



## COUNCIL MINUTES

November 7, 2013

The City Council of the City of Mesa met in a Study Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on November 7, 2013 at 7:39 a.m.

### COUNCIL PRESENT

Scott Smith  
Alex Finter  
Christopher Glover  
Dennis Kavanaugh  
David Luna  
Scott Somers

### COUNCIL ABSENT

Dave Richins

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Dee Ann Mickelsen

(Mayor Smith excused Councilmember Richins from the entire meeting.)

1. Hear a presentation, discuss and provide direction on zoning code options for medical marijuana facilities.

Zoning Administrator Gordon Sheffield displayed a Power Point presentation (**See Attachment 1**). He reported that due to the Arizona Department of Health Services' (AZDHS) rules, there are five areas in the City of Mesa called Community Health Analysis Areas (CHAAs) for which AZDHS issues Medical Marijuana (MM) dispensary certificates. He remarked that four of those dispensaries are operating in the City of Mesa, however, one applicant has had a certificate issued, but does not have an area in which to locate its dispensary. He announced that the purpose of this presentation is to receive direction on whether or not staff should modify the City's rules in order to locate a site for this applicant.

Mr. Sheffield briefly highlighted the existing location standards for MM dispensaries, as previously determined by the Council in 2011. (See Page 2 of Attachment 1) He stated that these standards permit MM-related facilities to be located in Light Industrial (LI) and General Industrial (GI) zoning districts, as well as provide distance separation requirements. (See Page 2 of Attachment 1)

Mr. Sheffield explained that the map of Eligible Sites illustrates the Mesa North, Mesa Central, and Mesa South CHAAs (See Page 4 of Attachment 2) and pointed out that there are no industrial sites within the Mesa Central CHAA, nor does the General Plan call for any industrial sites within this area. He explained the sequence of events that led up to one of the five applicants not being able to locate an MM dispensary site, including the fact that after the

applicant had received its certificate from AZDHS to operate within the Mesa Central CHAA, Maricopa County changed its regulations allowing MM dispensaries in Commercial zoning districts to not allowing this use in Commercial zoning districts and, in addition, the State would not allow the transfer of certificates.

In response to a question from Mayor Smith, Mr. Sheffield reported that there is a pending lawsuit in a neighboring jurisdiction against the County regarding a site with a similar situation. He added that the applicant is requesting relief from the City of Mesa because the majority of the land within the Mesa Central CHAA in which they wish to establish an MM dispensary is within the City's incorporated limits.

Mr. Sheffield stated that the applicant is requesting the City of Mesa review its zoning, and possibly consider changing its policy. He outlined the possible options (See Page 5 of Attachment 1) as follows:

- **Rezoning:** Encourage MM facilities in Infill Districts (ID)
- **Text Amendment:** Revise Zoning Code to allow MM facilities under limited circumstances in Light Commercial and General Commercial districts
- **Make No Changes:** Continue to permit MM dispensaries only in LI and GI (Industrial) districts

Councilmember Somers remarked that this problem is something the City can make adjustments to in order to "finish it off", and secondly, he would rather this user be located within the City's jurisdiction so that the City has the ability to provide resources.

In response to question from Councilmember Glover related to whether a request for rezoning to ID would only be applicable to the Mesa Central CHAA, Mr. Sheffield responded that criteria would be established by which to evaluate it as part of the ID, and one of those criterion would be that the location of the MM dispensary in the ID would only be considered upon exhaustion of all efforts to locate in industrial sites within that particular CHAA.

City Attorney Debbie Spinner added that language could be drafted to specifically state that if there is any industrially-zoned land within the CHAA, then they will have to locate in that area and rezoning to an ID would not be an option.

Vice Mayor Finter indicated that nothing prevents applicants from finding a site and seeking rezoning to be able to "upzone" or obtain Industrial Zoning.

Planning Director John Wesley concurred with Vice Mayor Finter and added that while areas within the CHAA can be considered for industrial zoning, if the restricted areas are removed, what is left poses a challenge to staff when recommending changes to these portions of the CHAA.

Vice Mayor Finter explained that he has offered assistance in trying to streamline the process and to facilitate rezoning. He added that he does not want anyone to feel they are being obstructed in finding a location, since four of the five applicants have successfully found sites.

City Manager Christopher Brady stated that the State has overlaid CHAAs in a method that has nothing to do with compatible land uses, but rather how healthcare is provided throughout the state.

Councilmember Kavanaugh stated that implementing an ID would allow the broadest areas of eligibility without creating unintended consequences of revising the Zoning Code. He advised that it is the Council's responsibility to consider the law that was approved by Arizona voters, and that residents have an expectation of reasonable access to the dispensaries. He expressed his support for proceeding with the ID option presented by Staff.

In response to a request from Councilmember Luna, Mr. Sheffield explained that the City's Ordinance requires applicants to submit a security plan and that Planning staff coordinates communication between the applicant and the Police Department.

Assistant Police Chief Heston Silbert addressed the Council and stated that many illegal marijuana dispensaries "popped up" and were shut down through several operations conducted by the Police Department. He reported that robberies were prevalent at these illegal sites and provided statistical information on the number of calls for service related to the legal MM facilities within the City. He commented that the address at which Kind Meds is located, at Country Club Drive and Baseline Road, had 172 calls in a one-year period, but pointed out that it is difficult to discern how many of those were related specifically to Kind Meds, since it is located within a strip mall and shares the same address with other businesses. He noted that calls for service at most other facilities are benign in nature, relating to alarms and stolen vehicle reports.

In response to a question from Councilmember Somers, Chief Silbert explained that the statistics being provided cover the 12-month period that includes the time before and after the MM facility opened, but he cannot say that the increase in calls for service were specific to the MM facility. He added that the illegal sites definitely drove crime, and without having proper security measures in place, crime would increase.

In response to a question from Councilmember Somers, Chief Silbert replied that security measures implemented by the dispensary owners are defined by how much they lend themselves to the Crime Prevention Through Environmental Design (CPTED) principles.

Vice Mayor Finter pointed out that the implementation of an ID for the fifth applicant may be an unfair advantage that the other applicants did not have.

Mayor Smith concurred with Vice Mayor Finter's point that by trying to fix this problem, the City may be inadvertently causing another problem, and would be implementing special legislation to accommodate a group of people within a specific zone.

In response to a question from Councilmember Somers, Mr. Sheffield stated that if an ID were established, a separate set of requirements could be applied such as increased security measures and CPTED principles.

Ms. Spinner explained that the intent of establishing an ID is to allow uses that are not currently allowed in those areas and the rezoning process to request Infill designation allows the applicant to use that property in a way that is not currently permitted under the zoning laws.

In response to a question from Mayor Smith, Mr. Sheffield pointed out the areas on the Eligible Sites map (See Page 4 of Attachment 1) that do not allow this type of commercial use due to the nature of MM activities, including cultivation, infusion and dispensing, and further noted that there are no LI zoning uses allowed in the Mesa Central CHAA/Downtown District.

Mr. Sheffield discussed the fact that the application for rezoning to an Infill District must take into account more than just the MM dispensary and that it must account for alternative uses (i.e. general office, medical office, neighborhood commercial type uses, and restaurants) in case the dispensary fails at that particular location.

Councilmember Somers requested additional information regarding 1) the City's obligations under State law in providing suitable locations within each of the established CHAAs; and 2) the City's risk potential and possible case history related to establishment of an ID.

Mayor Smith announced that Councilmember Richins sent a text message stating his opposition to any change in the City's Zoning Ordinance.

Mayor Smith requested that this item be placed on the November 21 Council Study Session agenda for further discussion.

2. Hear a presentation, discuss and provide direction on the development of the Barry and Peggy Goldwater Library and Archives at the southeast corner of Macdonald and First Avenue.

Economic Development Director Bill Jabjiniak introduced Economic Development Specialist Andrew Clegg and Doug Sydnor, AIA, representative from Gensler and Associates architectural firm, who were prepared to assist with the presentation.

Mr. Jabjiniak stated that the purpose of the presentation (**See Attachment 2**) was to provide information on a Development/Lease Agreement, which will be on the November 18 Regular Council agenda. He stated that the Memorandum of Understanding (MOU) was approved and signed by the Barry and Peggy Goldwater Library and Archives (BPGLA) and the City on January 16, 2013. (See Page 3 of Attachment 2) He outlined the proposed development as follows:

- Develop at the southeast corner of Macdonald and 1<sup>st</sup> Avenue
- Proximity to the Mesa Arts Center, colleges and the light rail extension
- Phase I – minimum 40,000 square feet LEED Certified structure
- \$30,000 approximate total cost for development
- Includes exhibition area, reading room, café and Automated Archival Retrieval System
- 57,000 estimated visitors per year
- 25 employees

Mr. Sydnor summarized changes to the BPGLA site plan (See Page 4 of Attachment 2) which outlines the footprint of the three-story building showing a minimum of 40,000 square feet, with the possibility of being expanded to 50,000 square feet. He commented that the project team had met with representatives of the Encore development located east of the library site, and determined that the best method for parking would be to design the parking spaces immediately south of the library building, to include the minimum 50 spaces required by the City's form-

based zoning code, and a double-wide aisle that will accommodate the turning radius for emergency and trash vehicles. He noted that the entire site totals just over 1.5 acres.

Mr. Jabjiniak highlighted the main points of the development/lease agreement, including: a 30-year lease period; BPGLA will lease the land for \$1 per year; BPGLA will construct the building, operate it, and fill it with archives; BPGLA will deed the property back to the City six months following receipt of the Certificate of Occupancy at which time the City will own the land and building; the City has proposed contribution of up to \$80,000 per year for first five years, and \$50,000 per year for years 6 through 30 towards utilities (including water, sewer, gas, electric and solid waste).

Mr. Jabjiniak said the next steps (See Page 6 of Attachment 2) would be to take action on the lease agreement at the November 18 Council meeting and begin fundraising efforts. He pointed out that the Development Agreement establishes a deadline for vertical construction (framing above foundation walls) to begin by December 31, 2014, with an option for a one-year extension.

In response to a question from Councilmember Kavanaugh, Councilmember Glover, who is a member of the BPGLA Foundation, indicated that online fundraising has begun and additional fundraisers will be hosted beginning in December and running into the new year.

Mayor Smith thanked everyone for their efforts and hard work.

3. Information pertaining to the current Job Order Contracting projects.

This item was not discussed by the Council.

4. Scheduling of meetings and general information.

City Manager Christopher Brady stated that the meeting schedules is as follows:

- |  |   |   |
|--|---|---|
| Thursday, November 7, 2013             | - | Councilmember Kavanaugh's Annual Toy Drive for Cardon Children's Medical Center |
| Friday, November 8, 2013, 7:30 a.m.    | - | Coffee with Councilmember Kavanaugh at Upper Iowa University at Mesa            |
| Thursday, November 14, 2013, 7:30 a.m. | - | Council Study Session – <b>CANCELLED</b>  |
| Monday, November 18, 2013, TBD         | - | Council Study Session   |
| Monday, November 18, 2013, 5:45 p.m.   | - | Regular Council Meeting   |

5. Adjournment.

Without objection, the Study Session adjourned at 8:30 a.m.

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SCOTT SMITH, MAYOR

ATTEST:

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DEE ANN MICKELSEN, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 7<sup>th</sup> day of November, 2013. I further certify that the meeting was duly called and held and that a quorum was present.

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DEE ANN MICKELSEN, CITY CLERK

ljm  
(Attachments – 2)



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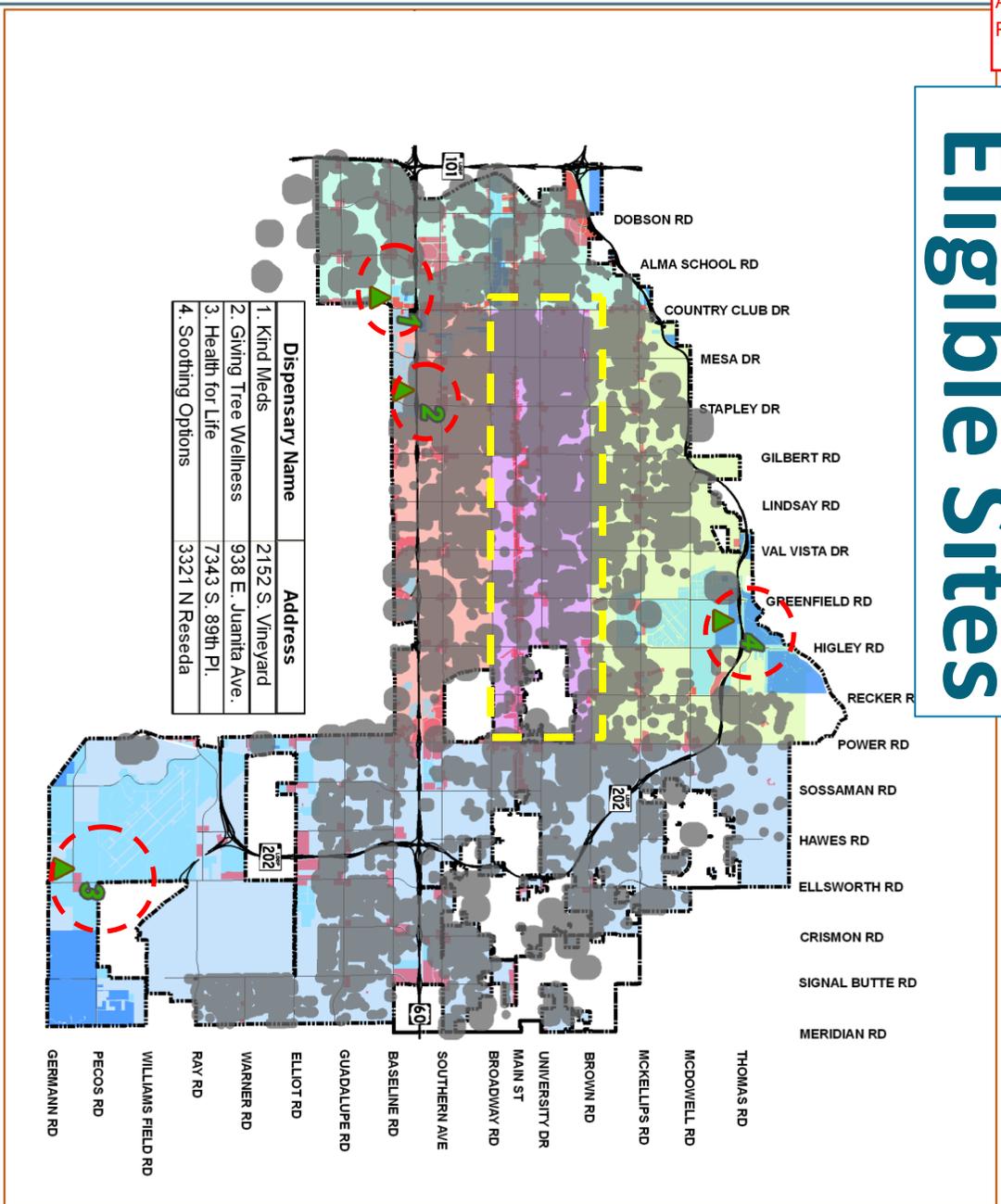
**Review of Zoning Ordinance Requirements  
Regarding  
Medical Marijuana Dispensaries**

**City Council Study Session  
November 7, 2013**

# Existing Location Standards

- **Minimum Zoning Districts:**
  - LI - Light Industrial
  - GI – General Industrial
- **Minimum Distance from Uses**
  - 1-mile: Other Medical Marijuana Dispensaries
  - 2400-ft: Substance Abuse Treatment and Rehabilitation Facilities; and Correctional Transitional Housing
  - 1200-ft: Churches, Parks, Libraries, K-12 Schools
  - 500-ft: Day Care/Pre-schools, HOA Open Spaces

# Eligible Sites



Dispensary Name	Address
1. Kind Meds	2152 S. Vineyard
2. Giving Tree Wellness	938 E. Juanita Ave.
3. Health for Life	7343 S. 89th Pl.
4. Soothing Options	3321 N Reseda

- THOMAS RD
- MCDOWELL RD
- MCKELLIPS RD
- BROWN RD
- UNIVERSITY DR
- MAIN ST
- BROADWAY RD
- SOUTHERN AVE
- BASELINE RD
- GUADALUPE RD
- ELLIOT RD
- WARNER RD
- RAY RD
- WILLIAMS FIELD RD
- PECOS RD
- GERMANN RD
- DOBSON RD
- ALMA SCHOOL RD
- COUNTRY CLUB DR
- MESA DR
- STAPLEY DR
- GILBERT RD
- LINDSAY RD
- VAL VISTA DR
- GREENFIELD RD
- HIGLEY RD
- RECKER RD
- POWER RD
- SOSSAMAN RD
- HAWES RD
- ELLSWORTH RD
- CRISMON RD
- SIGNAL BUTTE RD
- MERIDIAN RD

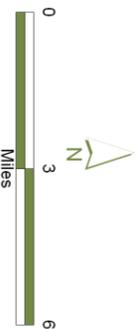


**mesa·az**  
 Potential Medical  
 Marijuana Dispensary  
 Locations

-  Dispensary and Cultivation or Dispensary only
-  Separation Areas

**Zoning**

-  Light Industrial
-  General Industrial
-  Limited Commercial
-  General Commercial
- Community Health Analysis Area**
-  Mesa Central
-  Mesa East
-  Mesa North
-  Mesa South
-  Mesa West
-  City Boundary
-  Arterial



The City of Mesa makes no warranty concerning the accuracy of this map nor assumes any liability resulting from the use of the information herein.  
 COP-1904047-1088, 2013 CITY OF MESA, ARIZONA



# Possible Options

- 1. Rezoning:** Encourage MM Facilities in ID-Infill Districts: Minor Text Amendment Required.
- 2. Text Amendment:** Revise Zoning Code to Allow MM Facilities Under Limited Circumstances in LC and GC (Commercial) districts.
- 3. Make No Changes:** Continue to Permit MM Dispensaries Only in LI and GI (Industrial) districts

# Possible Options: Infill Districts

- Mesa Central CHAA includes numerous eligible properties that meet the criteria for “infill”.
- Minor text amendment is required to Sec. 11-31-34.
- Use of the ID districts requires a infill development plan for the site, which becomes the zoning code for that site.
- Infill plan needs to include development standards, alternative uses, as well as medical marijuana dispensary.
- Proposed criterion: ID district be considered only when there is no eligible site with industrial zoning available within specified CHAA.
- Development Agreement would be required.

# Possible Options: Text Amendment

1. Allow 'Dispensary-Only' Facilities in LC or GC with a Special Use Permit (SUP).
2. If an SUP, possible criteria include:
  - A. "Last Resort": No Available LI or GI Sites.
  - B. Locations Adjacent to Medical Offices.
  - C. Compliance with Separation Requirements.
  - D. Not a recommended option.

# Possible Options: No Change

- 60 Eligible Sites in Mesa for 5 dispensaries (not counting separations between dispensaries).
- AZDHS requirements developed AFTER adoption of Mesa zoning standards.
- AZDHS initially allowed transfers between CHAAs in same community, and then deleted the option.
- Maricopa County: Initially gave local zoning clearance for Mesa Central CHAA, and then revoked it.

# Barry and Peggy Goldwater Library & Archives (BPGLA)

## Southeast corner of Macdonald & 1<sup>st</sup> Avenue



**BPGLA: BARRY & PEGGY GOLDWATER LIBRARY & ARCHIVES**  
reading room interior

DOUGLAS SYDNOR ARCHITECT & ASSOCIATES



## Barry and Peggy Goldwater Library & Archives

### Background

- 2011 – City expressed interest in being the home of the BPGLA
- October 24, 2012 – BGPLA and City announced Mesa as the location for the Library and Archives
  - Southeast corner of Macdonald ave and 1st ave
- January 16, 2013 – MOU approved and signed by BGPLA and City of Mesa for the development of the Barry and Peggy Goldwater Library & Archives



## Barry and Peggy Goldwater Library & Archives Proposed Development

- Develop at the southeast corner of Macdonald & 1<sup>st</sup> Avenue
- Proximity to the Mesa Arts Center, colleges, and the light rail extension
- Phase I- Minimum 40,000 sq. ft. LEED Certified structure-
- \$30, 000,000+/- total cost for development
- Includes exhibition area, reading room, café on first floor and Automated Archival Retrieval System
- 57,000 Estimated visitors/year
- 25 employees







## Barry and Peggy Goldwater Library & Archives

### Discussion

- 30 year lease agreement
- \$1 per year lease for land and improvements
- 6 months following receipt of the Certificate of Occupancy, ownership of building transferred to the City of Mesa
- City contribution towards Library utilities
  - Up to \$80,000.00 per year for years 1 through 5
  - Up to \$50,000.00 per year for years 6 through 30



## Barry and Peggy Goldwater Library & Archives

### Next Steps

- Approval of Government Property Improvements Lease Agreement
- BPGLA to continue fundraising
- December 31, 2014 – goal to begin vertical construction
  - May be extended one calendar year