mr. Gould replied that there is a \$50 fee. Commissioner Spehar stated that he was going to suggest a \$5000 fee for growers. Mr. Gould stated that right now ADHS fees for qualified patients are \$180 but if you're income qualified you can get it for \$80. Angela Parker stated that ADHS stated that it would cost \$3000 - \$5000 per plant.

After much discussion between the Commissioners, Don Ascoli-Chairman went over the additional changes:

Pg. 4-and has an unnoticed use permit-change to conditional use permit.

Pg. 5-same thing-conditional use permit

Dispensary and Cultivation sites are \$5000 for caregivers and qualified patients \$1000

Pg 7.N-caregiver has to renew their card every year and fee must be renewed w/current fees every year

Opened for public comment. Marjean Easley stated that her questions were answered and agreed with the fees.

Chairman Ascoli stated that he was very pleased with the active involvement with the public and the commission and it reflects the concern of the citizens of Gila County.

After much discussion, Commission member Mickie Nye motioned to adopt item #5 with modifications made today to the Board of Supervisors and bring it back to them eight or six months and discuss it again; Commission member Jack Larimore seconding the motion, it passed unanimously.

The following was sent to the Gila County Board of Supervisors for the March 1st, 2011 meeting:

ADD THE FOLLOWING DEFINITIONS:

Amend Section 102 of the Gila County Planning and Zoning Ordinance by adding the following definitions in their proper alphabetical order:

Medical Marijuana Designated Caregiver Cultivation Location:

An enclosed, locked facility such as a closet, room, greenhouse or other building that complies with all Department of Health Services regulations for the cultivation of medical marijuana. The establishment of a cultivation location by a designated caregiver must be in compliance with all regulations adopted by the Arizona Department of Health Services and State Statutes applicable to the use of medical marijuana.

Medical Marijuana Dispensary:

An entity defined in A.R.S. §36-2801(11) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials. Must be authorized by Department of Health Services.

Medical Marijuana Dispensary Offsite Cultivation Location:

The additional location where marijuana is cultivated by a Medical Marijuana Dispensary as referenced in A.R.S. §36-2804(B) (1) (b) (ii). Must be in compliance with all Department of Health Services regulations for Medical Marijuana cultivation.

Medical Marijuana Qualifying Patient Cultivation Location:

An enclosed, locked facility such as a closet, room, greenhouse or other building with a Conditional Use Permit issued by Gila County where a patient who is qualified to cultivate marijuana pursuant to A.R.S. §36-2801 cultivates marijuana. The establishment of a cultivation location by a qualified patient must be in compliance with all regulations adopted by the Arizona Department of Health Services and State Statutes applicable to the use of medical marijuana.

Medical Marijuana Infusion (or Manufacturing) Facility:

A facility that incorporates medical marijuana (cannabis) by the means of cooking, blending, or incorporation into consumable/edible goods.

AMEND THE FOLLOWING ZONING DISTRICTS:

Industrial zoning districts:

Amend Permitted Use Regulations for M1 Industrial Zoning Districts – Section 104.2(j) (3) to allow:

Medical Marijuana Dispensaries, and/or Medical Marijuana Dispensary Offsite or onsite Cultivation Location. subject to securing a Conditional Use Permit and the related provisions of Section 103.11.

Medical Marijuana Infusion (or Manufacturing) Facility Subject to the following:

- a. Applicant shall provide:
 - i. name(s) and location(s) of the offsite dispensary.
 - ii. a copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c).
 - iii. A map showing current dispensaries, cultivation sites and infusion sites within Gila County.
 - iv. The facility shall not be located within 35 miles of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
- b. The facility shall not be located within 1,500 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.
- c. The facility shall not be located within 1,500 feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, or public community center.
- d. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.
- e. Medical Marijuana Infusion shall only be a part of a dispensary or cultivation location for a dispensary
- f. There shall be no emission of dust, fumes, vapors, or odors into the environment from the facility.

AMEND CONDITIONAL USE PERMITS:

Amend Section 103.11 Entitled Conditional Uses and Conditional Use Permits to provide for Medical Marijuana Dispensaries and Medical Marijuana Dispensaries Offsite Cultivation Location by adding Item #6:

4. Medical Marijuana Dispensary/Cultivation and Medical Marijuana Dispensary Offsite Cultivation Location facilities as defined in Section 102 of this ordinance, subject to all rules adopted by the Arizona Department of Health Services and to the following conditions:

- a. Medical Marijuana Dispensaries or medical marijuana offsite cultivation locations shall not be located within 35 miles of any other Medical Marijuana Dispensary or medical marijuana offsite cultivation location.
- b. Permit fees for a Conditional Use Permit for a Medical Marijuana Dispensary or Cultivation Site shall be \$5,000.
- c. Medical Marijuana Dispensaries and Medical Marijuana Offsite Cultivation Locations shall not be located within 1,500 feet of:
 - i. A church; or,
 - ii. A public or private elementary or secondary school; or,
 - iii. A public or private day care center, preschool, nursery, kindergarten, or similar use; or,
 - iv. A public park, playground, or public recreational facility; or,
 - v. School bus stop, Library, Substance Abuse Treatment Facilities,
 - vi. An adult oriented business.
- d. Medical Marijuana Dispensaries shall be located only within the M1 Zoning Districts.
- e. Drive-thru facilities shall not be permitted with any dispensary
- f. Dispensaries shall not permit the consumption of marijuana in any form on the premises or parcel of land.
- g. Medical Marijuana Dispensaries with cultivation and off-site cultivation shall only be permitted in M1 Zoning Districts.
- h. For purposes of this Conditional Use Permit the notification area for the application shall be 1,500 feet.
- i. For purposes of measuring separation distances required in this section, the measurements shall be taken in a straight line from the closest exterior walls of any affected structures without regard to intervening structures or objects or political boundaries.
- j. Medical Marijuana Dispensaries shall be open to the public only from 8:00 AM to 5:00 PM daily, Monday through Friday.
- k. Medical Marijuana Dispensary or Medical Marijuana Offsite Cultivation Location lawfully operating is not rendered in violation of these provisions by the subsequent location of a church, public or private elementary or secondary school, a kindergarten or preschool or similar use, a park or playground, or an adult oriented business within 1,500 feet of the Medical Marijuana Dispensary or Medical Marijuana Offsite Cultivation Location.
- l. Applicant shall provide a copy of registration approved by Department of Health Services prior to opening for business.
- m. A Dispensary must be located in a site built structure and not a manufactured home or RV.
- n. A Conditional Use Permit is valid for one year and then must be renewed along with the regular fee as established in item (b) in this section of the ordinance. Any C.U.P. may be revoked for failure to comply with all conditions.
- o. No one under 18 years of age is permitted within these facilities without an adult guardian with a registration card from Department of Health Services.

- p. This provision shall not be construed as permitting any use or act which is otherwise prohibited or made punishable by law.
- 5. Cultivation for Medical Marijuana Qualified Patient and Designated Caregiver as defined in Section 102 of the Zoning Ordinance subject to all rules adopted by the Arizona Department of Health Services and to the following conditions:
 - a. Permit fees for a Conditional Use Permit for a Designated Caregiver for a Cultivation Site shall be \$5,000.
 - b. Permit fees for a Conditional Use Permit for a Qualified Patient for a Cultivation Site shall be \$1,000.
 - c. For purposes of this Conditional Use Permit the notification area for the application shall be 1,500 feet.
 - d. A Conditional Use Permit is valid for one year and then must be renewed along with the regular fee as established in items (a) and (b) of this section. Any C.U.P. may be revoked for failure to comply with all conditions.
 - e. The qualifying patient and designated caregiver cultivation location must be accessory to the primary use of residential, must not be detectable from the exterior of the property in which the cultivation takes place.
 - f. Medical Marijuana cultivation as an accessory use to the qualifying patient's or caregiver primary residence shall only be permitted if the residence is located at least 25 miles distant from a Medical Marijuana Dispensary and in full compliance with regulations as established by the Department of Health Services for Medical Marijuana.
 - g.

Mr. Gould, stated that he believes that the fees are exhorbant and that notification is going to cause a lot of problems.

ITEM 6. Discussion on amending the Zoning Ordinance regarding accessory uses.

Mr. Gould stated that there is a clause in our Ordinance that says you don't have accessory uses without the principle use being established unless you get a conditional use permit and you can establish an accessory use. I want to allow people to establish accessory uses with a Use Permit, much cheaper and quicker for people. If we have a Use Permit we can control it if it becomes a nuisance.

The Commission asked the Director of Community Development to bring this item back to them.

ITEM 7. Election of Officers: Commissioner Mickie Nye motioned to nominate Don Ascoli as Chairman; Commissioner Jay Spehar seconded the motion-passed unanimously. Commissioner Jack Larimore nominated Lori Brown as Vice Chairman; seconded by Commissioner Ron Christensen, motion unanimously passed.

ITEM 8. Date and time for the next meeting (scheduled for February 17, 2011)-there will not be another meeting in February. The next regularly scheduled meeting is March 17th, 2011.

ITEM 9. Call to the Public: No questions or comments from the public.

Adjournment