



**CITY OF COTTONWOOD
PLANNING & ZONING COMMISSION
COTTONWOOD COMMUNITY CLUB HOUSE
805 N. Main St.
Cottonwood, AZ 86326**

REGULAR MEETING
Monday, October 19, 2020
6:00 p.m.

I. CALL TO ORDER

- A. Roll Call**
- B. Approval of Minutes:** September 21, 2020 Regular Meeting

II. INFORMATIONAL REPORTS AND UPDATES:

A brief summary of current events by Chairperson, Commission members, and/or Community Development Director. (The public body does not propose, discuss, deliberate, or take legal action on any matter brought up during this summary unless the matter is properly noticed for legal action).

III. CALL TO THE PUBLIC

This is the time for the public to comment on any matter that does not appear on the agenda. Commission members may not discuss items not identified on the agenda. Pursuant to A.R.S. §38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to criticism, or scheduling the matter for consideration at a later date. Comments are limited to five minutes for each person.

IV. OLD BUSINESS:

Information on the above agenda items may be obtained in person from the Community Development Department, 111 N. Main Street in Cottonwood, or by calling (928) 634-5505.

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V. NEW BUSINESS:

- 1. CUP 20-008 FOJOL BROS. RESTAURANT** – A request for a Conditional Use Permit to operate a restaurant with a drive-in element in a C-1 (Light Commercial) Zoning District. The project is located at 775 and 777 N. Main Street, on the northeast side of N. Main Street east of its intersection with N. Willard Street, APN: 406-38-020, 406-38-024, 406-38-025A, 406-38-025D, 406-38-025E. Owner: Pender Enterprises LLC and Lipstick Lily LLC, Applicant: Justin Vitarello.
- 2. ZO 20-008 AMENDMENT TO THE CITY OF COTTONWOOD ZONING ORDINANCE SECTION 308 (MEDICAL MARIJUANA FACILITIES)** – Consideration of a Zoning Ordinance text amendment to Section 308 to regulate placement and operation of marijuana establishments pursuant to the proposed “Smart and Safe Arizona Act,” if passed by voters.
- 3. ZO 20-009 AMENDMENT TO THE CITY OF COTTONWOOD ZONING ORDINANCE SECTION 407 (LANDSCAPING)** – Consideration of a Zoning Ordinance text amendment to Section 407.E Landscaping Standards, regarding requirements for landscape areas.
- 4. ZO 20-010 AMENDMENT TO THE CITY OF COTTONWOOD ZONING ORDINANCE SECTION 309 (HILLSIDE DEVELOPMENT STANDARDS)** – Consideration of a Zoning Ordinance text amendment to Section 309.H Slope Development.

VI. DISCUSSION ITEMS:

VII. SUGGESTED TOPICS FOR FUTURE MEETINGS:

VIII. ADJOURNMENT

Notice is hereby given that pursuant to A.R.S. subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the City Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. have been waived.

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**REGULAR MEETING
DRAFT MINUTES**
Monday, September 21, 2020
6:00 p.m.

I. CALL TO ORDER

Chairman Williams called the meeting to order at 6:00 PM.

A. Roll Call

Commission Members Present

Commissioner Hart
Commissioner DiSisto
Commissioner Masten
Vice Chairman Dowell
Chairman Williams

Commission Members Absent

Commissioner Richter

Staff Members Present

Scott Ellis, Community Development Director
Gary Davis, Planner
Ron Corbin, City Manager
Tricia Lewis, Economic Development Director
Kelly Jobe, Public Works Admin. Assistant, Recorder

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B. Approval of Minutes: August 17, 2020 Regular Meeting

Motion: To approve minutes of the August 17, 2020 Regular Meeting.

Made by: Chairman Williams

Second: Vice Chairman Dowell

Vote: Unanimous

II. INFORMATIONAL REPORTS AND UPDATES:

Director Ellis stated the City should know within the next couple of weeks if the State Historic Preservation Office (SHPO) Design Guidelines Grant will be approved.

Director Ellis went through the list of projects currently happening in the city:

1. Harbor Freight will be moving into the old Sears building. They have submissions for modifications, but nothing that would come to the P & Z Commission. He stated Galina Jewelers will be moving into the old Cowboy Shop across the street and the Cowboy Shop will be moving back into the Safeway shopping center.
2. Belfry Brewery should be opening in a couple weeks, they are finalizing their interior and lighting.
3. Merkin Vineyards will begin grading and terracing for the vineyards.
4. Riot has a pending project to bring to the Commission for food trucks in October.
5. Verde Valley Homeless Collation went to City Council last week for the fire sprinkler waiver. They had submitted an expansion of their conditional use permit which was contingent on City Council granting the waiver. City Council voted no on the waiver. The expansion of their conditional use permit is now void and will not be coming back to the Commission.
6. Yavapai Street in Old Town will be converted to a one-way street, direction will be eastbound from Main Street.
7. Circle K is making fast progress – hoping for a possible opening in January, still to be determined.

Director Ellis asked the commissioners to make sure they regularly check their city email account for any correspondence from the public and or city staff. He stated if they are having any issues with getting it set up or if there are issues with it not working, to please let staff know and they will make sure it is up and running.

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Chairman Williams stated the old Cowboy Shop building looked a little different. Director Ellis stated the new owners removed the outside awning, nothing exterior has been done to warrant bringing to the Commission.

III. CALL TO THE PUBLIC: No Comment

IV. OLD BUSINESS:

- 1. ZO-20-006 AMENDMENT TO THE CITY OF COTTONWOOD ZONING ORDINANCE ADDING A NEW SECTION 409 (RECREATIONAL VEHICLE AND MANUFACTURED HOME PARKS), AND AMENDING SECTIONS 410 GA ZONE (GENERAL AGRICULTURE), 411 AR-43 ZONE (AGRICULTURAL RESIDENTIAL), 417 MH ZONE (MANUFACTURED HOME), 418 C-1 ZONE (LIGHT COMMERCIAL), 419 C-2 ZONE (HEAVY COMMERCIAL), 423 CF ZONE (COMMUNITY FACILITY), AND 425 AR-70 ZONE (AGRICULTURAL RESIDENTIAL) – RECREATIONAL VEHICLE PARKS -** Consideration of a Zoning Ordinance text amendment adding a new Section 409, with related text amendments to Sections 410, 411, 417, 418, 419, 423, and 425 regarding standards for Recreational Vehicle Parks, and listing Recreational Vehicle Parks as conditional uses in the C-1 and C-2 zones.

Planner Davis stated the Commission has seen this a couple times and they are down to two issues.

1. The surfacing requirements to be in accordance with the surfacing standards in section 406 of the zoning ordinance. This allows the applicant to work with the City Engineer to put in the pavement or do a porous alternative to the pavement.
2. Eliminated the prohibition of firepits at the individual RV sites just requiring they be built to the current fire code.

Chairman Williams asked what the current fire code on fire pits.

Director Ellis stated it is typically related to proximity of buildings or vegetation structures that could create issues.

Commissioner DiSisto stated he understood that Commission agreed that fire pits would be in the common areas only.

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Planner Davis stated it was presented that way initially, but as long as it followed the fire codes, it was deemed acceptable to have them in the individual sites.

Commissioner Hart questioned item number 7. He asked if each RV space was required to have individual sewer hookups. He suggested making an allowance to have a community dump station.

Planner Davis stated that would be something that would be for short term camping. The RV parks in this time can be mobile home parks with long term residents. The time limit that is in place now is 6 months which can be possibly extended with the submission of a conditional use permit.

Commissioner Hart wanted to discuss the length of stay. He stated it is a blanket 180-day requirement. He believes short, medium and long term would be a better option.

Planner Davis stated in the version now, the default is 180 days unless the conditional use permit process the Commission chooses to put a different figure on that. It could be longer or shorter, so there is some flexibility.

Chairman Williams stated they can come back for a conditional use permit under the statute and it would be considered if found appropriate for that certain park.

Vice Chairman Dowell stated this is addressed in C-1 regarding the time limits being amended, so there is in fact some flexibility.

Chairman Williams asked for any other discussion on the time frame or the sewer.

Vice Chairman Dowell stated that if every site has a sewer disposal, he does not see the need for an extra one.

Commissioner Hart stated he meant as an alternate for sewer hookups. He stated he had utilized one and should be a viable alternative.

Commissioner Masten asked if could be given as an option under Section C with the conditional use permit.

Vice Chairman Dowell stated he disagreed, as if water is provided, usually sewer is as well.

Chairman Williams stated in the past typical parks had a community dumping station. In the modern day, there is more sophisticated amenities provided which include sewer for every space. He stated he likes the way it stands now and provides a better quality of park and is a benefit for the user and would be more attractive to the park.

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Vice Chairman Dowell stated for health and safety reasons, it should stay as is with individual sewage units for each space. He also stated that this is the third or fourth time the Commission has looked at this and it is getting dragged out too long.

Chairman Williams stated he agreed and it needs to get this to City Council.

Thomas Hendricks stated one of his concerns has already been addressed, with the porous type of material in lieu of asphalt. He stated that there will be gravel and asphalt tailings that will be very attractive and will be able to keep a good clean park. He asked about the fire hydrants, he stated he can have seven hoses rounded up for any space instead of the fire hydrants required at every site. He stated that every site has sewage disposals.

Vice Chairman Dowell stated he doesn't believe the ordinance requires them at every site.

Director Ellis stated the Fire Department will look at it on a case by case basis and it would be the same for a mobile home park.

Chairman Williams closed the floor to the public, for public comment(s).

Commissioner Masten stated she would like to retract her suggestion for the sewer options to be added to the conditional use permit. Given the information on the sewer provided by Mr. Hendricks, she feels what is currently submitted is sufficient.

Commissioner Hart stated he has experienced the centralized system and he finds it preferable.

Vice Chairman Dowell stated he likes the way it reads now.

Motion: Move to recommend approval to city council amendments to the zoning code adding a new section 409 and amending sections 410, 411, 417, 418, 419, 423 and 425 regarding requirements for RV parks.

Made by: Vice Chairman Dowell

Second: Commissioner Masten

Roll Call Vote:

Commissioner Hart-Aye

Commissioner DiSisto-Aye

Commissioner Masten- Aye

Vice Chairman Dowling-Aye

Chairman Williams-Aye

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Unanimously carried.

V. NEW BUSINESS:

- 1. PP 20-001 THE VINEYARDS AT COTTONWOOD PHASE II** – Preliminary Plat for a 21-lot single family residential subdivision to be known as The Vineyards at Cottonwood Phase II. The site is located on approximately 34.27 acres on the south side of Groseta Ranch Rd, approximately 600 feet east of State Route 89A, currently zoned PAD (Planned Area Development). APN 406-23-174C and 406-23-174D. Owner: Yavapai Title Agency Trust #400, KJ Kasun as Member. Agent: Krishan Ginige, SEC, Inc.

Planner Davis showed the preliminary plat for Phase 2. He stated the location is on the south side of Groseta Ranch Road just east of State Route 89A. Groseta Ranch Road does not go all the way through now. As a condition of the planned are of development, it was supposed to be done by last June. The City is working with the applicant to revise the development agreement as to extend that in a reasonable way. At this point the road is not an issue. He showed the original master plan, Phase 1 is in process. Phase 2 was initially supposed to go both north and south of Phase 1. The Phase 2 plat that is being presented tonight is close to the previous Phase 2. This submission of Phase 2 intersects with Ana’s Avenue. The plat that is being presented has 21 lots on a little over 4 acres. The proposal calls for areas that are tracts that will be used for landscaping.

On the south side there is a communication easement that the city is asking to be dedicated as a trail easement as well. Planner Davis went over all stipulations and presented photos of the site.

Krishan Ginige with SEC, Inc., applicant’s Engineer, stated Planner Davis covered everything but stated he would like to answer any questions the Commission had.

Commissioner Hart stated he was concerned with drainage from the roads going into adjacent properties. He wanted to know how that was going to be addressed.

Mr. Ginige stated the drainage will be conveyed to the existing natural drainage/washes. The site has decent slope from west to east. He stated the final grading plans have been submitted and would address these concerns.

Vice Chairman Dowell asked why the dramatic change of the location for Phase 2.

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Mr. Ginige stated that given cost, market changes, and the difficulty of putting houses in two different locations, they felt this would be the ideal place with the continuation of Anna's Avenue.

Commissioner Hart expressed concerns regarding part of the future development along State Route 89A. He stated there is a round-about that goes right up to the fence and hopes that will be addressed later in the master plan.

Motion: Move to recommend to City Council approval of the Preliminary Plat for The Vineyards at Cottonwood Phase II, subject to the following stipulations:

- 1. Developer will provide the City of Cottonwood with an acceptable assurance that all required improvements will be completed as indicated by the City and outlined within Section 302.04, 500.01, and 500.03 of the City of Cottonwood Subdivision Ordinance, prior to approval and recording of a Final Plat.***
- 2. Developer adheres to all Code Review Board comments dated June 19, 2020, and as may be provided during subsequent reviews.***
- 3. The Final Plat must include all required information of submittal found in Article 4 of the city's Subdivision Ordinance.***
- 4. Any comments generated from review of future submittals, including the Final Plat are adhered to prior to approving and recording of the Final Plat.***
- 5. All road/street heights, widths, cul-de-sac and hammerhead turn around distance(s) shall meet the requirements in the 2018 International Fire Code Appendix D and the City of Cottonwood conditions.***
- 6. Corner lots shall be at least ten percent wider than typical interior lots, per Subdivision Ordinance Section 603.03.***
- 7. If Groseta Ranch Road is not yet under construction at the time that Phase II begins construction the Anna's Avenue-Groseta Ranch Road intersection shall be constructed in its entirety with the Phase II improvements.***
- 8. Dedicate trail easement located per Master Development Plan Appendix Q and construct trail west to SR 89A/Groseta Ranch Road roundabout and east to connecting trail per standards approved with The Vineyards at Cottonwood Phase I.***

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Made by: Vice Chairman Dowell

Second: Commissioner Hart

Roll Call Vote:

Commissioner Hart-Aye

Commissioner DiSisto-Aye

Commissioner Masten- Aye

Vice Chairman Dowling-Aye

Chairman Williams-Aye

Unanimously carried.

VI. DISCUSSION ITEMS:

Chairman Williams stated Commissioner Sherman has resigned from the board and would like to thank her for her service.

Director Ellis stated the opening is posted to the public.

City Manager Corbin wanted to thank the Vineyards for all the behind the scenes work and working so well with City staff. He stated there is a housing shortage in the area and they are trying to move that along for general housing to be developed.

Commissioner DiSisto asked due to the housing shortage, if there were any plans coming up for multi family housing, or apartment buildings.

Chairman Williams stated yes, there is a large project going in across the street from the hospital that has been pending.

Director Ellis stated that project is coming online again and staff is working on that project and other extremely preliminary projects that are just in discussion phase, but hoping to be presenting to the Commission in the future.

Commissioner Hart asked what was going on with the project at the Catholic Church.

Director Ellis stated that the Heartland project is still active, last week staff received a submittal for a lot line adjustment that is required, but it is still in the early stages.

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STAFF MEMO

TO: Planning and Zoning Commission

FROM: Gary Davis, Community Development Planner

HEARING DATE: October 19, 2020

PROJECT NUMBER: **CUP 20-008 Fojol Bros Restaurant**

The applicant requests a Conditional Use Permit to allow a restaurant with a drive-in element located at 777 N. Main Street in a C-1 (Light Commercial) zoned property.

PROJECT DATA AND FACTS:

Applicant	Justin Vitarello
Property Owner	Pender Enterprises LLC, Lipstick Lily LLC
Location of Property	777 N. Main St., APN 406-38-020, 406-38-024, 406-38-025A, 406-38-025D, 406-38-025E
Present Zoning and Land Use	C-1 (Light Commercial) – Vacant; former restaurant and car wash
Description of Applicant’s Request	Request for a Conditional Use Permit to allow a drive-in element.

LAND USE:

Description and Character of Surrounding Area
The site is on the northeast side of North Main Street at its intersection with N. Willard Street. The property is surrounded by developed C-1 (Light Commercial) commercial property to the north, east, and west, by R-2 (Single Family/Multiple Family Residential) zoning to the northeast, and by CR (Commercial Residential) zoning to the south.

Adjacent Land Uses and Zoning	
North:	C-1 (Light Commercial) City-owned creek and park
South:	CR (Commercial Residential) Residential, Retail, Offices
East:	C-1 (Light Commercial) MF Residential, R-2 (SF/MF) SF Res., Church
West:	C-1 (Light Commercial) Bar/Restaurant, City-owned creek

PROJECT PROPOSAL:

Background: The applicant requests a Conditional Use Permit to allow a drive-in element at a new restaurant. The C-2 zoning district permits restaurants with “entertainment, dancing, or drive-in facilities in connection therewith...” (Section 419.B.4). The C-1 zone permits restaurants, but does not include drive-in facilities in the description of restaurants. The City has previously required conditional use permits for drive-in facilities in C-1, to allow for notification and participation of surrounding property owners.

The applicant proposes a restaurant with outdoor dining only, and a drive-through lane on the site where customers would order and pick up food. No electronic order board with a loudspeaker is proposed. The loudspeaker element of a drive-in facility is typically what generates the most impact on neighboring residents. The applicant also proposes retail uses in the 1,200 square foot storage building in the center of the site.

Commercial zoning exists on three sides of the site, but there is a residential neighborhood adjacent to the east. Nearby restaurant/bars to the west have (or will have) outdoor dining. According to the applicant, the existing restaurant building (formerly RIOT) will be used as a kitchen and employee gathering area only. Customer dining would be in outdoor patio areas or take-out. Vintage vehicles will be parked on-site for additional kitchen space. They will be operational and currently registered so they will meet the definition of mobile vendor and will not be considered structures.

Parking: The applicant’s site plan shows 22 parking spaces on the lot, including two ADA accessible spaces. The Zoning Ordinance requires one space for every 100 square feet of gross floor area for restaurants and one for every 300 square feet for retail (Section 406.D.8). The applicant has calculated the site needs 22 spaces based on the square footage of the former RIOT building and the retail building, and the anticipated number of restaurant employees on site at one time.

Lighting: Any and all sign lighting will have to meet Section 408 of the City of Cottonwood Zoning Ordinance Lighting Code.

Access: Existing curb cuts provide access off Main Street. No additional access is required or requested.

Landscape Plans: The applicant's site plan shows the required ten-foot landscape buffer on the property's street frontage. Stipulation Number 2 below requires compliance with the Zoning Ordinance's landscaping requirements.

Utilities: N/A

REQUIRED FINDINGS:

General Findings:

The requested use is similar to uses permitted and existing in the C-1 zone.

Compatibility with Surrounding Uses:

The restaurant use with a drive-in element would be compatible with surrounding commercial uses.

Traffic and Circulation:

The site plan shows one-way vehicular traffic circulation on the site, with one driveway in and one driveway out. There are not any traffic or circulation issues associated with this project or property.

Nuisance Activities:

No nuisance activities have been identified at this location for the proposed use.

Buffering and Screening:

The use requested by this permit does not create the need for additional screening.

Staff Review:

Staff has reviewed this project and finds the requested restaurant with drive-in element is permitted with a Conditional Use Permit. If approved, staff recommends the stipulations as listed below.

If the Commission desires to approve this item, the suggested motion is:

I move to approve CUP 20-008 to allow Justin Vitarello, Fojol Bros., to operate a restaurant with a drive-in element at 777 N. Main Street, subject to the following stipulations:

1. That the project is developed in conformance with the site plan submitted with this application and reviewed by the Planning and Zoning Commission on October 19, 2020.
2. No electronic loudspeaker shall be used for drive-through ordering.
3. Buses and trucks used for serving shall be currently registered and readily movable.
4. The project shall be developed in conformance with the Zoning Ordinance Section 407

Landscaping Requirements to the extent possible given pre-existing hardscape.

5. Parking for the project, including bicycle parking, shall be provided in conformance with Zoning Ordinance Section 406 Parking and Loading Requirements.
6. The project shall comply with Code Review Board requirements dated August 27, 2020.
7. A shared parking and access agreement signed by all owners is required.
8. A Certificate of Zoning Compliance documenting the completion of conditions shall be issued within twelve (12) months from the date of this approval.
9. The City of Cottonwood reserves the right to revoke the Conditional Use Permit (CUP) if the use creates an irremediable public safety problems as determined by the City.

The Planning & Zoning Commission may add any other stipulations it deems necessary.

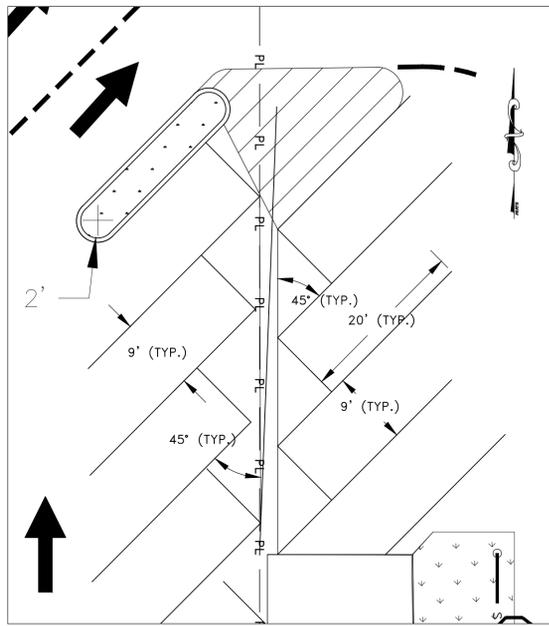
Attachments:

Site Plan

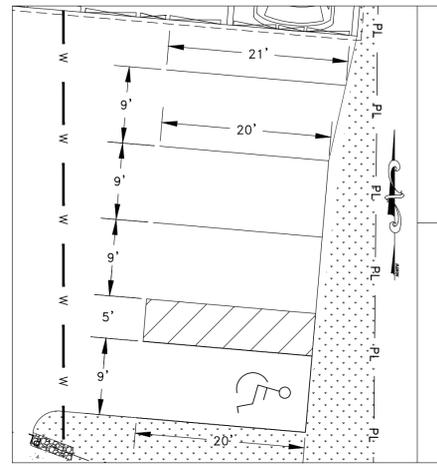
Application and Project Narrative

Location Map with Surrounding Zoning

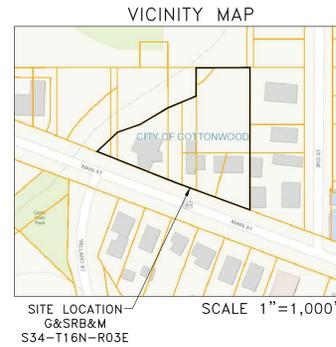
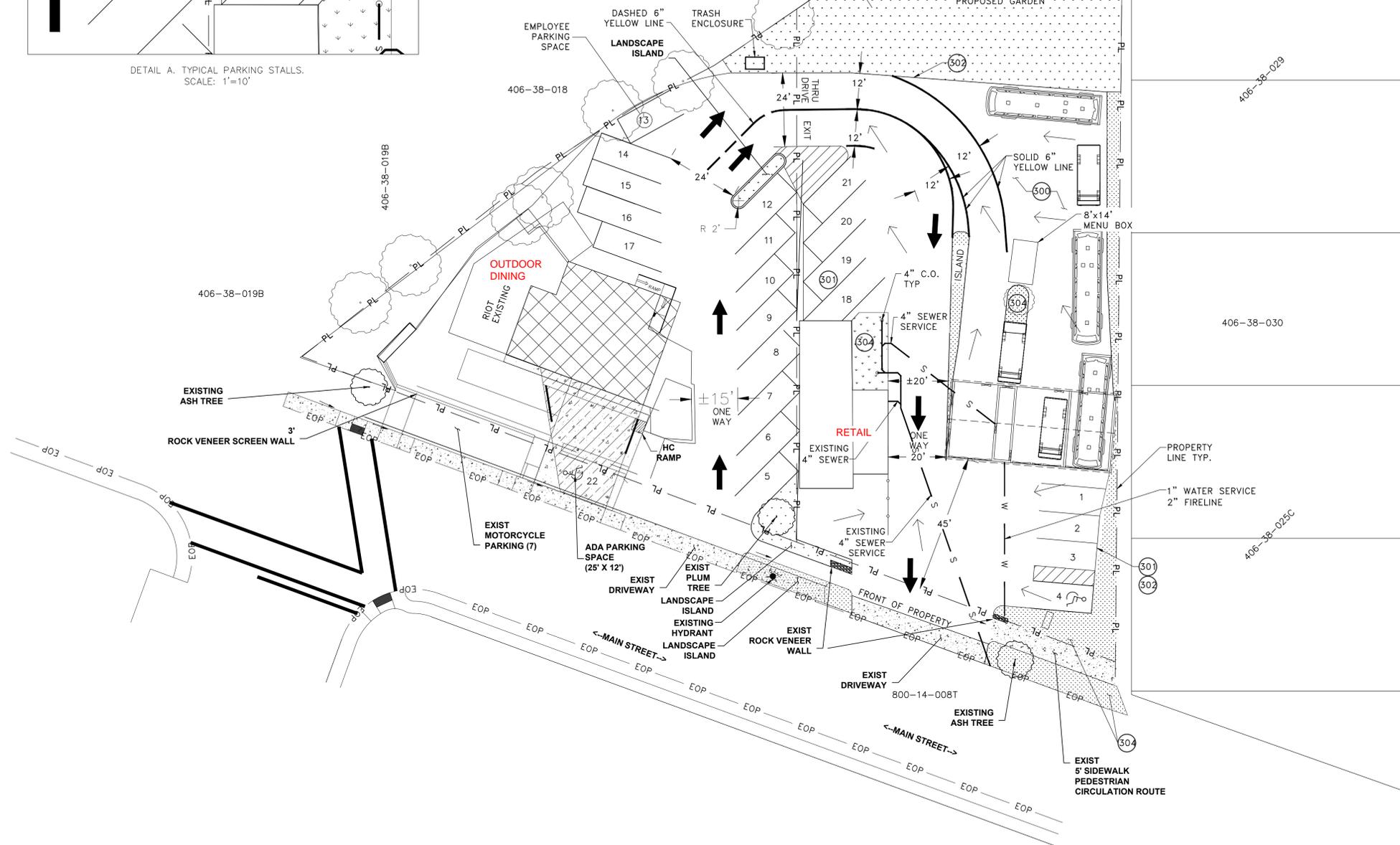
Photographs



DETAIL A. TYPICAL PARKING STALLS.
SCALE: 1"=10'



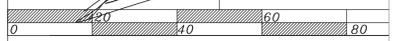
DETAIL B. ADA PARKING STALL.
SCALE: 1"=10'



SHEET INDEX
1 - SITE PLAN



Tom L. Pender, P.E.
P.O. Box 1245
Cottonwood, AZ 86326
(928) 639-0776



SCALE-1"=20' HORIZ.

FOJOL BROS

NOTES

- (500) EXISTING CONCRETE PARKING
- (501) ADD PARKING
- (504) LANDSCAPE

SHARED PARKING
19 REGULAR SPACES
1 EMPLOYEE SPACE
2 H.C. SPACE
7 MOTORCYCLE SPACES
29 TOTAL SPACES

LEGEND

- FLOW DIRECTION ARROW
- PROPOSED TRAFFIC FLOW DIRECTION
- 40' BUS
- FOOD TRUCK

APN'S:
406-38-020, 23, 24, 25A, 25D & 25E
TOTAL AREA 36,150 SF
PAVED AREA ±24,450 SF
LANDSCAPED AREA ±7,500 SF (OR 21%)
AREA BUILDINGS 4,200 SF (OR 12%)

	NAME	DATE
DESIGN	TLP	9/18/2020
DRAWN	JJD	9/18/2020
CHECKED	TLP	9/18/2020
REVISED		

DWG. NAME; 1-SITEPLAN



CONDITIONAL USE APPLICATION

CDD

Development Application
#202

PROPERTY OWNER Name: <u>Pender Enterprises LLC (The Car Wash)</u> Hostick LLC (The Riot) Address: <u>775 N Main St (The Car Wash)</u> 777 N Main St City: <u>Cottonwood</u> State: <u>AZ</u> Zip: <u>86326</u> Phone: <u>928-300-8814</u> Cell: <u>928-202-6842</u> Fax: _____ E-Mail: <u>Tom Pender @ The Car Wash Jet @ The Riot</u> <u>jetcornvilleaz@gmail.com</u>	APPLICATION NUMBER: <u>CUP-20-008</u>
AGENT/REPRESENTATIVE IDENTIFY THE PERSON WHO WILL COMMUNICATE WITH CITY STAFF, AND RECEIVE CORRESPONDENCE DURING THE HEARING PROCESS. CITY STAFF WILL NOT ACCEPT RESPONSIBILITY FOR COMMUNICATING WITH OTHER PROJECT PERSONNEL Name: <u>Justin Vitarello</u> Address: <u>PO Box 891</u> City: <u>Jerome</u> State: <u>AZ</u> Zip: <u>86331</u> Phone: <u>202-716-750</u> Cell: <u>202-669-4060</u> Fax: _____ E-Mail: <u>justinv@2020epiphany.com</u>	ZONING: APPLICATION DATE: <u>8/31/20</u>
REQUEST: <u>a quick service restaurant with a drive thru option</u> IDENTIFY ANY NECESSARY CODE EXCEPTIONS: _____	FEES: <u>\$800.00</u> RECEIPT #: <u>9454</u> DATE: <u>8/31/20</u> TAKEN BY: <u>Cassidy Presmyk</u>

ASSESSOR'S PARCEL NUMBER(S) <u>406-38-020 (The Riot) ACRES 0.82</u> <u>406-38-024</u> <u>406-38-025D</u> <u>406-38-025A</u> <u>406-38-025E</u> } <u>The Car Wash</u>			
SITE ADDRESS (if applicable) _____			
SUBDIVISION: _____ LOT(S): _____ BLOCK: _____ UNIT: _____			
<input type="checkbox"/> Legal description attached (for Metes & Bounds Parcel or for Subdivision Lot Split)			
I hereby certify that the information in this application is complete and accurate; and that I am the applicant of the bona fide agent of same as state above.			
Signature: <u>[Signature]</u>		Date: <u>8/30/20</u>	
Please Print Name: <u>Justin Vitarello</u>			

RECEIVED AUG 31 2020

Sept 22nd, 2020



Letter of Intent

To the City of Cottonwood,

My name is Justin Vitarello and I currently have a Purchase Agreement with Tom Pender for 775 N Main St (hereinafter "The Car Wash") and a Lease with the Right to Purchase with Jet Foley for 777 N Main St (hereinafter "The RIOT").

This letter of intent outlines the vision for these two properties along with the parking calculation associated with these uses. The primary business is a vegetarian quick service restaurant (QSR) that does not currently exist in Cottonwood (i.e. Indian food) with three (3) safe, practical means of distribution: drive-thru or take out from the food trucks or dine-in at The Riot (utilizing outside patio).

fojol bros. is a hospitality concept that will add to the creative spirit in this vibrant town in the Verde Valley. By offering locals and visitors a combination of impeccable food and entertainment, we believe we fit nicely into the Planning Department's vision of an Entertainment District on Main Street. Additionally, we would like to open a retail store (mostly clothes) in the enclosed building of The Car Wash.

After meeting with the City at the end of 2019 just about The RIOT, we realized that we would need to get both properties to address the parking concern of Cottonwood. The current 22 parking spaces (all 9' x 20') on the combined properties account perfectly for the required spaces for a 1,600 SF restaurant (18 spaces) and a 1,200 SF retail store (4 spaces). Here is the math breakdown: restaurants require 1 space per 100 SF + 1 space for every 2 employees and retail needs 1 space per 300 SF.

I am requesting a Conditional Use Permit to allow a drive-thru option for the combined property of The Car Wash and The RIOT. With almost an acre of property between both parcels, an abundance of concrete / paved surface (approx. 25,000 SF), two wide entrance and exit ways and the strong demand for drive thru services during Covid times, this component is crucial to the sustainability of fojol bros and the well-being of our guests.

Lastly, with fojol bros. antique 1950's bread trucks vintage and 1970's city buses, we believe our theme fits perfectly with "Old Town" Cottonwood. Thank you for your consideration.

Justin W. Vitarello

fojot bros.

AWARDS

THE DAILY MEAL

#2 Mobile Restaurant Group in the United States (2012)

#3 Mobile Restaurant Group in the United States (2013)

SMITHSONIAN The 20 Best Food Trucks in the United States (2012)

QSR America's Top 20 Food Trucks (2011)

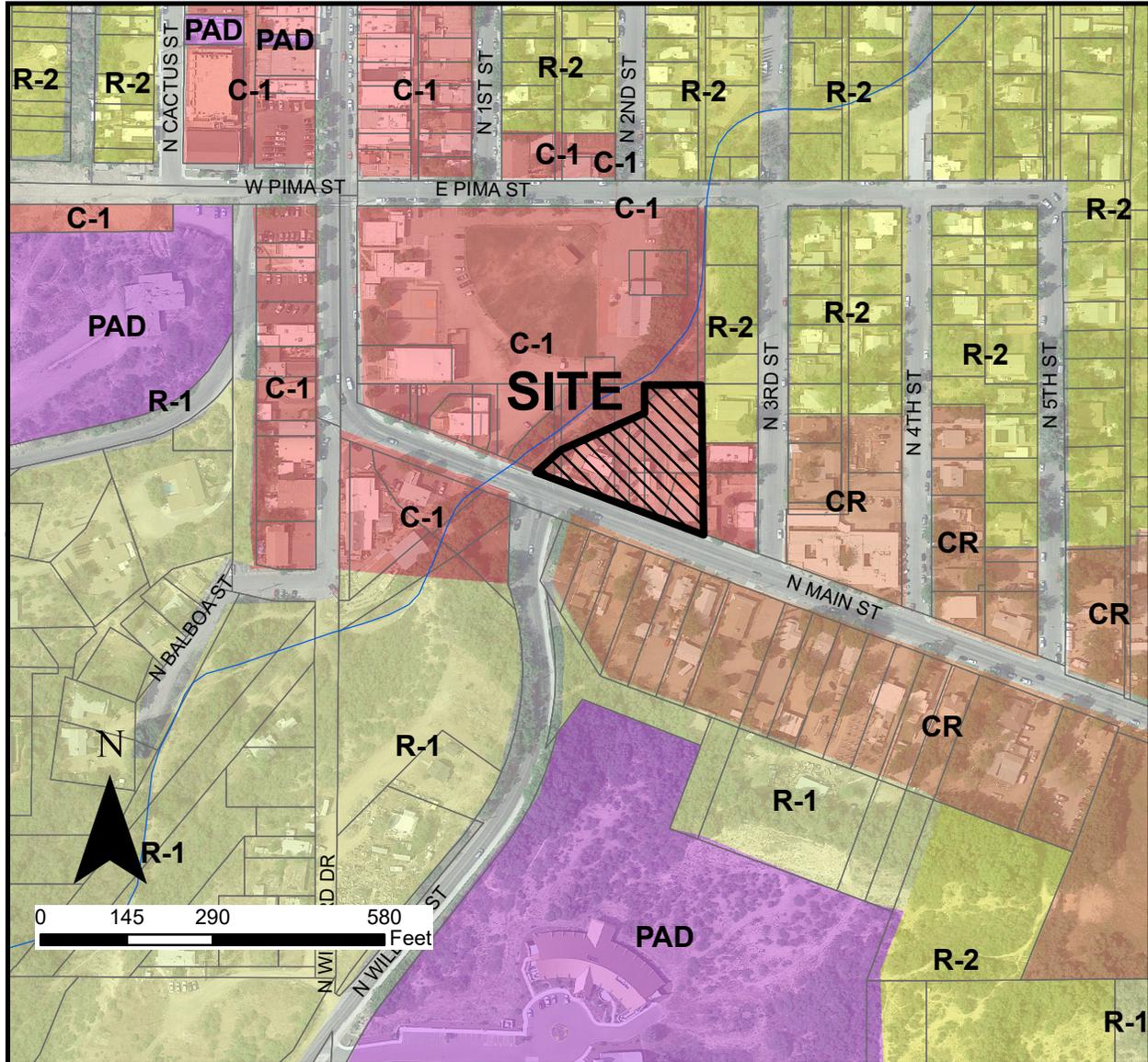
GQ The 10 Best Food Trucks in the United States (2010)

PRESS FEATURES

The Washington Post



CUP 20-008 FOJOL BROS RESTAURANT



West side of property – former RIOT building and outdoor patio



Center of property



East side of property – former car wash



Main Street looking east



Main Street looking south



Main Street looking west





STAFF REPORT

TO: Planning and Zoning Commission
FROM: Scott Ellis, Community Development Director
MEETING: October 19, 2020
SUBJECT: **ZO 20-008 AMENDMENT TO THE CITY OF COTTONWOOD ZONING ORDINANCE SECTION 308 (MEDICAL MARIJUANA FACILITIES)** – Consideration of a Zoning Ordinance text amendment to Section 308 to regulate placement and operation of marijuana establishments pursuant to the proposed “Smart and Safe Arizona Act,” if passed by voters.

BACKGROUND

Section 308 of the Zoning Ordinance regulates the location and operation of medical marijuana facilities, to include dispensaries, cultivation, and infusion facilities. Section 308 was adopted to implement the Arizona Medical Marijuana Act, approved by Arizona voters in 2010. On this year’s ballot is another marijuana initiative, the Smart and Safe Arizona Act (Prop 207, 2020), which would legalize adult-use recreational marijuana. If the current initiative is approved, the City of Cottonwood will need to regulate marijuana establishments that would be licensed by the state to sell, cultivate, manufacture, package, or store marijuana products.

Staff has prepared the attached draft Zoning Ordinance amendment (based on a model ordinance drafted by the League of Arizona Cities and Towns) that would provide such regulation. The City Council is scheduled to consider the same draft amendment – and the Planning and Zoning Commission’s recommendation – on October 20, 2020 so that the amendments may be enacted and take effect before the November 3, 2020 election. It has been suggested that this amendment be enacted as an emergency clause prior to the November 3, 2020 election due to the possibility of Private Property Rights Protection Act (Prop 207, 2006) claims if enacted after the date of the election.

STAFF ANALYSIS

The League of Arizona Cities and Towns provided a draft model ordinance for reference on several options to regulate marijuana use. Staff is proposing to regulate retail marijuana facilities as “dual licensees.” This means that in order to sell retail marijuana, a business owner would have to first be licensed as a medical marijuana dispensary. The dual license would only be applicable to a medical

marijuana dispensary, and not for a cultivation/infusion facility, unless the medical dispensary was also a part of it.

Since a dual license would be the only allowable form to sell retail marijuana, the same provisions of location within certain zoning districts, separation, security, odor, etc. would remain the same and would not need to be modified specific to a retail location.

RECOMMENDATION

Consider the proposed amendment to the Zoning Ordinance to provide a recommendation to the City Council to:

1. Amend Section 308 to regulate marijuana establishments in addition to medical marijuana dispensaries.

If the Commission desires to recommend approval of this item, the suggested motion is:

I move to recommend approval to the City Council the proposed amendments to Section 308 of the Zoning Ordinance.

Attachments:

Draft Zoning Ordinance Text Amendment

SECTION 308. ~~MEDICAL MARIJUANA FACILITIES~~ MARIJUANA AND MEDICAL MARIJUANA FACILITIES.

A. PURPOSE. The purpose of this Section is to implement the Arizona Medical Marijuana Act (A.R.S. § 36-2801, *et seq.*), and the “Smart and Safe Arizona Act, and to regulate the locations and operations of medical marijuana dispensaries and, related cultivation and processing uses, and retail sale, cultivation, and manufacturing of marijuana in the City of Cottonwood. This article is adopted so as to promote and protect the public health, safety and welfare of the residents of Cottonwood. It is neither the intent nor the effect of this chapter to condone or legitimize the use, or possession, sale, cultivation, manufacture, transport, production, or distribution of marijuana except as allowed by Arizona law. Further, the purpose of this section is to:

1. Provide for the safe sale and distribution of medical marijuana to patients who qualify to obtain, possess and use marijuana for medical purposes under the Arizona Medical Marijuana Act and as managed through the Arizona Department of Health Services.
2. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, building safety, neighborhood and patient safety, security for the business and its personnel and other health and safety concerns.
3. Adopt a mechanism for monitoring compliance with the provisions of this Section.
4. Create regulations that address the particular needs of the patients and residents of the City and coordinate with rules and regulations that may be enacted by the state regarding the issue.
5. Facilitate the implementation of the Arizona Medical Marijuana Act without going beyond the authority granted by it.

B. DEFINITIONS. The definitions contained in the Arizona Medical Marijuana Act (A.R.S. § 36-2801, *et seq.*) shall serve as the primary guide for the enforcement and practices of all such related activities. In addition, definitions contained herein are intended to further assist with the enforcement of this Ordinance, as follows:

1. CHEMICAL EXTRACTION – The process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
2. CHEMICAL SYNTHESIS – Production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.
3. CONSUME, CONSUMING, AND CONSUMPTION – The act of ingesting, inhaling or otherwise introducing marijuana into the human body.

4. CONSUMER – An individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
5. CULTIVATE AND CULTIVATION – To propagate, breed, grow, prepare and package marijuana.
6. DELIVER AND DELIVERY – The transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the location where the marijuana was cultivated, manufactured, or processed.
7. DHS/DEPARTMENT - The Arizona Department of Health Services or its successor agency.
8. DISPENSARY AGENT - A medical marijuana dispensary director, officer, employee or volunteer who has been issued a valid registry identification card by the DHS.
9. DUAL LICENSEE – An entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
10. ENCLOSED AREA – A building, greenhouse, or other structure that has:
 - a. A complete roof enclosure supported by connecting walls that are constructed of a solid material extending from the ground to the roof;
 - b. Is secure against unauthorized entry;
 - c. Has a foundation, slab or equivalent base to which the floor is securely attached; and
 - d. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aides and is equipped with a lock or other security device that prevents access by minors.
11. EXTRACTION – The process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.
12. MANUFACTURE AND MANUFACTURING – To compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
13. MARIJUANA –
 - a. All parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.

- b. Includes cannabis as defined in A.R.S. § 13-3401.
- c. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the marijuana to prepare topical or oral administrations, food, drink or other products.

14. MARIJUANA CONCENTRATE –

- a. Resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt derivative, mixture or preparation of that resin or tetrahydrocannabinol.
- b. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

15. MARIJUANA ESTABLISHMENT – An entity licensed by the Department to operate all of the following:

- a. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
- b. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
- c. A single off-site location at which the licensee may manufacture marijuana and marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

16. MARIJUANA PRODUCTS – Marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

17. MARIJUANA TESTING FACILITY – The Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

18. **MEDICAL MARIJUANA - All parts of the genus cannabis whether growing or not, and the seeds of such plants that may be administered to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the patient’s debilitating medical condition.**

19. MEDICAL MARIJUANA CULTIVATION FACILITY- A building or structure and the associated premises used to grow the marijuana plant, which may include accessory storage and processing of medical marijuana grown on premises.
20. MEDICAL MARIJUANA DISPENSARY- A non-profit entity defined in Arizona Revised Statutes § 36-2801, *et seq.*, that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.
21. MEDICAL MARIJUANA FACILITY - A medical marijuana dispensary, cultivation facility, qualified patient or designated patient or caregiver cultivation facility, infusion or manufacturing facility, or similar operations or any combination thereof, as authorized by law.
22. MEDICAL MARIJUANA INFUSION (MANUFACTURING) FACILITY - A facility that incorporates medical marijuana (cannabis) by means of cooking, blending, or incorporation into consumable/edible goods or similar products.
23. MEDICAL MARIJUANA QUALIFYING PATIENT - A person who has been diagnosed by a physician as having a debilitating medical condition as defined in Arizona Revised Statutes; and who has been issued a Registry Identification Card by DHS authorizing him/her to use marijuana to treat his/her debilitating medical condition or symptoms associated with the debilitating medical condition.
24. MEDICAL MARIJUANA QUALIFYING PATIENT CULTIVATION FACILITY - Enclosed, locked facilities approved for the cultivation of medical marijuana plants by registered qualifying patients or their designated caregivers where a registered nonprofit medical marijuana dispensary is not operating within twenty-five miles of the qualifying patient's home.
25. OPEN SPACE – A public park, public sidewalk, public walkway or public pedestrian thoroughfare.
26. OPERATOR - The chief executive officer of the medical marijuana dispensary, whether referred to as the principal officers, board members, designated agents, executive director, president, CEO or other designation.
27. PERSON – An individual, partnership, corporation, association, or any other entity of whatever kind or nature.
28. PROCESS AND PROCESSING – To harvest, dry, cure, trim or separate parts of the marijuana plant.
29. PUBLIC PLACE – The same meaning as prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.

30. SCHOOL – Public and private educational and child development facilities certified by the State of Arizona, including a daycare facility, preschool, kindergarten, elementary school, middle school or high school.

31. SMOKE – To inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

C. REQUIREMENTS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA FACILITIES.

1. General Requirements. The establishment of medical marijuana dispensaries, cultivation sites and other related facilities shall be subject to the provisions of the Arizona Medical Marijuana Act as described in Arizona Revised Statutes, Title 36 and any associated rules subsequently enacted by the Arizona Department of Health Services or the City of Cottonwood for the implementation the Act, including, but not limited to, authorization of and registration of dispensaries and cultivation facilities, registration of qualifying patients and designated caregivers, review and inspection of facilities and security measures, and other standards and procedures expressed in the Act for similar purposes. The regulations in this Ordinance are intended to allow the uses authorized under state law to the extent permissible while ensuring such uses are established in a reasonable manner to protect the health, safety and general welfare of the residents of the City of Cottonwood.

2. Medical Marijuana Dispensary.

- a. Registration with the City of Cottonwood is required for a Medical Marijuana Dispensary, as described in this Ordinance.
- b. A medical marijuana dispensary facility shall be a Permitted Use in the C-1 (Light Commercial), C-2 (Heavy Commercial), and I-2 (Heavy Industrial) Zoning Districts, subject to meeting required development standards.
- c. A dispensary may be located in association with a cultivation facility in the I-2 Zoning District subject to obtaining a Conditional Use Permit, as per Section 302 of this Ordinance.
- d. The dispensary sales area that may be accessed by the patients or the public shall be limited to the distribution and sales of medical marijuana and related information and products for qualifying patients. There shall be no other retail or health care services provided from the dispensary sales area nor shall access to such services be provided from the dispensary sales area.
- e. The dispensary shall be located in a permanent building and may not be located in a temporary structure, trailer, cargo container, motor vehicle or other similar non-permanent enclosure.

- f. **Dispensary Entrance.** A dispensary may have more than one means of egress from the interior so as to meet building codes and public safety concerns; however, it shall have a single secure public entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana. The dispensary entrance shall be located and maintained clear of any barriers, landscaping and similar obstructions that may block the view so that the entrance and pedestrian access is clearly visible from the public street, sidewalk and parking area.
 - g. **Parking.** A dispensary shall provide on-site parking or parking immediately adjacent to the building used as the dispensary.
 - h. **Minimum Separation Requirements.** Medical marijuana dispensary and cultivation facilities shall not be located within five-hundred (500) feet of the exterior property lines of a public or private school, including a daycare facility or preschool, kindergarten, elementary school, middle school or high school.
 - i. **Method for Computing Measurement.** For the purposes of calculating the separation requirements, the distance shall be measured from the closest portion of the exterior surface of the wall of the building in which the medical marijuana is to be dispensed, cultivated or processed to the nearest point of the property line of the use requiring a minimum separation.
 - j. **Operating hours** shall not be earlier than 7:00 a.m. and not later than 10:00 p.m.
 - k. **Drive-through services** are prohibited.
3. **Medical Marijuana Cultivation Facilities and Medical Marijuana Infusion Facilities.**
- a. **Registration with the City of Cottonwood** is required for Medical Marijuana Cultivation Facilities and Medical Marijuana Infusion Facilities, as described in this Ordinance.
 - b. A medical marijuana cultivation facility, whether separate or combined with an authorized medical marijuana dispensary and/or infusion facility, shall be allowed in the I-2 (Heavy Industrial) Zoning District subject to obtaining a Conditional Use Permit, as per Section 302 of this Ordinance.
 - c. Medical marijuana infusion shall be allowed as a permitted use in the I-2 (Heavy Industrial) Zoning Districts, subject to meeting required development standards.
 - d. Medical marijuana infusion facilities shall be permitted as an accessory use with an approved medical marijuana dispensary.
 - e. **Minimum Separation Requirements:**

- 1) Medical marijuana cultivation facilities or infusion facilities shall not be located within five-hundred (500) feet of the exterior property lines of a school, including a daycare facility, preschool, kindergarten, elementary, middle school or high school.
 - f. Method for Computing Measurement. For the purposes of calculating the separation requirements, the distance shall be measured from the closest portion of the exterior surface of the wall of the building in which the medical marijuana is to be dispensed, cultivated or processed to the nearest point of the property line of the use requiring a minimum separation
 - g. Retail sales of medical marijuana shall be prohibited from a medical marijuana cultivation facility or infusion facility; however, a separate authorized dispensary may be located at the same site subject to the development standards described in this Ordinance.
 - h. There shall be no emission of dust, fumes, vapors, smoke or odors into the environment from the facility.
4. Medical Marijuana Qualifying Patient Cultivation and Medical Marijuana Designated Caregiver Cultivation.
- a. Qualifying Patients or their Designated Caregivers may be authorized by the Arizona Department of Health Services to cultivate marijuana plants for the qualifying patient's medical use if a registered nonprofit medical marijuana dispensary is not operating within twenty-five (25) miles of the qualifying patient or designated caregiver's home. Such facilities within the City of Cottonwood shall be considered a permitted accessory use in all residential zoning districts provided the primary residence of the qualifying patient or designated caregiver is more than twenty-five (25) miles from an operating medical marijuana dispensary, as per the standards contained herein.
 - b. If the qualifying patient or designated caregiver is authorized to cultivate marijuana, there shall be no more than twelve (12) marijuana plants per patient contained in an enclosed, locked facility that permits access by the cardholder, as per the applicable sections of Arizona Revised Statutes and related rules established by DHS.
 - c. The cultivation facility may be in a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by the cardholder.
- D. FACILITY REGISTRATION REQUIREMENTS. Medical Marijuana Dispensary, Cultivation and Infusion Facilities; and Qualifying Patient or Designated Caregiver Home Grow Cultivation operations shall register the location of the facility with the City of Cottonwood and provide the following information:

1. Registration for Medical Marijuana Dispensary, Cultivation Facility and/or Infusion Facility. A medical marijuana dispensary, cultivation facility or infusion facility, or combined use; is required to register the location with the City of Cottonwood Community Development Department. The following information shall be provided with the registration:
 - a. The name, address, phone number, e-mail address and contact information for the property owner, operator, applicant and non-profit organization operating the facility;
 - b. The name, location, address and contact information for the operator of any off-site cultivation facility or facilities related to the dispensary;
 - c. A written narrative describing the use and facilities and how the location and improvements associated with the proposed facility comply with the requirements of this Ordinance;
 - d. A copy of the operating procedures submitted to and approved by DHS prepared in accordance with A.R.S. § 36-2804(B)(1)(c), including the required security plan for medical marijuana facilities;
 - e. An accurate vicinity map drawn to scale showing the location of the proposed medical marijuana dispensary, cultivation facility or infusion facility in relation to any school property boundary or cultivation and/or infusion facility boundary so as to document the required minimum separation requirement;
 - f. An accurate dimensioned site plan indicating buildings, building entrances, parking, sidewalks, adjacent streets and immediately surrounding uses;
 - g. A floor plan of the interior of the facility indicating public areas and secured areas. The floor plan for a dispensary should have a waiting area at the entrance to receive patients and as required by the Arizona Medical Marijuana Act, must have a separate enclosed, locked and secure area for dispensing medical marijuana to qualified patients or designated caregivers. Indicate the principal uses on the floor plan, including areas where non-patients will be permitted, private consulting areas, storage areas, retail areas and areas where medical marijuana will be dispensed, processed, cultivated and stored; and
 - h. An exterior refuse control plan providing for proper disposal of marijuana remnants or byproducts, which shall not be placed within the facility's exterior refuse containers.
2. Registration for Qualifying Patient or Designated Caregiver Home Grow Cultivation. A qualifying patient or designated caregiver authorized by DHS to cultivate medical marijuana at their primary residence shall register the location with the City of Cottonwood and provide the following information:

- a. The name, address, phone number, e-mail address and contact information for the qualifying patient or designated caregiver; and
- b. A accurate vicinity map drawn to scale showing a twenty-five mile radius from the qualifying patient or designated caregiver cultivation location to ensure there are no registered dispensaries within such area, as per current data available from DHS; Medical marijuana qualifying patient or designated caregiver cultivation are prohibited in all zoning districts if located within 25 miles of a medical marijuana dispensary.

E. OPERATING REQUIREMENTS FOR MEDICAL MARIJUANA FACILITIES.

1. Consumption of Marijuana. Marijuana in any form shall not be consumed by patients or others on the premises of a medical marijuana dispensary, cultivation facility, infusion facility or any type of medical marijuana facility. Nor shall it be consumed via smoking or vaporization form in any public place within the City. The term “premises” includes the actual building, as well as any accessory structures, outdoor areas, vehicles, parking lot or parking areas which are part of the approved location.
2. Retail Sales of Other Products and Services by a Dispensary. The retail sales of marijuana use items and other health care services to registered patients shall be subject to the following limitations:
 - a. Marijuana Paraphernalia. No retail sales of marijuana paraphernalia are permitted at a medical marijuana dispensary, except as permitted by law to qualifying patients and/or designated caregivers.
 - b. Product Display: No medical marijuana or paraphernalia shall be displayed or kept in a medical marijuana dispensary so as to be visible from outside the premises.
 - c. Other Health Care Services: The dispensary may provide consultation regarding medical marijuana to qualifying patients and designated caregivers as per the rules and regulations established by DHS. The dispensary shall not provide other health care services or products unrelated to medical marijuana as part of the dispensary operations for the general public or qualifying patients.
3. Business Registration. A Medical Marijuana Dispensary, Cultivation Facility or Infusion Facility shall be required to obtain and maintain a valid Business Registration from the City of Cottonwood.
4. Suspension or Revocation of Business Registration. The City of Cottonwood business registration for a medical marijuana use may be suspended or revoked for any of the following violations:

- a. Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the City related to the medical marijuana business;
 - b. The business registration shall be considered automatically revoked by the revocation, expiration or suspension of any required Conditional Use Permit for the medical marijuana facility and all such operations shall cease immediately.
5. Additional Licenses and Permits. The facility registration and business registration requirement set forth in this Section shall be in addition to, and not in lieu of, any other licensing, permitting or registration requirements imposed by any other federal, state or local jurisdiction, including, but not limited to, DHS approval, building permits, fire alarm permits, zoning approval, a state retail sales and use tax license, a retail food establishment license or any applicable health, safety, building or development license or permit.
 6. Infusion (Manufacturing) facilities must obtain any and all permits and licenses from Yavapai County Health Department for all food handling and preparation in connection with infusion operations.
 7. Security Plans. Pursuant to the Arizona Medical Marijuana Act, the DHS is responsible for promulgating regulations pertaining to dispensary security. A dispensary shall comply with DHS security requirements provided for adequate lighting, alarms, security cameras and locks in order to ensure the safety of persons and to protect the premises from theft. All security and alarm systems shall be installed and operated in compliance with applicable City of Cottonwood codes, ordinances, and regulations.
 8. Security Lighting. During all night time hours, dispensaries shall illuminate exterior areas of the premises, including related parking areas, sidewalks and building entrances so that all areas are readily visible. During all hours, the medical marijuana dispensary shall illuminate those areas of the interior of the building where the public has access, including the public entry, reception area, and counter area, as well as the interior hallways, other building ingress/egress locations and locations where medical marijuana may be located, stored or processed. All outdoor lighting shall be in compliance with City of Cottonwood Zoning Ordinance, Section 408. Outdoor Lighting Code.

F. MARIJUANA PROHIBITED ON PUBLIC PROPERTY.

1. The use, sale, cultivation, manufacture, production or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled or operated by the City of Cottonwood.
2. It is unlawful for an individual to smoke marijuana in a public place or open space in the City of Cottonwood.

G. MARIJUANA ESTABLISHMENT PROHIBITED; DUAL LICENSEE EXCEPTION.

1. To the fullest extent allowable by law, the operation of a marijuana establishment is not permitted in the City of Cottonwood, except where authorized for a dual licensee who:
 - a. Operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and
 - b. Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

H. MARIJUANA TESTING FACILITY PROHIBITED.

To the fullest extent allowable by law, the operation of a marijuana testing facility is not permitted in the City of Cottonwood.

I. MARIJUANA ESTABLISHMENT PERMITTED; NONRESIDENTIAL.

1. Marijuana establishments shall be regulated as outlined in this section related to all requirements applicable to Medical Marijuana Dispensaries.
2. Dual licensee only.
 - a. To the fullest extent allowable by law, shall be authorized for a dual licensee who operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location and has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

J. MARIJUANA ESTABLISHMENT PERMITTED; RESIDENTIAL.

1. Marijuana possession, consumption, processing, manufacturing, transportation and cultivation is permitted in a residential zoning district in the City of Cottonwood subject to the following conditions and limitations:
 - a. It shall be unlawful for any individual who is at least twenty-one (21) years of age to possess, transport, cultivate or process more than six (6) marijuana plants.
 - b. It shall be unlawful for two or more individuals who are at least twenty-one (21) years of are to possess, transport, cultivate or process more than twelve (12) marijuana plants at the individuals' primary residence.
 - c. Except as provided by A.R.S. § 36-2801 et al. and this Section, it shall be unlawful for an individual to otherwise cultivate marijuana in a residential zoning district within the City of Cottonwood limits.

- d. Shall be limited to a closet, room, greenhouse or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors.
- e. Shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft or other optical aids.
- f. Shall maintain kitchen, bathrooms, and primary bedroom(s) for their intended use and shall not be used primarily for residential marijuana cultivation.
- g. Shall not emit dust, fumes, vapors or odors into the environment from the facility and ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of City of Cottonwood.

K. RETAIL SALES FROM MARIJUANA AND MARIJUANA PRODUCTS.

The sale of marijuana and marijuana products within the City of Cottonwood is subject to the transaction privilege tax as tangible personal property as defined in A.R.S. § 42-5001 in the retail classification and use tax.

L. FEES.

A facility registration for a medical marijuana facility shall be accompanied by a filing fee in an amount established by a schedule adopted by resolution of the City Council and filed in the office of the City Clerk. No part of the filing fee shall be refundable. Any and all other applicable fees shall apply.

M. VIOLATIONS.

1. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture or transport marijuana or marijuana products if the person fails to meet all the requirements in this article or state law, including the Department's rules.
2. It is a violation of this article for any person to provide false information on any permit application.
3. Each day any violation of any provision of this article shall continue shall constitute a separate offense.

N. ENFORCEMENT; PENALTIES.

1. Any permits associated with the uses described in this section may be revoked by the City of Cottonwood for violation of any provision of this article, for any violation of the requirements of the permit, or if the Department revokes the license for a marijuana establishment or marijuana testing facility. If a permit is revoked, the permittee shall have the right to appeal the decision of the City of Cottonwood to the City Council.

2. Violations of this article are in addition to any other violation enumerated within the City of Cottonwood ordinances or the City of Cottonwood Municipal Code and in no way limits the penalties, actions or abatement procedures which may be taken by the City for any violation of this article, which is also a violation of any other ordinance or Code provision of the City or federal or state law. Conviction and punishment of judgment and civil sanction against any person under this article shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.

O. APPEAL

Any registrant for a medical marijuana facility who is dissatisfied or aggrieved by an official decision of the Community Development Director/Zoning Administrator may appeal such decision to the Board of Adjustment by filing a written notice of appeal with the City Clerk, not later than fifteen (15) days from the date of the Community Development Director/Zoning Administrator's decision.

SECTION 308. MARIJUANA AND MEDICAL MARIJUANA FACILITIES.

A. PURPOSE. The purpose of this Section is to implement the Arizona Medical Marijuana Act (A.R.S. § 36-2801, *et seq.*), and the “Smart and Safe Arizona Act, to regulate the locations and operations of medical marijuana dispensaries, related cultivation and processing uses, and retail sale, cultivation and manufacturing of marijuana in the City of Cottonwood. This article is adopted so as to promote and protect the public health, safety and welfare of the residents of Cottonwood. It is neither the intent nor the effect of this chapter to condone or legitimize the use, possession, sale, cultivation, manufacture, transport, production, or distribution of marijuana except as allowed by Arizona law. Further, the purpose of this section is to:

1. Provide for the safe sale and distribution of medical marijuana to patients who qualify to obtain, possess and use marijuana for medical purposes under the Arizona Medical Marijuana Act and as managed through the Arizona Department of Health Services.
2. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, building safety, neighborhood and patient safety, security for the business and its personnel and other health and safety concerns.
3. Adopt a mechanism for monitoring compliance with the provisions of this Section.
4. Create regulations that address the particular needs of the patients and residents of the City and coordinate with rules and regulations that may be enacted by the state regarding the issue.
5. Facilitate the implementation of the Arizona Medical Marijuana Act without going beyond the authority granted by it.

B. DEFINITIONS. The definitions contained in the Arizona Medical Marijuana Act (A.R.S. § 36-2801, *et seq.*) shall serve as the primary guide for the enforcement and practices of all such related activities. In addition, definitions contained herein are intended to further assist with the enforcement of this Ordinance, as follows:

1. CHEMICAL EXTRACTION- The process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
2. CHEMICAL SYNTHESIS- Production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.

3. CONSUME, CONSUMING AND CONSUMPTION- The act of ingesting, inhaling or otherwise introducing marijuana into the human body.
4. CONSUMER- An individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
5. CULTIVATE AND CULTIVATION- To propagate, breed, grow, prepare and package marijuana.
6. DELIVER AND DELIVERY- The transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the location where the marijuana was cultivated, manufactured, or processed.
7. DHS/DEPARTMENT- The Arizona Department of Health Services or its successor agency.
8. DISPENSARY AGENT- A medical marijuana dispensary director, officer, employee or volunteer who has been issued a valid registry identification card by the DHS.
9. DUAL LICENSEE- An entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
10. ENCLOSED AREA- A building, greenhouse, or other structure that has:
 - a. A complete roof enclosure supported by connecting walls that are constructed of a solid material extending from the ground to the roof;
 - b. Is secure against unauthorized entry;
 - c. Has a foundation, slab or equivalent base to which the floor is securely attached; and
 - d. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aides and is equipped with a lock or other security device that prevents access by minors.

11. EXTRACTION- The process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.

12. MANUFACTURE AND MANUFACTURING- To compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

13. MARIJUANA-

- a. All parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.
- b. Includes cannabis as defined in A.R.S. § 13-3401.
- c. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the marijuana to prepare topical or oral administrations, food, drink or other products.

14. MARIJUANA CONCENTRATE-

- a. Resin extracted from any part of the plant of the genus cannabis and every compound, manufacture, salt derivative, mixture or preparation of that resin or tetrahydrocannabinol.
- b. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, feed, drink or other products.

15. MARIJUANA ESTABLISHMENT- An entity licensed by the Department to operate all of the following:

- a. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
- b. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

- c. A single off-site location at which the licensee may manufacture marijuana and marijuana products and package and store marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
16. MARIJUANA PRODUCTS- Marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments and tinctures.
 17. MARIJUANA TESTING FACILITY- The Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.
 18. MEDICAL MARIJUANA- All parts of the genus cannabis whether growing or not, and the seeds of such plants that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.
 19. MEDICAL MARIJUANA CULTIVATION FACILITY- A building or structure and the associated premises used to grow the marijuana plant, which may include accessory storage and processing of medical marijuana grown on premises.
 20. MEDICAL MARIJUANA DISPENSARY- A non-profit entity defined in Arizona Revised Statutes § 36-2801, *et seq.*, that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.
 21. MEDICAL MARIJUANA FACILITY- A medical marijuana dispensary, cultivation facility, qualified patient or designated patient or caregiver cultivation facility, infusion or manufacturing facility, or similar operations or any combination thereof, as authorized by law.
 22. MEDICAL MARIJUANA INFUSION (MANUFACTURING) FACILITY- A facility that incorporates medical marijuana (cannabis) by means of cooking, blending, or incorporation into consumable/edible goods or similar products.
 23. MEDICAL MARIJUANA QUALIFYING PATIENT- A person who has been diagnosed by a physician as having a debilitating medical condition as defined in Arizona Revised Statutes; and who has been issued a Registry Identification Card by DHS authorizing him/her to use marijuana to treat his/her debilitating medical condition or symptoms associated with the debilitating medical condition.
 24. MEDICAL MARIJUANA QUALIFYING PATIENT CULTIVATION FACILITY- Enclosed, locked facilities approved for the cultivation of medical

marijuana plants by registered qualifying patients of their designated caregivers where a registered nonprofit medical marijuana dispensary is not operating within twenty-five miles of the qualifying patient's home.

25. OPEN SPACE- A public park, public sidewalk, public walkway or public pedestrian thoroughfare.
 26. OPERATOR- The chief executive officer of the medical marijuana dispensary, whether referred to as the principal officers, board members, designated agents, executive director, president, CEO or other designation.
 27. PERSON- An individual, partnership, corporation, association, or any other entity of whatever kind or nature.
 28. PROCESS AND PROCESSING- To harvest, dry, cure, trim or separate parts of the marijuana plant.
 29. PUBLIC PLACE- The same meaning as prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.
 30. SCHOOL- Public and private educational and child development facilities certified by the State of Arizona, including a daycare facility, preschool, kindergarten, elementary school, middle school or high school.
 31. SMOKE- To inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.
- C. REQUIREMENTS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA FACILITIES.
1. General Requirements. The establishment of medical marijuana dispensaries, cultivation sites and other related facilities shall be subject to the provisions of the Arizona Medical Marijuana Act as described in Arizona Revised Statutes, Title 36 and any associated rules subsequently enacted by the Arizona Department of Health Services or the City of Cottonwood for the implementation the Act, including but not limited to, authorization of and registration of dispensaries and cultivation facilities, registration of qualifying patients and designated caregivers, review and inspection of facilities and security measures, and other standards and procedures expressed in the Act for similar purposes. The regulations in this Ordinance are intended to allow the uses authorized under state law to the extent permissible while ensuring such uses are established in a reasonable manner to protect the health, safety and general welfare of the residents of the City of Cottonwood.

2. Medical Marijuana Dispensary.

- a. Registration with the City of Cottonwood is required for a Medical Marijuana Dispensary, as described in this Ordinance.
- b. A medical marijuana dispensary facility shall be a Permitted Use in the C-1 (Light Commercial), C-2 (Heavy Commercial), and I-2 (Heavy Industrial) Zoning Districts, subject to meeting required development standards.
- c. A dispensary may be located in association with the cultivation facility in the I-2 Zoning District subject to obtaining a Conditional Use Permit, as per Section 302 of this Ordinance.
- d. The dispensary sales area that may be accessed by the patients or the public shall be limited to the distribution and sales of medical marijuana and related information and products for qualifying patients. There shall be no other retail or health care services provided from the dispensary sales area nor shall access to such services be provided from the dispensary sales area.
- e. The dispensary shall be located in a permanent building and may not be located in a temporary structure, trailer, cargo container, motor vehicle or other similar non-permanent enclosure.
- f. Dispensary Entrance. A dispensary may have more than one means of egress from the interior so as to meet building codes and public safety concerns; however, it shall have a single secure public entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana. The dispensary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions that may block the view so that the entrance and pedestrian access is clearly visible from the public street, sidewalk and parking area.
- g. Parking. A dispensary shall provide on-site parking or parking immediately adjacent to the building used as the dispensary.
- h. Minimum Separation Requirements. Medical marijuana dispensary and cultivation facilities shall not be located within five-hundred (500) feet of the exterior property lines of a public or private school, including a daycare facility or preschool, kindergarten, elementary school, middle school or high school.

- i. Method for Computing Measurement. For the purpose of calculating the separation requirements, the distance shall be measured from the closest portion of the exterior surface of the wall of the building in which the medical marijuana is to be dispensed, cultivated or processed to the nearest point of the property line of the use requiring a minimum separation.
- j. Operating hours shall not be earlier than 7:00 a.m. and not later than 10:00 p.m.
- k. Drive-through services are prohibited.

3. Medical Marijuana Cultivation Facilities and Medical Marijuana Infusion Facilities.

- a. Registration with the City of Cottonwood is required for Medical Marijuana Cultivation Facilities and Medical Marijuana Infusion Facilities, as described in this Ordinance.
- b. A medical marijuana cultivation facility, whether separate or combined with an authorized medical marijuana dispensary and/or infusion facility, shall be allowed in the I-2 (Heavy Industrial) Zoning District subject to obtaining a Conditional Use Permit, as per Section 302 of this Ordinance.
- c. Medical marijuana infusion facilities shall be allowed as a permitted use in the I-2 (Heavy Industrial) Zoning District, subject to meeting required development standards.
- d. Medical marijuana infusion facilities shall be permitted as an accessory use with an approved medical marijuana dispensary.
- e. Minimum Separation Requirements:
 - 1) Medical marijuana cultivation facilities or infusion facilities shall not be located within five-hundred (500) feet of the exterior property lines of a school, including a daycare facility or preschool, kindergarten, elementary school, middle school or high school.
- f. Method for Computing Measurement. For the purposes of calculating the separation requirements, the distance shall be measured from the closest portion of the exterior surface of the wall of the building in which the medical marijuana is to be dispensed, cultivated or processed to the nearest point of the property line of the use requiring a minimum separation.

g. Retail sales of medical marijuana shall be prohibited from a medical marijuana cultivation facility or infusion facility; however, a separate authorized dispensary may be located at the same site subject to the development standards described in this Ordinance.

h. There shall be no emission of dust, fumes, vapors, smoke or odors into the environment from that facility.

4. Medical Marijuana Qualifying Patient Cultivation and Medical Marijuana Designated Caregiver Cultivation.

a. Qualifying Patients or their Designated Caregivers may be authorized by the Arizona Department of Health Services to cultivate marijuana plants for the qualifying patient's medical use if a registered nonprofit medical marijuana dispensary is not operating within twenty-five (25) miles of the qualifying patient or designated caregiver's home. Such facilities within the City of Cottonwood shall be considered a permitted accessory use in all residential zoning districts provided the primary residence of the qualifying patient or designated caregiver is more than twenty-five (25) miles from an operating medical marijuana dispensary, as per the standards contained herein.

b. If the qualifying patient or designated caregiver is authorized to cultivate marijuana, there shall be no more than twelve (12) marijuana plants per patient contained in an enclosed, locked facility that permits access by the cardholder, as per the applicable sections of Arizona Revised Statutes and related rules established by DHS.

c. The cultivation facility may be in a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by the cardholder.

D. FACILITY REGISTRATION REQUIREMENTS.

Medical Marijuana Dispensary, Cultivation and Infusion Facilities; and Qualifying Patient or Designated Caregiver Home Grow Cultivation operations shall register the location of the facility with the City of Cottonwood and provide the following information:

1. Registration for Medical Marijuana Dispensary, Cultivation Facility and/or Infusion Facility. A medical marijuana dispensary, cultivation facility or infusion facility, or combined use; is required to register the location with the City of Cottonwood Community Development Department. The following information shall be provided with the registration:

- a. The name, address, phone number, e-mail address and contact information for the property owner, operator, applicant and non-profit organization operating the facility;
 - b. The name, location, address and contact information for the operator of any off-site cultivation facility or facilities related to the dispensary;
 - c. A written narrative describing the use and facilities and how the location and improvements associated with the proposed facility comply with the requirements of this Ordinance;
 - d. A copy of the operating procedures submitted to and approved by DHS prepared in accordance with A.R.S. § 36-2804(B)(1)(c), including the required security plan for medical marijuana facilities;
 - e. An accurate vicinity map drawn to scale showing the location of the proposed medical marijuana dispensary, cultivation facility or infusion facility in relation to any school property boundary or cultivation and/or infusion facility boundary so as to document the required minimum separation requirement;
 - f. An accurate dimensioned site plan indicating buildings, building entrances, parking, sidewalks, adjacent streets and immediately surrounding uses;
 - g. A floor plan of the interior of the facility indicating public areas and secured areas. The floor plan for a dispensary should have a waiting area at the entrance to receive patients and as required by the Arizona Medical Marijuana Act, must have a separate enclosed, locked and secure area for dispensing medical marijuana to qualified patients or designated caregivers. Indicate the principal uses on the floor plan, including areas where non-patients will be permitted, private consulting areas, storage areas, retail areas and areas where medical marijuana will be dispensed, processed, cultivated and stored; and
 - h. An exterior refuse control plan providing for proper disposal of marijuana remnants or byproducts, which shall not be placed within the facility's exterior refuse containers.
2. Registration for Qualifying Patient or Designated Caregiver Home Grow Cultivation. A qualifying patient or designated caregiver authorized by DHS to cultivate medical marijuana at their primary residence shall register that location with the City of Cottonwood and provide the following information:

- a. The name, address, phone number, e-mail address and contact information for the qualifying patient or designated caregiver; and
- b. An accurate vicinity map drawn to scale showing a twenty-five mile radius from the qualifying patient or designated caregiver cultivation location to ensure there are no registered dispensaries within such area, as per current data available from DHS; Medical marijuana qualifying patients or designated caregiver cultivation are prohibited in all zoning districts if located within twenty-five miles of a medical marijuana dispensary.

E. OPERATING REQUIREMENTS FOR MEDICAL MARIJUANA FACILITIES.

1. Consumption of Marijuana. Marijuana in any form shall not be consumed by patients or others on the premises of a medical marijuana dispensary, cultivation facility, infusion facility or any type of medical marijuana facility. Nor shall it be consumed via smoking or vaporization form in any public place within the City. The term “premises” includes the actual building, as well as any accessory structures, outdoor areas, vehicles, parking lot or parking areas which are part of the approved location.
2. Retail Sales of Other Products and Services by a Dispensary. The retail sales of marijuana use items and other health care services to registered patients shall be subject to the following limitations:
 - a. Marijuana Paraphernalia. No retail sales of marijuana paraphernalia are permitted at a medical marijuana dispensary, except as permitted by law to qualifying patients and/or designated caregivers.
 - b. Product Display: No medical marijuana or paraphernalia shall be displayed or kept in a medical marijuana dispensary so as to be visible from outside the premises.
 - c. Other Health Care Services: The dispensary may provide consultation regarding medical marijuana to qualifying patients and designated caregivers as per the rules and regulations established by DHS. The dispensary shall not provide other health care services or products unrelated to medical marijuana as part of the dispensary operations for the general public or qualifying patients.
3. Business Registration. A Medical Marijuana Dispensary, Cultivation Facility or Infusion Facility shall be required to obtain and maintain a valid Business Registration from the City of Cottonwood.

4. Suspension or Revocation of Business Registration. The City of Cottonwood business registration for medical marijuana use may be suspended or revoked for any of the following violations:
 - a. Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the City related to the medical marijuana business;
 - b. The business registration shall be considered automatically revoked by the revocation, expiration of suspension of any required Conditional Use Permit for the medical marijuana facility and all such operations shall cease immediately.
5. Additional Licenses and Permits. The facility registration and business registration requirement set forth in this Section shall be in addition to, and not in lieu of, any other licensing, permitting or registration requirements imposed by any other federal, state or local jurisdiction, including, but not limited to , DHS approval, building permits, fire alarm permits, zoning approval, a state retail sales and use tax license, a retail food establishment license or any applicable health, safety, building or development license or permit.
6. Infusion (Manufacturing) facilities must obtain any and all permits and licenses from Yavapai County Health Department for all food handling and preparation in connection with infusion operations.
7. Security Plans. Pursuant to the Arizona Medical Marijuana Act, the DHS is responsible for promulgating regulations pertaining to dispensary security. A dispensary shall comply with DHS security requirements provided for adequate lighting, alarms, security cameras and locks in order to ensure the safety of persons and to protect the premises from theft. All security and alarm systems shall be installed and operated in compliance with applicable City Cottonwood codes, ordinances and regulations.
8. Security Lighting. During all night time hours, dispensaries shall illuminate exterior areas of the premises, including related parking areas, sidewalks and building entrances so that all areas are readily visible. During all hours, the medical marijuana dispensary shall illuminate those areas of the interior of the building where the public has access, including that public entry, reception area, and counter area, as well as the interior hallways, other building ingress/egress locations and locations where medical marijuana may be located, stored or processed. All outdoor lighting shall be in compliance City of Cottonwood Zoning Ordinance, Section 408. Outdoor Lighting Code.

F. MARIJUANA PROHIBITED ON PUBLIC PROPERTY.

1. The use, sale cultivation. Manufacture, production or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled or operated by the City of Cottonwood.
2. It is unlawful for an individual to smoke marijuana in a public place or open space in the City of Cottonwood.

G. MARIJUANA ESTABLISHMENT PROHIBITED; DUAL LICENSEE EXCEPTION.

1. To the fullest extent allowable by law, the operation of a marijuana establishment is not permitted in the City of Cottonwood, except where authorized for a dual licensee who:
 - a. Operated both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and
 - b. Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

H. MARIJUANA TESTING FACILITY PROHIBITED.

To the fullest extent allowable by law, the operation of a marijuana testing facility is not permitted in the City of Cottonwood.

I. MARIJUANA ESTABLISHMENT PERMITTED; NONRESIDENTIAL.

1. Marijuana establishments shall be regulated as outlined in this section related to all requirements applicable to Medical Marijuana Dispensaries.
2. Dual licensee only.
 - a. To the fullest extent allowable by law, shall be authorized for a dual licensee who operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location and has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

J. MARIJUANA ESTABLISHMENT PERMITTED; RESIDENTIAL.

1. Marijuana possession, consumption, processing, manufacturing, transportation and cultivation is permitted in a residential zoning district in the City of Cottonwood subject to the following conditions and limitations:
 - a. It shall be unlawful for any individual who is at least twenty-one (21) years of age to possess, transport, cultivate or process more than six (6) marijuana plants.
 - b. It shall be unlawful for two or more individuals who are at least twenty-one (21) years of age to possess, transport, cultivate or process more than twelve (12) marijuana plants at the individuals' primary residence.
 - c. Except as provided by A.R.S. § 36-2801 et al. and this Section, it shall be unlawful for an individual to otherwise cultivate marijuana in a residential zoning district within the City of Cottonwood limits.
 - d. Shall be limited to a closet, room, greenhouse or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors.
 - e. Shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft or other optical aids.
 - f. Shall maintain kitchen, bathrooms, and primary bedroom(s) for their intended use and shall not be used primarily for residential marijuana cultivation.
 - g. Shall not emit dust, fumes, vapors or odors into the environment from the facility and ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of City of Cottonwood.

K. RETAIL SALES FROM MARIJUANA AND MARIJUANA PRODUCTS.

The sale of marijuana and marijuana products within the City of Cottonwood is subject to the transaction privilege tax as tangible personal property as defined in A.R.S. § 42-5001 in the retail classification and use tax.

L. FEES.

A facility registration for a medical marijuana facility shall be accompanied by a filing fee in an amount established by a schedule adopted by resolution of the City Council and filed in the office of the City Clerk. No part of the filing fee shall be refundable. Any and all other applicable fees.

M. VIOLATIONS.

1. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture or transport marijuana or marijuana products if the person fails to meet all the requirements in this article or state law, including the Department's rules.
2. It is a violation of this article for any person to provide false information on any permit application.
3. Each day any violation of any provision of this article shall continue shall constitute a separate offense.

N. ENFORCEMENT; PENALTIES.

1. Any permits associated with the uses described in this section may be revoked by the City of Cottonwood for violation of any provision of this article, for any violation of the requirements of the permit, or if the Department revokes the license for a marijuana establishment or marijuana testing facility. If a permit is revoked, the permittee shall have the right to appeal the decision of the City of Cottonwood to the City Council.
2. Violations of this article are in addition to any other violation enumerated within the City of Cottonwood ordinances or the City of Cottonwood Municipal Code and in no way limits the penalties, actions or abatement procedures which may be taken by the City for any violation of this article, which is also a violation of any other ordinance or Code provision of the City or federal or state law. Conviction and punishment of judgment and civil sanction against any person under this article shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.

O. APPEAL

Any registrant for a medical marijuana facility who is dissatisfied or aggrieved by an official decision of the Community Development Director/Zoning Administrator may appeal such decision to the Board of Adjustment by filing a written notice of appeal with the City Clerk, not later than fifteen (15) days from the date of the Community Development Director/Zoning Administrator's decision.



STAFF REPORT

TO: Planning and Zoning Commission

FROM: Gary Davis, Community Development Planner

MEETING: October 19, 2020

SUBJECT: **ZO 20-009 AMENDMENT TO THE CITY OF COTTONWOOD ZONING ORDINANCE SECTION 407 (LANDSCAPING)** – Consideration of a Zoning Ordinance text amendment to Section 407.E Landscaping Standards, regarding requirements for landscape areas.

BACKGROUND

Section 407 of the Zoning Ordinance requires landscaping for all new development and redevelopment except single-family residences not part of a planned area development. Subsection E establishes the specific requirements for landscaping, including required minimum widths for landscape yard areas. Along street frontages the minimum width of the landscape area is 15 feet for arterial streets and highways, and 10 feet for all other streets.

Currently the width of the required landscape area along the street is measured from the lot line fronting the street right-of-way. In some parts of the city the back edge of the sidewalk is located on the right-of-way line and in other places there are several feet of right-of-way behind the sidewalk.

Development or redevelopment on small lots is often challenging given the Zoning Code's requirements for on-street parking and drive aisle widths. The required landscape yard width often adds to the challenge. In locations where the lot line is several feet behind the sidewalk, the owner must landscape that right-of-way area in addition to setting aside the full landscape area within the lot for landscaping, resulting in more landscaping than would be required in locations where the lot line is at the back of the sidewalk.

STAFF ANALYSIS

In locations where there are several feet of right-of-way behind the sidewalk, staff proposes that the landscape area width be measured from the back of the sidewalk rather than the lot line. The net effect of the landscape yard would be the same as locations where the lot line is at the back of sidewalk; the pedestrian or driver observing the landscaping sees the same landscape width regardless of the location of the lot line. Staff believes this change would allow greater flexibility

for site design on many small lots, and would provide equity and consistency in the width of land set aside for landscaping along street frontages. The proposed Zoning Ordinance amendment would allow the landscape area to be measured from the back of the sidewalk where a sidewalk exists. Where there is no sidewalk yet, the measurement would still be taken from the lot line, to allow room for a future sidewalk. The amendment would also clarify the wording of 407.E.1.d.2, which allows the Community Development Director to reduce the width of the landscape yard area from 15 to 10 feet on small lots fronting arterial streets or highways.

RECOMMENDATION

Consider the proposed amendment to the Zoning Ordinance to provide a recommendation to the City Council to:

1. Amend Section 407.E to allow for street perimeter landscaping yard width to be measured from the back of the sidewalk where a sidewalk exists.

If the Commission desires to recommend approval of this item, the suggested motion is:

I move to recommend approval to the City Council the proposed amendments to Section 407.E of the Zoning Ordinance.

Attachments:

Draft Zoning Ordinance Text Amendment

SECTION 407. LANDSCAPING REQUIREMENTS.

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E. LANDSCAPING STANDARDS.

The landscaping requirements for a development site shall be based on the separate design calculations for Street Frontage, Interior Property Lines, Parking Lots and Building Area Landscaping. Where such areas overlap, an exception shall be granted to allow the concurrent calculation of such landscape material where the intent of each section is determined to be addressed. Additional landscaping may be required with Open Space Areas, Retention Basins and undeveloped areas of a site.

1. Street Perimeter Landscaping.

- a. The required landscape areas adjacent to street frontages shall be considered exclusive of parking areas, interior drive aisles and building structures. The street landscape yard shall be maintained with plant materials and groundcovers but may include sidewalks, driveway crossings, signs, utility equipment, low decorative screen walls and retention basins.
- b. Landscaping in the Right-of Way: Landscaping of undeveloped right-of-way between the property line and the constructed street edge is required in addition to the minimum on-site landscaping requirements. Right-of-way landscaping shall be limited to decomposed granite, ground cover, low shrubs and other approved low water use plants. Trees may be located in the right-of-way where approved by the City so as to not impact site visibility standards for vehicles.
- c. Street Frontage:
 - 1) Arterial Streets and Highways: Minimum fifteen feet (15') landscape yard width measured from the back edge of the sidewalk. Where no sidewalk exists the landscape yard width shall be measured from the right-of-way line.
 - 2) Collector Streets and all other streets: Minimum ten feet (10') landscape yard measured from the back edge of the sidewalk. Where no sidewalk exists the landscape yard width shall be measured from the right-of-way line.
 - 3) Number of Plants: The required number of plants shall be based on the total lineal length of the property line for the landscape area where at least one (1) tree and three (3) shrubs shall be calculated per twenty-five (25) linear feet of adjacent property line. Plants may be clustered according to xeriscape principles, as long as the total number included is based on the length of the landscape area.

- 4) Size of Plants: Required trees shall be at least fifteen (15) gallon size tree. Shrubs shall be minimum 1 gallon size.

d. Street Frontage Exceptions:

- 1) Where the buildings and structures are located directly abutting a public sidewalk, such as in the Cottonwood Commercial Historic District or proposed developments with pedestrian-oriented streetscape design, the landscaping between the building and the street may be limited to trees wells in the sidewalk and/or landscape planters next to the building.
- 2) For Pparcels and development sites that are one (1) acre or less in area or have less than 100 feet of lineal frontage on an arterial street or highway, ~~on a street~~ the Community Development Director may reduce the street frontage landscape yard on that street frontage to ten (10) feet in width measured from the back edge of the sidewalk, or ~~back~~ from the property line where no sidewalk exists.
- 3) For automobile or vehicle sales uses that include vehicle display located along street frontage, the landscape area in front of the vehicle display may be reduced to a 5 foot strip planted with low shrubs and groundcovers.



STAFF REPORT

TO: Planning and Zoning Commission

FROM: Gary Davis, Community Development Planner

MEETING: October 19, 2020

SUBJECT: **ZO 20-010 AMENDMENT TO THE CITY OF COTTONWOOD ZONING ORDINANCE SECTION 309 (HILLSIDE DEVELOPMENT STANDARDS)**
– Consideration of a Zoning Ordinance text amendment to Section 309.H Slope Development.

BACKGROUND

The purpose of Section 309 of the Zoning Ordinance, Hillside Development Standards, is “to establish regulations for development of land with steep slopes and hillsides so as to preserve important aspects of the community character while allowing reasonable opportunities for development.” Like many hillside development standards, Cottonwood’s standards limits the percentage of land that may be disturbed (grading, excavation, fill) based on the slope of the land. In general, the greater the slopes, the smaller percentage of the site may be disturbed.

The current maximum allowable disturbance in Section 309.H contains an inconsistency that this Zoning Ordinance amendment proposes to correct. Where slopes are greater than 40% no disturbance is permitted except by other provisions of Section 309, and where slopes are between 20% and 29% no more than 30% of the land may be disturbed. However, for the category in between – 30% to 39% slope – the code permits 50% of the land to be disturbed. It makes little sense to allow a greater percentage to be disturbed on 30% to 39% slopes than on 20% to 29% slopes.

STAFF ANALYSIS

Community Development staff proposes a Zoning Ordinance Amendment to change the maximum allowable disturbance area from 50% to 15% for areas with 30% to 39% slope. Staff believes the original intent of Section 309 would have been to assign an allowable disturbance area for the 30% to 39% category that was between 30% (for 20% to 29% slopes) and 0% (for slopes 40% or greater).

Staff also identified an unnecessary parenthesis character in the text. Removal of that character is included in the draft amendment.

RECOMMENDATION

Consider the proposed amendment to the Zoning Ordinance to provide a recommendation to the City Council to:

1. Amend Section 309.H, changing the maximum allowable disturbance area from 50% to 15% for areas with 30% to 39% slope.

If the Commission desires to recommend approval of this item, the suggested motion is:

I move to recommend approval to the City Council the proposed amendments to Section 309.H.

Attachments:

Draft Zoning Ordinance Text Amendment

SECTION 309. HILLSIDE DEVELOPMENT STANDARDS

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H. SLOPE DEVELOPMENT.

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1. Maximum Site Disturbance: Maximum site disturbance), as used in this Section, shall include all grading, excavation and fill area for the development of the property but shall not include any public or private street or the building coverage in the calculation.

Slope Category Maximum Allowable Disturbance Area as per Slope Category Map

0% to 19.9% As per underlying Zoning

20% to 29.9% 30%

30% to 39.9% ~~50%~~ 15%

40% & > No Disturbance, except as permitted by this Ordinance.

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