PLANNING & ZONING COMMISSION
REGULAR MEETING
NOTICE & AGENDA
THURSDAY, OCTOBER 20, 2011
6:30 P.M.
COUNCIL CHAMBERS
8401 W. MONROE ST.

MUNICIPAL OFFICE COMPLEX
8401 W. MONROE STREET
PEORIA, AZ 85345

PLANNING & ZONING COMMISSION:

Bill Louis, Chair
Nancy Golden, Vice Chair
Leigh Strickman, Secretary
Greg Loper
Gene Sweeney
Veda McFarland
Charles J. Marr

Department Liaison
Shawn Kreuzwiesner

Accommodations for Individuals with Disabilities. *Alternative format materials, sign language interpretation, assistive listening devices or interpretation in languages other than English are available upon 72 hours advance notice through the Office of the City Clerk, 8401 West Monroe Street, Room 150, Peoria, Arizona 85345 (623)773-7340, TDD (623)773-7221, or FAX (623) 773-7304. To the extent possible, additional reasonable accommodations will be made available within the time constraints of the request.*

CONVENE:

ROLL CALL:

OPENING STATEMENT:

CALL TO SUBMIT SPEAKER REQUEST FORMS:

CONSENT AGENDA

CONSENT AGENDA: All items listed with "C" are considered to be routine or have been previously reviewed by the Planning and Zoning Commission, and will be enacted by one motion. There will be no separate discussion of these items unless a Commission member so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

CONSENT – New Business:

1C **DISPOSITION OF ABSENCE:** None.

2C **MINUTES:** Discussion and possible action to approve the minutes of the Regular Meeting held October 6, 2011.

3C **CU11-0019:** [redacted] is requesting a Conditional Use Permit to allow a Day Care Group Home for five (5) or less children on property zoned Single-Family Residential (R1-8). The property is located at 8609 W. Charter Oak Road.

REGULAR AGENDA

NEW BUSINESS:

4R **PUBLIC HEARING:** RE: Conditional Use Permit.

PUBLIC HEARING – CU11-0015: Desert Leaf Foundation Inc. is requesting a Conditional Use Permit to allow a Medical Marijuana Dispensary on property zoned Planned Area Development (PAD). The property is located at 9240 W Northern Ave, Suite 103.

Staff Report
Open Public Hearing
Public Comment
Close Public Hearing
Commission Action: Discussion and possible action to recommend approval of a request from Desert Leaf Foundation Inc. for a Conditional Use Permit to allow a Medical Marijuana Dispensary on property zoned Planned Area Development (PAD).

5R **PUBLIC HEARING:** RE: City of Peoria Text Amendment.

PUBLIC HEARING – TA11-0004: The City of Peoria is requesting a Text Amendment to amend Section 14-23 of the Zoning Ordinance (Parking and Loading). This amendment will allow parking canopies up to 15-feet in height outside of certain required yards to facilitate the installation of solar panels on parking canopies.

Staff Report
Open Public Hearing
Public Comment
Close Public Hearing
Commission Action: Discussion and possible action to recommend approval of a request from the City of Peoria to amend Section 14-23 of the Zoning Ordinance (Parking and Loading). This amendment will allow parking canopies up to 15-feet in height outside of certain required yards to facilitate the installation of solar panels on parking canopies.

CALL TO THE PUBLIC: (Non-Agenda Items)

Your comments pertaining to the Planning and Zoning Commission business are welcome. However, if you wish to address the Planning and Zoning Commission, please complete a Speaker Request Form and return it to the clerk before the call to order for this meeting. Boards and Commissions are not authorized by state law to discuss or take action on any issue raised by public comment until a later meeting.

Reports from Staff:

Reports from the Planning and Zoning Commission:

ADJOURNMENT:

NOTE: Documentation (if any) for items listed on the Agenda is available for public inspection, a minimum of 24 hours prior to the Board/Commission Meeting, at any time during regular business hours in the Office of the City Clerk, 8401 W. Monroe Street, Room 150, Peoria, AZ 85345.

PLANNING AND ZONING COMMISSION MINUTES
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
OCTOBER 6, 2011
DRAFT

A **REGULAR Meeting** of the Planning and Zoning Commission of the City of Peoria, Arizona, convened at Pinnacle Peak Public Safety Facility, 23100 N. Lake Pleasant Parkway, Peoria, AZ in open and public session at 6:30 p.m.

Members Present: Chair Bill Louis, Vice Chair Nancy Golden, Commissioners Leigh Strickman, Charles Marr, Gene Sweeney, Greg Loper, and Veda McFarland.

Members Absent: None.

Others Present: Shawn Kreuzwiesner - Engineering Planning Manager, Robert Gubser – Interim Principal Planner, Steve Burg – Assistant City Attorney, Adam Pruett – Senior Planner, Ed Boik – Planner, Jeff Sargent – Landscape Architect, Melissa Sigmund – Planner, and Bev Parcels – Planning Assistant, Chris Jacques – Acting Planning Director, Jamal Rahimi – Transportation Manager.

Opening Statement: Read by Robert Gubser – Interim Principal Planner.

Call for speaker request forms.

Audience: Eighteen.

Note: The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

CONSENT AGENDA

All items listed with a "**C**" are considered to be routine by the Planning and Zoning Commission, and were enacted by one motion.

1C **DISPOSITION OF ABSENCE:** Discussion and possible action to approve/excuse the absences of Chair Bill Louis and Commissioner Greg Loper from the August 18, 2011 Meeting.

2C **MINUTES:** Discussion and possible action to approve the minutes of the Regular Meeting held August 18, 2011.

3C **CU11-0017:** Shaw and Associates requested a Conditional Use Permit to allow the construction of a 65-foot monopalm with accompanying ground equipment. The property is located between Grand Avenue and Market Street near 81st Avenue at 8175 W. Market Street.

COMMISSION ACTION: Commissioner Loper moved to approve the Consent Agenda items. The motion was seconded by Commissioner McFarland and upon vote, carried unanimously.

REGULAR AGENDA

NEW BUSINESS:

4R **PUBLIC HEARING – GPA11-0002:** The City of Peoria initiated an amendment that rescinds the Central Peoria Revitalization Specific Area Plan in favor of a new Specific Area Plan that aligns with the recently-approved Old Town Peoria Revitalization Plan. This amendment will recognize specific development goals and updated land use designations for approximately 4 square miles generally bounded by Loop 101 (west), Olive Avenue (south), 75th Avenue (east) and Cactus Road (north).

STAFF REPORT: Presented by Melissa Sigmund, Planner.

COMMISSION COMMENT: Commission comments regarding the general character or theme for the area as well as signage to designate the area.

PUBLIC COMMENT:

[redacted] Property Owner – Confused by the plan. Property used to be commercial, now it will be zoned to benefit transit. Opposes plan due to downgrade in zoning.

COMMISSION ACTION: No Action Required.

5R **PUBLIC HEARING – GPA11-0003:** The City of Peoria initiated an amendment that aligns the land use designation and policy directives within the Peoria Sports Complex area with the recently-approved Peoria Sports Complex Urban Design Plan. This amendment will re-designate approximately 570 acres from Regional Commercial, Public/Quasi-Public, and Community Commercial to a new designation called Sports Complex Mixed-Use. As part of this amendment, the City will also be repealing the North Valley Specific Area Plan.

STAFF REPORT: Presented by Ed Boik, Planner.

COMMISSION COMMENT: None

PUBLIC COMMENT: None

COMMISSION ACTION: No Action Required.

6R **PUBLIC HEARING – GPA11-0004:** The City of Peoria initiated an amendment to the Circulation Element that incorporates policy recommendations from the recently adopted Multi-Modal Transportation Plan and various proposed adjustments to the transportation system (functional classification and alignment). Many of these changes are housekeeping in nature and result from updates to the City's data.

STAFF REPORT: Presented by Shawn Kreuzwiesner, Engineering Planning Manager.

COMMISSION COMMENT: Commission comments included a Federal designation of a scenic designation for SR74, change of SR74 to a suburban highway, SR74 intersection

requirements, new truck routes close to schools, Westland Road collector to arterial land owner opposition, and timeframe for completion of the overall plan.

PUBLIC COMMENT:

[redacted] Resident in Corte Bella – Question regarding El Mirage Road linking to SR74 in the future. Concerned about a possible increase in traffic on El Mirage Road close to Corte Bella.

COMMISSION ACTION: No Action Required.

7R **PUBLIC HEARING – GPA11-0005:** The City of Peoria initiated an amendment that adjusts the City's eastern Planning Area boundary near the Loop 101 and Beardsley Road. This amendment stems from an August 17, 2010 annexation / de-annexation processed in concert with the City of Glendale which resulted in a net increase of approximately 12 acres into the City.

STAFF REPORT: Presented by Ed Boik, Planner.

COMMISSION COMMENT: None

PUBLIC COMMENT: None

COMMISSION ACTION: No Action Required.

8R **PUBLIC HEARING – GPA11-0006:** The City of Peoria initiated an amendment in partnership with the Arizona State Land Department that proposes various land use changes for approximately 549 acres of state trust and private land in the area between the alignments of Dysart Road (west), Jomax Road (north), 115th Avenue (east) and the Loop 303 (south). This amendment will provide for increases in employment-based development and supporting commercial and residential uses.

STAFF REPORT: Presented by Robert Gubser, Interim Principal Planner.

COMMISSION COMMENT: Commission comments included the concurrence with the choice of mixed-use along the Loop 303, possible annexation of the residential areas south of the Loop 303, and the timeline for annexation of State Land.

PUBLIC COMMENT: None

COMMISSION ACTION: No Action Required.

9R **PUBLIC HEARING – GPA11-0008:** The City of Peoria initiated an amendment that updates the City's criteria for Major General Plan Amendments and the notification radius requirements to ensure consistency with the Zoning Ordinance.

STAFF REPORT: Presented by Adam Pruett, Senior Planner.

COMMISSION COMMENT: Commission comments included extending the various opportunities for noticing to the development community.

PUBLIC COMMENT: None

COMMISSION ACTION: No Action Required.

10R **PUBLIC HEARING – GPA11-0009:** Earl, Curley, & Lagarde on behalf of Diamond Ventures requested an amendment that proposes changes to the existing Saddleback Heights Specific Area Plan in the vicinity of the SR 74 and the Bullard Avenue alignment. This amendment addresses the entire 5,296 acres of the Saddleback Heights Specific Area Plan and reconfigures the current land uses by increasing overall project density and open space provisions. Approximately 200 acres of new commercial / employment land use will also be added to the Plan.

STAFF REPORT: Presented by Adam Pruett, Senior Planner.

COMMISSION COMMENT: Commission comments included potential land use changes due to limited access to SR74, reason for increased density, will open space be connected, and have the school districts commented on the amendment.

PUBLIC COMMENT:

Mike Curley, Applicant – Commented on the fact that the development is split between two school districts, the change in the parcels is in response to the economy and the linking of the open space areas.

COMMISSION ACTION: No Action Required.

11R **PUBLIC HEARING – GPA11-0012:** [redacted] on behalf of Carver Estates, LLC is requesting an amendment to revise approximately 160 acres of land located east of the Agua Fria River at the Dixileta Drive alignment. This amendment proposes a change from Park / Open Space to Residential Medium-High 8-15 du/ac, target of 12 du/ac for future residential development.

STAFF REPORT: Presented by Jeff Sargent, Senior Planner.

COMMISSION COMMENT: Commission comments included clarification as to the water for the lake, the amount of high density residential in this project, and what happens if/when the lake dries up.

PUBLIC COMMENT: None

COMMISSION ACTION: No Action Required.

CALL TO THE PUBLIC: (Non-agenda Items): None

REPORT FROM STAFF: The next meeting will be in two weeks. This evening's GPAs will be heard at the November 3rd, 2011 meeting.

REPORTS FROM THE PLANNING AND ZONING COMMISSION: None

ADJOURNMENT: There being no further business to come before the Planning and Zoning Commission, the meeting adjourned at 8:03 p.m.

_____ _____

William Louis, Chair Date Signed

CONDITIONAL USE PERMIT
REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: CU 11-0019

DATE: October 20, 2011

AGENDA ITEM: 3C

Applicant: [redacted]

Request: Obtain a Conditional Use Permit to allow a Day Care Group Home for a maximum of 5 children.

Proposed Use: Day Care Group Home in a single family residence

Location: The property is located at 8609 W. Charter Oak Road.

Size of facility: Approximately 1,005 square foot residential building on an approximately 9,975 square foot lot.

Support / Opposition: As of the date of this printing, Staff has not received any written or verbal support or opposition to this proposal.

Recommendation: **Approve**, with conditions.

AREA CONTEXT

Table 1: *Existing Land Use, General Plan Land Use Designation, Current Zoning. (Exhibit C)*

	LAND USE	GENERAL PLAN	ZONING
Subject Property	**Single Family Residence/Day Care Group Home**	**Residential/Low (2-5 du/ac)**	**R1-8, Single Family Residential**
North	Charter Oak Rd, then single family residence	Residential/Low (2-5 du/ac)	R1-8, Single Family Residential
South	Single family residence	Residential/Low (2-5 du/ac)	R1-8, Single Family Residential
East	Single family residence	Residential/Low (2-5 du/ac)	R1-8, Single Family Residential
West	Single family residence	Residential/Low (2-5 du/ac)	R1-8, Single Family Residential

PROJECT DESCRIPTION

Request and Development Details

1. The applicant is proposing to operate a Day Care Group Home for a maximum of five children as a home occupation in a single-family residence. The Day Care Group Home is currently operating at this location and does not have any existing Code complaints or violations related to this use. The property contains an approximately 1,005 square-foot single-family residential building on an

approximately 9,975 square-foot lot.

2. The subject property is located east of the southeast corner of 86th Lane and Charter Oak Road.

3. The proposed hours of operation are Monday-Friday from 7:00 am-6:00 pm.

DISCUSSION AND ANALYSIS

Applicability

4. The proposed use as described is defined as a Day Care Group Home based on Article 14-2, Definitions, of the Zoning Ordinance.

5. The property in question is located in the R1-8 Single Family Residential Zoning District. According to Article 14-5 of the Zoning Ordinance, the use of a Day Care Group Home requires a Conditional Use Permit.

6. Section 14-39-12.E outlines the applicable criteria for evaluating Conditional Use Permits (CUP). In general, the purpose of a CUP is to mitigate or minimize any identified negative impacts on the surrounding neighborhood that may result from a specific use and provide controls to ensure maximum compatibility between nearby land uses.

Analysis

7. The applicant intends to run the daycare business as a home occupation. Due to applicable Building and Fire Codes, the proposed Day Care will be limited to caring for a maximum of five (5) children in a 24-hour period.

8. Per Section 14-3-12.B of the Zoning Ordinance, Day Care Group Homes with five (5) or more children shall comply with the following:

    1. *Provide evidence of certification by the Arizona Department of Health Services to the Community Development Department.*
    2. *Provide no identification that is visible from a public street, by signage, graphics, display, or other visual means.*
    3. *Provide a six (6) foot high solid (opaque) fence or wall between all outdoor play areas and adjacent properties.*
    4. *To avoid any over concentration of group homes and similar facilities in a particular neighborhood, ensure adequate spacing between any existing and proposed facilities in accordance with the following:*
        a. *Provide a separation by a distance of at least six hundred (600) feet measured along the right-of-way line on either street frontage; or*

b. If significant physical features such as arterial streets, canals, parks, or similar features exist between the proposed facility and any other existing or proposed facility of a similar nature, then the Planning manager may determine that adequate spacing exists to meet the intent of the spacing requirements.

5. The Planning and Zoning Commission may waive the requirements of subsection (B) (4) (above) if sufficient mitigating measures are provided to eliminate potential adverse impacts on adjacent properties and to preserve the existing character of the residential neighborhood.

The applicant has provided evidence in the form of documentation and photographs of the property indicating that they currently meet requirements 1-3 above. Additionally, staff has determined that the location adheres to the minimum separation requirements outlined above.

9. In staff's judgment, the character of the proposed use is appropriate and compatible with surrounding land uses. The residential character of the home and neighborhood will not be negatively impacted by the requested use. The proposed use is not expected to impact the adjacent residential properties through light, noise, odor, smoke, heat, or glare conditions exceeding that of a typical residence.

10. The limited number of children (5 max) will generate a minimal number of drop-offs and pick-ups; as such, the operation of the facility will have negligible impact on neighborhood traffic.

11. If any issues arise regarding the operation of the business, Section 14-39-12.I provides the Planning Manager with continuing jurisdiction over all Conditional Use Permits. This means that a permit may be revoked, modified, or suspended should any of the following occur:
    a. The permit was obtained by fraud or misrepresentation;
    b. The use authorized by the CUP has been exercised in violation of the conditions of approval;
    c. A change in circumstances where the following has occurred: [1] Impacts from the approved CUP to neighboring properties; and [2] Changes in aesthetic or environmental impacts such as noise, odors, or pollution.
    d. The use authorized by the CUP is operated in a manner that constitutes a nuisance to neighboring property owners, or is exercised in a manner that is detrimental to the public health, welfare, or safety.

Noticing and Neighborhood Comment

12. The application notice was forwarded to all property owners within 600 feet of the proposed use and properly noticed pursuant to Section 14-39-6 of the Peoria Zoning Ordinance. Additionally, the site was posted with a sign at least 15 days prior to the Public Hearing by the Planning Division. As of the printing of this report, no support or opposition to this case has been received from the public.

Proposition 207

13. In 2006, the voters of Arizona approved Proposition 207, which among other things requires municipalities to compensate property owners for actions that have the effect of diminishing the value of property. The City Attorney's Office has drafted an agreement that waives the applicant's rights to future Proposition 207 claims against the City. Accordingly, the applicant has furnished a signed and notarized Proposition 207 Waiver.

RECOMMENDATION

14. Based on the following findings:
    - The request is consistent with the applicable codes, standards, and guidelines;
    - The request is compatible with the surrounding residential uses; and
    - The proposal does not result in any detrimental impacts to the surrounding area.

It is recommended that the Planning and Zoning Commission take the following action:

Approve the applicant's request for a Conditional Use Permit under Case CU11-0019, subject to the following conditions:

1. The use shall substantially conform to the Project Narrative (Exhibit A) and the Floor Plan (Exhibit D) contained in the staff report to the Planning & Zoning Commission dated October 20, 2011.
2. The use shall be limited to caring for a maximum of five (5) children in a 24-hour period.
3. The use shall be maintained as a home occupation, with the principal use of the property remaining as a single-family residence.

ATTACHMENTS:

Exhibit A	Project Narrative
Exhibit B	Vicinity Map
Exhibit C	Zoning Map
Exhibit D	Floor Plan
Exhibit E	Aerial Site Close-Up

Prepared by: Melissa Sigmund, Planner

Requesting conditional use permit for home childcare. Hours and days of operation would be M-F from 7am to 6pm Maximum number of children would be 5.

[redacted] 8/24/11

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EXHIBIT A

Vicinity/Location Map

CU11-0019 Charter Oak Academy

Applicant: [redacted]

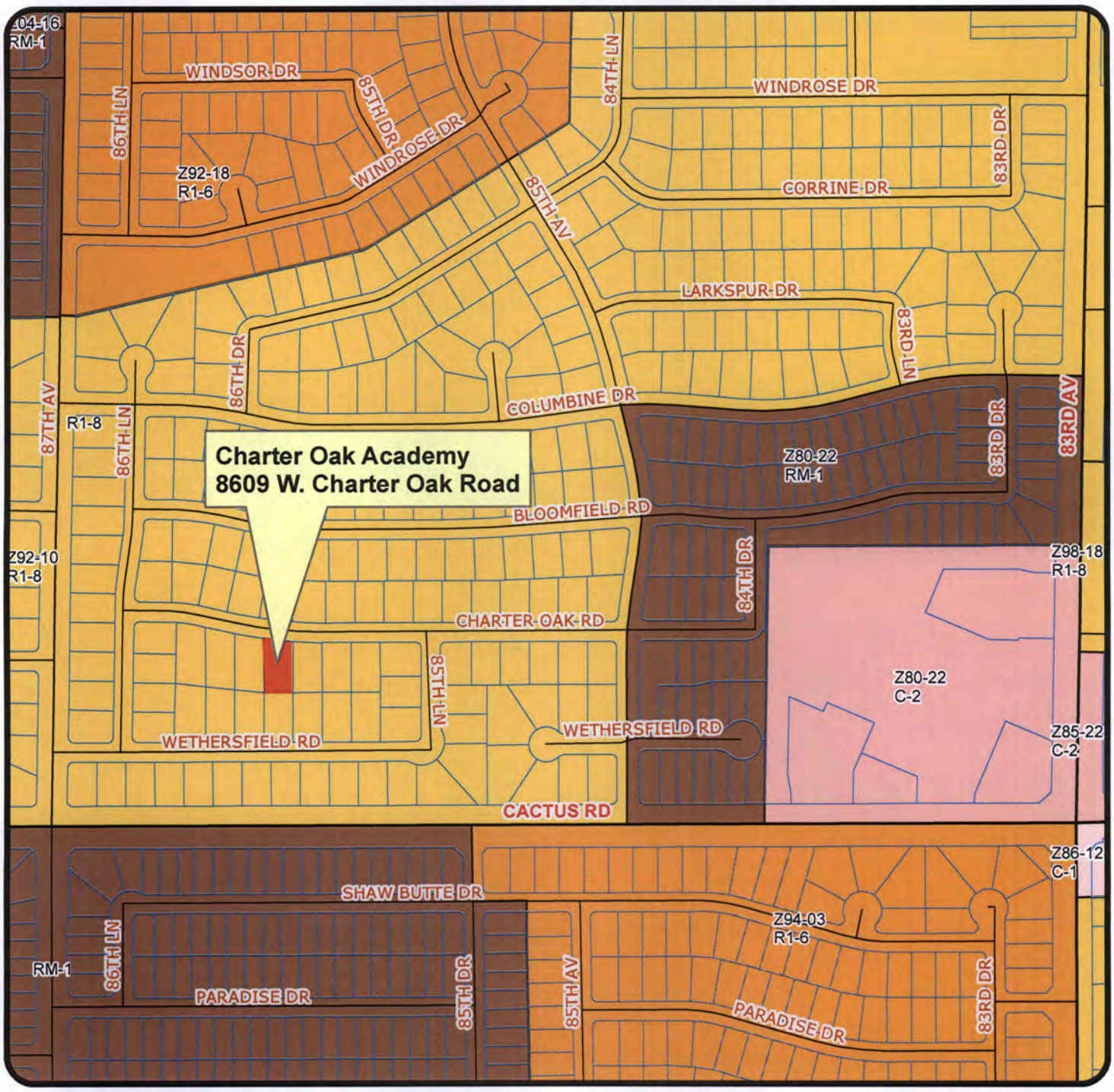
Exhibit B

Request: Obtain a Conditional Use Permit to allow a day care group home in a single family residence on a property zoned R1-8.

N

Not to Scale

Zoning Map



CU11-0019 Charter Oak Academy

Applicant: [redacted]

Exhibit C

Request: Obtain a Conditional Use Permit to allow a day care group home in a single family residence on a property zoned R1-8.

N

Not to Scale

CU11-0019 Floor Plan

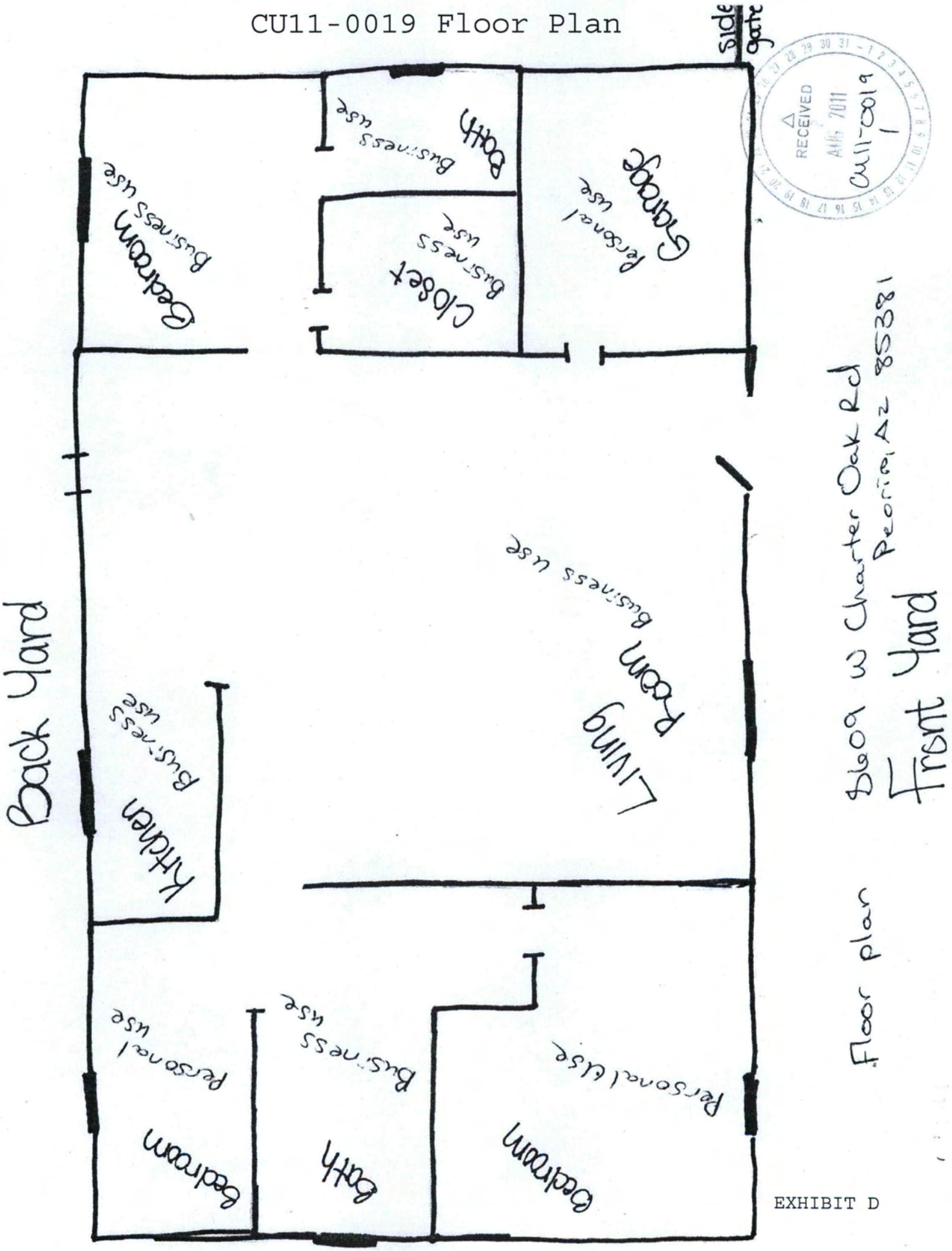


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EXHIBIT D

Aerial Close-Up of Site

Exhibit E

8609 W. Charter Oak Road

CONDITIONAL USE PERMIT
REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: CU 11-0015

DATE: October 20, 2011

AGENDA ITEM: 4R

Applicant:	[redacted] Desert Leaf Foundation
Request:	Obtain a Conditional Use Permit to allow a Medical Marijuana Dispensary
Proposed Development:	Desert Leaf Foundation - Medical Marijuana Dispensary
Location:	Northwest corner of 91st Avenue and Northern Avenue, specifically 9240 W Northern Avenue, Suite 103
Size of Suite:	1,915 square foot inline retail unit in an existing retail building.
Support / Opposition:	As of the date of this printing, Staff has not received any written support or opposition to this request.
Recommendation:	**Approve**, with conditions.

AREA CONTEXT

Table 1: *Existing Land Use, Current Zoning. (Exhibits B & C)*

	LAND USE	GENERAL PLAN	ZONING
Subject Property	**Multi-tenant inline retail**	**Community Commercial**	**Peoria Crossing PAD (Z00-07)**
North	SRP Power line Corridor; Light Industrial/Business Park Uses	Park/Open Space; Community Commercial	PI-1, Planned Industrial
South	Vacant/Agriculture	City of Glendale - Corporate Commerce Center	City of Glendale (A-1)
East	Single Family Residential; Gas Station; inline retail (future)	Low Density Residential (2-5 du/ac, target 3)	C-2, Intermediate Commercial
West	Loop-101; Park West	Mixed Use	Park West PAD (Z04-19A.5)

PROJECT DESCRIPTION

Request and Development Details

1. The applicant proposes to locate a Medical Marijuana Dispensary within a vacant 1,915 square-foot tenant space. The dispensary will offer pre-packaged medical marijuana and appliances to aid consumption such as water pipes, papers, lighters, and other smoking devices. Additionally, the applicant plans to sell clones (seedling plants), edibles, THC drinks, grow equipment and products, tinctures, lotions, how-to videos, clothing, scales and offer help classes.

2. The site is currently developed as a multi-tenant in-line retail building. There is one tenant—Streets of New York. Other nearby businesses includes various in-line retail, restaurant, service and bank uses. Major tenants within Peoria Crossing include Kohl's, Target, Petco, and Michaels.

3. The property is located on the northwest corner of 91st Avenue and Northern Avenue near the center of Peoria Crossing Shopping Center.

DISCUSSION AND ANALYSIS

Applicability

4. This property is zoned Planned Area Development (PAD). The schedule of uses in the PAD is pursuant to the C-2 permitted and conditional uses. Accordingly, Medical Marijuana Dispensaries are conditional uses in this PAD. Along with the Conditional Use Permit review criteria, a number of specific use standards apply to the proposed use.

5. Section 14-39-10.D of the Zoning Ordinance outlines the applicable criteria for evaluating Conditional Use Permits. In general, the purpose of a CUP is to mitigate any identified negative impacts on the surrounding neighborhood that may result from a specific use and provide controls to ensure maximum compatibility between nearby land uses.

6. Section 14-9-5 of the Zoning Ordinance outlines the applicable use standards for Medical Marijuana Dispensaries which includes standards for security plans, operating hour limitations, business operation limitations and use separation requirements.

Analysis

7. As a relative new use, there are few best practices established for medical marijuana dispensaries. In an effort to better understand the operation and the use, staff visited a number of dispensaries in California and consulted with

planning staff from the City of Palm Springs, CA. Through this fact-finding, standards and guidelines were established which the city believes will effectively and appropriately regulate the operations of the dispensary.

8. The applicant proposes to operate seven days a week--8AM to 9PM. Seven employees will be on site at any one time to assist patients. Three to six patients will be helped at the counter at any one time while up to eight others will wait within the medicine room. No more than two patients will be served per employee at the medicine room counter at a time per each employee. The capacity of the waiting area will be 10 to 24. No outdoor loitering will be permitted.

9. Patients will not have direct access to the medicine room. Once the patient has been verified, a two door "man-trap" will control access to the medicine room.

10. Marijuana will be stored in a locked safe during non-business hours and accounted for according to Arizona Department of Health Services (DHS) rules. All sales will occur in the medicine room. Non-cardholders will not be granted access to the medicine room or be able to purchase items.

11. Any waste/expired marijuana will be stored indoors until pickup and disposal in accordance with state law and DHS rules.

12. The applicant has produced a security plan accepted by the Peoria Police Department to ensure patient safety and secure operation of the facility. Security personnel will be responsible for maintaining safety, ensuring no marijuana consumption occurs in suite or on site or in vehicles on the premises.

13. Eight to sixteen indoor and outdoor cameras will capture high resolution video of the premises 24 hours a day. All video footage will be stored for at least 60 days in accordance with local ordinance.

14. The frontage of the unit will be properly illuminated and the windows will not covered or obscure visibility into the unit. During non-business hours, the windows and doors will be secured with security gates. The unit will also have an alarm system.

15. The proposed location meets and exceeds the 500-ft use separation from residentially zoned property and the 1000-ft separation requirement from schools day cares, bars, taverns, liquor stores, and substance abuse treatment centers.

16. In staff's judgment, the proposed use is appropriate and in compliance with the zoning code. The use is compatible with surrounding land uses and the context

of the area in question. The use is not expected to generate any additional or undue noise, traffic, light trespass, odor or other impacts on adjacent streets and nearby properties.

17. DHS is not accepting application for dispensaries at this time due to a recent Attorney General request for a declaratory ruling regarding the legality of state employees processing medical marijuana applications. Once this is resolved, the state application process will begin. DHS will regulate the operational aspects of the business as it relates to the composition of the dispensary board, background investigations, operational requirements, data logging and transportation requirements among other things.

18. If any issues arise regarding the operation of the business, Section 14-39-12.I provides the Planning Manager with continuing jurisdiction over all Conditional Use Permits. This means that a permit may be revoked, modified or suspended should any of the following occur:

    a. The permit was obtained by fraud or misrepresentation;

    b. The use authorized by the CUP has been exercised in violation of the conditions of approval;

    c. A change in circumstances where the following has occurred: [1] Impacts from the approved CUP to neighboring properties; and [2] Changes in aesthetic or environmental impacts such as noise, odors or pollution.

    d. The use authorized by the CUP is operated in a manner that constitutes a nuisance to neighboring property owners or is exercised in a manner that is detrimental to the public health, welfare or safety.

Noticing and Neighborhood Comment

19. The application notice was forwarded to all property owners within 600 feet of the proposal, including all registered HOA's within one mile, and properly noticed pursuant to Section 14-39-10 of the Peoria Zoning Ordinance.

20. As of the date of this writing, no letters, emails or phone calls in support or objection of the proposal have been submitted to Planning staff.

Proposition 207

21. The voters of Arizona approved Proposition 207, which among other things requires municipalities to compensate property owners for actions which have the effect of diminishing the value of property. The City Attorney's Office has drafted an agreement which waives the applicant's rights to future Proposition 207 claims against the City. Accordingly, the applicant has agreed to furnish a signed and notarized Proposition 207 Waiver.

FINDINGS AND RECOMMENDATION

22. Based on the following findings:

- The proposal meets the Conditional Use Permit standards and complies with the limitations of use for a Medical Marijuana Dispensary;
- The security plan has been reviewed and accepted by the Peoria Police Department;
- The use will be located and will operate in a manner that protects the adjacent properties and businesses from nuisances and is consistent with a retail/service character of the area.

It is recommended that the Planning and Zoning Commission take the following action:

Approve the applicant's request for a Conditional Use Permit under Case CU11-0015, subject to the following conditions:

1. The use shall substantially conform to the project narrative / security plan (Exhibit D) and floor plan (Exhibit E) as contained in the staff report to the Planning & Zoning Commission dated October 20, 2011.
2. The applicant shall provide the City a copy of the Department of Health Services dispensary certification within eighteen (18) months of the approval of the Conditional Use Permit. Failure to provide the certification will void the Conditional Use Permit.
3. The applicant shall secure any necessary security (video) system and/or alarm system permits from the Peoria Police Department.
4. The applicant shall obtain a sales tax license and properly report.

Attachments:

Exhibit A	Vicinity / Aerial Map
Exhibit B	Land Use Map
Exhibit C	Zoning Map
Exhibit D	Project Narrative / Security Plan
Exhibit E	Floor Plan

Prepared by: Ed Boik
Planner

Vicinity/Aerial Map

Exhibit A

CU11-0015 Desert Leaf

Applicant: [redacted]

Request: Conditional Use Permit to allow a Medical Marijuana Dispensary

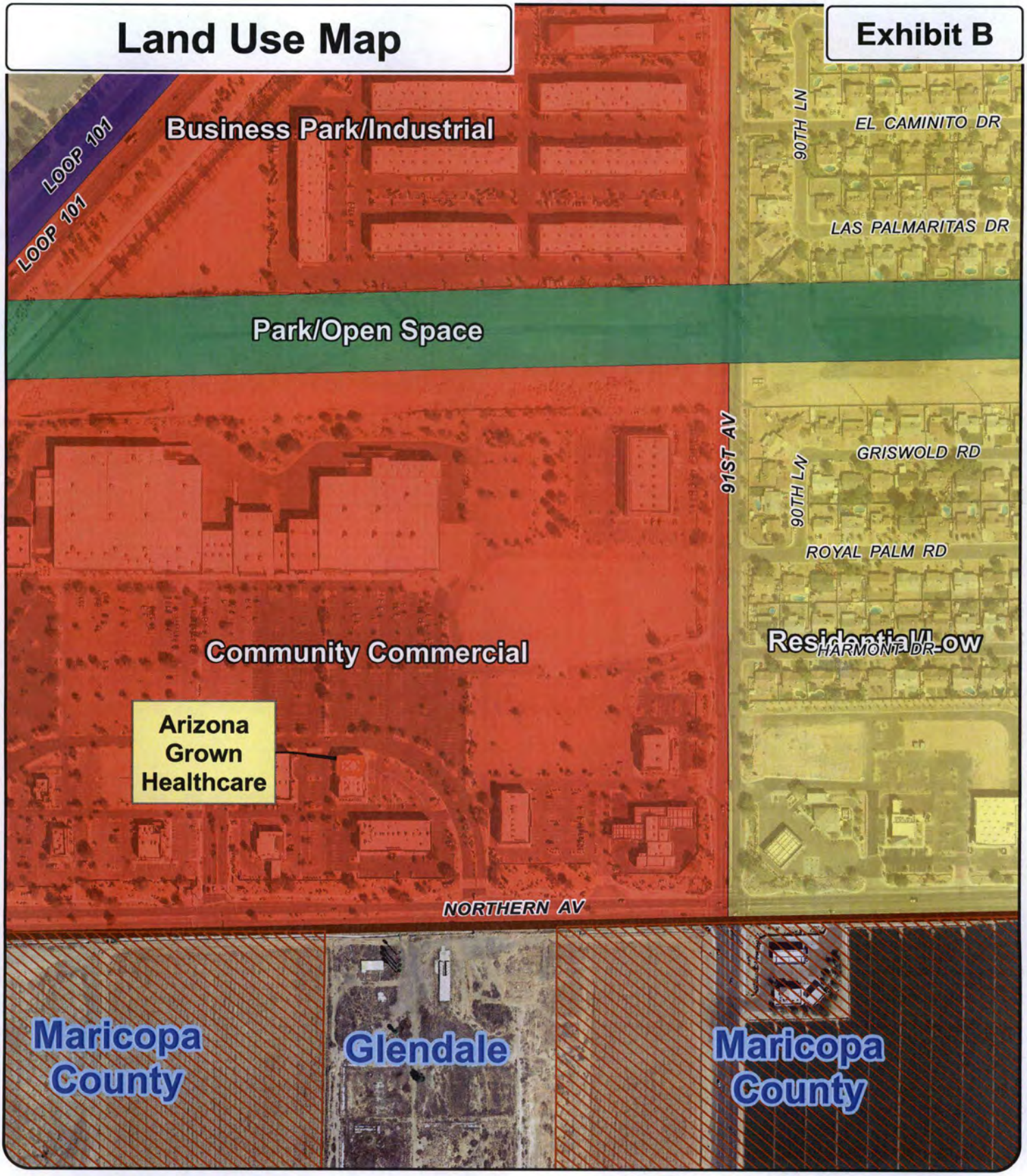
N

Not to Scale

CITY OF PEORIA

Land Use Map

Exhibit B



CU11-0015 Desert Leaf

Applicant: [redacted]

Request: Conditional Use Permit to allow a Medical Marijuana Dispensary

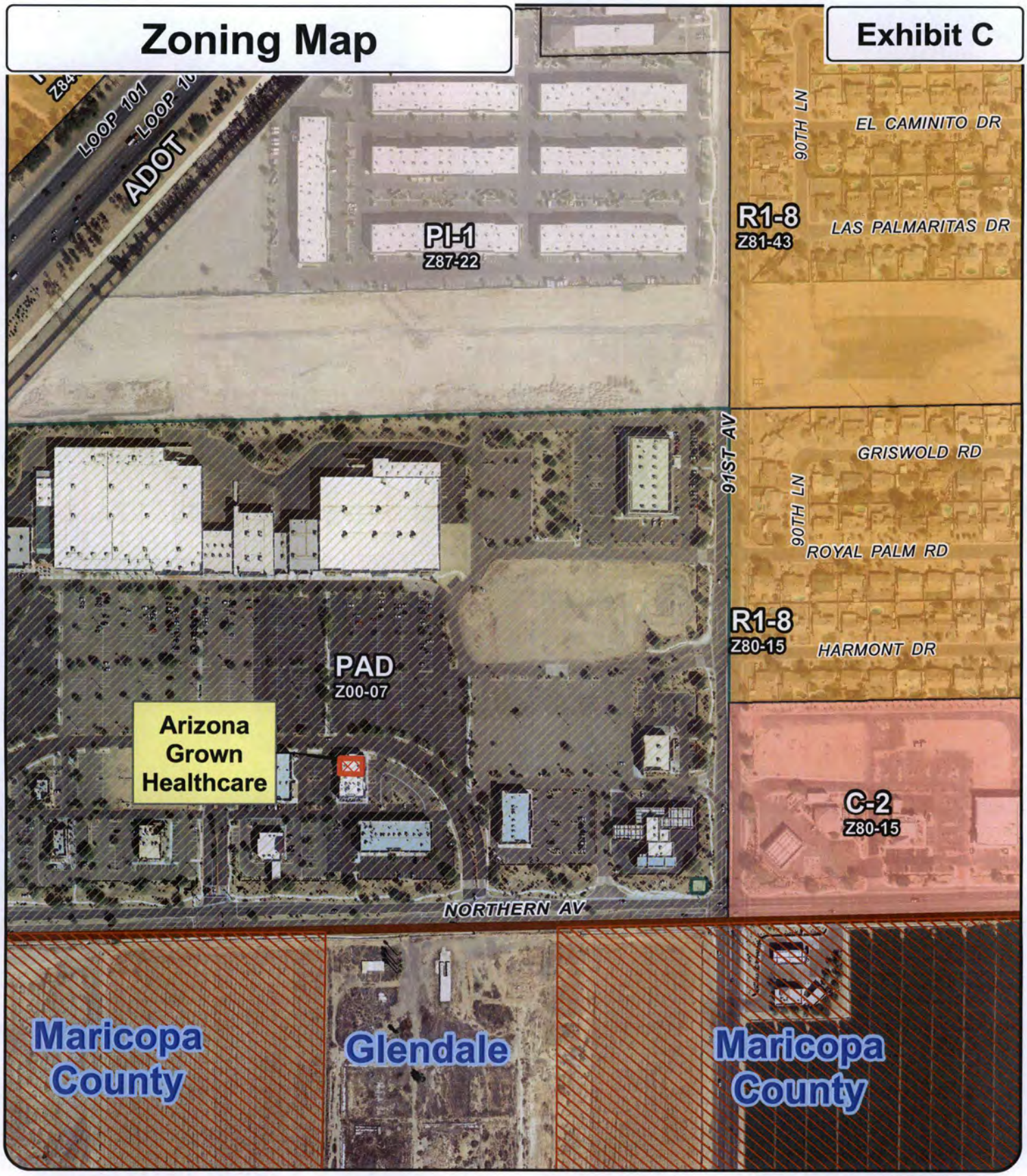
N

Not to Scale

CITY OF PEORIA

Zoning Map

Exhibit C



CU11-0015 Desert Leaf

Applicant: [redacted]

Request: Conditional Use Permit to allow a Medical Marijuana Dispensary

N

Not to Scale

CITY OF PEORIA

Desert Leaf Foundation, Inc.

Narrative

Construction build-out will consist of a check/in and check out office location, front waiting room, security inspection area with metal detector, secured waiting area, dispensary counter, donation machines, locked storage room with safe inside, restrooms for both male & female patrons and employees, cashier, secure exit room with check out window, then exit to front waiting area and then outside. Security cameras will consist of 8 to 16 camera's covering the inside and outside of the dispensary at all times. Tapes from the camera's will be retained for a minimum of 60 days and up to 90 days.

Air purification and odor filtration system will meet with pharmaceutical class B requirements. The exact specifications are to be determined per city and state requirements, architect and Medical Air Solutions Inc. Also requirements per fire department such as emergency sprinkler system, security lock emergency releases and drop down security gate release

After construction and licensing has been completed and we are able to open to the public. Business hours will be 8 am to 9 pm, Monday through Sunday. This may be adjusted down as patient schedules are known.

Running at full capacity it will be 3 to 6 being helped at the counter while up to 6 to 8 security cleared patients are in small waiting area in the back area. In the mean time—the front waiting area will be able to hold patient's being verified and any waiting caregivers or escorts. Maturing business is the reason for fluctuations in the numbers. The front area will have 10 to 24 waiting seats, and will have literature available for reading. There will be 7 employees on duty at all times. 1 Front office, 2 security and 4 cashier & counter personnel. We will keep a minimum ratio of 1 employee to every two being served at the counter.

Refuse and disposal of medical waste will be a licensed medical disposal service and kept under lock and key until such time as it is retrieved from company. No medical waste will be deposited in public waste receptacle's.

All product of medical cannabis or products containing cannabis will be locked into safe or within locked storage room every evening. In the am management will load display counter with products. Security and management will supervise all patients, employee's and waiting rooms that no product is used on the premises at anytime. Upon sale, patient's product will be put into a sealed container or bag for them to exit the building. Violation of this will terminate patient from this dispensary and future purchases. All patient's when entering the dispensary will be informed of the rules which will be posted in the waiting area noting that no smoking or consumption of cannabis is allowed inside or outside the dispensary at any time. Security and personnel are to watch for violations.

Narrative

Peoria crossing has an existing security service that patrols the parking lots of the shopping center. Desert Leaf Foundation will also subscribe to this service in order to have the added security of actual security personnel patrolling the parking lot. The security officer inside the dispensary will be reviewing video camera's of outside and waiting room area's for violator's of the rules and safety of patient's and patrons in the area.

Patient's requesting an escort to their car upon leaving the dispensary will be assisted by either staff or security personnel if available. Desert Leaf Foundation would like to hire off duty police officer's to perform the security services, but we understand that some cities and counties may not allow their officer's to perform this service for a dispensary. If this is the case, our security services will be obtained from a licensed, duly bonded and registered security agency to meet the requirements pursuant to A.R.S. #32-601.

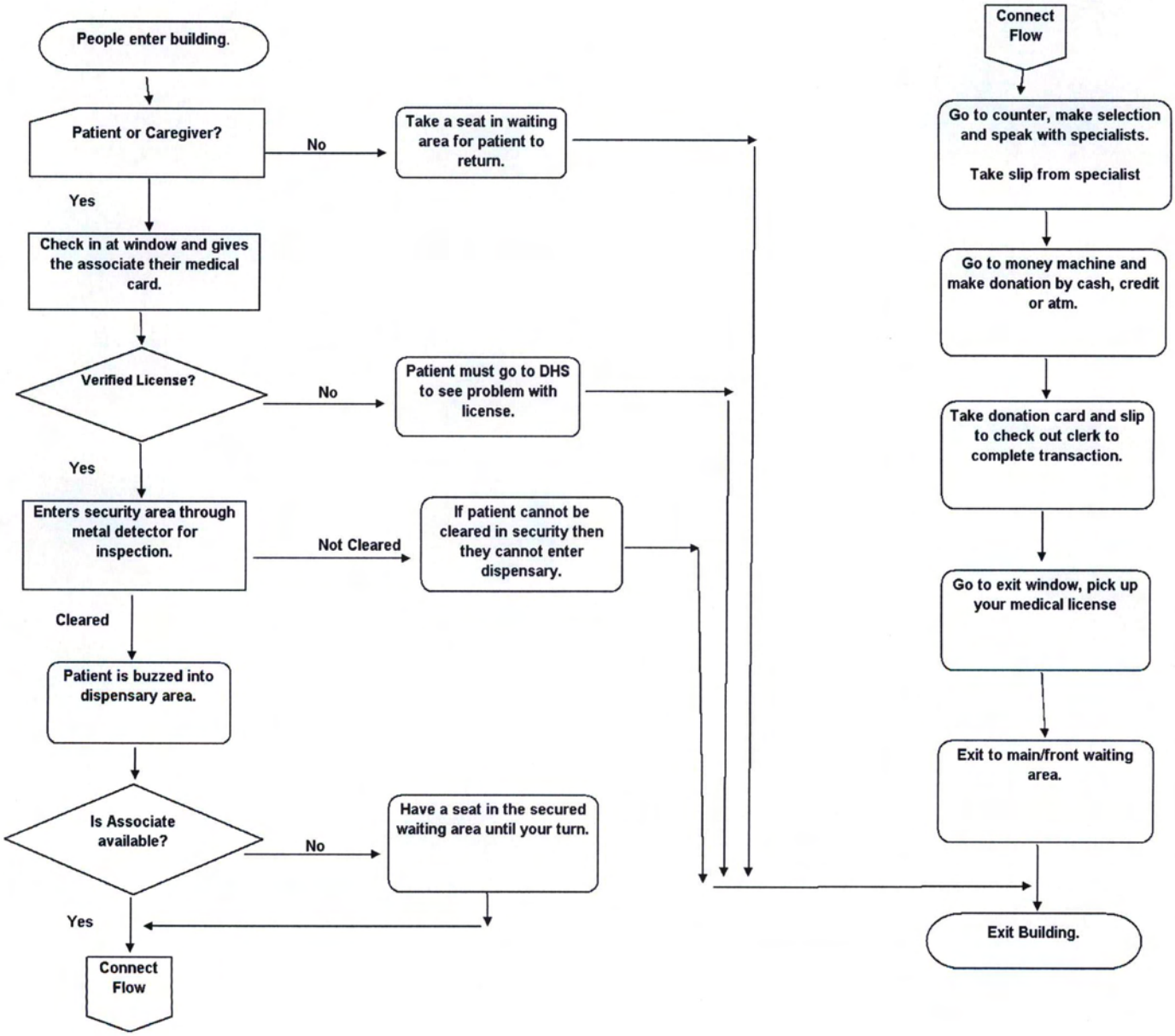
Products and items to be sold by Desert Leaf Foundation, Inc (not necessarily at the open of the business) are Medical Cannabis, Shake, Clones (baby plants), bongs, pipes, pot grinders, medicine containers, vaporizers, humidity control packs and balls (hydrating product), edibles, canna-butter, THC drinks, grow equipment & products, tinctures, THC lotions, books, how to video's, hemp clothing, hats, scales and help classes. All items available for sale will be located in the rear of the suite and cannot be viewed from the front of the suite or from the front waiting room. Once passing security, a patient will be able to view and purchase any of the products available.

Upon exiting the rear of the dispensary, all products will be packaged and in a shopping bag which cannot be viewed without actually looking in the bag, same as other retail stores.

The dispensary will have regular retail lighting that the architect will design in the final drafts. Special lighting issues that will be added in addition are the security lighting that will be on in the afterhours of the dispensary. The front waiting area that can be seen from the parking lot will be illuminated for security and police to view inside the dispensary easily during all hours of the day and night. An emergency lighting backup system will turn on in case of power outage that will allow security and police to continue to view inside the dispensary.

Below is a flow chart of the process a patient will under go in our facility. Keeping the patient flow and each process as secure as possible will help to ensure the security of patients and personnel.

PATIENT FLOW CHART



FLOOR PLAN

Exhibit E

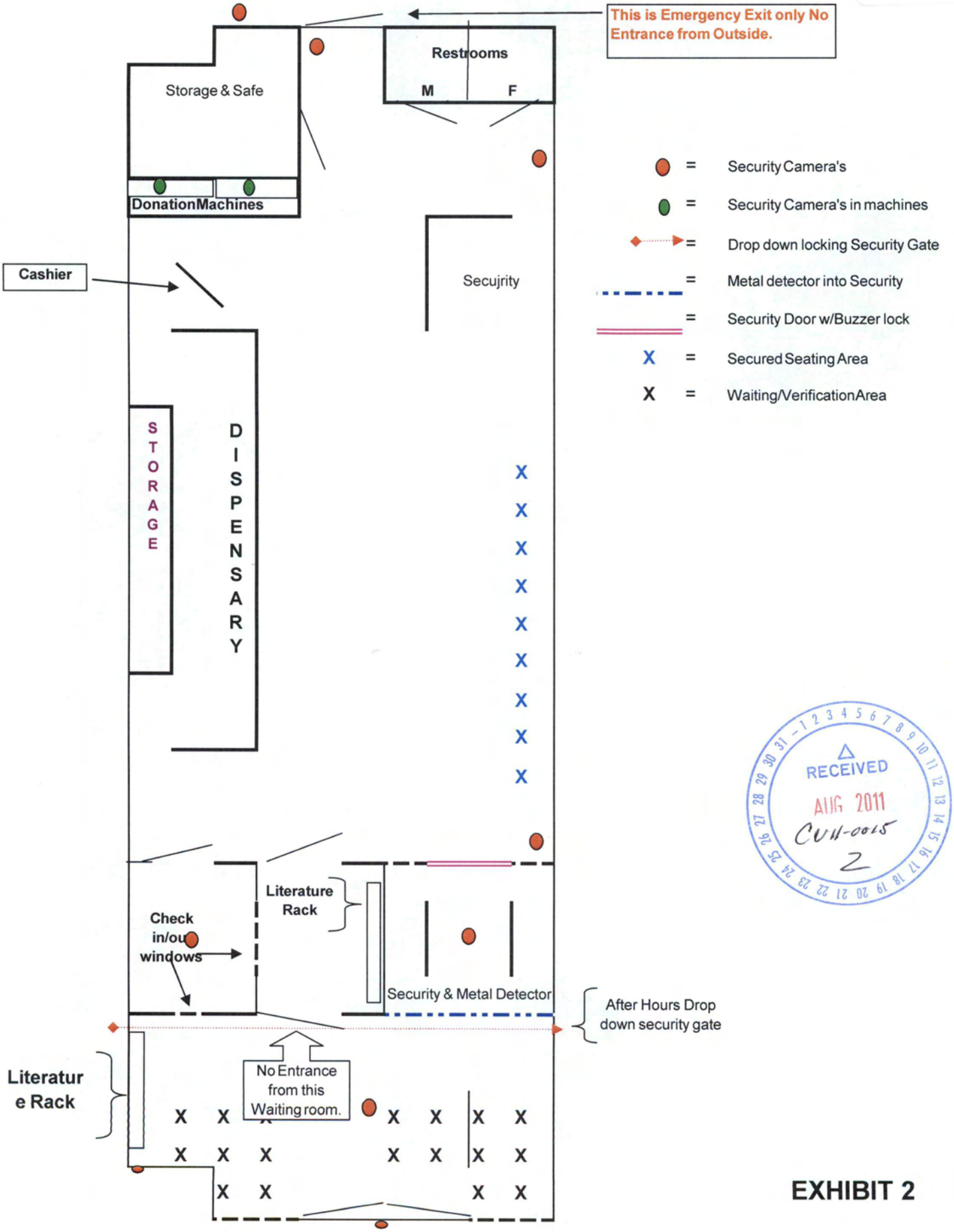


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EXHIBIT 2

ZONING ORDINANCE TEXT AMENDMENT

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: TA 11-0004

DATE: October 20, 2011

AGENDA ITEM: 5R

Applicant:	City of Peoria
Request:	Amend Section 14-23-3 *Parking Requirements* of the Zoning Ordinance to amend maximum height for parking canopies not within the required side or rear setbacks.
Support / Opposition:	As of the date of this printing, Staff has not received any comment in support or opposition to this amendment.
Recommendation:	**Approve** as requested.

BACKGROUND

1. Innovations in renewable energy production have caused property owners to pursue unique strategies to incorporate renewable energy solutions into their existing developments. Often, renewable energy solutions such as solar panels can be attached to or built as part of parking canopies. The City supports sustainable practices such as this, but current zoning codes hinder the application of this solution. Because of this, Staff is initiating a text amendment to allow parking canopies a maximum height of 15-feet to accommodate solar panels and other architectural embellishments.

ANALYSIS AND DISCUSSION

Section 14-23-3 Parking Requirements

2. This section of the zoning ordinance outlines the method of calculating floor area and parking requirements for a variety of uses. Additionally, it regulates the size of parking stalls, circulation, lighting, and other parking lot features such as parking canopies.

3. Currently, parking canopies are limited to 10-feet in height. This height limitation was approved as a result of a 2004 text amendment that classified parking canopies as accessory buildings, allowing them to be placed adjacent to side and

rear property lines. The 10-foot height limitation was adopted to minimize any potential impacts on surrounding properties. In no instance may parking canopies (or parking) encroach into any required landscape buffers.

4. This amendment is warranted because it modernizes the zoning code to account for sustainable practices. Solar panels must be angled between 6-10 degrees from horizontal to maximize efficiency. A canopy cannot be properly designed to provide adequate vehicle clearance and maintain solar collection efficiency while remaining under the existing height limit of 10-feet.

5. Staff has reviewed zoning codes of eleven valley communities and learned that most communities do not regulate the height of parking canopies separately from the accessory structure height limits. Avondale is the only community other than Peoria that specifically limits parking canopy height (15-feet).

6. In 2008, the City adopted a Design Review Manual which emphasizes that parking canopies shall be architecturally consistent with the main building architecture. While this can be accomplished to a degree without exceeding 10-feet in height, the additional height allowance will provide for flexibility in design and support high-quality consistent design for parking canopies. Occasionally, architectural features can impact the functional aspects of the parking canopy resulting in canopies which either exceed the height limitations or do not maintain adequate clearance for vehicles.

7. The proposed code change to 15-feet for parking canopies is flexible enough to accommodate solar panels and architectural features on parking canopies yet retains the more stringent height controls of 10-feet for parking canopies located in sensitive areas near rear and side property lines.

FINDINGS AND RECOMMENDATION

8. Based on the following findings:

   - The proposed amendment is consistent with the goals, objectives and policies of the Land Use element of the General Plan which promote high-quality architectural and site development;
   - The proposed amendment is intended to resolve known issues relating to parking canopy height and solar panel installation;
   - The proposed amendment retains more stringent parking canopy height regulations in side and rear setbacks to ensure compatibility of scale between properties;
   - The proposed amendment will promote sustainable, alternative energies;

- Upon review of the application, it has been determined that a Proposition 207 waiver is not required for this application.

It is recommended that the Planning and Zoning Commission take the following action:
Recommend approval to the City Council Case TA 11-0004.
Attachments:

Exhibit A	Proposed Amendment, legislative format

Prepared by: Ed Boik, LEED Green Associate
Planner

ARTICLE 14-23
PARKING & LOADING REQUIREMENTS

(Ord. No. 02-67)

14-23-3 PARKING REQUIREMENTS

Off-street parking spaces shall be provided according to the following provisions and standards.

A. General Provisions

18. *Parking Canopies, Non-Residential and Multi-Family Residential Land Uses (Ord. No 04-23, Ord. No 11-xx)*

a. Covered parking canopies may be located within the required side and rear building setbacks but may not encroach into required landscaped buffers. ~~provided~~ The height of such structures shall be limited to 10' from grade and the structures shall drains onto the property on which they are ~~it is~~ located.

b. The height of parking canopies not within the required side or rear building setbacks shall be limited to 15' from grade. ~~Covered parking canopies may encroach into required side and rear building setbacks, but may not encroach into required landscaped buffers.~~

c. All parking canopies are subject to the Design Review Manual. ~~Height of such structures shall be limited to 10'.~~

d. Setbacks are measured from property line to nearest edge of canopy.

e. All required landscaping, parking or otherwise, shall be provided.

f. This portion of the Zoning Ordinance is not intended to supercede approved zoning stipulations or conditions of approval.