

**CITY OF EL MIRAGE
PLANNING AND ZONING COMMISSION
WORK SESSION MINUTES
MARCH 10, 2015**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Planning and Zoning Commission Chairman Frank Carnal called the meeting to order at 5:30 p.m. & led the Pledge of Allegiance.

II. ROLL CALL

Members present were Frank Carnal, Brian Crosby, and Monica Dorcey. Robin Freberg and Justin McCarty arrived a few minutes late. City staff present was Jorge Gastelum, Director of Development & Community Services/City Engineer, Jose A. Macias, Development Services Coordinator/GIS and Tom Doyle, Economic Specialist.

III. NEW BUSINESS/ PUBLIC MEETING

1. Presentation by Scientific Botanical Leasing, LLC regarding the Conditional Use Permit for a Special Purpose Wall and a Major Site Plan Approval for a Medical Marijuana Cultivation Operation at 10111 N. El Mirage Road, El Mirage, Arizona 85335.

Chairperson Carnal opened the public meeting; both the applicant and architect were not present at the time the Chair opened the meeting. Tyler Green, the project architect, arrived at 5:36 p.m. and was available to answer questions from the Commission members. The applicant, Mr. Brent Nerguizian, arrived at 5:45 p.m. and gave an overview presentation regarding his proposal.

Chairperson Carnal closed and adjourned the public meeting/work session at 5:55 pm.

**CITY OF EL MIRAGE
PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
MARCH 10, 2015**

IV. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Planning and Zoning Commission Chairman Frank Carnal called the meeting to order at 6:00 p.m. & led the Pledge of Allegiance.

V. ROLL CALL

Members present were Frank Carnal, Brian Crosby, Monica Dorcey, Robin Freberg, and Justin McCarty. City staff present was Jorge Gastelum, Director of Development & Community Services/City Engineer, Jose A. Macias, Development Services Coordinator/GIS and Tom Doyle, Economic Specialist.

VI. APPROVAL OF THE MINUTES OF JANUARY 13, 2015

There being no changes; Dorcey made a motion to approve the minutes for the January 13, 2015 Regular Meeting, seconded by Crosby, and the motion passed with a vote of 5 to 0.

VII. OLD BUSINESS

None

VIII. NEW BUSINESS/PUBLIC HEARING ITEM

~~1. Final Plat Approval for Hark Drilling Yard MLD at 12225 W Peoria Avenue El Mirage Arizona 85335.~~

This item was removed from the agenda.

2. Public hearing, discussion, & recommendation for a Conditional Use Permit for a Special Purpose Fence (wall) at 10111 N El Mirage Road for a fourteen (14) foot high security wall.

Chairperson Carnal opened the public hearing; staff member Macias introduced Mary Dickson, City of El Mirage Building Official, to assist with answering questions from the Commission Members. Macias presented the staff report and was available to answer questions. Macias also introduced Mr. Brent Nerguizian, project applicant and owner of Scientific Botanical Leasing LLC.

Nerguizian spoke about the proposed 14 foot wall and its purpose, Crosby asked about the twenty-four hour security staff being armed. Nerguizian stated that it was a delicate subject due to State and Federal laws, and also stated that they would hire off duty police staff from the City of El Mirage. Crosby expressed his concern about the armed security and the location of the site being very close to the city park. Nerguizian addressed the issue by explaining the design of the facility. Crosby stated that he was more concerned about the location of the facility; he then asked Nerguizian what he plans to do about the odor. Carnal reminded the Commission Members that this hearing was only about the 14 foot wall, Crosby had no other questions.

Freberg asked staff how many of these facilities are in the city. Gastelum answered that the City has one dispensary and three cultivation operations. Freberg asked if there were records of police incidents related to these facilities. Gastelum stated that the only record the planning staff was aware of was regarding an odor complaint. Freberg asked the applicant how much security he was going to have. Nerguizian stated that the security plan was still being developed and did not have an answer, but that at full production they would have ten security guards. Freberg asked how many administration employees. Nerguizian answered that they would have one hundred and fifty employees. Freberg asked if they plan to have work shirts and how many? Nerguizian answered two shifts within an eighteen hour work day, and Nerguizian then stated that the operations details have not been developed and that this hearing was regarding the site plan approval. Carnal made a statement that this hearing was strictly for the wall. Nerguizian made the statement that they have agreed to stagger the shifts to help with the traffic impact. Freberg had no further questions. McCarty stated that it would make more sense if the board would discuss the site plan first then the wall. Carnal asked staff if the Commission Board could close this public hearing and open the site plan hearing and then come back to the proposed wall. Macias stated that staff has no objections to the motion. Crosby

made the motion to continue item 2 until after the Commission takes action on item 3, Dorcey seconded, motion passed with a 5 – 0 vote.

3. Public hearing, discussion, & recommendation for Site Plan Approval for a Medical Marijuana Cultivation Facility at 10111 N El Mirage Road.

Chairperson Carnal opened the public hearing; staff member Macias gave a staff report presentation. Staff included the following stipulations;

1. Any odor complaints received will be investigated by the Chief of Police or designee and a 10-day notice will be issued. At the end of the 10-day notice, Building Safety Inspector will inspect the facility. If the facility is still not in compliance, then Building Official will suspend the building's Certificate of Occupancy and the facility cannot be operated until proper repairs have been completed. Ordinance 05-02-03 §154.052 Permitted Uses by Zones.
2. All visible areas from adjacent properties shall be landscaped per Landscaping Regulations.
3. Attached comments from the Technical Advisory Committee members shall be addressed during the building permit review process.

Carnal stated that the Commission Members' biggest concern was the odor; Carnal asked Dickson to tell the board a bit about the odor. Dickson answered by stating that, the problem with odor is that it's subjective, what some people find offensive, others do not. Dickson went on to remind the Commission Members that the odor comes from a crop and that the odor will vary. Nerguizian gave a description of the cultivation process and efforts they can take to reduce the odor. Nerguizian stated "unfortunately there's not a whole lot we can do, you can try scrubbing it, you can try carbine filters, you're still going to smell it". Nerguizian stated that the City can ask for zero odor emissions, but that would not be feasible to run a business.

Nerguizian spoke about the El Mirage Medical Marijuana Ordinance and what the community wants, that through a development agreement we can find a balance of what level of measurement odor can be acceptable. Carnal asked Dickson if there is a way to measure the odor; Dickson stated no, that there is no method of monitoring the levels of odor and that's why it's subjective. Dickson referred to stipulation # 1, that the City is monitoring the existing facilities to make sure they're in compliance in efforts to reduce the odor. Dickson added that the City has codes in place and that stipulation #1 illustrates the process of enforcing them. Carnal asked if other states had the same regulation; Dickson stated that she could not answer that question.

A discussion regarding the air requirements, the harvesting of the crop and City codes that require circulation in buildings that create the odor was held. Nerguizian stated that "it's just not possible to contain that smell when you have people cutting things, processing it and not have smell get out, I'm going to be honest, you can't do it". Carnal asked Dickson if she had anything else to add to the discussion. Dickson spoke about the odor complaints from the other cultivation facilities and the types of filtration system used; that some facilities get complaints and others don't because of the filtration systems. She also stated that the City could come to an agreement on a level of odor. [Mary Dickson left the hearing]

Dorcey asked if all sixty areas of the site plan were going to be up and running on the first day of operation. Nerguizian stated no, that it would depend on the market demand. Dorcey asked if the harvesting technology will improve in the next few years; Nerguizian stated that potentially yes, the technology should get better. Nerguizian spoke about the technology and transportation plan and that with the handling of the product odor will get out. Nerguizian then spoke of the El Mirage Wastewater Treatment Plant and showed a "Sink Easement" map stating that the facility is located within the easement, that his facility is not near any residential housing, but that odor will travel along with the wastewater odor.

Carnal asked how long of a period the crop takes to grow, Nerguizian stated ninety days, and then went in to more detail on the harvesting of the crop and the types of methods that could be used to reduce the odor and stated that "There will be odors, there will be complaints, whether the whole City is up in arms, or one guy".

Freberg stated that he has a complete list of questions that he would like answered. There was discussion regarding the items on the list; Gastelum stated that City staff would address the list. Freberg asked if the City had looked into the usage amount of water; Gastelum stated the staff has reviewed the water usage and is asking the applicant to provide additional water lines.

McCarty stated that there is more work that needs to be done in answering these questions and adding stipulations and recommended the item be tabled until next month's meeting.

Dorcey asked Gastelum to clarify the site plan approval process; Gastelum stated that this hearing was for the site plan and the use is allowed per city code, and that if the Commission Members had any questions, they could contact City staff. Commission Members then had a discussion on the site plan approval process and TAC review process, which included the water use and traffic impact. Carnal asked Nerguizian if it would hurt his project if the Commission tabled the item for one more month. Nerguizian stated that it would not.

Nerguizian then spoke about the site plan approval process becoming unclear to him and unexpected questions regarding the use, he then referred to the City's General Plan and Zoning Codes allowing industrial use in the area, which is why they selected the site. He mentioned he would not agree to the first stipulations, but that a development agreement with the city would be a better alternative. Nerguizian ended the discussion by stating that he is fine with tabling the item and will answer questions from the Commission. He then added that the City (all departments) should decide what the City wants; if they want it or not, if yes, then let's move forward and if no, then they would not proceed.

Carnal asked Gastelum if the Commission Members approved the site plan and still be able to submit questions. Gastelum stated yes, staff will forward all information to City Council for final approval.

Carnal asked Freberg if this would be ok, to approve the site plan and submit his questions to staff to answer. McCarty stated that the Commission would not be able to have a recommendation without the questions being answered.

The Commission Members had a discussion on the role of the Commission Board regarding a site plan approval. Gastelum explained the site plan approval process and presented options for the Commission Members. The discussion continued regarding the infrastructure, water, traffic and city street

improvements. Nerguizian stated "I think we should expect that there's going to be a lot of odor, but we'll have commercial reasonable equipment to try to mitigate the odor, it's going to stink, there's no way around it". Nerguizian also stated that he would like to know now if the City wants this project before he continues to spend more money and time and that he would hope the City would enter into a development agreement that would address the concerns.

Doyle spoke about the economic impact a big structure would have on the City's capability to process a large site and how it will attract other companies.

Carnal asked if Nerguizian had any other questions. Nerguizian stated no, but proposed a development agreement with the following items; 1) the development agreement would satisfy the concerns of the City. 2) Address the phasing of the project. Nerguizian stated that he was not in the fast track to complete the site. Carnal closed the public hearing.

Dorcey made the motion to continue the item thirty days, seconded by Freberg, motion passed with a 5-0 vote. Carnal advised Commission Members to submit questions to staff in a timely matter.

Chairperson Carnal re-opened and closed the public hearing for item #2 to get a motion to continue the hearing. Dorcey made the motion to continue item #2 thirty days, Crosby seconded; motion passed with a 5-0 vote.

4. DISCUSSION ITEM

None

5. STAFF REPORT

Gastelum reported the following; 1) City Council approved on January 20, 2015, the proposal to reconstruct the east side of Dysart and Cactus Road. 2) City Council also approved the lowest bid to construct the sidewalk, gutter and ramps along Myer Avenue and along Santa Fe Lane. 3) February 17, 2015, City Council approved all three Verizon's small cell sites and Pavement Restoration fee. 4) March 3, 2015, City Council approved the Water & Ice Kiosk at the Mercado with stipulations to repair code violations prior to obtaining building permits.

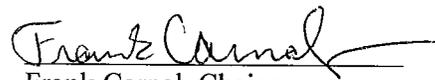
6. COMMISSIONER COMMENTS

Chairperson Carnal thanked staff for its work.

7. ADJOURNMENT

Planning and Zoning Commission Chairperson, Frank Carnal, adjourned the commission meeting at 7:20 p.m.


Jose A. Macias, DSC/GIS


Frank Carnal, Chairperson