



# BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: 3/7/2023

\*= Mandatory, information must be provided

Click or tap the boxes to enter text. If not applicable, indicate "N/A".

**\*Title:**

P22CU00020 COUNTY REALTY LLC, ET AL – N. 1ST AVENUE

**\*Introduction/Background:**

This is a request for a Type III Conditional Use Permit for a Marijuana Dispensary in accordance with Section 18.43.030B of the Pima County Zoning Code.

**\*Discussion:**

The property is located at 4837 N. 1st Av (Assessors Parcel No. 105-09-013B), within an existing commercial structure near the southwest corner of 1st Av. and River Rd. The other properties at the southwest corner of this arterial intersection are zoned CB-1. The properties to the north and south are similar commercial uses and intensities, while the property to the west are townhomes in the CB-1 zoning. The properties on the other three corners of the arterial intersection are City of Tucson zoning C-1 and C-2 and contain similar commercial uses.

**\*Conclusion:**

The Pima County Zoning code requires a Type III Conditional Use Permit for a marijuana dispensary in the CB-1 zone.

**\*Recommendation:**

The Hearing Administrator and the Planning & Zoning Commission recommend APPROVAL of this Type III Conditional Use Permit subject to the Standard and Special Conditions.

**\*Fiscal Impact:**

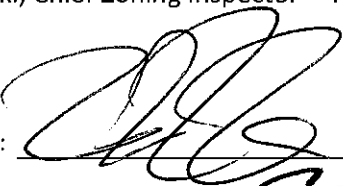
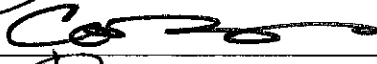

N/A

**\*Board of Supervisor District:**

1    2    3    4    5    All

Department: Development Services, Planning Division Telephone: 520-724-8800

Contact: Thomas Drzazgowski, Chief Zoning Inspector Telephone: 520-724-6675

Department Director Signature:		Date:	<u>2/14/23</u>
Deputy County Administrator Signature:		Date:	<u>2/14/2023</u>
County Administrator Signature:		Date:	<u>2/15/2023</u>



**PIMA COUNTY**  
DEVELOPMENT SERVICES

**TO:** Honorable Rex Scott, District 1

**FROM:** Chris Poirier, Deputy Director *For*  
Public Works-Development Services Department-Planning Division

**DATE:** February 14, 2023

**SUBJECT:** P22CU00020 COUNTY REALTY LLC, ET AL – N. 1<sup>st</sup> AVENUE  
(Conditional Use Type III – Marijuana Dispensary)

The above referenced Conditional Use Permit is within your district and is scheduled for the Board of Supervisors' **TUESDAY, March 7, 2023** hearing.

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**REQUEST:** For a **Type III Conditional Use Permit for a Marijuana Dispensary**, in accordance with Section 18.43.030.B of the Pima County Zoning Code on property located at **4837 N. 1<sup>st</sup> Avenue**, in the CB-1 (Local Business) zone. (District 1)

**OWNERS:** County Realty LLC  
PO Box 65720  
Tucson, AZ 85728

**AGENT:** Lazarus & Silvyn  
Attn: Keri Silvyn  
5983 E Grant Rd., Ste. 290  
Tucson, AZ 85712

**DISTRICT:** 1

**STAFF CONTACT:** Spencer Hickman, Senior Planner

**PUBLIC COMMENT TO DATE:** As of February 14, 2023, three letters of protest and one protest petition representing 15 property owners has been received.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:** **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS 7-0** (Commissioners Membrila, Tronsdal and Matter were absent)

**HEARING ADMINISTRATOR RECOMMENDATION:** **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**

**MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM (CLS):** The property lies outside of the Maeveen Behan Conservation Lands System.

TD/ds  
Attachments



**BOARD OF SUPERVISORS MEMORANDUM**

**Subject: P22CU00020**

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**FOR MARCH 7, 2023 MEETING OF THE BOARD OF SUPERVISORS**

**TO:** HONORABLE BOARD OF SUPERVISORS  
**FROM:** Chris Poirier, Deputy Director *EB Tom Drzazgowski For*  
Public Works-Development Services Department-Planning Division  
**DATE:** February 14, 2023

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**ADVERTISED ITEM FOR PUBLIC HEARING**

**CONDITIONAL USE PERMIT**

**P22CU00020 COUNTY REALTY LLC, ET AL – N. 1<sup>st</sup> AVENUE**

County Realty LLC, et al., represented by Sol Flower-1st Ave LLC and Lazarus & Silvyn, PC, request a **Type III Conditional Use Permit for a Marijuana Dispensary**, in accordance with Section 18.43.030.B of the Pima County Zoning Code on property at **4837 N. 1st Avenue**, in the CB-1 (Local Business) zone. On motion, the Planning and Zoning Commission voted to recommend **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS 7-0**; (Commissioners Membrila, Tronsdal and Matter were absent). The Hearing Administrator recommends **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**.  
(District 1)

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**Summary of the Planning and Zoning Commission Hearing (January 11, 2023)**

The Planning & Zoning Commission hearing on this case took place on January 11, 2023. At same, the Commission heard staff's and the applicant's presentation as to the particular details of the request.

The public hearing was opened.

Six (6) members of the public appeared to speak on the matter, all of whom reside in the adjacent Shirley Manor Townhouses to the immediate west and all of whom voiced concerns with the application. The primary issues raised were a perceived worsening of the existing transient problem that already affects their neighborhood, the desire to see some sort of physical security barrier to protect them, the proximity of another marijuana dispensary within the City and the belief that it attracts undesirables, and a concern with this proposed dispensary staying open for business to 10:00 PM. The applicant had held a neighborhood meeting, which was attended by some of the speakers who appeared, and offered certain concessions to help address these issues.

The public hearing was closed.

Commissioner Becker made a motion to APPROVE subject to standard and special conditions and Commissioner Gungle gave second.

The Commission voted 7-0 (Commissioners Membrilla, Tronsdal, and Matter were absent) to recommend APPROVAL of this CUP request to the Board of Supervisors, said recommendation recognizing and embracing the following standard and special conditions as promulgated by the Hearing Administrator (Nos. 1&2), as well as four additional special conditions (Nos. 3 thru 6) as offered by the applicant to address neighbor-related issues:

Standard Conditions

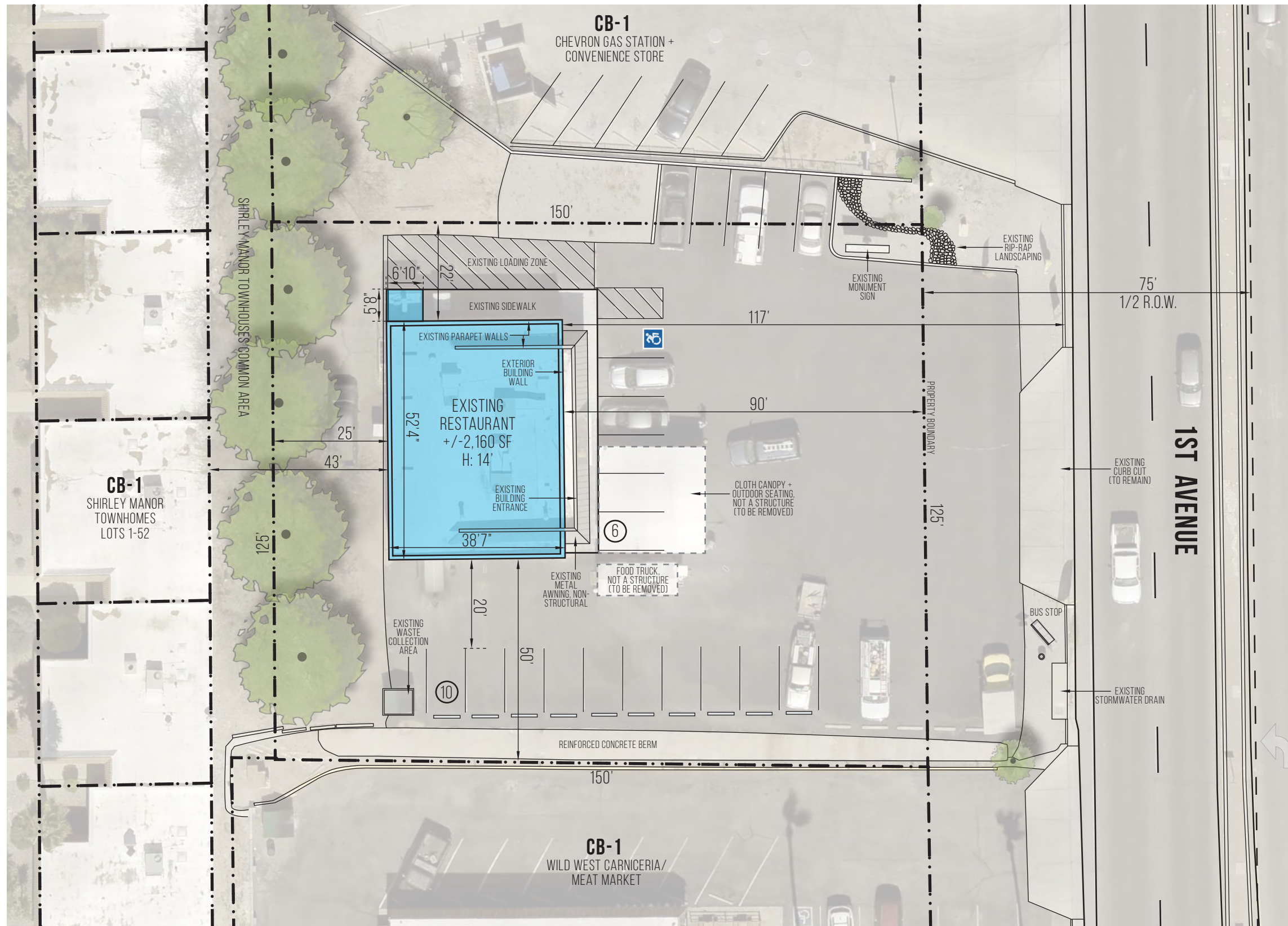
Compliance with all specialized requirements enumerated in Section 18.43.030.B.59 of the Pima County Zoning Code.

Special Conditions

1. This conditional use permit approval is for a marijuana dispensary as permitted per Section 18.43 (Local Business Zone) of the Code. No other non-residential or commercial conditional uses other than the above are authorized or implied.
2. This marijuana facility shall be operated in substantial accordance with the business operations, floorplan, site plan, and other particulars as described in applicant's submitted materials.
3. This dispensary's hours of operation are hereby modified to expressly require a closing time of 9:00 PM, not 10:00 PM.
4. The applicant will work with the Shirley Manor Townhome representatives to effectuate some form of perimeter fencing or wall for the protection of adjacent residents.
5. The monitoring of all exterior surveillance cameras shall occur on a twenty-four/seven (24/7) basis.
6. This conditional use permit approval is extended exclusively to Copperstate Farms, who shall be the only operator of this dispensary. In the event that the license is transferred to another entity, that operator shall be required to seek its own conditional use permit approval and proceed through the attendant Type III process, public hearings, etc.

TD/ds  
Attachments

C: Lazarus & Silvyn, LLC



## SITE DATA

**PROPOSED USE:** MARIJUANA DISPENSARY IN EXISTING BUILDING  
**ADDRESS:** 4837 N. 1ST AVE, TUCSON, ARIZONA 85718  
**PARCEL #:** 105-09-013B

**ZONING:** CB-1  
 PROPOSED USE REQUIRES TYPE III CONDITIONAL USE PERMIT

**PARCEL AREA:** 19,166 SF, OR 0.44 ACRES  
**GROSS DISPENSARY FLOOR AREA:** +/- 2,160 SF  
**BUILDING HEIGHT:** 14'  
**PROVIDED PARKING SPACES:** 16  
**REQUIRED PARKING SPACES:** 8 (GENERAL RETAIL - 3.5 SPACES PER 1,000 SF GFA)

**DISPENSARY RETAIL SPACE**  
**SALES FLOOR AREA:** 1,200 SF  
**CUSTOMER WAITING AREA:** 360 SF

**CUSTOMER WAITING AREA/SALES FLOOR RATIO:**  
**REQUIRED:** MINIMUM 25%  
**PROVIDED:** 30%



# 4837 N. 1ST AVENUE NEW MARIJUANA DISPENSARY - COPPERSTATE FARMS



## SITE PLAN



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# MEMORANDUM

## PUBLIC WORKS - DEVELOPMENT SERVICES

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P22CU00020

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### FOR BOARD OF SUPERVISORS MARCH 7, 2023 PUBLIC HEARING

**TO:** THE HONORABLE BOARD OF SUPERVISORS

**FROM:** Jim Portner, Hearing Administrator

**DATE:** January 23, 2023

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**DOCUMENT:** P22CU00020

### CONDITIONAL USE PERMIT REQUEST FOR PUBLIC HEARING

County Realty, LLC, et. al., represented by Sol Flower-1<sup>st</sup> Ave, LLC and Lazarus & Silvyn, PC, requests a **Type III Conditional Use Permit for a Marijuana Dispensary**, in accordance with Section 18.43.030.B of the Pima County Zoning Code on property located at **4837 N. 1<sup>st</sup> Avenue**, in the CB-1 (Local Business) zone. (District 1)

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### CASE PARTICULARS

This is a Conditional Use Permit request for a **marijuana dispensary**, submitted in accordance with Section 18.43 (CB-1 Local Business Zone), and being subject to the Type III conditional use process. The facility will be housed within an existing 2,160 SF building. The proposed operator (Copperstate Farms) is the same entity as the three (3) prior dispensary cases that were heard and approved by the Board of Supervisors at its December 20, 2022 hearing. The same security measures and operational protocols presented by Copperstate at that hearing will be in force at this newly proposed location. The applicant has submitted a comprehensive narrative, along with supporting exhibits, that substantiates compliance with the specialized Code requirements which attend marijuana dispensaries.

The property is located at 4837 N. 1<sup>st</sup> Avenue (Assessors Parcel No. 105-09-013B), which is an existing fully-developed site with a commercial building and paved parking lot. The building is presently vacant, but has been occupied in the past by a convenience/retail store, a sit-down restaurant, and several other businesses. The only commercial activity currently occurring on the site is a food truck with a canopied outdoor seating area. This use will be removed and replaced by the proposed marijuana dispensary. The immediate properties to the north, south and east all contain active commercial uses, including a gas station, meat market, restaurant, and drug store. To the immediate west are the Shirley Manor Townhouses, which is a high-density attached residential subdivision.

## **SUMMARY OF THE PLANNING & ZONING COMMISSION PUBLIC HEARING**

The Planning & Zoning Commission hearing on this case took place on January 11, 2023. At same, the Commission heard staff's and the applicant's presentation as to the particular details of the request. The follow-up discussion by the Commission raised the following issues: 1) the nature of this particular license as a social-equity one or a transfer (staff responded that this was a transfer); and 2) concerns with traffic and the sufficiency of the existing number of on-site parking spaces. A commissioner expressed his appreciation with the applicant's willingness to work with the Department of Transportation to address any such issues.

Six (6) members of the public appeared to speak on the matter, all of whom reside in the adjacent Shirley Manor Townhouses to the immediate west and all of whom voiced concerns with the application. The primary issues raised were a perceived worsening of the existing transient problem that already affects their neighborhood, the desire to see some sort of physical security barrier to protect them, the proximity of another marijuana dispensary within the City and the belief that it attracts undesirables, and a concern with this proposed dispensary staying open for business to 10:00 PM. The applicant had held a neighborhood meeting, which was attended by some of the speakers who appeared, and offered certain concessions to help address these issues.

**After closing the public hearing, the Commission voted 7-0 (motion by Becker, seconded by Gungle; Commissioners Membrila, Tronsdale and Matter being absent) to recommend APPROVAL of this CUP request to the Board of Supervisors, subject to the following standard and special conditions as promulgated by the Hearing Administrator (Nos. 1 & 2), as well as four additional special conditions (Nos. 3 thru 6) as offered by the applicant to address neighbor-related issues:**

### **Standard Conditions**

Compliance with all specialized requirements enumerated in Section 18.43.030.B.59 of the Pima County Zoning Code.

### **Special Conditions**

1. This conditional use permit approval is for a marijuana dispensary as permitted per Section 18.43 (Local Business Zone) of the Code. No other non-residential or commercial conditional uses other than the above are authorized or implied.
2. This marijuana facility shall be operated in substantial accordance with the business operations, floorplan, site plan, and other particulars as described in applicant's submitted materials.
3. This dispensary's hours of operation are hereby modified to expressly require a closing time of 9:00 PM, not 10:00 PM.
4. The applicant will work with the Shirley Manor Townhome representatives to effectuate some form of perimeter fencing or wall for the protection of adjacent residents.

5. The monitoring of all exterior surveillance cameras shall occur on a twenty-four/seven (24/7) basis.
6. This conditional use permit approval is extended exclusively to Copperstate Farms, who shall be the only operator of this dispensary. In the event that the license is transferred to another entity, that operator shall be required to seek its own conditional use permit approval and proceed through the attendant Type III process, public hearings, etc.

### **HEARING ADMINISTRATOR’S CONSIDERATIONS**

This is a conditional use permit request to operate a marijuana dispensary along a major arterial street and within an established commercial sector. The following Hearing Administrator considerations apply.

#### **Comprehensive Plan Considerations**

The Pima County Comprehensive Plan (Pima Prospers) designates this property as *Community Activity Center (CAC)*, the purpose of which is “to designate medium and higher intensity mixed use districts designed to provide a full range of goods and services, office and medical uses, hotels, research and development opportunities, etc., etc.”

The proposed marijuana dispensary clearly falls within the above scope of uses and is complementary to the other, long-established businesses within the 1<sup>st</sup> Avenue corridor and at the River Road/1<sup>st</sup> Avenue node.

This being the case, it is the Hearing Administrator’s position that the proposed facility is not in conflict with the goals, objectives and purposes of *Community Activity Centers* as put forth by Pima Prospers.

#### **Zoning and Surrounding Land Use Considerations**

The subject parcel is zoned CB-1, as are all of the properties surrounding it, including the residential use of Shirley Manor Townhouses to the adjacent west. The properties to the north, south and east are all established commercial uses of similar intensity. In general terms, this is a highly urbanized sector near the major arterial node that is the 1<sup>st</sup> Avenue/River Road intersection, out from which commercial, office, and high-density residential uses spread in all four directions.

The adjacency of Shirley Manor Townhouses to the immediate west merits some additional commentary. While this is a long-standing residential use, it is pertinent to note that the attached townhouse units “back up” to the proposed dispensary property. Their rear walls form a continuous façade along the subject property and along the other commercial uses that abut them to the north and the south. There are no private outdoor backyard spaces for the townhouses; their homeowners association maintains a narrow landscape common area of varying width



behind their units along the adjacent commercial properties. All things considered, this residential/commercial interface has been in place for decades. The residents of Shirley Manor Townhouse have indicated that an on-going transient/homeless population exists in the area.

The subject property and the proposed marijuana dispensary operation meet or exceed all of the Code-required parameters of Section 18.43.030.B.59, more particularly pertaining to maximum floor area, location within a permanent building, hours of operation, provision of an indoor customer waiting area, no outdoor seating, mitigation of odors, compliance with all State laws, and the minimum physical separation criteria from schools, libraries, parks, substance/rehab facilities, and other dispensaries.

### **Hearing Administrator Required Standards & Findings**

Following are the Hearing Administrator’s findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

- 1. It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.**

See the above Comprehensive Plan Considerations. The Hearing Administrator’s finds that the proposed facility is not in conflict with the goals, objectives and purposes of *Community Activity Centers* as put forth by Pima Prospers.

- 2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.**

The Hearing Administrator finds that the proposed marijuana dispensary will not have any impacts upon any of the surrounding properties in a way that prohibits any of their legal or permitted uses.

- 3. It has adequate accessibility to the County road network.**

The site takes its direct access from 1<sup>st</sup> Avenue, which is a four-lane divided arterial that is designated as a major street on the Pima County Major Streets & Routes Plan (MSRP). The site lies a few hundred feet south of the 1<sup>st</sup> Avenue/River Road intersection, the latter of which is also a designated major street on the MSRP. Access is found to be adequate.

- 4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.**

This is an existing developed property with a paved parking lot containing sixteen (16) spaces. The Zoning Code contains no specific parking requirement for marijuana dispensaries; the nearest match for same would be the “general retail” category. Applying

this category would mandate eight (8) spaces for the project. As part of a past parking study undertaken with this same applicant on a recent similar Type III case, it was established that a dispensary of the proposed size would require less than ten (10) spaces during its peak hours. All the above being considered, the Hearing Administrator finds parking to be adequate.

**5. It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

The Hearing Administrator finds that proposed use is found to not threaten the surrounding properties in any of the above ways. The Zoning Code has special considerations for odor control attendant to marijuana dispensaries. These requirements have been met with this request; see the applicant's submitted narrative as to pre-packaged products, carbon filtering air systems, etc.

**6. Hours of operation will not be detrimental to adjoining residents.**

Hours of operation (7:00 AM to 10:00 PM) accord with those mandated by the Code.

**7. Landscaping will be fully in conformance with zoning code regulations.**

Landscaping requirements, if any, are a matter enforced at the time of permitting.

**DEPARTMENTAL COMMENTS ON THIS REQUEST**

**Department of Transportation**

DOT has no objection to this conditional use permit.

**Regional Wastewater Reclamation District**

The District is reviewing the application at the time of this writing. In that the existing building is already connected to the public sewer system, the Hearing Administrator anticipates RWRD will likely possess no objection to approval, subject to standard system connection and building-permit requirements.

**HEARING ADMINISTRATOR'S RECOMMENDATION**

After visiting the subject property, considering all of the above, and reviewing the applicant's submitted materials, the Hearing Administrator found the proposed **marijuana dispensary** to be an appropriate acceptable use on the subject property that conformed with all specialized Code requirements that attend such dispensaries per Section 18.43 (Local Business Zone).

It was therefore the recommendation of the Hearing Administrator that the Planning & Zoning Commission recommend **APPROVAL** of this Type III conditional use permit subject to the following Standard and Special Conditions:

Standard Conditions

Compliance with all specialized requirements enumerated in Section 18.43.030.B.59 of the Pima County Zoning Code.

Special Conditions

1. This conditional use permit approval is for a marijuana dispensary as permitted per Section 18.43 (Local Business Zone) of the Code. No other non-residential or commercial conditional uses other than the above are authorized or implied.
2. This marijuana facility shall be operated in substantial accordance with the business operations, floorplan, site plan, and other particulars as described in applicant's submitted materials.

**SONORAN DESERT CONSERVATION CONCEPT PLAN/ENVIRONMENTAL ISSUES**

**Comprehensive Plan Regional Environmental Policies — Conservation Lands System**

In December, 2001 the Board of Supervisors incorporated the Maeveen Marie Behan Conservation Lands System (MMB-CLS) into the Comprehensive Plan 2001 Update as the Regional Environmental Policies. The MMB-CLS is the heart of the Sonoran Desert Conservation Plan (SDCP). On June 21, 2005, the Board of Supervisors amended the Comprehensive Plan Regional Environmental Policies and the MMB-CLS to reflect recommendations from the SDCP Science Technical Advisory Committee that were based on new scientific and technical data. As adopted, Conservation Guidelines associated with the MMB-CLS establish conservation objectives for a variety of projects (e.g. rezoning actions, comprehensive plan amendments, Type II and Type III conditional use permits, etc.) that require a discretionary decision by the Board of Supervisors. Conservation objectives include:

- Important Riparian Areas — 95% undisturbed natural open space
- Biological Core Management Areas — 80% undisturbed natural open space
- Special Species Management Areas — 80% undisturbed natural open space
- Multiple Use Management Areas — 66-2/3% undisturbed natural open space

The property lies **OUTSIDE OF** the MMB-CLS within a wholly urbanized region.

**Biological Impacts Report**

On July 17, 2001, the Board of Supervisors adopted Ordinance No. 2001-103, which requires the applicant's notice to the US Fish and Wildlife Service (USFWS) staff regarding the pending matter, and staff commentary on biological resources and development impacts of the subject site and proposal.

### **Staff Commentary on Biological Impacts**

Staff has reviewed this application and finds that: 1) its approval is not expected to affect any resources essential to Pima County’s biological conservation priorities; and 2) that it will not be in conflict with the Regional Environmental Policies of the 2001 Comprehensive Plan Update. This site is located on a developed commercial property that lies within a larger sector which is wholly and intensely urbanized. For all practical purposes, no environmental issues attend this request.

### **Facts Confirmed by the Pima County Geographic Information System (GIS)**

The following facts are confirmed by the Pima County GIS and the Sonoran Desert Conservation Plan maps with respect to this conditional use permit request:

**Cactus Ferruginous Pygmy Owl.** The site and entire surrounding area is located within the “Urban Exclusion Area” for this species and, as such, is not within its Priority Conservation Area (PCA).

**Western Burrowing Owl.** The property not within the Priority Conservation Area (PCA) for this species.

**Pima Pineapple Cactus.** The property is not located within an area that is within the known range of the Pima Pineapple Cactus and is not within the Priority Conservation Area (PCA) for this species.

**Needle-Spined Pineapple Cactus.** The subject property is not located within an area that is within the known range of the Needle-Spined Pineapple cactus and is not within the Priority Conservation Area (PCA) for this species.

attachments

cc: Carla Blackwell, Director, Development Services  
Dan Ice, Chief Building Official  
Chris Poirier Planning Official  
Tom Drzazgowski, Chief Zoning Inspector  
County Realty, LLC, Owner  
1<sup>st</sup> Avenue Acquisitions, LLC, Owner  
Lazarus & Silvyn, LLC, Applicant  
On Behalf of Sol Flower 1<sup>st</sup> Avenue, LLC & Copperstate Farms

# **PIMA COUNTY DEVELOPMENT SERVICES REPORT TO THE PIMA COUNTY PLANNING & ZONING COMMISSION**

**CASE:**                   **P22CU000020**  
County Realty, LLC & 1<sup>st</sup> Avenue Acquisitions, LLC — N. 1<sup>st</sup> Avenue

**OWNERSHIP:**           County Realty, LLC & 1<sup>st</sup> Avenue Acquisitions, LLC  
P.O. Box 65720  
Tucson, AZ 85728

**APPLICANT:**           Lazarus & Silvyn, P.C  
c/o Keri Silvyn & Robin Large  
5983 E. Grant Road Suite 290  
Tucson, AZ 85712

On Behalf of: Sol Flower 1<sup>st</sup> Ave, LLC  
A Subsidiary of Copperstate Farms

**LOCATION:**           The property is located at 4837 N. 1<sup>st</sup> Avenue (Assessors Parcel No. 105-09-013B), which is an existing fully-developed site with a commercial building and paved parking lot. The building is presently vacant, but has been occupied in the past by a convenience/retail store, a sit-down restaurant, and several other businesses. The only commercial activity currently occurring on the site is a food truck with a canopied outdoor seating area. This use will be removed and replaced by the proposed marijuana dispensary. The immediate properties to the north, south and east all contain active commercial uses, including a gas station, meat market, restaurant, and drug store. To the immediate west are the Shirley Manor Townhouses, which is a high-density attached residential subdivision.

**REQUEST:**           This is a Type III Conditional Use Permit request for a **marijuana dispensary**, submitted in accordance with Section 18.43 (CB-1 Local Business Zone) and being subject to this Type III conditional use process. The facility will be housed within an existing 2,160 SF building. The proposed operator (Copperstate Farms) is the same entity as the three (3) prior dispensary cases that were heard by the Planning & Zoning Commission at its October 26, 2022 hearing. The same security measures and operational protocols presented by Copperstate at that hearing will be in force at this newly proposed location. The applicant has submitted a comprehensive narrative, along with supporting exhibits, that substantiates compliance with the specialized Code requirements which attend marijuana dispensaries.

## **PETITIONER'S STATEMENT REGARDING THE TYPE OF USE PROPOSED**

The Commission members are referred to the detailed Project Narrative submitted by the applicant. Same provides their overview of this request, together with a detailed description of compliance with all of the terms and requirements that apply to marijuana dispensaries per Sub-Section 18.43.030.B.59 (CB-1 Local Business Zone) of the Code.

## **HEARING ADMINISTRATOR'S CONSIDERATIONS**

This is a conditional use permit request to operate a marijuana dispensary along a major arterial street and within an established commercial sector. The following Hearing Administrator considerations apply.

### **Comprehensive Plan Considerations**

The Pima County Comprehensive Plan (Pima Prospers) designates this property as *Community Activity Center (CAC)*, the purpose of which is “to designate medium and higher intensity mixed use districts designed to provide a full range of goods and services, office and medical uses, hotels, research and development opportunities, etc., etc.”

The proposed marijuana dispensary clearly falls within the above scope of uses and is complementary to the other, long-established businesses within the 1<sup>st</sup> Avenue corridor and at the River Road/1<sup>st</sup> Avenue node.

This being the case, it is the Hearing Administrator’s position that the proposed facility is not in conflict with the goals, objectives and purposes of *Community Activity Centers* as put forth by Pima Prospers.

### **Zoning and Surrounding Land Use Considerations**

The subject parcel is zoned CB-1, as are all of the properties surrounding it, including the residential use of Shirley Manor Townhouses to the adjacent west. The properties to the north, south and east are all established commercial uses of similar intensity. In general terms, this is a highly urbanized sector near the major arterial node that is the 1<sup>st</sup> Avenue/River Road intersection, out from which commercial, office, and high-density residential uses spread in all four directions.

The adjacency of Shirley Manor Townhouses to the immediate west merits some additional commentary. While this is a long-standing residential use, it is pertinent to note that the attached townhouse units “back up” to the proposed dispensary property. Their rear walls form a continuous façade along the subject property and along the other commercial uses that abut them to the north and the south. There are no private outdoor backyard spaces for the townhouses; their homeowners association maintains a narrow landscape common area of varying width behind their units along the adjacent commercial properties. All things considered, this residential/commercial interface has been in place for decades and has proven to constitute sufficient protection and buffering for the Shirley Manor Townhouses.

The subject property and the proposed marijuana dispensary operation meet or exceed all of the Code-required parameters of Section 18.43.030.B.59, more particularly pertaining to maximum floor area, location within a permanent building, hours of operation, provision of an indoor customer waiting area, no outdoor seating, mitigation of odors, compliance with all State laws, and the minimum physical separation criteria from schools, libraries, parks, substance/rehab facilities, and other dispensaries.

### **Hearing Administrator Required Standards & Findings**

Following are the Hearing Administrator’s findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

- 1. It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.**

See the above Comprehensive Plan Considerations. The Hearing Administrator’s finds that the proposed facility is not in conflict with the goals, objectives and purposes of *Community Activity Centers* as put forth by Pima Prospers.

- 2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.**

The Hearing Administrator finds that the proposed marijuana dispensary will not have any impacts upon any of the surrounding properties in a way that prohibits any of their legal or permitted uses.

**3. It has adequate accessibility to the County road network.**

The site takes its direct access from 1<sup>st</sup> Avenue, which is a four-lane divided arterial that is designated as a major street on the Pima County Major Streets & Routes Plan (MSRP). The site lies a few hundred feet south of the 1<sup>st</sup> Avenue/River Road intersection, the latter of which is also a designated major street on the MSRP. Access is found to be adequate.

**4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.**

This is an existing developed property with a paved parking lot containing sixteen (16) spaces. The Zoning Code contains no specific parking requirement for marijuana dispensaries; the nearest match for same would be the “general retail” category. Applying this category would mandate eight (8) spaces for the project. As part of a past parking study undertaken with this same applicant on a recent similar Type III case, it was established that a dispensary of the proposed size would require less than ten (10) spaces during its peak hours. All the above being considered, the Hearing Administrator finds parking to be adequate.

**5. It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

The Hearing Administrator finds that proposed use is found to not threaten the surrounding properties in any of the above ways. The Zoning Code has special considerations for odor control attendant to marijuana dispensaries. These requirements have been met with this request; see the applicant’s submitted narrative as to pre-packaged products, carbon filtering air systems, etc.

**6. Hours of operation will not be detrimental to adjoining residents.**

Hours of operation (7:00 AM to 10:00 PM) accord with those mandated by the Code.

**7. Landscaping will be fully in conformance with zoning code regulations.**

Landscaping requirements, if any, are a matter enforced at the time of permitting.

**DEPARTMENTAL COMMENTS ON THIS REQUEST**

**Department of Transportation**

DOT has no objection to this conditional use permit.

**Regional Wastewater Reclamation District**

The District is reviewing the application at the time of this writing. In that the existing building is already connected to the public sewer system, the Hearing Administrator anticipates RWRD will likely possess no objection to approval, subject to standard system connection and building-permit requirements.

**HEARING ADMINISTRATOR’S RECOMMENDATION**

After visiting the subject property, considering all of the above, and reviewing the applicant’s submitted materials, the Hearing Administrator finds the proposed **marijuana dispensary** to be an appropriate acceptable use on the subject property that conforms with all specialized Code requirements that attend such dispensaries per Section 18.43 (Local Business Zone).

It is therefore the recommendation of the Hearing Administrator that the Planning & Zoning Commission recommend **APPROVAL** of this Type III conditional use permit subject to the following Standard and Special Conditions:

Standard Conditions

Compliance with all specialized requirements enumerated in Section 18.43.030.B.59 of the Pima County Zoning Code.

Special Conditions

1. This conditional use permit approval is for a marijuana dispensary as permitted per Section 18.43 (Local Business Zone) of the Code. No other non-residential or commercial conditional uses other than the above are authorized or implied.
2. This marijuana facility shall be operated in substantial accordance with the business operations, floorplan, site plan, and other particulars as described in applicant's submitted materials.

**SONORAN DESERT CONSERVATION CONCEPT PLAN/ENVIRONMENTAL ISSUES**

**Comprehensive Plan Regional Environmental Policies — Conservation Lands System**

In December, 2001 the Board of Supervisors incorporated the Maeveen Marie Behan Conservation Lands System (MMB-CLS) into the Comprehensive Plan 2001 Update as the Regional Environmental Policies. The MMB-CLS is the heart of the Sonoran Desert Conservation Plan (SDCP). On June 21, 2005, the Board of Supervisors amended the Comprehensive Plan Regional Environmental Policies and the MMB-CLS to reflect recommendations from the SDCP Science Technical Advisory Committee that were based on new scientific and technical data. As adopted, Conservation Guidelines associated with the MMB-CLS establish conservation objectives for a variety of projects (e.g. rezoning actions, comprehensive plan amendments, Type II and Type III conditional use permits, etc.) that require a discretionary decision by the Board of Supervisors. Conservation objectives include:

- Important Riparian Areas — 95% undisturbed natural open space
- Biological Core Management Areas — 80% undisturbed natural open space
- Special Species Management Areas — 80% undisturbed natural open space
- Multiple Use Management Areas — 66-2/3% undisturbed natural open space

The property lies **OUTSIDE OF** the MMB-CLS within a wholly urbanized region.

**Biological Impacts Report**

On July 17, 2001, the Board of Supervisors adopted Ordinance No. 2001-103, which requires the applicant's notice to the US Fish and Wildlife Service (USFWS) staff regarding the pending matter, and staff commentary on biological resources and development impacts of the subject site and proposal.

**Staff Commentary on Biological Impacts**



Staff has reviewed this application and finds that: 1) its approval is not expected to affect any resources essential to Pima County's biological conservation priorities; and 2) that it will not be in conflict with the Regional Environmental Policies of the 2001 Comprehensive Plan Update.

This site is located on a developed commercial property that lies within a larger sector which is wholly and intensely urbanized. For all practical purposes, no environmental issues attend this request.

**Facts Confirmed by the Pima County Geographic Information System (GIS)**

The following facts are confirmed by the Pima County GIS and the Sonoran Desert Conservation Plan maps with respect to this conditional use permit request:

**Cactus Ferruginous Pygmy Owl.** The site and entire surrounding area is located within the "Urban Exclusion Area" for this species and, as such, is not within its Priority Conservation Area (PCA).

**Western Burrowing Owl.** The property not within the Priority Conservation Area (PCA) for this species.

**Pima Pineapple Cactus.** The property is not located within an area that is within the known range of the Pima Pineapple Cactus and is not within the Priority Conservation Area (PCA) for this species.

**Needle-Spined Pineapple Cactus.** The subject property is not located within an area that is within the known range of the Needle-Spined Pineapple cactus and is not within the Priority Conservation Area (PCA) for this species.

attachments

cc: Carla Blackwell, Director, Development Services  
Dan Ice, Chief Building Official  
Chris Poirier Planning Official  
Tom Drzazgowski, Chief Zoning Inspector  
County Realty, LLC, Owner  
1<sup>st</sup> Avenue Acquisitions, LLC, Owner  
Lazarus & Silvyn, LLC, Applicant  
On Behalf of Sol Flower 1<sup>st</sup> Avenue, LLC & Copperstate Farms

## **Pima County Regional Wastewater Reclamation Department Comments**

The Planning Unit of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has reviewed the request and offers the following comments for your use. The conditional use permit is for the proposed adult-use/marijuana dispensary located in the existing building structure near the southwest corner of River Rd and 1st Ave. The property is zoned CB-1 and is permitted for a marijuana dispensary use subject to the Type III CUP. The property is connected to the existing public sewer system.



PCRWRD has no objection to the request for a conditional use permit and offers the following standard wastewater requirements:

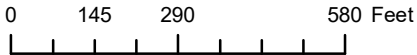
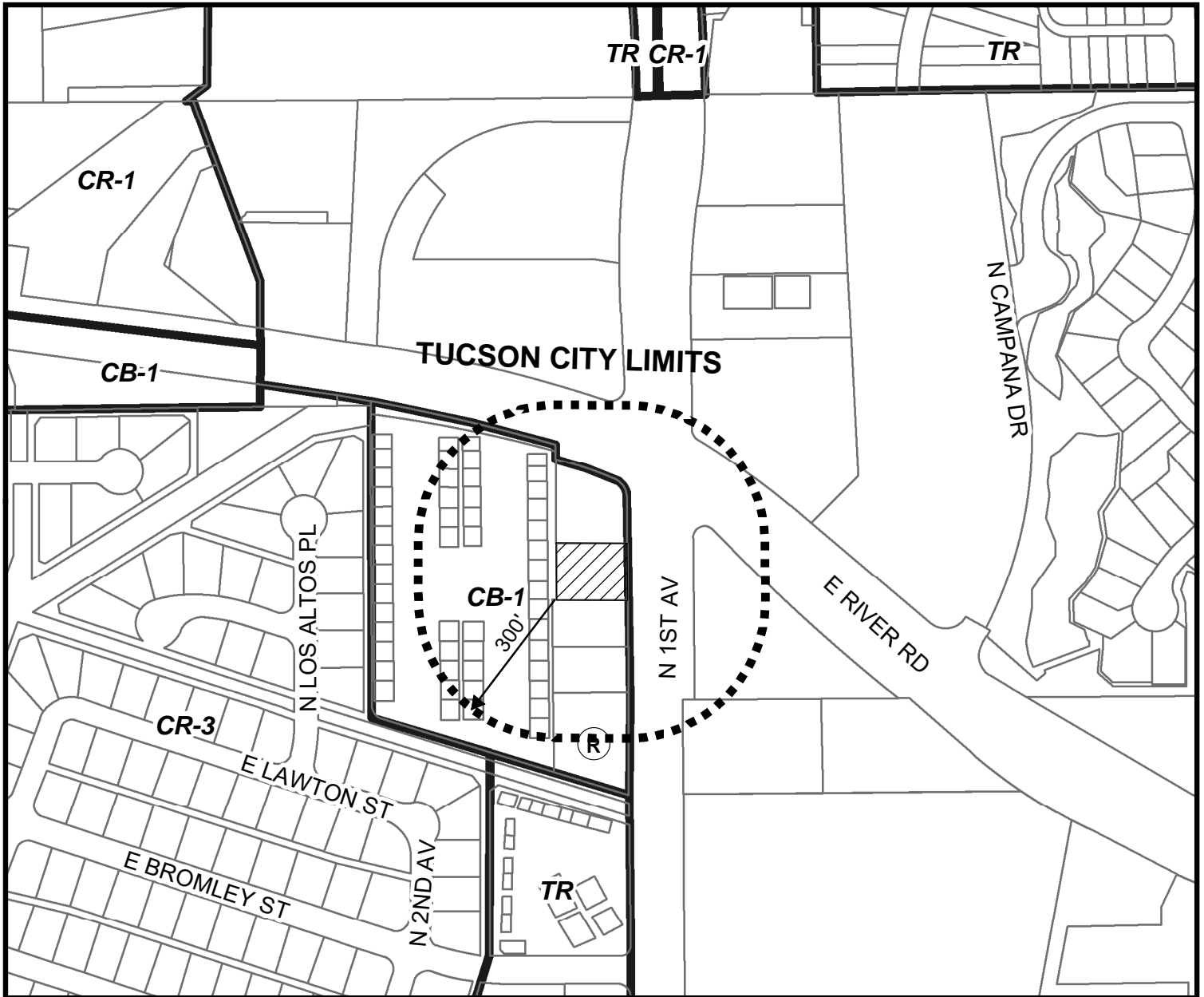
### **\*\*\*Standard and Special Requirements\*\*\***

1. The owner(s) shall not construe any action by Pima County as a commitment to provide sewer service to any new development within the subject property until Pima County executes an agreement with the owner(s) to that effect.
2. The owner(s) shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) stating that treatment and conveyance capacity is available for any new development within the subject property, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and / or conveyance capacity not be available at that time, the owner(s) shall enter into a written agreement addressing the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
3. The owner(s) shall time all new development within the subject property to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
4. The owner(s) shall connect all development within the subject property to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
5. The owner(s) shall fund, design and construct all off-site and on-site sewers necessary to serve the subject property, in the manner specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
6. The owner(s) shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system is permanently committed for any new development within the subject property.

If you wish to discuss the above comments or requirements, please contact me at 724-6488. MH

Case #: P22CU00020  
 Case Name: COUNTY REALTY LLC, ET AL - N. 1ST STREET  
 Tax Code(s):105-09-013B

 Subject Property  
 300' Notification Area



**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT  
 PLANNING DIVISION**

Notes: **CONDITIONAL USE PERMIT - TYPE III**



Map Scale: 1:4,000

Map Date: 12/13/2022 - ds



201 N. Stone Avenue, Tucson, AZ 85701

(520) 724-9000

[www.pima.gov/developmentservices](http://www.pima.gov/developmentservices)

## **BIOLOGICAL IMPACT REPORT**

*(Not applicable for rezonings that require a site analysis)*

The Biological Impact Report assists staff in assessing a proposed project's potential to impact sensitive biological resources and is required by the Pima County Zoning Code Chapter 18.91. A project's design should conserve these important resources.

The report will include information provided by both Pima County Planning staff (Part I) and the Applicant (Part II).

**INSTRUCTIONS FOR SAVING FORM:** 1) Download form to computer. 2) Fill out form as applicable. 3) Save completed form to computer. 4) Submit completed form to Pima County Development Services. **If you fill out the form before you download it, the info you entered will not be saved.**

**Project ID (case no., APN no., address, or other identifying info):**

### **Part I. Information Provided by Pima County Staff**

Pima County Planning staff will provide the following information for the project site, as applicable:

1. Is the project located within any Maeveen Marie Behan Conservation Lands System (CLS) designation(s)? (Hold SHIFT for multiple selections)
  
2. Is the project within a CLS Special Species Management Area?
3. Is the project in the vicinity of any of the six Critical Landscape Linkages?
4. Is the project designated for acquisition as a Habitat Protection or Community Open Space property?
5. Is the project located within a Priority Conservation Area for any of the following species?
  - a. Cactus ferruginous pygmy-owl:
  - b. Western burrowing owl:
  - c. Pima pineapple cactus:
  - d. Needle-spined pineapple cactus:

**Part II. Information Provided by the Applicant**

The Applicant will provide the following information to the best of their knowledge, as applicable:

1. Has the owner of the project site had any communications with County staff about Pima County potentially acquiring the property?  
If yes, provide a summary of those communications:
2. The following species are of particular interest to Pima County conservation efforts; please fill out the following table to the best of your knowledge:

<b>Species</b>	<b>Ever found on project site?</b>	<b>If yes, date of last observation/survey?</b>	<b>Future surveys planned?</b>
<b>Cactus ferruginous pygmy owl</b>			
<b>Western burrowing owl</b>			
<b>Pima pineapple cactus</b>			
<b>Needle-spined pineapple cactus</b>			

**Questions about this form?  
Contact the Office of Sustainability and Conservation at (520) 724-6940.**



## Conditional Use Permit Application

Property Owner: County Realty, LLC & 1st Avenue Acquisition Phone: (520) 748-7100

Owner's Mailing Address, City, State & Zip: P.O. Box 65720, Tucson, AZ 85728

Applicant (if different from owner): Lazarus & Silvyn/Sol Flow Phone: (520) 207-4464

Applicant's Mailing Address, City, State & Zip: c/o 5983 E. Grant Rd., Ste. 290, Tucson, AZ 85711

Applicant's or Owner's Email Address: KSilvyn&LSLawAZ.com; RLarge@LSLawAZ.com

Property Address or Tax Code: 4837 N. 1st Avenue; 105-09-013B

Type of Use Proposed for the Property: Marijuana Dispensary

Discuss the proposed use and it's compatibility with the surrounding area: \_\_\_\_\_  
(see attached Project Narrative)

The applicant agrees to contact the Regional Flood Control District to discuss the proposal prior to application submittal.

The applicant agrees to contact United States Fish and Wildlife Service at scott\_richardson@fws.gov and provide a written notice that an application for a conditional use permit has been submitted a minimum of 15 days prior to the public hearing date.

**This application is for a (Select one):**

Type I Conditional Use    Type II Conditional Use    Type III Conditional Use

**Terms and Conditions**

I confirm the information provided is true and accurate to the best of my knowledge. I am the owner of the above described property or have been authorized by the owner to make this application. (By checking the box, I am electronically signing this application.)

Date: 12/05/2022

**Project Narrative**  
**4837 N. 1<sup>st</sup> Ave., LLC**  
**Application for Marijuana Dispensary CUP**

This is a request for a Type III Conditional Use Permit (“CUP”) for an adult-use/medical marijuana dispensary (the “Project”) for the property at 4837 N. 1<sup>st</sup> Ave. (the “Property”). The Property is zoned CB-1 and is permitted for a Marijuana Dispensary use subject to the Type III CUP. As described below, this Property is an appropriate location for a Marijuana Dispensary as it meets the criteria established in the County Code Title 18 (“Code”), and it will provide safe and legal access to marijuana for the area’s residents. For these reasons we respectfully request approval of this CUP request.

**1. Applicant Overview**

The Applicant (Sol Flower 1<sup>st</sup> Ave, LLC) is a special-purpose entity, which is a subsidiary of Copperstate Farms. Copperstate Farms manages several retail adult-use and medical marijuana dispensaries under the Sol Flower brand name throughout Arizona. Copperstate Farms was founded to bring best practices from big agriculture, consumer packaged goods, and pharmaceutical industries to create one of the top medical and adult-use marijuana companies in North America. Copperstate Farms is dedicated to bringing growth to the local and state economy through the hiring of local laborers, material suppliers, and contractors. Copperstate currently employs nearly 700 Arizonans.

Copperstate Farms operates five dual-license (medical and adult-use) cannabis dispensaries in the Phoenix-metro area. Copperstate Farms is seeking to relocate one of these dual-licenses to Pima County (see **Exhibit A—S Flower N Phoenix, Inc. License**).

Copperstate Farms has identified an opportunity to meet the needs of medical marijuana patients in Pima County by relocating a dual-license cannabis dispensary to the area. Under Prop. 203, Arizonans are allowed – with the recommendation of a doctor – to treat the symptoms of debilitating medical conditions with cannabis. Many patients treat the symptoms of cancer, Alzheimer’s, PTSD and chronic pain with cannabis. There are currently over 132,000 authorized medical marijuana patients in Arizona.

Relocating a dual-license dispensary to Pima County will allow patients to have better access to doctor recommended medical marijuana. State statute and rules allow dual-licensed dispensaries to offer different products and services to patients with a doctor’s recommendation. For instance, dual-license dispensaries are allowed to securely deliver cannabis to medical marijuana patients. Dual-license dispensaries are allowed to sell stronger products that are tailored for medical use, such as CBD-rich Rick Simpson Oil.

Locating the Property and applying for this CUP is a vital first step to ensuring Pima County medical marijuana patients have access to their doctor-recommended treatment.

## **2. Project Compliance with CB-1 Marijuana Dispensary Criteria**

The proposed dispensary will be located at an old convenience/retail store located near the southwest corner of 1<sup>st</sup> Ave and River Rd that is currently occupied by a food truck vendor on a month-to-month basis as the landlord finds a new tenant. The intersection is currently populated by offices, retail development with a variety of uses, including banks, pharmacy, and restaurants. Behind the retail uses are single family residential homes.

Pursuant to the Code, CB-1 zoning permits Marijuana Dispensary use subject to the criteria outlined in Section 18.43.030.B.59. Those criteria are addressed below and correlate to the Code subsections.

- a. The total maximum floor area of a marijuana dispensary shall not exceed 10,000 square feet.*

As shown on the floor plan attached as **Exhibit B – Floor Plan**, the total gross floor area of the Marijuana Dispensary is 2,160 square feet (“SF”), which is well below the 10,000 SF threshold.

- b. A marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.*

The Project will be located in a permanent building that already exists on the Property. The building will undergo internal tenant improvement to be operational under the S Flower N Phoenix, Inc. License as a Sol Flower dual-license marijuana dispensary.

- c. The permitted hours of operation of a marijuana dispensary are from 7:00 a.m. to 10:00 p.m.*

Hours of operation will be limited to between 7:00 a.m. and 10:00 p.m. as required.

- d. Interior customer waiting area must be equal to a minimum of 25% of the sales floor area.*

As shown on the attached floor plan (**Exhibit B**), this dispensary will be a total of 2,160 SF, of which approximately 1,200 SF will be the sales floor and approximately 360 SF will be dedicated to the lobby/waiting area. The remaining areas will be apportioned between offices, bathrooms, and inventory storage as shown on the Floor Plan. Therefore, the waiting area is well over the 25% minimum (30.0%).

- e. Marijuana dispensary shall not have outdoor seating areas.*

As shown on the attached floor plan (**Exhibit B**), there is no outdoor seating area.



*f. Marijuana dispensary may deliver medical marijuana to the extent permitted by Arizona law. A marijuana dispensary may deliver recreational marijuana once rules permitting and regulating delivery are approved by the Arizona Department of Health Services and become effective and shall comply with Arizona law and all lawful applicable health regulations including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.*

AZDHS has adopted the regulations for recreational and medical marijuana. To obtain its operational authority from AZDHS, the dispensary will have to demonstrate that it meets all the requirements of the AZ adult-use and medical marijuana laws and AZDHS regulations and all other applicable laws and regulations (e.g., department of revenue). Further, the dispensary must submit to and obtain approval from AZDHS for all operating policies and procedures to ensure compliance with regulations.

The Sol Flower dispensaries have a long (5 years) and excellent track record of legal and regulatory compliance and to date have not received a single complaint from neighbors at any Sol Flower location.

AZDHS Rules require strict and comprehensive security measures, which will be implemented and approved prior to operation. This will include camera coverage of the entire interior and exterior of the Property and a single secure entrance for customers. Although not required by regulation, Sol Flower also maintains in-house security guards at all locations. Sol Flower anticipates delivering to medical patients as currently allowed by AZDHS regulations and expanding delivery to adult use customers when regulations are adopted and approved by AZDHS

*g-i.CB-1 zoning permits Marijuana Dispensary subject to certain minimum separation requirements listed below.*

The Property exceeds the strict separation requirements for dispensaries, schools, libraries, parks and substance/rehabilitation uses as outlined in the Code (see **Exhibit C—Separation Map**) as follows:

<b>Protected Use</b>	<b>Min. Separation Required by Code</b>	<b>Property Separation</b>
Substance/Rehab	500ft	7,800ft
School	500ft	4,500ft
Library	500ft	9,000ft
Park	500ft	516ft
Other Dispensary	2000ft	3,000ft.

The Property is an appropriate location for a dispensary, is consistent with the uses in the area and will provide the area’s residents with safe and legal access.

*j. The expansion of an existing marijuana dispensary shall be setback a minimum of 500 feet from a K-12 public, private or charter school measured in a straight and direct*

*horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a school.*

Not applicable as this is not an expansion.

- k. A marijuana dispensary shall comply with all lawful applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.*

As stated above, the dispensary will comply with all AZDHS and other regulatory requirements. Copperstate and Sol Flower dispensaries have a track record of compliance.

- l. Odor Mitigation.*

This section of the Code requires compliance with specific odor mitigation and requires submittal of a mitigation plan with the initial building permit application. All Sol Flower retail locations utilize 100% pre-packed marijuana, which results in no significant odor emitted from the building. However, out of an abundance of caution, the Project will utilize state-of-the-art activated carbon filters on any exhaust from the building to ensure the Project is odor free. Sol Flower has not had a single complaint regarding odor at any of its existing 5 dispensaries including those in multi-tenant properties. The specifics of this odor control plan will be submitted for approval by the County prior to construction of the tenant improvements.

### **3. Project Compliance with CUP Requirements**

As described below the Project and the Property meet or exceed all the standards for CUP approval including those specific for a marijuana dispensary:

- a. The use will not be in conflict with the objectives of the general land use plan or the area plan in which situated.*

The proposed dispensary will be located in an existing building on the Property. The use and the Property are consistent with the County's Comprehensive Plan, which designates the Property and the area north, south and east as Community Activity Center ("CAC"). The CAC designation is designed to be a mixed-use district, which provides a full range of goods and services. Currently there are no marijuana dispensaries within the CAC located near 1<sup>st</sup> and River Road. Thus, approval of this CUP request would be consistent with the intent to provide a full range of goods and services within this CAC and is consistent with the myriad other retail uses on this corner and at this intersection..

***b. The proposed use will provide safeguards for the protection of adjacent developed Property.***

The intersection and the majority of surrounding properties are already developed and are consistent with the proposed retail dispensary use on the Property. As discussed above, and demonstrated on **Exhibit C**, the use will exceed the required setbacks from any protected uses. By occupying and improving this building, the proposed use will improve the surrounding area and will provide a vital service to the area. There will be no negative impact to neighbors as the traffic or parking demands for the proposed use is similar to other retail uses that could be located by-right in the building. The increase in security and oversight required by AZDHS regulations will be a net-positive to the security of the surrounding area by providing 24-hour video coverage with 30-day video storage and on-site security during operating hours.

***c. The proposed use has adequate accessibility to the County road network.***

The Project is on N. 1<sup>st</sup> Avenue, a major north/south arterial roadway and near the intersection of River Road. Traffic can access using southbound 1<sup>st</sup> Avenue.

***d. The proposed use has sufficient off-street parking and loading facilities that will be developed in accordance with County engineering standards.***

The Project has ample existing off-street parking that meets County engineering standards for a retail dispensary use. The site has a total of 16 parking spaces and Sol Flower will have exclusive access to these. Occasional deliveries to the dispensary can be handled at the rear of the building which has staff-only access.

***e. The proposed use will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids, and solid wastes.***

The Project will meet all the County standards for nuisance and environmental issues. All Sol Flower retail locations utilize 100% pre-packed marijuana, which results in no significant odor emitted from the building. However, out of an abundance of caution, the Project will utilize state-of-the-art activated carbon filters on any exhaust from the building to ensure the Project is odor free. Sol Flower has not had a single complaint regarding odor at any of its existing 5 dispensaries, including those in multi-tenant properties. The specifics of this odor control plan will be submitted for approval by the County prior to construction of the tenant improvements. There will be no significant noise, smoke, heat, vibrations, fly, ash, dust, fumes, vapors, gasses, solids or liquids emitted from the Project.

*f. The hours of operation will not be detrimental to adjoining residents.*

The dispensary will be open between the hours of 7:00 a.m. and 10:00 p.m. as required by the County's ordinance. These hours are consistent with the other retail uses in the plaza and the surrounding area.

*g. Landscaping will be fully in conformance with zoning code regulations.*

The building is already fully built-out and the existing landscaping will remain.

#### **4. Conclusion**

The Proposed dispensary Project meets or exceeds all requirements of the Code, the Comprehensive Plan and the CUP requirements. Copperstate and Sol Flower have a long track record of compliant operations and positive relationships with neighboring uses. The Project is consistent with surrounding retail uses and will provide a needed service to the residents of the area. We respectfully request approval of this CUP application. Thank you.



S Flower N Phoenix, Inc.  
22041 N 23rd Ave , Phoenix, AZ 85027

The establishment listed above has been issued an Establishment License. This license has been issued under the authority of Title 36, Chapter 28.2, Arizona Revised Statutes and pursuant to the Arizona Administrative Code Title 9, Chapter 18 Department of Health Services' rules and regulations.

**Establishment License Number:** 00000093ESRF39774783

**Effective Date:** August 7, 2022

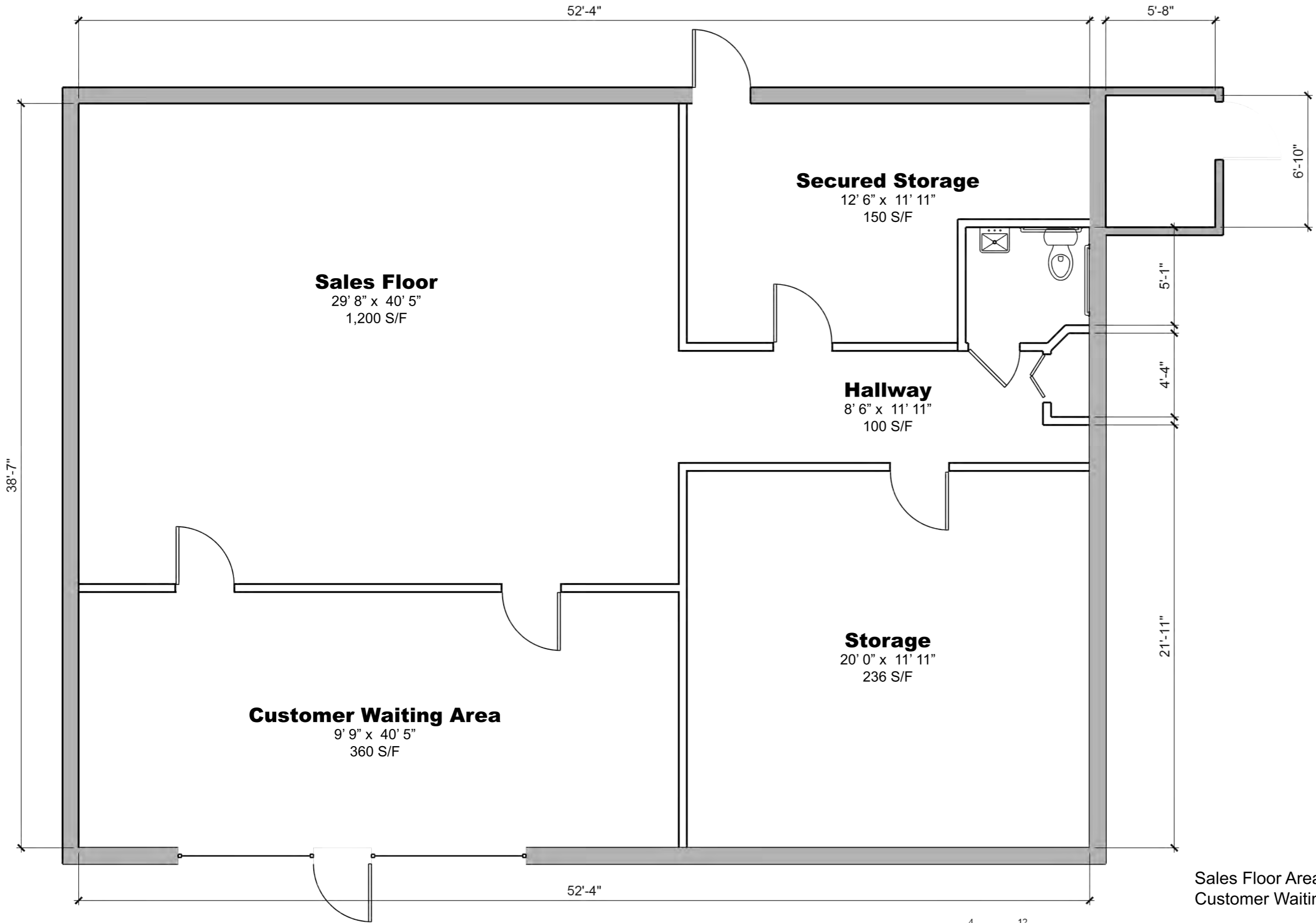
**Expiration Date:** August 7, 2024

**APPROVED TO:**  
**Retail - Sell**

A Registration License issued by the Arizona Department of Health Services pursuant to A.R.S. Title 36, Chapter 28.2 and A.C.C. Title 9, Chapter 18 does not protect the holder from legal action by local, city, state, or federal authorities, including possible criminal prosecution for violations of federal law for the sale, manufacture, distribution, use, dispensing, possession, etc. of marijuana. The acquisition, possession, cultivation, manufacturing, delivery, transfer, transportation, supplying, selling, distributing, or dispensing marijuana under state law is lawful only if done in strict compliance with the requirements of the State Marijuana Act ("Act"), A.R.S Title 36, Chapter 28.2 and A.A.C. Title 9, Chapter 18. Any failure to comply with the Act may result in revocation of the Registration License issued by the Arizona Department of Health Services, and possible arrest, prosecution, imprisonment, and fines for violation of state drug laws. The State of Arizona, including but not limited to the employees of the Arizona Department of Health Services, is not facilitating or participating in any way with my acquisition, possession, cultivation, manufacturing, delivery, transfer, transportation, supplying, selling, distributing, or dispensing marijuana.

Recommended By: Megan Whitby  
Bureau Chief

Issued By: Tom Salow  
Interim Assistant Director



EXPIRES -

**COPPERSTATE FARMS**  
**SOL FLOWER**  
4837 N 1ST AVE  
TUCSON, AZ.

© COPYRIGHT 2016  
PATHANGAY ARCHITECTS, LLC

DRAWING DESCRIPTION:  
**FLOOR PLAN**

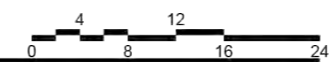
SCALE: 1/8" = 1'-0"	DATE: 11-21-2022
REFERENCE SHEET: A201	PROJECT NUMBER: 2022-37

ISSUED WITH:

SHEET NUMBER:  
**A101**

Sales Floor Area: 1,200 S/F  
Customer Waiting Area: 360 S/F

$\frac{360 \text{ S/F}}{1,200 \text{ S/F}} = .30$



**FLOOR PLAN**

1/8" = 1'-0"



# Proposed Marijuana Dispensary

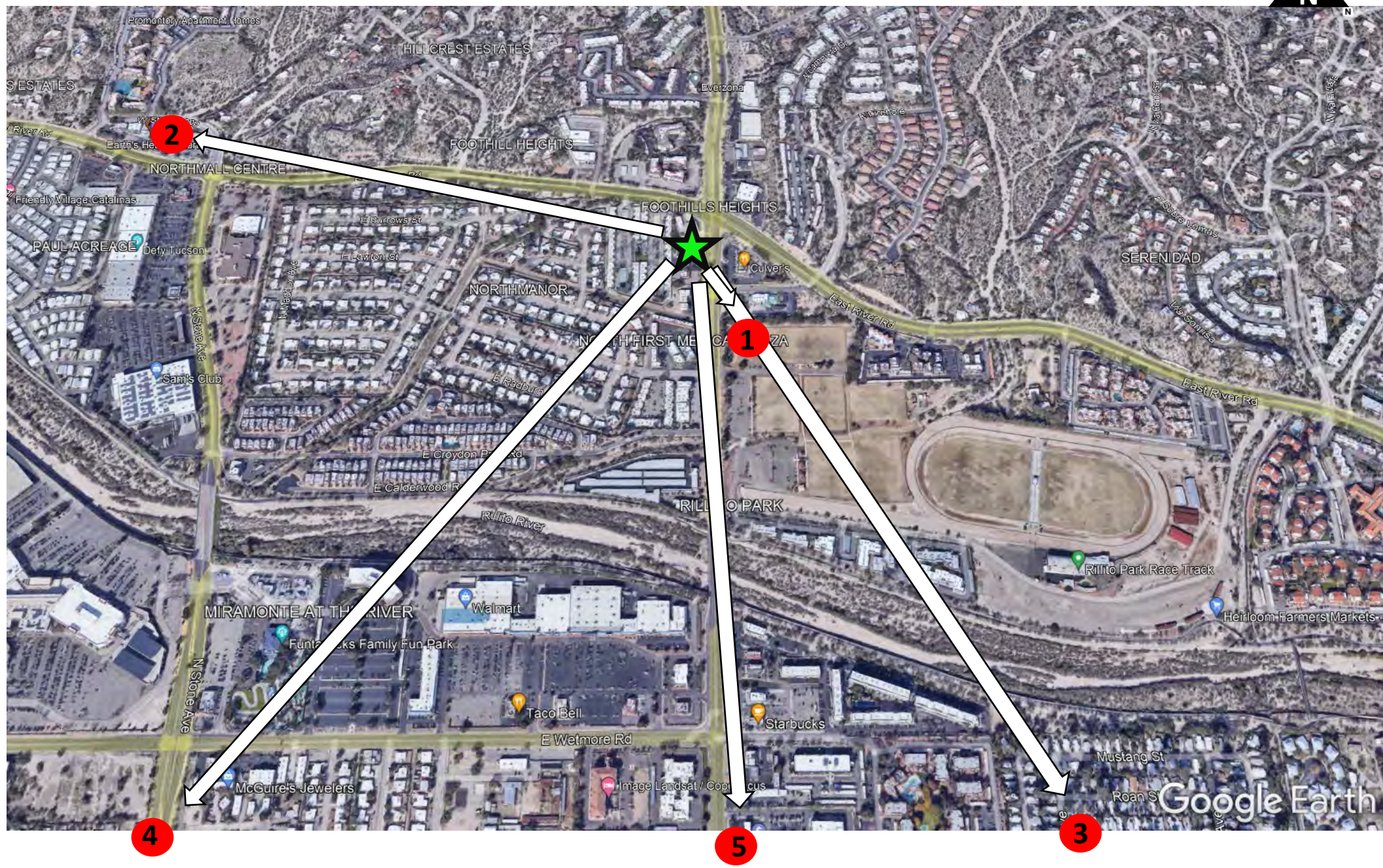
EXHIBIT C



**4837 N 1<sup>st</sup> Avenue  
Tucson, AZ  
85718**

**Existing  
Zoning: CB-1**

- 1** Rillito Park  
516 feet
- 2** Earth's Healing  
Dispensary  
~3,000 feet
- 3** Rio Vista  
Elementary  
~4,500 feet
- 4** Tucson Choices  
Rehabilitation  
~7800 feet
- 5** Wood Memorial  
Library  
~9,000 feet



AERIAL EXHIBIT DEPICTING DISTANCE BETWEEN CLOSEST EXTERIOR BUILDING WALL CORNER OF PARCEL 105-09-013B AND THE NORTHWEST BOUNDARY CORNER OF PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT RILLITO PARK



SCALE: 1" = 40'

NOTE:  
IMAGES MAY APPEAR DISTORTED DUE TO INHERENT ERRORS WITHIN AERIAL PHOTOS DUE TO CAMERA LENS' ANGLES, BUILDING HEIGHTS AND TOPOGRAPHY.

EXISTING AERIAL IMAGERY OBTAINED FROM NEARMAP. DIGITAL ORTHO-RECTIFIED IMAGERY HAS A GROUND PIXEL RESOLUTION OF 0.3' FOOT +/- AND IS FROM IMAGERY DATED MAY 25, 2022.

EXTERIOR WALL OF EXISTING BUILDING

4837 N. 1ST AVE.  
APN: 105-09-013B

APN: 105-09-013D

APN: 105-09-013E

APN: 105-09-013E

75.0'

75.0'

APN: 108-16-0070

1ST AVENUE  
(PUBLIC)

516.1'

APN: 108-19-001A

NW CORNER REGIONAL FLOOD CONTROL DISTRICT RILLITO PARK PER RECORD OF SURVEY RECORDED IN BOOK 35 PAGE 69

REGIONAL FLOOD CONTROL DISTRICT RILLITO PARK  
APN: 108-19-004C

75.0'

45.0'





Hello,

I am reaching out to you regarding the Marijuana Dispensary that may go up on River and 1<sup>st</sup>.

Shirley Manor is a small community of 51 homeowners. They have been experiencing a lot of homeless foot traffic going through their community and do not want an establishment that may cause more foot traffic going through their community. Please reconsider opening up a dispensary in this area.

Thank you,

Shawn Luellen  
Association Manager  
Copper Rose Community Management  
Phone: 520-888-0474  
Fax: 520-888-5407  
[shawnl@copperrosellc.com](mailto:shawnl@copperrosellc.com)

Dear Sir or Madam,

January 6, 2023

We have been notified of a public hearing to be held on January 11th to discuss a proposal for a Type III Conditional Use Permit for a Marijuana Dispensary to be located at 4837 1st Avenue (Item 12).

As residents of the Shirley Manor neighborhood of townhomes immediately adjacent to the west of the proposed site, we object to the granting of this proposal, as this will have an adverse impact on the safety of our neighborhood, and negatively impact our property values.

There is currently a Marijuana Dispensary less than 2 miles from the proposed location (Earth's Healing North at 78 W. River Rd.). We have witnessed long lines at the dispensary. In that case, the location is completely commercial, with the nearest residential area being an apartment complex (Promontory Apartments), located at a distance behind the dispensary, and separated from it by a two-way public road (Stone Loop).

Shirley Manor *directly* abuts the proposed site on the west side; on the proposal's map submitted by the applicant, Copperstate Farms, the long strip of land is identified as "Shirley Manor Townhouses Common Area." This area behind the proposed site is wide open, without a wall or fencing. There is nothing to prevent individuals from coming onto our property. Many of our homes have windows facing this open area (see attached photos).

We currently have a continuing problem with trespassers entering our common area behind the proposed site, as well as from behind other adjacent businesses with open areas, or by way of the northern or southern open areas, which need to be kept open for utility access. Our residents regularly clean out the common area of furniture, couches, litter, clothing, beer bottles, cigarette packs, and needles. (See attached recent photos, including one of couches with socks and needle in the foreground.) This has been a constant problem. The police are called, the people leave, but then they return.

This is not only a problem with the common area. We have trespassers regularly coming into our community, knocking on doors and windows, stealing items from the front of our homes, rifling through our bags of trash, and using our swimming pool. We do not currently feel safe from trespassers.

A marijuana dispensary abutting our property with a wide open area between us would certainly exacerbate the problem. We understand that marijuana purchasers are not permitted to smoke on the dispensary grounds. But the Shirley Manor common area is just steps away. Even if the back of the dispensary would be closed off with fencing, the area is still porous behind the other establishments on 1st Avenue abutting our common area, as well as at the northern and southern ends. A large number of customers so close to our complex would undoubtedly lead to more trespassing in our community.

We understand that the CB-1 zoning permits a business to occupy the site. We are not opposed to other types of businesses locating there. We had no problem with the prior occupants of the

site, which we believe were a taco stand; before that a diving business; and prior to that a father-son truck rental business.

We object to *this type of business* with a large influx of customers so close to our homes. Placing a marijuana dispensary there will make our area more unsafe, and reduce our property values. This type of business is not compatible with the immediate surrounding area, would have an adverse impact on our neighborhood, and lead to an uncertain future for us. We, the undersigned residents of townhomes in Shirley Manor request that you to turn down this proposal. The starred names below represent townhomes directly abutting the proposed property.

Thank you.

\* Drucci Clark

660 E. River Rd Unit C

~~\_\_\_\_\_~~ (Sabas Cruz Miranda)

660 E River Rd Unit W (520) 334-8751

\* Melinda Miller Melinda Miller

660 E. River Rd, Unit F.

\* Kim Sasser (Kim Sasser)

660 E. River Rd. Unit E

Helonie Baker

660 E - River Rd. Unit S

Lynne Karnatz  
660-Y East River Rd.

\* Janaiue James  
660-C E. River Rd.

\* B Maddatu (B. Maddatu)  
660 E River Rd D

\* Anna Flores  
660 E River Rd  
Unit K

\* ~~Yvette~~ Madison & Mitchell Hestrod  
660 E River Rd  
Unit H

\* Jorge Sanders  
660 E. River Apt M.  
Tucson, AZ / 85704

Martha Wilson  
660 E River Rd #R

\* Ana Ramirez  
660 E. River Rd #J

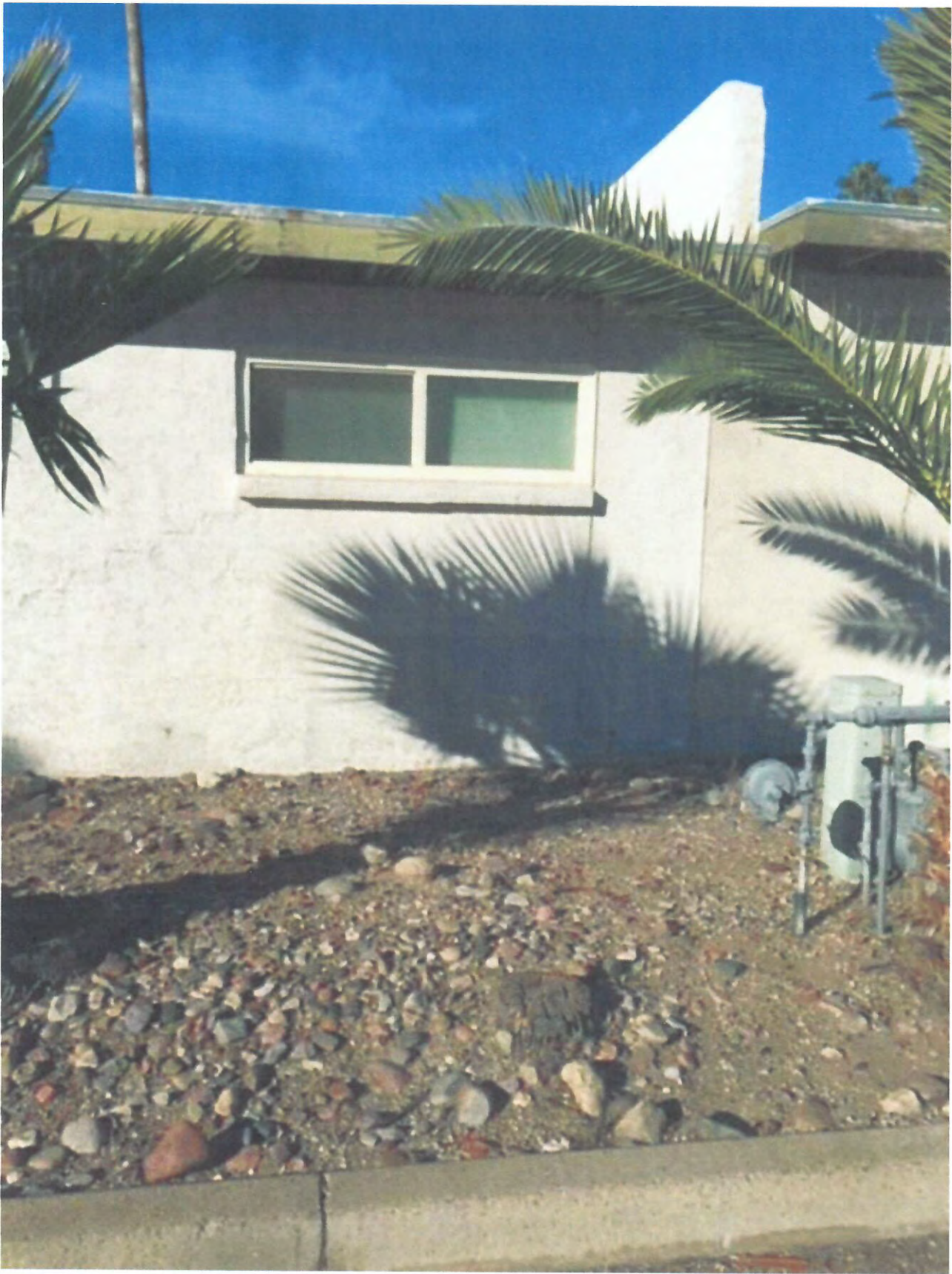
\* ~~Carlos~~  
Carlos Valdez  
660 E. River Rd. #G

Melva Wilson  
660 E. River Rd #V

\* Shatese Nays  
660 E River Rd #A  
~~Shatese~~



Proposed site of Marijuana Dispensary with Shirley Manor Townhomes in the Background



Rear of Townhome at Shirley Manor Common Area



Couch with Debris and Needle in Shirley Manor Common Area



Debris and Needle in Shirley Manor Common Area

Tom or Matt - Thank you for answering questions last week on the proposed Type III Conditional Use Permit for a Marijuana Dispensary at 4837 N. 1st Avenue.

I live at Shirley Manor 600 E. River Rd. Unit I (Eye) not one.

My wife and another resident met with Keri and Robin from Lazarus & Silvyn P.C. at the local Holiday Inn Express last week to review the Sol Flower Dispensary.

The Sol Flower Team were professional and informative on efforts they will make to be a good neighbor and a positive business for this area.

I have also had meetings with the residents of the Units that are directly affected by this new use on our connecting property line. Most residents along the eastern property line are opposed to the proposed dispensary.

Our neighborhood has had an increase of homeless over the past years that has resulted in property theft of anything of value in our front yards and vehicles. The community has had to pay for new walls that block up our old access to the desert behind our property to the west. To our south we have had to close the access gate also to keep homeless from walking north to south through the property. On the East is an utility easement that we need to leave open for access of the utility companies and this is the location of the proposed dispensary.

The homeless live in the culvert under River Road on our north which is the City of Tucson. West of our property in the extension of the drainage is Pima County jurisdiction. So two governments owned our homeless camping areas.

It's not the pot shops responsibility to fix the City or County issues but unfortunately, our only option at the moment is to protest this conditional use permit.

Attached is a PDF with photos and comments regarding the homeless impact on our community and the proximity of the proposed use up against our east property. Many of the units have bedroom windows that look out to the dispensary side of the property.



I already have a bad taste in my mouth on another rezoning in my old neighborhood that the County has not followed up on zoning violations I have formally reported downtown. So my trust has been used up with Pima County Development Services.

At a minimum, if staff allows this dispensary to locate at the proposed address, a wrought iron fence 5' minimum in height is requested to be placed on the west, south, and north property lines of the facility to the road setback from 1st Ave. This will help with the crossing of homeless or patrons down the utility easement that is our connecting property to the dispensary.

Please record this protest as part of your documentation.

Also, I would like a zoom invitation for the virtual meeting sent to my email address attached and would like to speak on the above case number.

Thank you for your help.

Ken A. Paulson PLA



Excrement under clothing left by homeless behind units



Our patriotic homeless camp on Pima County property west property line of Shirley Manor.



proposed dispensary

Multiple syringes and clothing left from homeless behind units. Shirley Manor pays for clean up in this area behind units facing property under consideration for Dispensary.



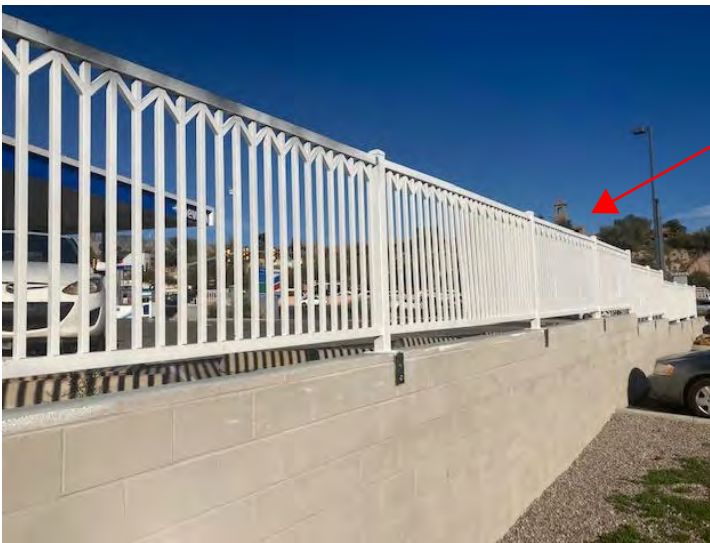
Units bedroom window look out on Dispensary.



If this property is approved for a Dispensary a minimum Wrought Iron Fence is requested along the property line to first avenue setbacks.



Fence location on property line.



Fence location on property to north. New fence should match as close to this level of construction.

To DSDP Planning,

The board of Shirley Manor housing, is strongly opposed to the opening of the new proposed dispensary location, it will be right behind our units and will cause unnecessary noise and pollution effecting our daily living.

This neighborhood is mostly made up of seniors and we are afraid that our living daily routine will be changed for the worst.

We strongly believe that this location is not appropriate for this kind of business.

Please, take in consideration our standing against this initiative.

Sincerely yours.

Carlo Buscemi

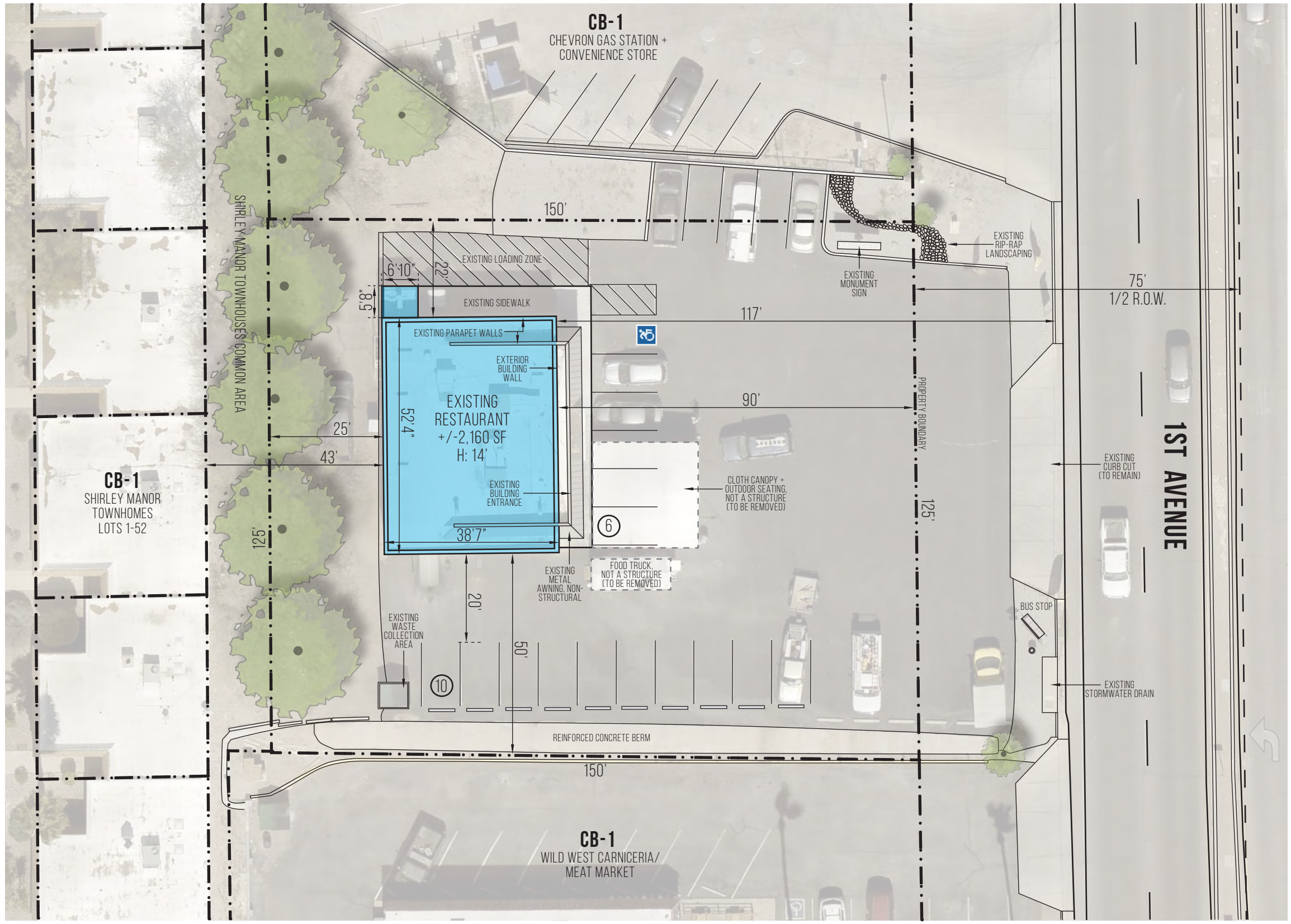
Shirley Manor Board Chair

[carlo.buscemi@gmail.com](mailto:carlo.buscemi@gmail.com)

600 E River Rd, Unit O

Tucson AZ 85704

Tel. 520 888 3137



### SITE DATA

**PROPOSED USE:** MARIJUANA DISPENSARY IN EXISTING BUILDING  
**ADDRESS:** 4837 N. 1ST AVE, TUCSON, ARIZONA 85718  
**PARCEL #:** 105-09-013B

**ZONING:** CB-1  
 PROPOSED USE REQUIRES TYPE III CONDITIONAL USE PERMIT

**PARCEL AREA:** 19,166 SF, OR 0.44 ACRES  
**GROSS DISPENSARY FLOOR AREA:** +/- 2,160 SF  
**BUILDING HEIGHT:** 14'  
**PROVIDED PARKING SPACES:** 16  
**REQUIRED PARKING SPACES:** 8 (GENERAL RETAIL - 3.5 SPACES PER 1,000 SF GFA)

**DISPENSARY RETAIL SPACE**  
**SALES FLOOR AREA:** 1,200 SF  
**CUSTOMER WAITING AREA:** 360 SF

**CUSTOMER WAITING AREA/SALES FLOOR RATIO:**  
**REQUIRED:** MINIMUM 25%  
**PROVIDED:** 30%



# 4837 N. 1ST AVENUE NEW MARIJUANA DISPENSARY - COPPERSTATE FARMS



## SITE PLAN



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# MEMORANDUM

## PUBLIC WORKS - DEVELOPMENT SERVICES

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P22CU00020

Page 1 of 7

### FOR BOARD OF SUPERVISORS MARCH 7, 2023 PUBLIC HEARING

**TO:** THE HONORABLE BOARD OF SUPERVISORS

**FROM:** Jim Portner, Hearing Administrator

**DATE:** January 23, 2023

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**DOCUMENT:** P22CU00020

### CONDITIONAL USE PERMIT REQUEST FOR PUBLIC HEARING

County Realty, LLC, et. al., represented by Sol Flower-1<sup>st</sup> Ave, LLC and Lazarus & Silvyn, PC, requests a **Type III Conditional Use Permit for a Marijuana Dispensary**, in accordance with Section 18.43.030.B of the Pima County Zoning Code on property located at **4837 N. 1<sup>st</sup> Avenue**, in the CB-1 (Local Business) zone. (District 1)

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### CASE PARTICULARS

This is a Conditional Use Permit request for a **marijuana dispensary**, submitted in accordance with Section 18.43 (CB-1 Local Business Zone), and being subject to the Type III conditional use process. The facility will be housed within an existing 2,160 SF building. The proposed operator (Copperstate Farms) is the same entity as the three (3) prior dispensary cases that were heard and approved by the Board of Supervisors at its December 20, 2022 hearing. The same security measures and operational protocols presented by Copperstate at that hearing will be in force at this newly proposed location. The applicant has submitted a comprehensive narrative, along with supporting exhibits, that substantiates compliance with the specialized Code requirements which attend marijuana dispensaries.

The property is located at 4837 N. 1<sup>st</sup> Avenue (Assessors Parcel No. 105-09-013B), which is an existing fully-developed site with a commercial building and paved parking lot. The building is presently vacant, but has been occupied in the past by a convenience/retail store, a sit-down restaurant, and several other businesses. The only commercial activity currently occurring on the site is a food truck with a canopied outdoor seating area. This use will be removed and replaced by the proposed marijuana dispensary. The immediate properties to the north, south and east all contain active commercial uses, including a gas station, meat market, restaurant, and drug store. To the immediate west are the Shirley Manor Townhouses, which is a high-density attached residential subdivision.

## **SUMMARY OF THE PLANNING & ZONING COMMISSION PUBLIC HEARING**

The Planning & Zoning Commission hearing on this case took place on January 11, 2023. At same, the Commission heard staff's and the applicant's presentation as to the particular details of the request. The follow-up discussion by the Commission raised the following issues: 1) the nature of this particular license as a social-equity one or a transfer (staff responded that this was a transfer); and 2) concerns with traffic and the sufficiency of the existing number of on-site parking spaces. A commissioner expressed his appreciation with the applicant's willingness to work with the Department of Transportation to address any such issues.

Six (6) members of the public appeared to speak on the matter, all of whom reside in the adjacent Shirley Manor Townhouses to the immediate west and all of whom voiced concerns with the application. The primary issues raised were a perceived worsening of the existing transient problem that already affects their neighborhood, the desire to see some sort of physical security barrier to protect them, the proximity of another marijuana dispensary within the City and the belief that it attracts undesirables, and a concern with this proposed dispensary staying open for business to 10:00 PM. The applicant had held a neighborhood meeting, which was attended by some of the speakers who appeared, and offered certain concessions to help address these issues.

**After closing the public hearing, the Commission voted 7-0 (motion by Becker, seconded by Gungle; Commissioners Membrila, Tronsdale and Matter being absent) to recommend APPROVAL of this CUP request to the Board of Supervisors, subject to the following standard and special conditions as promulgated by the Hearing Administrator (Nos. 1 & 2), as well as four additional special conditions (Nos. 3 thru 6) as offered by the applicant to address neighbor-related issues:**

### *Standard Conditions*

Compliance with all specialized requirements enumerated in Section 18.43.030.B.59 of the Pima County Zoning Code.

### *Special Conditions*

1. This conditional use permit approval is for a marijuana dispensary as permitted per Section 18.43 (Local Business Zone) of the Code. No other non-residential or commercial conditional uses other than the above are authorized or implied.
2. This marijuana facility shall be operated in substantial accordance with the business operations, floorplan, site plan, and other particulars as described in applicant's submitted materials.
3. This dispensary's hours of operation are hereby modified to expressly require a closing time of 9:00 PM, not 10:00 PM.
4. The applicant will work with the Shirley Manor Townhome representatives to effectuate some form of perimeter fencing or wall for the protection of adjacent residents.



5. The monitoring of all exterior surveillance cameras shall occur on a twenty-four/seven (24/7) basis.
6. This conditional use permit approval is extended exclusively to Copperstate Farms, who shall be the only operator of this dispensary. In the event that the license is transferred to another entity, that operator shall be required to seek its own conditional use permit approval and proceed through the attendant Type III process, public hearings, etc.

### **HEARING ADMINISTRATOR’S CONSIDERATIONS**

This is a conditional use permit request to operate a marijuana dispensary along a major arterial street and within an established commercial sector. The following Hearing Administrator considerations apply.

#### **Comprehensive Plan Considerations**

The Pima County Comprehensive Plan (Pima Prospers) designates this property as *Community Activity Center (CAC)*, the purpose of which is “to designate medium and higher intensity mixed use districts designed to provide a full range of goods and services, office and medical uses, hotels, research and development opportunities, etc., etc.”

The proposed marijuana dispensary clearly falls within the above scope of uses and is complementary to the other, long-established businesses within the 1<sup>st</sup> Avenue corridor and at the River Road/1<sup>st</sup> Avenue node.

This being the case, it is the Hearing Administrator’s position that the proposed facility is not in conflict with the goals, objectives and purposes of *Community Activity Centers* as put forth by Pima Prospers.

#### **Zoning and Surrounding Land Use Considerations**

The subject parcel is zoned CB-1, as are all of the properties surrounding it, including the residential use of Shirley Manor Townhouses to the adjacent west. The properties to the north, south and east are all established commercial uses of similar intensity. In general terms, this is a highly urbanized sector near the major arterial node that is the 1<sup>st</sup> Avenue/River Road intersection, out from which commercial, office, and high-density residential uses spread in all four directions.

The adjacency of Shirley Manor Townhouses to the immediate west merits some additional commentary. While this is a long-standing residential use, it is pertinent to note that the attached townhouse units “back up” to the proposed dispensary property. Their rear walls form a continuous façade along the subject property and along the other commercial uses that abut them to the north and the south. There are no private outdoor backyard spaces for the townhouses; their homeowners association maintains a narrow landscape common area of varying width

behind their units along the adjacent commercial properties. All things considered, this residential/commercial interface has been in place for decades. The residents of Shirley Manor Townhouse have indicated that an on-going transient/homeless population exists in the area.

The subject property and the proposed marijuana dispensary operation meet or exceed all of the Code-required parameters of Section 18.43.030.B.59, more particularly pertaining to maximum floor area, location within a permanent building, hours of operation, provision of an indoor customer waiting area, no outdoor seating, mitigation of odors, compliance with all State laws, and the minimum physical separation criteria from schools, libraries, parks, substance/rehab facilities, and other dispensaries.

### **Hearing Administrator Required Standards & Findings**

Following are the Hearing Administrator’s findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

- 1. It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.**

See the above Comprehensive Plan Considerations. The Hearing Administrator’s finds that the proposed facility is not in conflict with the goals, objectives and purposes of *Community Activity Centers* as put forth by Pima Prospers.

- 2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.**

The Hearing Administrator finds that the proposed marijuana dispensary will not have any impacts upon any of the surrounding properties in a way that prohibits any of their legal or permitted uses.

- 3. It has adequate accessibility to the County road network.**

The site takes its direct access from 1<sup>st</sup> Avenue, which is a four-lane divided arterial that is designated as a major street on the Pima County Major Streets & Routes Plan (MSRP). The site lies a few hundred feet south of the 1<sup>st</sup> Avenue/River Road intersection, the latter of which is also a designated major street on the MSRP. Access is found to be adequate.

- 4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.**

This is an existing developed property with a paved parking lot containing sixteen (16) spaces. The Zoning Code contains no specific parking requirement for marijuana dispensaries; the nearest match for same would be the “general retail” category. Applying

this category would mandate eight (8) spaces for the project. As part of a past parking study undertaken with this same applicant on a recent similar Type III case, it was established that a dispensary of the proposed size would require less than ten (10) spaces during its peak hours. All the above being considered, the Hearing Administrator finds parking to be adequate.

- 5. It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

The Hearing Administrator finds that proposed use is found to not threaten the surrounding properties in any of the above ways. The Zoning Code has special considerations for odor control attendant to marijuana dispensaries. These requirements have been met with this request; see the applicant's submitted narrative as to pre-packaged products, carbon filtering air systems, etc.

- 6. Hours of operation will not be detrimental to adjoining residents.**

Hours of operation (7:00 AM to 10:00 PM) accord with those mandated by the Code.

- 7. Landscaping will be fully in conformance with zoning code regulations.**

Landscaping requirements, if any, are a matter enforced at the time of permitting.

## **DEPARTMENTAL COMMENTS ON THIS REQUEST**

### **Department of Transportation**

DOT has no objection to this conditional use permit.

### **Regional Wastewater Reclamation District**

The District is reviewing the application at the time of this writing. In that the existing building is already connected to the public sewer system, the Hearing Administrator anticipates RWRD will likely possess no objection to approval, subject to standard system connection and building-permit requirements.

## **HEARING ADMINISTRATOR'S RECOMMENDATION**

After visiting the subject property, considering all of the above, and reviewing the applicant's submitted materials, the Hearing Administrator found the proposed **marijuana dispensary** to be an appropriate acceptable use on the subject property that conformed with all specialized Code requirements that attend such dispensaries per Section 18.43 (Local Business Zone).

It was therefore the recommendation of the Hearing Administrator that the Planning & Zoning Commission recommend **APPROVAL** of this Type III conditional use permit subject to the following Standard and Special Conditions:

Standard Conditions

Compliance with all specialized requirements enumerated in Section 18.43.030.B.59 of the Pima County Zoning Code.

Special Conditions

1. This conditional use permit approval is for a marijuana dispensary as permitted per Section 18.43 (Local Business Zone) of the Code. No other non-residential or commercial conditional uses other than the above are authorized or implied.
2. This marijuana facility shall be operated in substantial accordance with the business operations, floorplan, site plan, and other particulars as described in applicant's submitted materials.

**SONORAN DESERT CONSERVATION CONCEPT PLAN/ENVIRONMENTAL ISSUES**

**Comprehensive Plan Regional Environmental Policies — Conservation Lands System**

In December, 2001 the Board of Supervisors incorporated the Maeveen Marie Behan Conservation Lands System (MMB-CLS) into the Comprehensive Plan 2001 Update as the Regional Environmental Policies. The MMB-CLS is the heart of the Sonoran Desert Conservation Plan (SDCP). On June 21, 2005, the Board of Supervisors amended the Comprehensive Plan Regional Environmental Policies and the MMB-CLS to reflect recommendations from the SDCP Science Technical Advisory Committee that were based on new scientific and technical data. As adopted, Conservation Guidelines associated with the MMB-CLS establish conservation objectives for a variety of projects (e.g. rezoning actions, comprehensive plan amendments, Type II and Type III conditional use permits, etc.) that require a discretionary decision by the Board of Supervisors. Conservation objectives include:

- Important Riparian Areas — 95% undisturbed natural open space
- Biological Core Management Areas — 80% undisturbed natural open space
- Special Species Management Areas — 80% undisturbed natural open space
- Multiple Use Management Areas — 66-2/3% undisturbed natural open space

The property lies **OUTSIDE OF** the MMB-CLS within a wholly urbanized region.

**Biological Impacts Report**

On July 17, 2001, the Board of Supervisors adopted Ordinance No. 2001-103, which requires the applicant's notice to the US Fish and Wildlife Service (USFWS) staff regarding the pending matter, and staff commentary on biological resources and development impacts of the subject site and proposal.

### **Staff Commentary on Biological Impacts**

Staff has reviewed this application and finds that: 1) its approval is not expected to affect any resources essential to Pima County’s biological conservation priorities; and 2) that it will not be in conflict with the Regional Environmental Policies of the 2001 Comprehensive Plan Update. This site is located on a developed commercial property that lies within a larger sector which is wholly and intensely urbanized. For all practical purposes, no environmental issues attend this request.

### **Facts Confirmed by the Pima County Geographic Information System (GIS)**

The following facts are confirmed by the Pima County GIS and the Sonoran Desert Conservation Plan maps with respect to this conditional use permit request:

**Cactus Ferruginous Pygmy Owl.** The site and entire surrounding area is located within the “Urban Exclusion Area” for this species and, as such, is not within its Priority Conservation Area (PCA).

**Western Burrowing Owl.** The property not within the Priority Conservation Area (PCA) for this species.

**Pima Pineapple Cactus.** The property is not located within an area that is within the known range of the Pima Pineapple Cactus and is not within the Priority Conservation Area (PCA) for this species.

**Needle-Spined Pineapple Cactus.** The subject property is not located within an area that is within the known range of the Needle-Spined Pineapple cactus and is not within the Priority Conservation Area (PCA) for this species.

attachments

cc: Carla Blackwell, Director, Development Services  
Dan Ice, Chief Building Official  
Chris Poirier Planning Official  
Tom Drzazgowski, Chief Zoning Inspector  
County Realty, LLC, Owner  
1<sup>st</sup> Avenue Acquisitions, LLC, Owner  
Lazarus & Silvyn, LLC, Applicant  
On Behalf of Sol Flower 1<sup>st</sup> Avenue, LLC & Copperstate Farms

# **PIMA COUNTY DEVELOPMENT SERVICES REPORT TO THE PIMA COUNTY PLANNING & ZONING COMMISSION**

**CASE:**                   **P22CU000020**  
County Realty, LLC & 1<sup>st</sup> Avenue Acquisitions, LLC — N. 1<sup>st</sup> Avenue

**OWNERSHIP:**           County Realty, LLC & 1<sup>st</sup> Avenue Acquisitions, LLC  
P.O. Box 65720  
Tucson, AZ 85728

**APPLICANT:**           Lazarus & Silvyn, P.C  
c/o Keri Silvyn & Robin Large  
5983 E. Grant Road Suite 290  
Tucson, AZ 85712

On Behalf of: Sol Flower 1<sup>st</sup> Ave, LLC  
A Subsidiary of Copperstate Farms

**LOCATION:**           The property is located at 4837 N. 1<sup>st</sup> Avenue (Assessors Parcel No. 105-09-013B), which is an existing fully-developed site with a commercial building and paved parking lot. The building is presently vacant, but has been occupied in the past by a convenience/retail store, a sit-down restaurant, and several other businesses. The only commercial activity currently occurring on the site is a food truck with a canopied outdoor seating area. This use will be removed and replaced by the proposed marijuana dispensary. The immediate properties to the north, south and east all contain active commercial uses, including a gas station, meat market, restaurant, and drug store. To the immediate west are the Shirley Manor Townhouses, which is a high-density attached residential subdivision.

**REQUEST:**           This is a Type III Conditional Use Permit request for a **marijuana dispensary**, submitted in accordance with Section 18.43 (CB-1 Local Business Zone) and being subject to this Type III conditional use process. The facility will be housed within an existing 2,160 SF building. The proposed operator (Copperstate Farms) is the same entity as the three (3) prior dispensary cases that were heard by the Planning & Zoning Commission at its October 26, 2022 hearing. The same security measures and operational protocols presented by Copperstate at that hearing will be in force at this newly proposed location. The applicant has submitted a comprehensive narrative, along with supporting exhibits, that substantiates compliance with the specialized Code requirements which attend marijuana dispensaries.

## **PETITIONER'S STATEMENT REGARDING THE TYPE OF USE PROPOSED**

The Commission members are referred to the detailed Project Narrative submitted by the applicant. Same provides their overview of this request, together with a detailed description of compliance with all of the terms and requirements that apply to marijuana dispensaries per Sub-Section 18.43.030.B.59 (CB-1 Local Business Zone) of the Code.

## **HEARING ADMINISTRATOR'S CONSIDERATIONS**

This is a conditional use permit request to operate a marijuana dispensary along a major arterial street and within an established commercial sector. The following Hearing Administrator considerations apply.

### **Comprehensive Plan Considerations**

The Pima County Comprehensive Plan (Pima Prospers) designates this property as *Community Activity Center (CAC)*, the purpose of which is “to designate medium and higher intensity mixed use districts designed to provide a full range of goods and services, office and medical uses, hotels, research and development opportunities, etc., etc.”

The proposed marijuana dispensary clearly falls within the above scope of uses and is complementary to the other, long-established businesses within the 1<sup>st</sup> Avenue corridor and at the River Road/1<sup>st</sup> Avenue node.

This being the case, it is the Hearing Administrator’s position that the proposed facility is not in conflict with the goals, objectives and purposes of *Community Activity Centers* as put forth by Pima Prospers.

### **Zoning and Surrounding Land Use Considerations**

The subject parcel is zoned CB-1, as are all of the properties surrounding it, including the residential use of Shirley Manor Townhouses to the adjacent west. The properties to the north, south and east are all established commercial uses of similar intensity. In general terms, this is a highly urbanized sector near the major arterial node that is the 1<sup>st</sup> Avenue/River Road intersection, out from which commercial, office, and high-density residential uses spread in all four directions.

The adjacency of Shirley Manor Townhouses to the immediate west merits some additional commentary. While this is a long-standing residential use, it is pertinent to note that the attached townhouse units “back up” to the proposed dispensary property. Their rear walls form a continuous façade along the subject property and along the other commercial uses that abut them to the north and the south. There are no private outdoor backyard spaces for the townhouses; their homeowners association maintains a narrow landscape common area of varying width behind their units along the adjacent commercial properties. All things considered, this residential/commercial interface has been in place for decades and has proven to constitute sufficient protection and buffering for the Shirley Manor Townhouses.

The subject property and the proposed marijuana dispensary operation meet or exceed all of the Code-required parameters of Section 18.43.030.B.59, more particularly pertaining to maximum floor area, location within a permanent building, hours of operation, provision of an indoor customer waiting area, no outdoor seating, mitigation of odors, compliance with all State laws, and the minimum physical separation criteria from schools, libraries, parks, substance/rehab facilities, and other dispensaries.

### **Hearing Administrator Required Standards & Findings**

Following are the Hearing Administrator’s findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

- 1. It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.**

See the above Comprehensive Plan Considerations. The Hearing Administrator’s finds that the proposed facility is not in conflict with the goals, objectives and purposes of *Community Activity Centers* as put forth by Pima Prospers.

- 2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.**

The Hearing Administrator finds that the proposed marijuana dispensary will not have any impacts upon any of the surrounding properties in a way that prohibits any of their legal or permitted uses.

**3. It has adequate accessibility to the County road network.**

The site takes its direct access from 1<sup>st</sup> Avenue, which is a four-lane divided arterial that is designated as a major street on the Pima County Major Streets & Routes Plan (MSRP). The site lies a few hundred feet south of the 1<sup>st</sup> Avenue/River Road intersection, the latter of which is also a designated major street on the MSRP. Access is found to be adequate.

**4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.**

This is an existing developed property with a paved parking lot containing sixteen (16) spaces. The Zoning Code contains no specific parking requirement for marijuana dispensaries; the nearest match for same would be the “general retail” category. Applying this category would mandate eight (8) spaces for the project. As part of a past parking study undertaken with this same applicant on a recent similar Type III case, it was established that a dispensary of the proposed size would require less than ten (10) spaces during its peak hours. All the above being considered, the Hearing Administrator finds parking to be adequate.

**5. It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

The Hearing Administrator finds that proposed use is found to not threaten the surrounding properties in any of the above ways. The Zoning Code has special considerations for odor control attendant to marijuana dispensaries. These requirements have been met with this request; see the applicant’s submitted narrative as to pre-packaged products, carbon filtering air systems, etc.

**6. Hours of operation will not be detrimental to adjoining residents.**

Hours of operation (7:00 AM to 10:00 PM) accord with those mandated by the Code.

**7. Landscaping will be fully in conformance with zoning code regulations.**

Landscaping requirements, if any, are a matter enforced at the time of permitting.

**DEPARTMENTAL COMMENTS ON THIS REQUEST**

**Department of Transportation**

DOT has no objection to this conditional use permit.

**Regional Wastewater Reclamation District**

The District is reviewing the application at the time of this writing. In that the existing building is already connected to the public sewer system, the Hearing Administrator anticipates RWRD will likely possess no objection to approval, subject to standard system connection and building-permit requirements.

**HEARING ADMINISTRATOR’S RECOMMENDATION**

After visiting the subject property, considering all of the above, and reviewing the applicant’s submitted materials, the Hearing Administrator finds the proposed **marijuana dispensary** to be an appropriate acceptable use on the subject property that conforms with all specialized Code requirements that attend such dispensaries per Section 18.43 (Local Business Zone).



It is therefore the recommendation of the Hearing Administrator that the Planning & Zoning Commission recommend **APPROVAL** of this Type III conditional use permit subject to the following Standard and Special Conditions:

Standard Conditions

Compliance with all specialized requirements enumerated in Section 18.43.030.B.59 of the Pima County Zoning Code.

Special Conditions

1. This conditional use permit approval is for a marijuana dispensary as permitted per Section 18.43 (Local Business Zone) of the Code. No other non-residential or commercial conditional uses other than the above are authorized or implied.
2. This marijuana facility shall be operated in substantial accordance with the business operations, floorplan, site plan, and other particulars as described in applicant's submitted materials.

**SONORAN DESERT CONSERVATION CONCEPT PLAN/ENVIRONMENTAL ISSUES**

**Comprehensive Plan Regional Environmental Policies — Conservation Lands System**

In December, 2001 the Board of Supervisors incorporated the Maeveen Marie Behan Conservation Lands System (MMB-CLS) into the Comprehensive Plan 2001 Update as the Regional Environmental Policies. The MMB-CLS is the heart of the Sonoran Desert Conservation Plan (SDCP). On June 21, 2005, the Board of Supervisors amended the Comprehensive Plan Regional Environmental Policies and the MMB-CLS to reflect recommendations from the SDCP Science Technical Advisory Committee that were based on new scientific and technical data. As adopted, Conservation Guidelines associated with the MMB-CLS establish conservation objectives for a variety of projects (e.g. rezoning actions, comprehensive plan amendments, Type II and Type III conditional use permits, etc.) that require a discretionary decision by the Board of Supervisors. Conservation objectives include:

- Important Riparian Areas — 95% undisturbed natural open space
- Biological Core Management Areas — 80% undisturbed natural open space
- Special Species Management Areas — 80% undisturbed natural open space
- Multiple Use Management Areas — 66-2/3% undisturbed natural open space

The property lies **OUTSIDE OF** the MMB-CLS within a wholly urbanized region.

**Biological Impacts Report**

On July 17, 2001, the Board of Supervisors adopted Ordinance No. 2001-103, which requires the applicant's notice to the US Fish and Wildlife Service (USFWS) staff regarding the pending matter, and staff commentary on biological resources and development impacts of the subject site and proposal.

**Staff Commentary on Biological Impacts**

Staff has reviewed this application and finds that: 1) its approval is not expected to affect any resources essential to Pima County's biological conservation priorities; and 2) that it will not be in conflict with the Regional Environmental Policies of the 2001 Comprehensive Plan Update.

This site is located on a developed commercial property that lies within a larger sector which is wholly and intensely urbanized. For all practical purposes, no environmental issues attend this request.

**Facts Confirmed by the Pima County Geographic Information System (GIS)**

The following facts are confirmed by the Pima County GIS and the Sonoran Desert Conservation Plan maps with respect to this conditional use permit request:

**Cactus Ferruginous Pygmy Owl.** The site and entire surrounding area is located within the "Urban Exclusion Area" for this species and, as such, is not within its Priority Conservation Area (PCA).

**Western Burrowing Owl.** The property not within the Priority Conservation Area (PCA) for this species.

**Pima Pineapple Cactus.** The property is not located within an area that is within the known range of the Pima Pineapple Cactus and is not within the Priority Conservation Area (PCA) for this species.

**Needle-Spined Pineapple Cactus.** The subject property is not located within an area that is within the known range of the Needle-Spined Pineapple cactus and is not within the Priority Conservation Area (PCA) for this species.

attachments

cc: Carla Blackwell, Director, Development Services  
Dan Ice, Chief Building Official  
Chris Poirier Planning Official  
Tom Drzazgowski, Chief Zoning Inspector  
County Realty, LLC, Owner  
1<sup>st</sup> Avenue Acquisitions, LLC, Owner  
Lazarus & Silvyn, LLC, Applicant  
On Behalf of Sol Flower 1<sup>st</sup> Avenue, LLC & Copperstate Farms

## **Pima County Regional Wastewater Reclamation Department Comments**

The Planning Unit of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has reviewed the request and offers the following comments for your use. The conditional use permit is for the proposed adult-use/marijuana dispensary located in the existing building structure near the southwest corner of River Rd and 1st Ave. The property is zoned CB-1 and is permitted for a marijuana dispensary use subject to the Type III CUP. The property is connected to the existing public sewer system.



PCRWRD has no objection to the request for a conditional use permit and offers the following standard wastewater requirements:

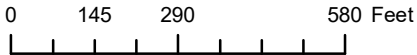
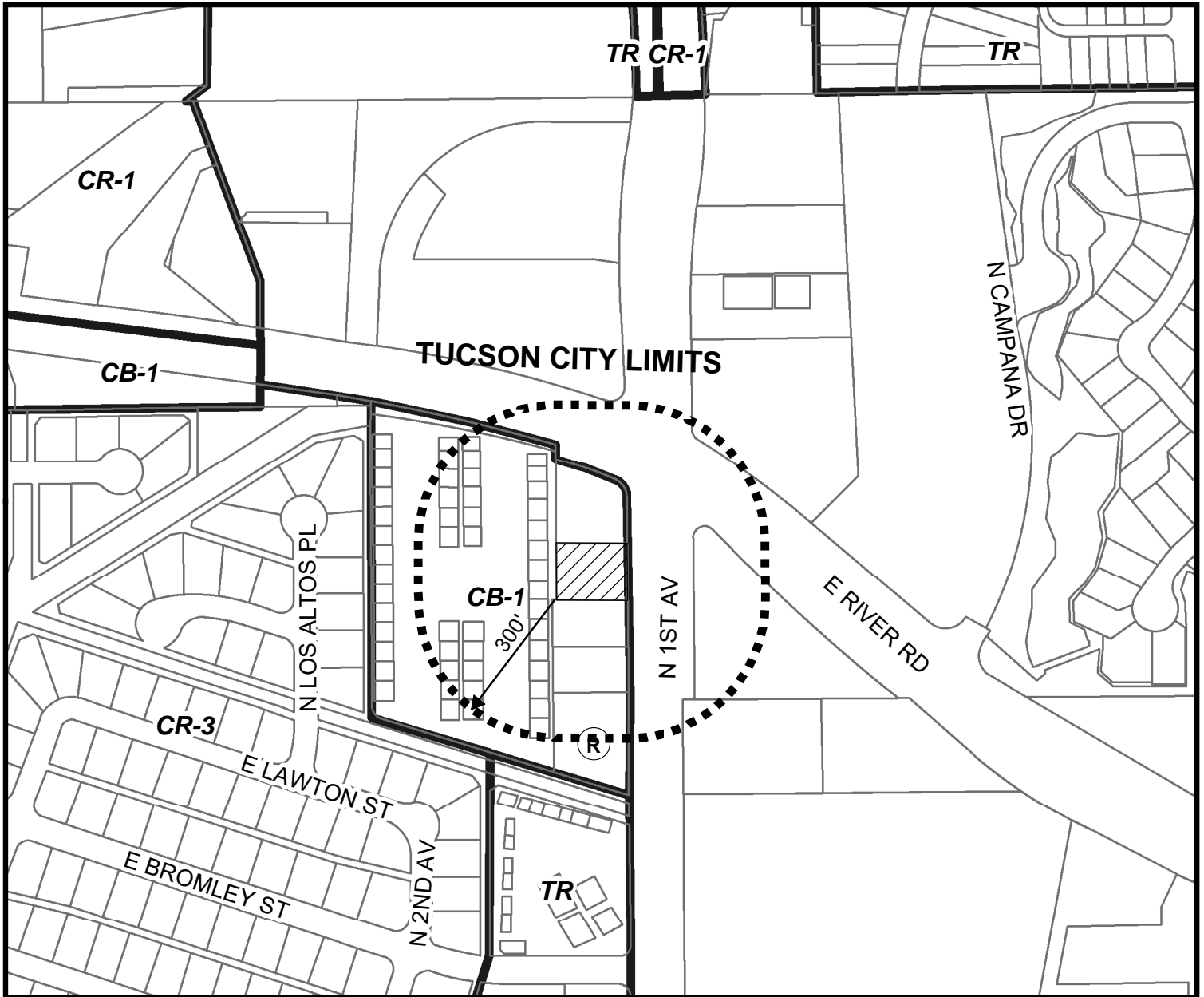
### **\*\*\*Standard and Special Requirements\*\*\***

1. The owner(s) shall not construe any action by Pima County as a commitment to provide sewer service to any new development within the subject property until Pima County executes an agreement with the owner(s) to that effect.
2. The owner(s) shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) stating that treatment and conveyance capacity is available for any new development within the subject property, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and / or conveyance capacity not be available at that time, the owner(s) shall enter into a written agreement addressing the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
3. The owner(s) shall time all new development within the subject property to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
4. The owner(s) shall connect all development within the subject property to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
5. The owner(s) shall fund, design and construct all off-site and on-site sewers necessary to serve the subject property, in the manner specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
6. The owner(s) shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system is permanently committed for any new development within the subject property.

If you wish to discuss the above comments or requirements, please contact me at 724-6488. MH

Case #: P22CU00020  
 Case Name: COUNTY REALTY LLC, ET AL - N. 1ST STREET  
 Tax Code(s):105-09-013B

 Subject Property  
 300' Notification Area



**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT  
 PLANNING DIVISION**

Notes: **CONDITIONAL USE PERMIT - TYPE III**



Map Scale: 1:4,000

Map Date: 12/13/2022 - ds



201 N. Stone Avenue, Tucson, AZ 85701

(520) 724-9000

[www.pima.gov/developmentservices](http://www.pima.gov/developmentservices)

## **BIOLOGICAL IMPACT REPORT**

*(Not applicable for rezonings that require a site analysis)*

The Biological Impact Report assists staff in assessing a proposed project's potential to impact sensitive biological resources and is required by the Pima County Zoning Code Chapter 18.91. A project's design should conserve these important resources.

The report will include information provided by both Pima County Planning staff (Part I) and the Applicant (Part II).

**INSTRUCTIONS FOR SAVING FORM:** 1) Download form to computer. 2) Fill out form as applicable. 3) Save completed form to computer. 4) Submit completed form to Pima County Development Services. **If you fill out the form before you download it, the info you entered will not be saved.**

**Project ID (case no., APN no., address, or other identifying info):**

### **Part I. Information Provided by Pima County Staff**

Pima County Planning staff will provide the following information for the project site, as applicable:

1. Is the project located within any Maeveen Marie Behan Conservation Lands System (CLS) designation(s)? (Hold SHIFT for multiple selections)
  
2. Is the project within a CLS Special Species Management Area?
3. Is the project in the vicinity of any of the six Critical Landscape Linkages?
4. Is the project designated for acquisition as a Habitat Protection or Community Open Space property?
5. Is the project located within a Priority Conservation Area for any of the following species?
  - a. Cactus ferruginous pygmy-owl:
  - b. Western burrowing owl:
  - c. Pima pineapple cactus:
  - d. Needle-spined pineapple cactus:

**Part II. Information Provided by the Applicant**

The Applicant will provide the following information to the best of their knowledge, as applicable:

1. Has the owner of the project site had any communications with County staff about Pima County potentially acquiring the property?  
If yes, provide a summary of those communications:
2. The following species are of particular interest to Pima County conservation efforts; please fill out the following table to the best of your knowledge:

<b>Species</b>	<b>Ever found on project site?</b>	<b>If yes, date of last observation/survey?</b>	<b>Future surveys planned?</b>
<b>Cactus ferruginous pygmy owl</b>			
<b>Western burrowing owl</b>			
<b>Pima pineapple cactus</b>			
<b>Needle-spined pineapple cactus</b>			

**Questions about this form?**

**Contact the Office of Sustainability and Conservation at (520) 724-6940.**



## Conditional Use Permit Application

Property Owner: County Realty, LLC & 1st Avenue Acquisition Phone: (520) 748-7100

Owner's Mailing Address, City, State & Zip: P.O. Box 65720, Tucson, AZ 85728

Applicant (if different from owner): Lazarus & Silvyn/Sol Flow Phone: (520) 207-4464

Applicant's Mailing Address, City, State & Zip: c/o 5983 E. Grant Rd., Ste. 290, Tucson, AZ 85711

Applicant's or Owner's Email Address: KSilvyn&LSLawAZ.com; RLarge@LSLawAZ.com

Property Address or Tax Code: 4837 N. 1st Avenue; 105-09-013B

Type of Use Proposed for the Property: Marijuana Dispensary

Discuss the proposed use and it's compatibility with the surrounding area: \_\_\_\_\_  
(see attached Project Narrative)

The applicant agrees to contact the Regional Flood Control District to discuss the proposal prior to application submittal.

The applicant agrees to contact United States Fish and Wildlife Service at scott\_richardson@fws.gov and provide a written notice that an application for a conditional use permit has been submitted a minimum of 15 days prior to the public hearing date.

**This application is for a (Select one):**

Type I Conditional Use    Type II Conditional Use    Type III Conditional Use

**Terms and Conditions**

I confirm the information provided is true and accurate to the best of my knowledge. I am the owner of the above described property or have been authorized by the owner to make this application. (By checking the box, I am electronically signing this application.)

Date: 12/05/2022

**Project Narrative**  
**4837 N. 1<sup>st</sup> Ave., LLC**  
**Application for Marijuana Dispensary CUP**

This is a request for a Type III Conditional Use Permit (“CUP”) for an adult-use/medical marijuana dispensary (the “Project”) for the property at 4837 N. 1<sup>st</sup> Ave. (the “Property”). The Property is zoned CB-1 and is permitted for a Marijuana Dispensary use subject to the Type III CUP. As described below, this Property is an appropriate location for a Marijuana Dispensary as it meets the criteria established in the County Code Title 18 (“Code”), and it will provide safe and legal access to marijuana for the area’s residents. For these reasons we respectfully request approval of this CUP request.

**1. Applicant Overview**

The Applicant (Sol Flower 1<sup>st</sup> Ave, LLC) is a special-purpose entity, which is a subsidiary of Copperstate Farms. Copperstate Farms manages several retail adult-use and medical marijuana dispensaries under the Sol Flower brand name throughout Arizona. Copperstate Farms was founded to bring best practices from big agriculture, consumer packaged goods, and pharmaceutical industries to create one of the top medical and adult-use marijuana companies in North America. Copperstate Farms is dedicated to bringing growth to the local and state economy through the hiring of local laborers, material suppliers, and contractors. Copperstate currently employs nearly 700 Arizonans.

Copperstate Farms operates five dual-license (medical and adult-use) cannabis dispensaries in the Phoenix-metro area. Copperstate Farms is seeking to relocate one of these dual-licenses to Pima County (see **Exhibit A—S Flower N Phoenix, Inc. License**).

Copperstate Farms has identified an opportunity to meet the needs of medical marijuana patients in Pima County by relocating a dual-license cannabis dispensary to the area. Under Prop. 203, Arizonans are allowed – with the recommendation of a doctor – to treat the symptoms of debilitating medical conditions with cannabis. Many patients treat the symptoms of cancer, Alzheimer’s, PTSD and chronic pain with cannabis. There are currently over 132,000 authorized medical marijuana patients in Arizona.

Relocating a dual-license dispensary to Pima County will allow patients to have better access to doctor recommended medical marijuana. State statute and rules allow dual-licensed dispensaries to offer different products and services to patients with a doctor’s recommendation. For instance, dual-license dispensaries are allowed to securely deliver cannabis to medical marijuana patients. Dual-license dispensaries are allowed to sell stronger products that are tailored for medical use, such as CBD-rich Rick Simpson Oil.

Locating the Property and applying for this CUP is a vital first step to ensuring Pima County medical marijuana patients have access to their doctor-recommended treatment.



## **2. Project Compliance with CB-1 Marijuana Dispensary Criteria**

The proposed dispensary will be located at an old convenience/retail store located near the southwest corner of 1<sup>st</sup> Ave and River Rd that is currently occupied by a food truck vendor on a month-to-month basis as the landlord finds a new tenant. The intersection is currently populated by offices, retail development with a variety of uses, including banks, pharmacy, and restaurants. Behind the retail uses are single family residential homes.

Pursuant to the Code, CB-1 zoning permits Marijuana Dispensary use subject to the criteria outlined in Section 18.43.030.B.59. Those criteria are addressed below and correlate to the Code subsections.

- a. The total maximum floor area of a marijuana dispensary shall not exceed 10,000 square feet.*

As shown on the floor plan attached as **Exhibit B – Floor Plan**, the total gross floor area of the Marijuana Dispensary is 2,160 square feet (“SF”), which is well below the 10,000 SF threshold.

- b. A marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.*

The Project will be located in a permanent building that already exists on the Property. The building will undergo internal tenant improvement to be operational under the S Flower N Phoenix, Inc. License as a Sol Flower dual-license marijuana dispensary.

- c. The permitted hours of operation of a marijuana dispensary are from 7:00 a.m. to 10:00 p.m.*

Hours of operation will be limited to between 7:00 a.m. and 10:00 p.m. as required.

- d. Interior customer waiting area must be equal to a minimum of 25% of the sales floor area.*

As shown on the attached floor plan (**Exhibit B**), this dispensary will be a total of 2,160 SF, of which approximately 1,200 SF will be the sales floor and approximately 360 SF will be dedicated to the lobby/waiting area. The remaining areas will be apportioned between offices, bathrooms, and inventory storage as shown on the Floor Plan. Therefore, the waiting area is well over the 25% minimum (30.0%).

- e. Marijuana dispensary shall not have outdoor seating areas.*

As shown on the attached floor plan (**Exhibit B**), there is no outdoor seating area.

*f. Marijuana dispensary may deliver medical marijuana to the extent permitted by Arizona law. A marijuana dispensary may deliver recreational marijuana once rules permitting and regulating delivery are approved by the Arizona Department of Health Services and become effective and shall comply with Arizona law and all lawful applicable health regulations including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.*

AZDHS has adopted the regulations for recreational and medical marijuana. To obtain its operational authority from AZDHS, the dispensary will have to demonstrate that it meets all the requirements of the AZ adult-use and medical marijuana laws and AZDHS regulations and all other applicable laws and regulations (e.g., department of revenue). Further, the dispensary must submit to and obtain approval from AZDHS for all operating policies and procedures to ensure compliance with regulations.

The Sol Flower dispensaries have a long (5 years) and excellent track record of legal and regulatory compliance and to date have not received a single complaint from neighbors at any Sol Flower location.

AZDHS Rules require strict and comprehensive security measures, which will be implemented and approved prior to operation. This will include camera coverage of the entire interior and exterior of the Property and a single secure entrance for customers. Although not required by regulation, Sol Flower also maintains in-house security guards at all locations. Sol Flower anticipates delivering to medical patients as currently allowed by AZDHS regulations and expanding delivery to adult use customers when regulations are adopted and approved by AZDHS

*g-i.CB-1 zoning permits Marijuana Dispensary subject to certain minimum separation requirements listed below.*

The Property exceeds the strict separation requirements for dispensaries, schools, libraries, parks and substance/rehabilitation uses as outlined in the Code (see **Exhibit C—Separation Map**) as follows:

<b>Protected Use</b>	<b>Min. Separation Required by Code</b>	<b>Property Separation</b>
Substance/Rehab	500ft	7,800ft
School	500ft	4,500ft
Library	500ft	9,000ft
Park	500ft	516ft
Other Dispensary	2000ft	3,000ft.

The Property is an appropriate location for a dispensary, is consistent with the uses in the area and will provide the area’s residents with safe and legal access.

*j. The expansion of an existing marijuana dispensary shall be setback a minimum of 500 feet from a K-12 public, private or charter school measured in a straight and direct*

*horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a school.*

Not applicable as this is not an expansion.

- k. A marijuana dispensary shall comply with all lawful applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.*

As stated above, the dispensary will comply with all AZDHS and other regulatory requirements. Copperstate and Sol Flower dispensaries have a track record of compliance.

- l. Odor Mitigation.*

This section of the Code requires compliance with specific odor mitigation and requires submittal of a mitigation plan with the initial building permit application. All Sol Flower retail locations utilize 100% pre-packed marijuana, which results in no significant odor emitted from the building. However, out of an abundance of caution, the Project will utilize state-of-the-art activated carbon filters on any exhaust from the building to ensure the Project is odor free. Sol Flower has not had a single complaint regarding odor at any of its existing 5 dispensaries including those in multi-tenant properties. The specifics of this odor control plan will be submitted for approval by the County prior to construction of the tenant improvements.

### **3. Project Compliance with CUP Requirements**

As described below the Project and the Property meet or exceed all the standards for CUP approval including those specific for a marijuana dispensary:

- a. The use will not be in conflict with the objectives of the general land use plan or the area plan in which situated.*

The proposed dispensary will be located in an existing building on the Property. The use and the Property are consistent with the County's Comprehensive Plan, which designates the Property and the area north, south and east as Community Activity Center ("CAC"). The CAC designation is designed to be a mixed-use district, which provides a full range of goods and services. Currently there are no marijuana dispensaries within the CAC located near 1<sup>st</sup> and River Road. Thus, approval of this CUP request would be consistent with the intent to provide a full range of goods and services within this CAC and is consistent with the myriad other retail uses on this corner and at this intersection..

***b. The proposed use will provide safeguards for the protection of adjacent developed Property.***

The intersection and the majority of surrounding properties are already developed and are consistent with the proposed retail dispensary use on the Property. As discussed above, and demonstrated on **Exhibit C**, the use will exceed the required setbacks from any protected uses. By occupying and improving this building, the proposed use will improve the surrounding area and will provide a vital service to the area. There will be no negative impact to neighbors as the traffic or parking demands for the proposed use is similar to other retail uses that could be located by-right in the building. The increase in security and oversight required by AZDHS regulations will be a net-positive to the security of the surrounding area by providing 24-hour video coverage with 30-day video storage and on-site security during operating hours.

***c. The proposed use has adequate accessibility to the County road network.***

The Project is on N. 1<sup>st</sup> Avenue, a major north/south arterial roadway and near the intersection of River Road. Traffic can access using southbound 1<sup>st</sup> Avenue.

***d. The proposed use has sufficient off-street parking and loading facilities that will be developed in accordance with County engineering standards.***

The Project has ample existing off-street parking that meets County engineering standards for a retail dispensary use. The site has a total of 16 parking spaces and Sol Flower will have exclusive access to these. Occasional deliveries to the dispensary can be handled at the rear of the building which has staff-only access.

***e. The proposed use will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids, and solid wastes.***

The Project will meet all the County standards for nuisance and environmental issues. All Sol Flower retail locations utilize 100% pre-packed marijuana, which results in no significant odor emitted from the building. However, out of an abundance of caution, the Project will utilize state-of-the-art activated carbon filters on any exhaust from the building to ensure the Project is odor free. Sol Flower has not had a single complaint regarding odor at any of its existing 5 dispensaries, including those in multi-tenant properties. The specifics of this odor control plan will be submitted for approval by the County prior to construction of the tenant improvements. There will be no significant noise, smoke, heat, vibrations, fly, ash, dust, fumes, vapors, gasses, solids or liquids emitted from the Project.

*f. The hours of operation will not be detrimental to adjoining residents.*

The dispensary will be open between the hours of 7:00 a.m. and 10:00 p.m. as required by the County's ordinance. These hours are consistent with the other retail uses in the plaza and the surrounding area.

*g. Landscaping will be fully in conformance with zoning code regulations.*

The building is already fully built-out and the existing landscaping will remain.

#### **4. Conclusion**

The Proposed dispensary Project meets or exceeds all requirements of the Code, the Comprehensive Plan and the CUP requirements. Copperstate and Sol Flower have a long track record of compliant operations and positive relationships with neighboring uses. The Project is consistent with surrounding retail uses and will provide a needed service to the residents of the area. We respectfully request approval of this CUP application. Thank you.



S Flower N Phoenix, Inc.  
22041 N 23rd Ave , Phoenix, AZ 85027

The establishment listed above has been issued an Establishment License. This license has been issued under the authority of Title 36, Chapter 28.2, Arizona Revised Statutes and pursuant to the Arizona Administrative Code Title 9, Chapter 18 Department of Health Services' rules and regulations.

**Establishment License Number:** 00000093ESRF39774783

**Effective Date:** August 7, 2022

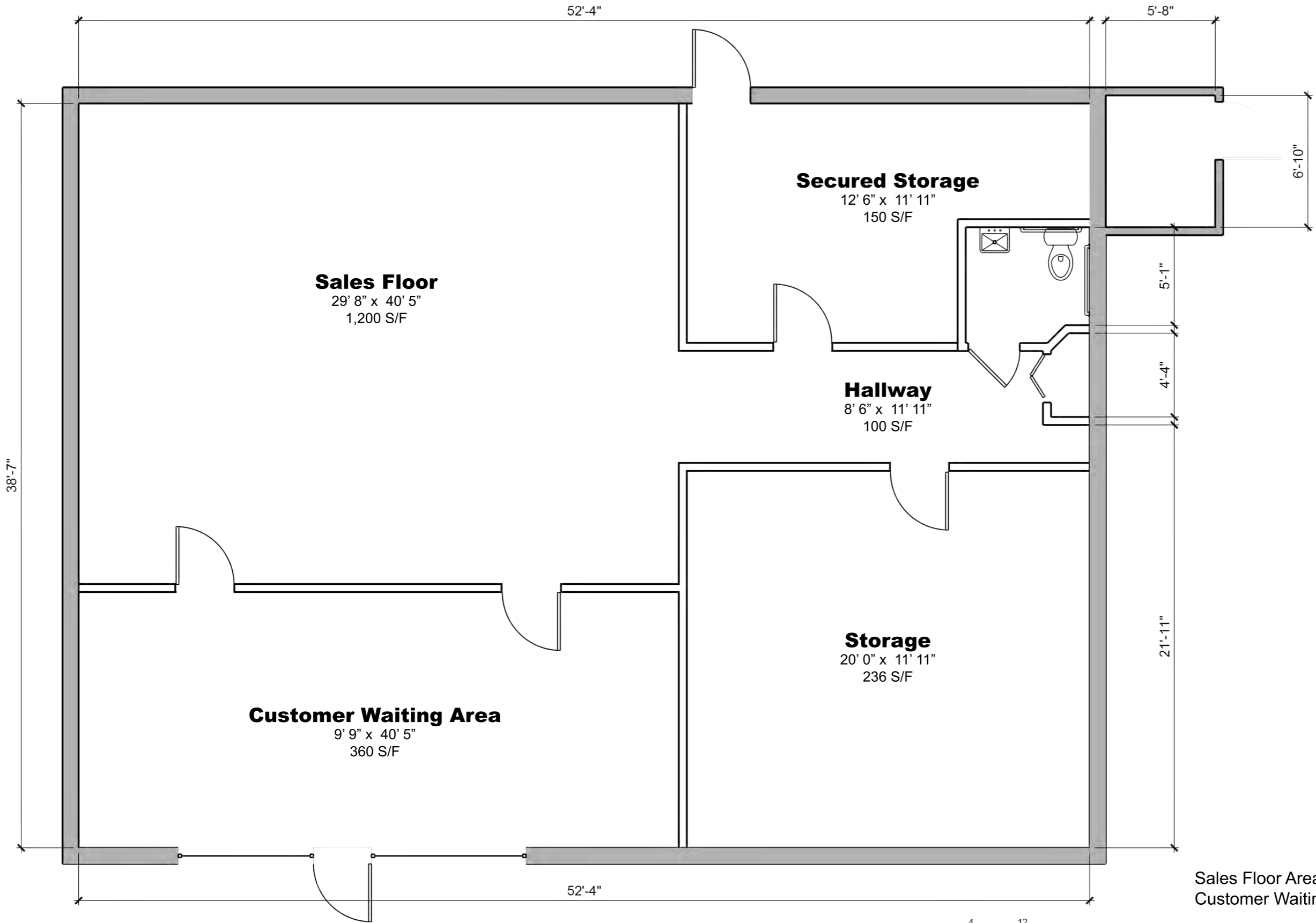
**Expiration Date:** August 7, 2024

**APPROVED TO:**  
**Retail - Sell**

A Registration License issued by the Arizona Department of Health Services pursuant to A.R.S. Title 36, Chapter 28.2 and A.C.C. Title 9, Chapter 18 does not protect the holder from legal action by local, city, state, or federal authorities, including possible criminal prosecution for violations of federal law for the sale, manufacture, distribution, use, dispensing, possession, etc. of marijuana. The acquisition, possession, cultivation, manufacturing, delivery, transfer, transportation, supplying, selling, distributing, or dispensing marijuana under state law is lawful only if done in strict compliance with the requirements of the State Marijuana Act ("Act"), A.R.S Title 36, Chapter 28.2 and A.A.C. Title 9, Chapter 18. Any failure to comply with the Act may result in revocation of the Registration License issued by the Arizona Department of Health Services, and possible arrest, prosecution, imprisonment, and fines for violation of state drug laws. The State of Arizona, including but not limited to the employees of the Arizona Department of Health Services, is not facilitating or participating in any way with my acquisition, possession, cultivation, manufacturing, delivery, transfer, transportation, supplying, selling, distributing, or dispensing marijuana.

Recommended By: Megan Whitby  
Bureau Chief

Issued By: Tom Salow  
Interim Assistant Director



EXPIRES  
-

**COPPERSTATE FARMS**  
**SOL FLOWER**  
4837 N 1ST AVE  
TUCSON, AZ.

© COPYRIGHT 2016  
PATHANGAY ARCHITECTS, LLC

DRAWING DESCRIPTION:  
**FLOOR PLAN**

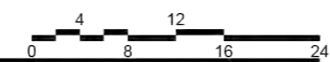
SCALE: 1/8" = 1'-0"	DATE: 11-21-2022
REFERENCE SHEET: A201	PROJECT NUMBER: 2022-37

ISSUED WITH:

SHEET NUMBER:  
**A101**

Sales Floor Area: 1,200 S/F  
Customer Waiting Area: 360 S/F

$\frac{360 \text{ S/F}}{1,200 \text{ S/F}} = .30$



**FLOOR PLAN**

1/8" = 1'-0"



# Proposed Marijuana Dispensary

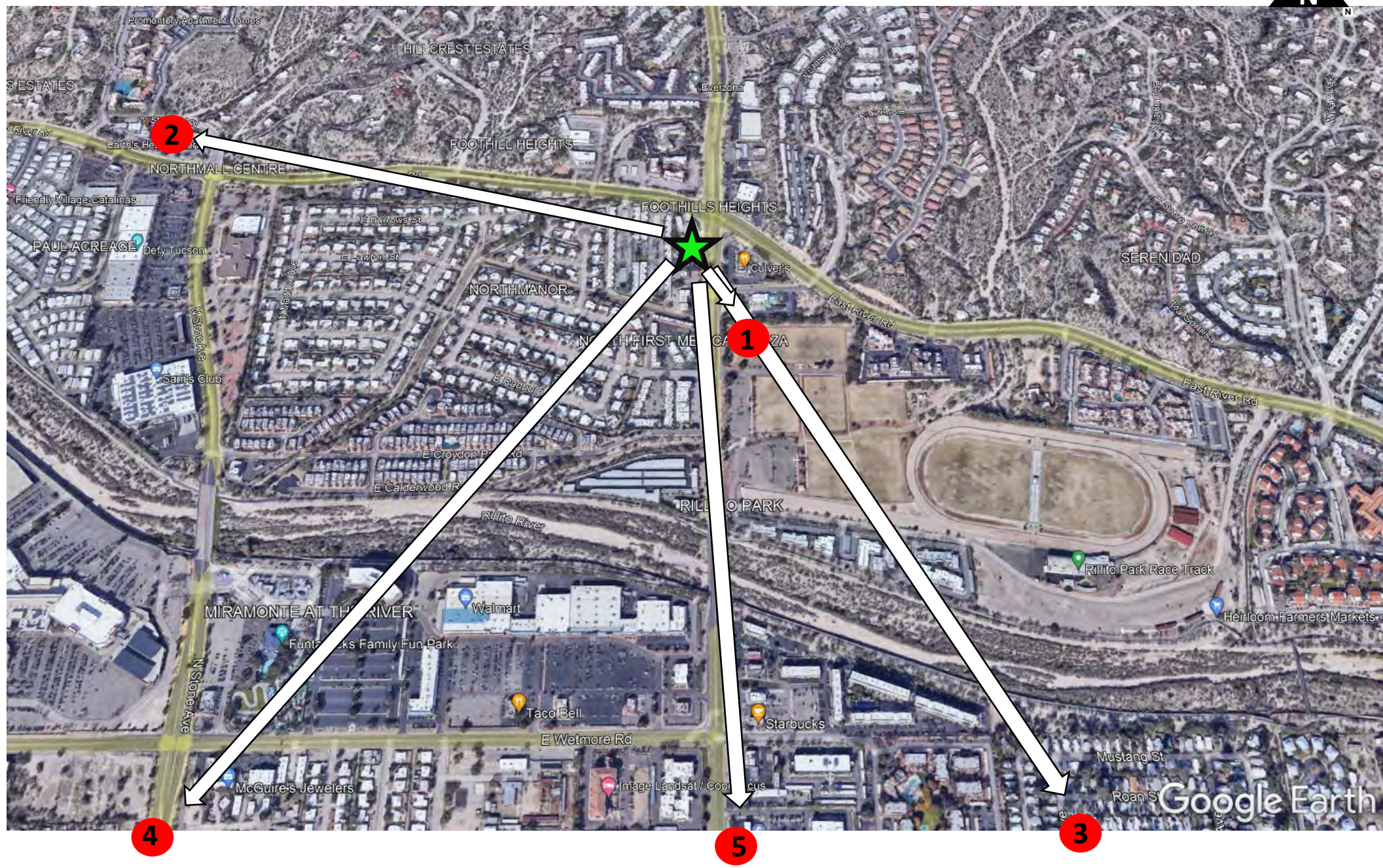
EXHIBIT C



**4837 N 1<sup>st</sup> Avenue  
Tucson, AZ  
85718**

**Existing  
Zoning: CB-1**

- 1** Rillito Park  
516 feet
- 2** Earth's Healing  
Dispensary  
~3,000 feet
- 3** Rio Vista  
Elementary  
~4,500 feet
- 4** Tucson Choices  
Rehabilitation  
~7800 feet
- 5** Wood Memorial  
Library  
~9,000 feet





AERIAL EXHIBIT DEPICTING DISTANCE BETWEEN CLOSEST EXTERIOR BUILDING WALL CORNER OF PARCEL 105-09-013B AND THE NORTHWEST BOUNDARY CORNER OF PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT RILLITO PARK



SCALE: 1" = 40'

NOTE: IMAGES MAY APPEAR DISTORTED DUE TO INHERENT ERRORS WITHIN AERIAL PHOTOS DUE TO CAMERA LENS' ANGLES, BUILDING HEIGHTS AND TOPOGRAPHY.

EXISTING AERIAL IMAGERY OBTAINED FROM NEARMAP. DIGITAL ORTHO-RECTIFIED IMAGERY HAS A GROUND PIXEL RESOLUTION OF 0.3' FOOT +/- AND IS FROM IMAGERY DATED MAY 25, 2022.

EXTERIOR WALL OF EXISTING BUILDING

4837 N. 1ST AVE.  
APN: 105-09-013B

75.0'

75.0'

APN: 105-09-013D

APN: 108-16-0070

APN: 105-09-013F

1ST AVENUE  
(PUBLIC)

516.1'

APN: 105-09-013E

APN: 108-19-001A

NW CORNER REGIONAL FLOOD CONTROL DISTRICT RILLITO PARK PER RECORD OF SURVEY RECORDED IN BOOK 35 PAGE 69

REGIONAL FLOOD CONTROL DISTRICT RILLITO PARK  
APN: 108-19-004C

75.0'

45.0'



Hello,

I am reaching out to you regarding the Marijuana Dispensary that may go up on River and 1<sup>st</sup>.

Shirley Manor is a small community of 51 homeowners. They have been experiencing a lot of homeless foot traffic going through their community and do not want an establishment that may cause more foot traffic going through their community. Please reconsider opening up a dispensary in this area.

Thank you,

Shawn Luellen  
Association Manager  
Copper Rose Community Management  
Phone: 520-888-0474  
Fax: 520-888-5407  
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Dear Sir or Madam,

January 6, 2023

We have been notified of a public hearing to be held on January 11th to discuss a proposal for a Type III Conditional Use Permit for a Marijuana Dispensary to be located at 4837 1st Avenue (Item 12).

As residents of the Shirley Manor neighborhood of townhomes immediately adjacent to the west of the proposed site, we object to the granting of this proposal, as this will have an adverse impact on the safety of our neighborhood, and negatively impact our property values.

There is currently a Marijuana Dispensary less than 2 miles from the proposed location (Earth's Healing North at 78 W. River Rd.). We have witnessed long lines at the dispensary. In that case, the location is completely commercial, with the nearest residential area being an apartment complex (Promontory Apartments), located at a distance behind the dispensary, and separated from it by a two-way public road (Stone Loop).

Shirley Manor *directly* abuts the proposed site on the west side; on the proposal's map submitted by the applicant, Copperstate Farms, the long strip of land is identified as "Shirley Manor Townhouses Common Area." This area behind the proposed site is wide open, without a wall or fencing. There is nothing to prevent individuals from coming onto our property. Many of our homes have windows facing this open area (see attached photos).

We currently have a continuing problem with trespassers entering our common area behind the proposed site, as well as from behind other adjacent businesses with open areas, or by way of the northern or southern open areas, which need to be kept open for utility access. Our residents regularly clean out the common area of furniture, couches, litter, clothing, beer bottles, cigarette packs, and needles. (See attached recent photos, including one of couches with socks and needle in the foreground.) This has been a constant problem. The police are called, the people leave, but then they return.

This is not only a problem with the common area. We have trespassers regularly coming into our community, knocking on doors and windows, stealing items from the front of our homes, rifling through our bags of trash, and using our swimming pool. We do not currently feel safe from trespassers.

A marijuana dispensary abutting our property with a wide open area between us would certainly exacerbate the problem. We understand that marijuana purchasers are not permitted to smoke on the dispensary grounds. But the Shirley Manor common area is just steps away. Even if the back of the dispensary would be closed off with fencing, the area is still porous behind the other establishments on 1st Avenue abutting our common area, as well as at the northern and southern ends. A large number of customers so close to our complex would undoubtedly lead to more trespassing in our community.

We understand that the CB-1 zoning permits a business to occupy the site. We are not opposed to other types of businesses locating there. We had no problem with the prior occupants of the

site, which we believe were a taco stand; before that a diving business; and prior to that a father-son truck rental business.

We object to *this type of business* with a large influx of customers so close to our homes. Placing a marijuana dispensary there will make our area more unsafe, and reduce our property values. This type of business is not compatible with the immediate surrounding area, would have an adverse impact on our neighborhood, and lead to an uncertain future for us. We, the undersigned residents of townhomes in Shirley Manor request that you to turn down this proposal. The starred names below represent townhomes directly abutting the proposed property.

Thank you.

\* Drucci Clark  
660 E. River Rd Unit C  
~~\_\_\_\_\_~~ (Sabas Cruz Miranda)  
660 E River Rd Unit W (520) 334-8751

\* Melinda Miller Melinda Miller  
660 E. River Rd, Unit F.

\* Kim Sasser (Kim Sasser)  
660 E. River Rd. Unit E

Arlonie Baker  
660 E - River Rd. Unit S

Lynne Karnatz  
660-Y East River Rd.

\* Janaiue James  
660-C E. River Rd.

\* B Maddatu (B. Maddatu)  
660 E River Rd D

\* Anna Flores  
660 E River Rd  
Unit K

\* ~~Yvette~~  
Maddison + Mitchell Hestrod  
660 E River Rd  
Unit H

\* Jorge Sanders  
660 E. River Apt M.  
Tucson, AZ / 85704

Martha Wilson  
660 E River Rd #R

\* Ana Ramirez  
660 E. River Rd #J

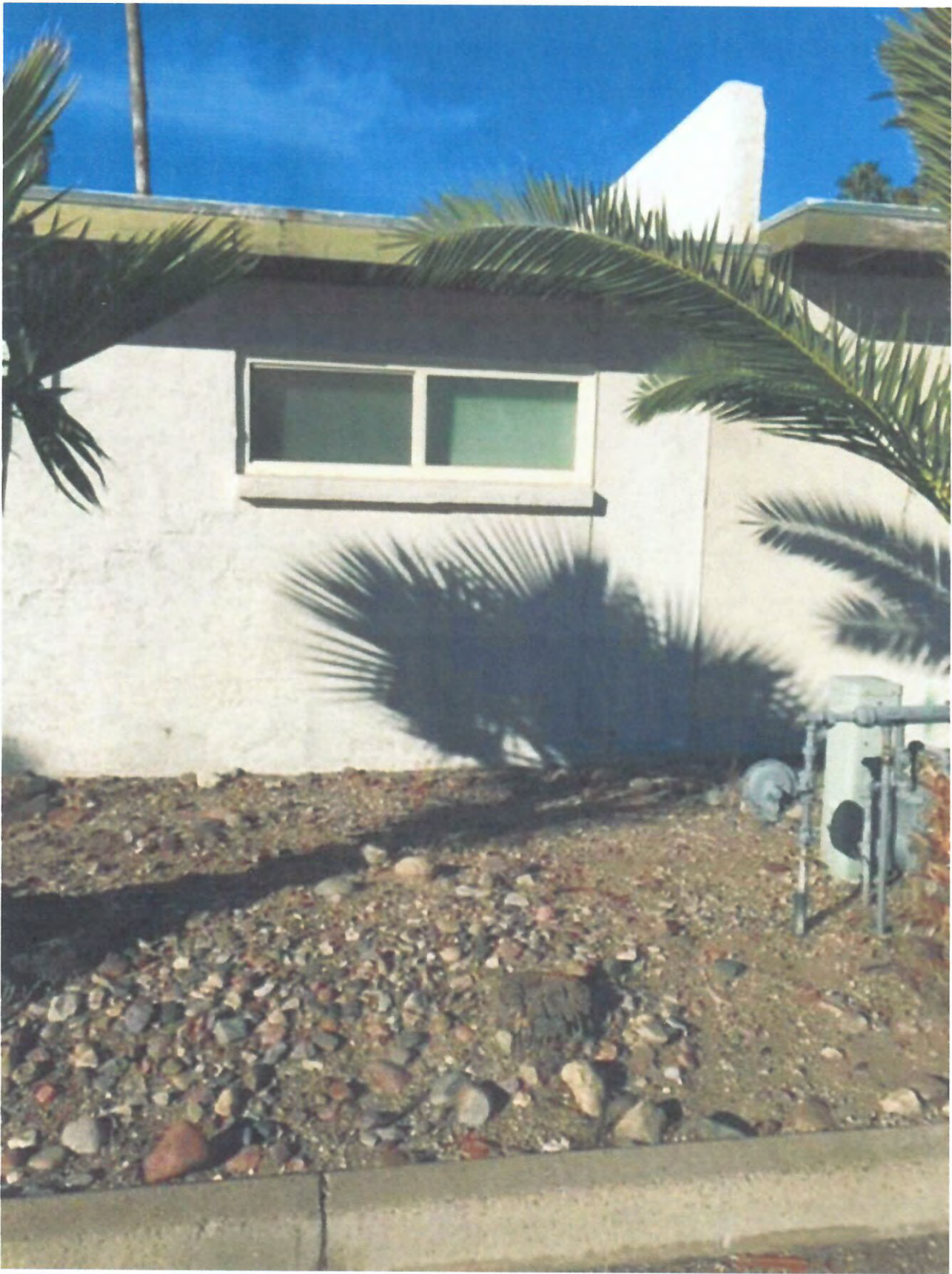
\* ~~Carlos~~  
Carlos Valdez  
660 E. River Rd. #G

Melva Wilson  
660 E. River Rd #V

\* Shatese Nays  
660 E River Rd #A  
\* ~~Shatese~~



Proposed site of Marijuana Dispensary with Shirley Manor Townhomes in the Background



Rear of Townhome at Shirley Manor Common Area



Couch with Debris and Needle in Shirley Manor Common Area



Debris and Needle in Shirley Manor Common Area



Tom or Matt - Thank you for answering questions last week on the proposed Type III Conditional Use Permit for a Marijuana Dispensary at 4837 N. 1st Avenue.

I live at Shirley Manor 600 E. River Rd. Unit I (Eye) not one.

My wife and another resident met with Keri and Robin from Lazarus & Silvyn P.C. at the local Holiday Inn Express last week to review the Sol Flower Dispensary.

The Sol Flower Team were professional and informative on efforts they will make to be a good neighbor and a positive business for this area.

I have also had meetings with the residents of the Units that are directly affected by this new use on our connecting property line. Most residents along the eastern property line are opposed to the proposed dispensary.

Our neighborhood has had an increase of homeless over the past years that has resulted in property theft of anything of value in our front yards and vehicles. The community has had to pay for new walls that block up our old access to the desert behind our property to the west. To our south we have had to close the access gate also to keep homeless from walking north to south through the property. On the East is an utility easement that we need to leave open for access of the utility companies and this is the location of the proposed dispensary.

The homeless live in the culvert under River Road on our north which is the City of Tucson. West of our property in the extension of the drainage is Pima County jurisdiction. So two governments owned our homeless camping areas.

It's not the pot shops responsibility to fix the City or County issues but unfortunately, our only option at the moment is to protest this conditional use permit.

Attached is a PDF with photos and comments regarding the homeless impact on our community and the proximity of the proposed use up against our east property. Many of the units have bedroom windows that look out to the dispensary side of the property.

I already have a bad taste in my mouth on another rezoning in my old neighborhood that the County has not followed up on zoning violations I have formally reported downtown. So my trust has been used up with Pima County Development Services.

At a minimum, if staff allows this dispensary to locate at the proposed address, a wrought iron fence 5' minimum in height is requested to be placed on the west, south, and north property lines of the facility to the road setback from 1st Ave. This will help with the crossing of homeless or patrons down the utility easement that is our connecting property to the dispensary.

Please record this protest as part of your documentation.

Also, I would like a zoom invitation for the virtual meeting sent to my email address attached and would like to speak on the above case number.

Thank you for your help.

Ken A. Paulson PLA



Excrement under clothing left by homeless behind units



Our patriotic homeless camp on Pima County property west property line of Shirley Manor.



proposed dispensary

Multiple syringes and clothing left from homeless behind units. Shirley Manor pays for clean up in this area behind units facing property under consideration for Dispensary.



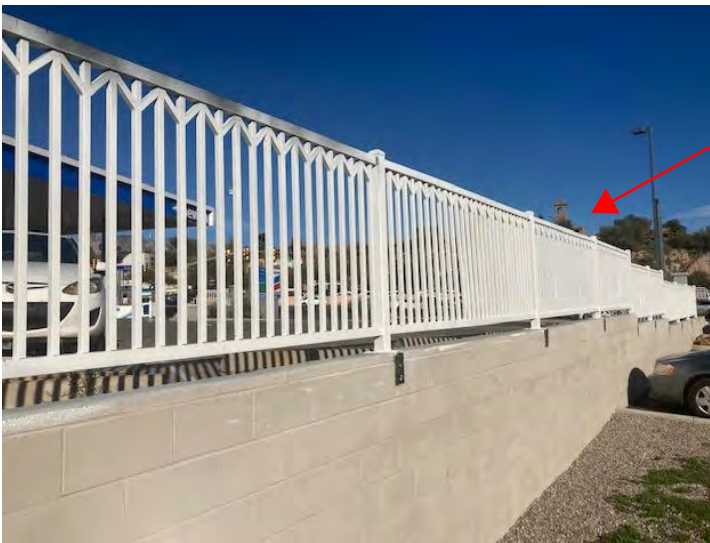
Units bedroom window look out on Dispensary.



If this property is approved for a Dispensary a minimum Wrought Iron Fence is requested along the property line to first avenue setbacks.



Fence location on property line.



Fence location on property to north. New fence should match as close to this level of construction.

To DSDP Planning,

The board of Shirley Manor housing, is strongly opposed to the opening of the new proposed dispensary location, it will be right behind our units and will cause unnecessary noise and pollution effecting our daily living.

This neighborhood is mostly made up of seniors and we are afraid that our living daily routine will be changed for the worst.

We strongly believe that this location is not appropriate for this kind of business.

Please, take in consideration our standing against this initiative.

Sincerely yours.

Carlo Buscemi

Shirley Manor Board Chair

[carlo.buscemi@gmail.com](mailto:carlo.buscemi@gmail.com)

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