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**CITY OF TEMPE  
DEVELOPMENT REVIEW COMMISSION**

Meeting Date: 09/22/2015  
Agenda Item: 4

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**ACTION:** Request for a Code Text Amendment for **MEDICAL MARIJUANA DISPENSARIES (PL150361)**, consisting of changes within the Code that regulate the location, operation requirements and total number of dispensaries in Tempe. The applicant is Steve White, White Berberian PLC.

**FISCAL IMPACT:** There is no fiscal impact on City funds.

**RECOMMENDATION:** Staff – Subject to conditions

**BACKGROUND INFORMATION:** **MEDICAL MARIJUANA DISPENSARIES (PL150361)**, consisting of a request for changes within the existing regulations for dispensary and cultivation facilities. Changes proposed by the applicant would modify the number of entrances that regulate the size of the business; extend the business operation hours from 6 pm to 10 pm; modify the age restriction for entering a dispensary; and limit the total number of dispensaries allowed in Tempe. Additional recommendations are proposed by staff that would provide further clarification to the text amendment. The request includes the following:

1. A Code Text Amendment within the Zoning and Development Code, Section 3-426, Medical Marijuana.

Property Applicant/Owner	Steve White, White Berberian, PLC
Dispensary Address	710 West Elliot Road (Harvest of Tempe)

**ATTACHMENTS:** Ordinance, Project File

**STAFF CONTACT(S):** Ryan Levesque, Deputy Community Development Director (480) 858-2393

Department Director: Dave Nakagawara, Community Development Director

Legal review by: N/A

Prepared by: Ryan Levesque, Deputy Community Development Director

## COMMENTS:

This is a request for a code text amendment within the Zoning and Development Code pertaining to the regulation of medical marijuana dispensaries within the City of Tempe.

In 2010, Proposition 203 cited as the "Arizona Medical Marijuana Act", is a voter-approved initiative that allows a "qualifying patient" who is registered with the Arizona Department of Health Services (ADHS), to legally obtain an "allowable amount of usable marijuana" from a "nonprofit medical marijuana dispensary" and possess and use marijuana to treat or alleviate symptoms associated with a "debilitating medical condition." With the adoption of Proposition 203, ADHS set forth rules which govern medical marijuana operating and application procedures. ADHS had initially given municipalities time to adopt zoning regulations before starting the permit process.

The City of Tempe requires a dispensary/cultivation business to apply for a "zoning clearance", an administrative review process that verifies compliance with the Code regulations and procedure requirements for a security plan. Applicants for medical marijuana then must apply to ADHS for a permit and must certify that their dispensary/cultivation facility location is in compliance with local ordinances.

## PROPOSED CHANGES BY APPLICANT:

The code text amendment request by White Berberian, as proposed in the draft ordinance, intends to make a change to the following: modify the one ingress/egress doorway and allow up to two entries for a dispensary or cultivation facility, and allow other entrances and bay doors that may be needed for operational and area needs of the business. Reduce the current age restriction (21 and over) for entering a dispensary establishment to 18 years of age. Extend the dispensary business operation hours from 6 pm to close by 10 pm weekly. And a proposal to limit the total number of allowed dispensaries in Tempe to no more than two (2), including compliance with separation requirements.

## PUBLIC INPUT:

Prior to the completion of this report, staff has received public input and communication from the other medical marijuana dispensary located in Tempe, Jeff Tice from SWC Tempe. Mr. Tice appears in general support of proposed changes to the ordinance. Additionally Mr. Tice is recommending reducing the separation distance requirements from residential districts from 500 feet to 250 feet from a dispensary. Although related to the section of this code, the applicant was informed of this proposal and at this time no action was taken by the applicant. If it appropriate, the Commission or Council may respond to the inquiry at the public hearing.

## TEMPE POLICE DEPARTMENT:

The Tempe Police Department has found the existence of medical marijuana dispensaries and cultivation sites within the City of Tempe to have a minimal impact on calls for service thus far. It is believed that the existing Zoning and Development Code has played an important role in ensuring that these locations do not negatively affect public safety. Should any changes be made to the Zoning and Development Code, related to medical marijuana dispensaries, the police department will continue to provide police services to these locations in the most efficient and effective manner possible.

## EVALUATION BY STAFF:

City staff, in coordination with an internal working group, including representatives from the City Attorney's Office, Community Development, and Police Department staff, has been evaluating our existing ordinance and proposed changes for Medical Marijuana. The Medical Marijuana Act gives cities and towns the ability to "...enact reasonable zoning regulations that limit the use of land for registered nonprofit medical marijuana dispensaries to specified areas...". As a result of the proposed changes (eliminate the single entrance requirement and limit separation requirements for cultivation facilities) it was appropriate to respond to certain regulations in lieu of these requirements. Below you will find responses to the proposal that may require further amendments to the proposed code text amendment.

In addition to the proposed changes, staff is recommending the following items be addressed if the ordinance is accepted:

1. **Size limitation as a result of proposed elimination of single doorway.**

Background: If the proposed changes to modify the single entrance requirement are adopted, staff recommends establishing a dispensary and cultivation size limit. The original intent of the access limitation was to provide a greater emphasis of security on the business entrance and also limit the overall maximum size of building and occupancy allowed, as regulated by the Uniform Building Code. As a result, the current typical size limitation is approximately 4,000 – 5,000 sf. based on occupancy and path of travel distances to safely exit a building. If the entrance limitation is modified, staff recommends establishing a maximum building area for a dispensary business at 5,000 square feet, consistent with the original intent of the ordinance. Staff also recommends adopting a 25,000 square feet area limitation for cultivation facilities, similar to other municipalities that have adopted a size limit.

Staff Proposed Revision: Amend Sec. 3-426(C)(2),

THE MAXIMUM SIZE FOR A MEDICAL MARIJUANA DISPENSARY SHALL BE NO MORE THAN 5,000 SQUARE FEET. THE MAXIMUM SIZE FOR A CULTIVATION FACILITY SHALL BE NO MORE THAN 25,000 SQUARE FEET.

2. **Age limitation for entering a dispensary.**

Background: Currently only the City of Tempe restricts the 21 and over age limitation for the two existing dispensaries in Tempe. One of the reasons Tempe incorporated this regulation was to avoid the connection between dispensaries and the younger University population as well as other students. The Medical Marijuana Act currently allows use of the substance to ages 18 years or older. If changed, Tempe's regulation on dispensary access would adhere to what is adopted by the State.

No revisions proposed by staff.

3. **Business hours for dispensaries in Tempe.**

Background: Tempe had originally established dispensary business operation hours during the majority of the time when daylight occurs. Thus having less concern for activity conducted at the time where there is less visibility. As a result of the security measure requirements for these businesses, lighting levels for sites have improved dramatically. Both dispensaries in Tempe have expressed a desire to have extended business hours. In comparison, our neighboring cities have the following dispensary business hours adopted:

City of Phoenix originally 8 – 7 pm; now amended 7 – 10 pm (2014)

City of Mesa hours limited 8 – 9 pm;

City of Scottsdale hours limited 6 – 7 pm;

City of Chandler hours limited 9 – 7 pm.

The applicant is requesting an extension of business hours until 10 pm.

Staff recommends modifying Tempe's current closing hours of 6 p.m. time to 8 p.m.

Staff Proposed Revision: Modify Sec. 3-426(C)(5),

The *medical marijuana dispensary* is limited to the hours of operation not earlier than 8:00 a.m. and not later than ~~6:00~~ 8:00 p.m.

#### 4. Limitations on the number of dispensaries allowed within Tempe.

Background: The topic of an “acceptable number of dispensaries” has been a recent point of interest. Currently, the city’s separation requirements will define how many potential dispensaries operate within the City. Arizona Department of Health Services went a step further and defined “Critical Health Analysis Areas” (CHAA) throughout the state allowing one dispensary for each CHAA boundary. Tempe received the allowance for two, one in North Tempe and one in South Tempe. After three years, dispensaries are eligible to locate elsewhere. Found in the attachments of the report (Attachments 1-3), show the potential areas that dispensaries could possibly locate within Tempe. Attachments 1 show the initial applications received, and Attachment 2 of how many Tempe permitted as a result of the initial process in 2011 (13 sites).

The city can either retain the existing separation requirements that create an effect of limiting the most viable location for dispensaries in Tempe. Or, establish an overall maximum number of dispensaries allowed in the city. As identified in the Medical Marijuana Act, there is a limit on the number dispensaries allowed statewide based on the total number of pharmacies (1 per 10) in the state. If this ratio was specifically applied to Tempe, up to 4 dispensaries would be allowed, as the city currently has 48 registered pharmacies.

The applicant is requesting limiting the total number of dispensaries in Tempe to two, the number of existing dispensaries that exist today. This would have an effect eliminating any further requests from apply to the City.

Staff Proposed Revision: Modify proposed change for total number of dispensaries.

To either maintain our current regulations for total number of dispensaries based on the separation requirements, or set a maximum limit on the total number of dispensaries to four (4), consistent with the State.

#### Conclusion

Based on the information provided by the applicant and review from the City of Tempe staff, and if this ordinance is adopted, staff recommends additional modifications to the amendments that address the intent of the original language.

**SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.**

#### CONDITIONS OF APPROVAL:

1. Delete Sec. 3-426(C)(2) and add the following, “THE MAXIMUM SIZE FOR A MEDICAL MARIJUANA DISPENSARY SHALL BE NO MORE THAN 5,000 SQUARE FEET. THE MAXIMUM SIZE FOR A CULTIVATION FACILITY SHALL BE NO MORE THAN 25,000 SQUARE FEET.”
2. Amend Sec. 3-426(C)(5), to allow operation hours to close by 8 p.m., instead of 10 p.m. as proposed.
3. Amend Sec. 3-426(C)(8)(a), to read as follows, “~~The single~~ ALL EXTERIOR doorway(S) for the facility shall provide a security vision panel...”
4. The new proposed subsection E, “Dispensary Limitations” shall be removed and relocated to Sec. 3-426(B) and add a new subsection (1) as follows: “NO MORE THAN FOUR (4) MEDICAL MARIJUANA DISPENSARIES SHALL BE ALLOWED WITHIN THE CITY OF TEMPE BOUNDARIES.” The existing subsections shall be renumbered accordingly.

**HISTORY & FACTS:**

- October 29, 2010 Staff provided City Council a Friday memo update outlining the City of Tempe's current involvement with the Arizona League of Cities and Towns with potential provisions for the proposed Proposition 203, cited as the Arizona Medical Marijuana Act.
- November 2, 2010 Election date, including the ballot initiative for Proposition 203, Arizona Medical Marijuana Act.
- November 23, 2010 Development Review Commission held a study session with staff presenting an outline of proposed draft amendments regarding the regulation of medical marijuana.
- December 1, 2010 Neighborhood Advisory Commission received a presentation by staff of an outline of proposed draft amendments regarding the regulation of medical marijuana.
- December 14, 2010 Development Review Commission recommended approval of a Code Text Amendment for AZ MEDICAL MARIJUANA ACT Ordinance No. 2011.01. (5-2 Vote, DiDomenico and Webb dissenting)
- December 17, 2010 The Arizona Department of Health Services (ADHS) posts initial draft of rules governing the regulatory system for the medical marijuana program.
- January 13, 2011 City Council introduced and held the first public hearing for MEDICAL MARIJUANA (PL100378).
- January 27, 2011 City Council held the second and final public hearing and adopted an ordinance for MEDICAL MARIJUANA (PL100378).
- September 22, 2015 Scheduled hearing with the Development Review Commission for this request.
- October 15, 2015 Introduction and first public hearing with City Council for this request.
- November 12, 2015 Second and final public hearing with City Council for this request.
- December 12, 2015 Potential effective date of ordinance.

**ZONING AND DEVELOPMENT CODE REFERENCE:**

Section 6-304, Zoning Map Amendment and Code Text Amendments

ORDINANCE NO. O2015.xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE CITY OF TEMPE ZONING AND DEVELOPMENT CODE, PART 3 – LAND USE, CHAPTER 4, SECTION 3-426, MEDICAL MARIJUANA.

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**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA,** as follows:

**SECTION 1.** That Section 3-426 of the Zoning and Development Code, pertaining to Medical Marijuana, is hereby amended to read as follows:

**Section 3-426 Medical Marijuana.**

**A. Purpose.** The purpose of this section is to implement Arizona Revised Statutes, Title 36, Chapter 28.1; entitled "Arizona Medical Marijuana Act".

**Cross reference**—See also the following definitions in Part 7 of this Code: *medical marijuana, medical marijuana cultivation facility, and medical marijuana dispensary.*

**B. Location Requirements.** A *medical marijuana dispensary, without cultivation,* is allowed in the CSS, CC, PCC-1, PCC-2, RCC, and LID districts. A *medical marijuana dispensary or cultivation facility* is allowed in the GID and HID zoning districts. The locations are limited to the following:

1. A *medical marijuana dispensary or medical marijuana cultivation facility* shall not be operated or maintained on a parcel within 1,320 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing the following:
  - a. Another *medical marijuana dispensary or cultivation facility,*
  - b. A child care facility;
  - c. A *charter school, private school, or public school,* which provides elementary or secondary education;
  - d. A *church, synagogue, temple or similar religious worship building,* or
  - e. A public park, library, or public community *building.*

2. A *medical marijuana dispensary* or *medical marijuana cultivation facility* shall not be operated or maintained on a parcel within five hundred (500) feet from a residential zoning district or the property line of a parcel solely devoted to a residential use in any zoning district, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point of the property line of a parcel containing such use.
3. *Medical marijuana cultivation* for a caregiver or patient's residence in a residential district is not permitted, unless sufficient evidence exists that the location is greater than twenty-five (25) miles from a *medical marijuana dispensary* within the State of Arizona.

**C. Operation Requirements.** Any *medical marijuana dispensary* or *cultivation facility*, except within a residential home, shall comply with the following requirements, as well as those contained within Arizona Revised Statutes, Title 36, Chapter 28.1:

1. The business shall be located in a permanent building, with an engineered foundation that meets Tempe Building Code, and not located in a *mobile home, trailer, cargo container, motor vehicle, or similar personal property*.
2. ~~Only one (1)~~ NO MORE THAN TWO (2) secured exterior doorwayS COVERED BY CAMERAS shall be allowed for the purpose of ingress or egress. The maximum size tenant space shall be limited to the square footage dedicated for such use with one TWO exitS. Any existing doorways beyond this allowance shall be permanently closed by removing the door and frame and filling in the opening with permanent construction to match the exterior wall.
3. The business and tenant space must comply with Tempe's applicable Building Code and Fire Code requirements.
4. Drive-through facilities are prohibited.
5. The *medical marijuana dispensary* is limited to the hours of operation not earlier than 8:00 a.m. and not later than ~~6:00~~ 10:00 p.m.
6. *Medical marijuana* remnants or bi-products shall be disposed of according to an approved plan and not placed within the facilities exterior refuse containers.
7. There shall be no emission of dust, fumes, vapors, or odors into the environment from the premise.
8. A security plan is required, which shall include, but is not limited to, the following:
  - a. ~~The single~~ EACH doorway for the facility shall provide a security vision panel pursuant to Section 4-406, Employee Service Entrances and Exits, or a 180 degree rotatable viewer. If doorway is transparent, the door shall be designed with a material that is either impact resistant or restricts entry by means of a wrought iron gate;
  - b. Closed circuit television cameras, operating 24 hours a day, shall be provided at the building's exterior entrance and inside the building at a designated service area;

- c. All lighting for the site shall be brought into conformance with the current lighting standards identified in Part 4, Chapter 8, Lighting. The building entrance of the business shall be illuminated from dusk till dawn activated by photocell relay to the lighting controller;
- d. No one under the age of ~~twenty-one (21)~~ EIGHTEEN (18) shall enter the ~~establishment~~ MEDICAL MARIJUANA DISPENSARY; and
- e. Any person, prior to entering the establishment, shall remove all hats, sunglasses or other similar objects, to avoid obstruction of physical identification.

**D. Use Acceptance.** A zoning administrative application shall be processed, certifying that all City of Tempe regulations for the *medical marijuana dispensary or cultivation facility* are in compliance with the provisions set forth in Section 3-426 of this Code. The use shall not commence without the zoning administrator, or designee, acceptance letter. the application shall include, but is not limited to, the following items:

- 1. A project submittal form with applicable fee;
- 2. The property owner's letter of authorization for the use;
- 3. The name and location of the dispensary's off-site *medical marijuana cultivation facility*, if applicable;
- 4. A map showing the location in compliance with the separation requirements listed in Section 3-426(B);
- 5. A copy of operating procedures adopted in compliance with A.R.S. 36-2804(B)(1)(c);
- 6. A site plan;
- 7. A floor plan of the building or tenant space;
- 8. If applicable, Building permits (Separate submittal) in compliance with Tempe's Building Code and Fire Code; and
- 9. A Security Plan, in compliance with Section 3-426(C).

**E. DISPENSARY LIMITATIONS. THE MAXIMUM NUMBER OF MEDICAL MARIJUANA DISPENSARIES WITHIN THE TEMPE CITY LIMITS SHALL BE TWO (2).**



Section 2. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

**PASSED AND ADOPTED** BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this \_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mark W. Mitchell, Mayor

ATTEST:

\_\_\_\_\_  
Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Judith R. Baumann, City Attorney



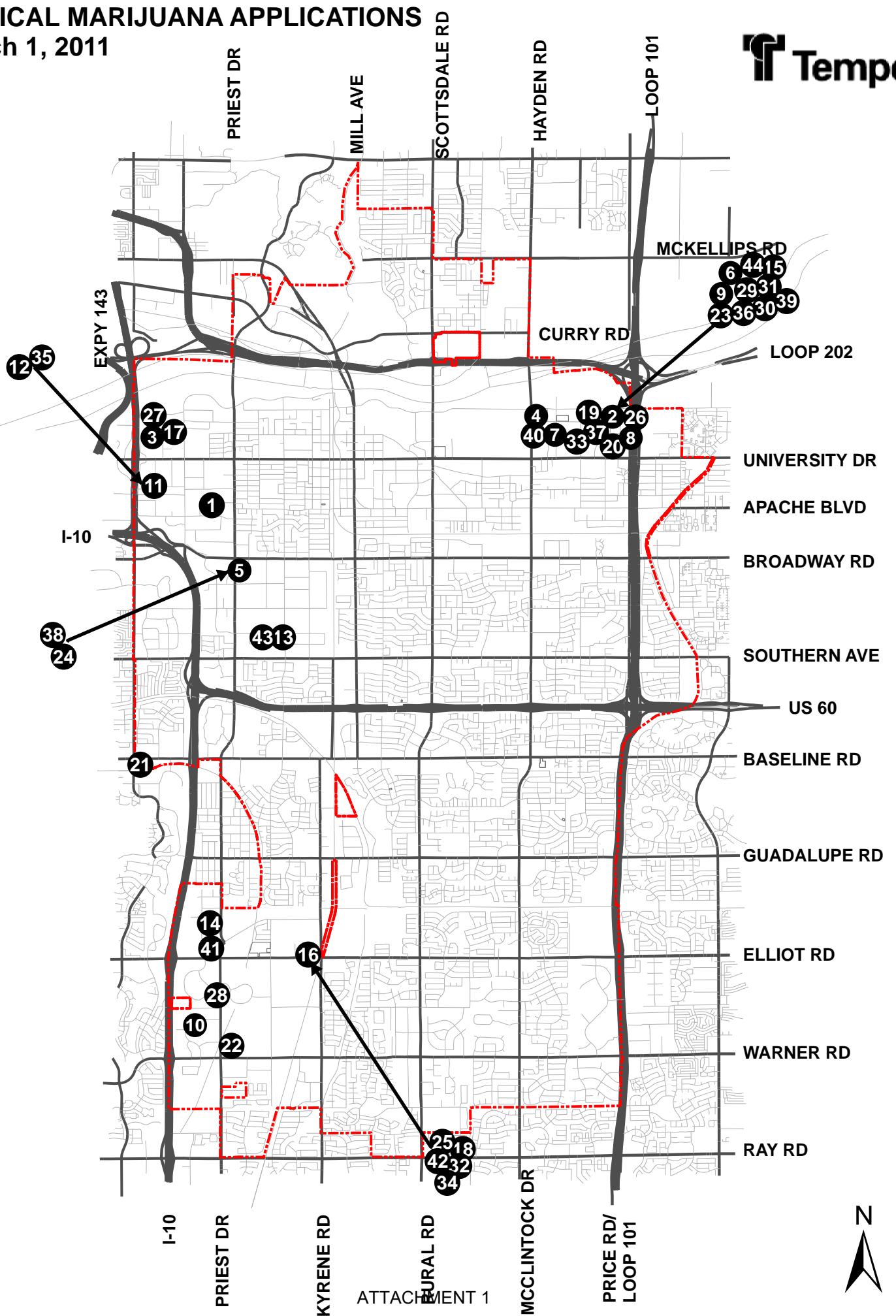
**PROJECT FILE**  
for  
**MEDICAL MARIJUANA DISPENSARY**  
**(PL150361)**

**ATTACHMENTS:**

1. Map of Initial Dispensary Applications (March 2011)
2. Map of Sites that received Zoning Clearance (May 2011)
3. Map of Potential Sites and Existing Dispensaries/Cultivation
- 4-6. Applicant Letter of Justification
- 7-8. Public Input (SWC Tempe Dispensary), Aug. 30, 2015

# MEDICAL MARIJUANA APPLICATIONS

March 1, 2011

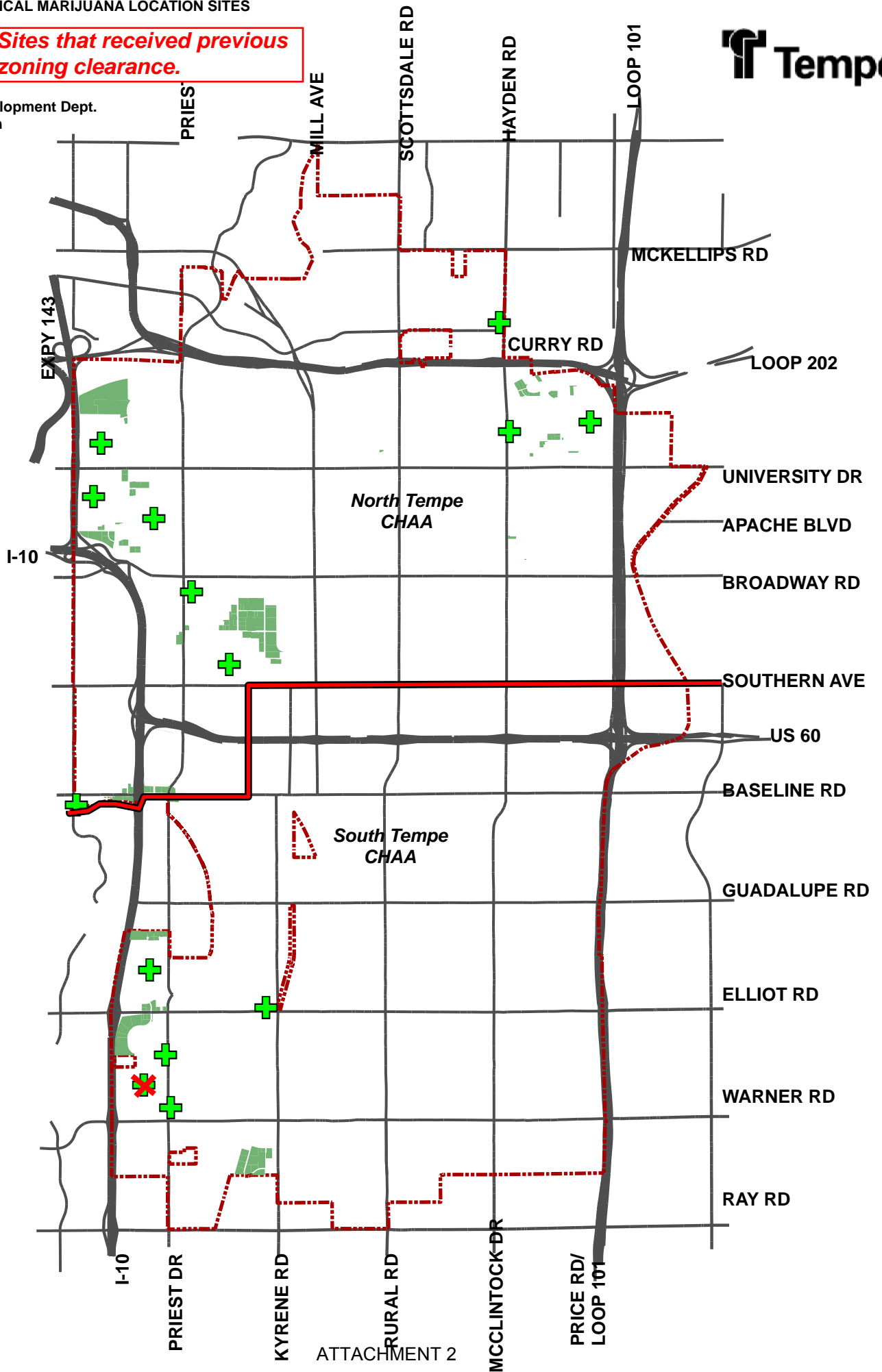


POTENTIAL MEDICAL MARIJUANA LOCATION SITES

Updated:  
May 4, 2011

**Sites that received previous zoning clearance.**

Source:  
Community Development Dept.  
Planning Division

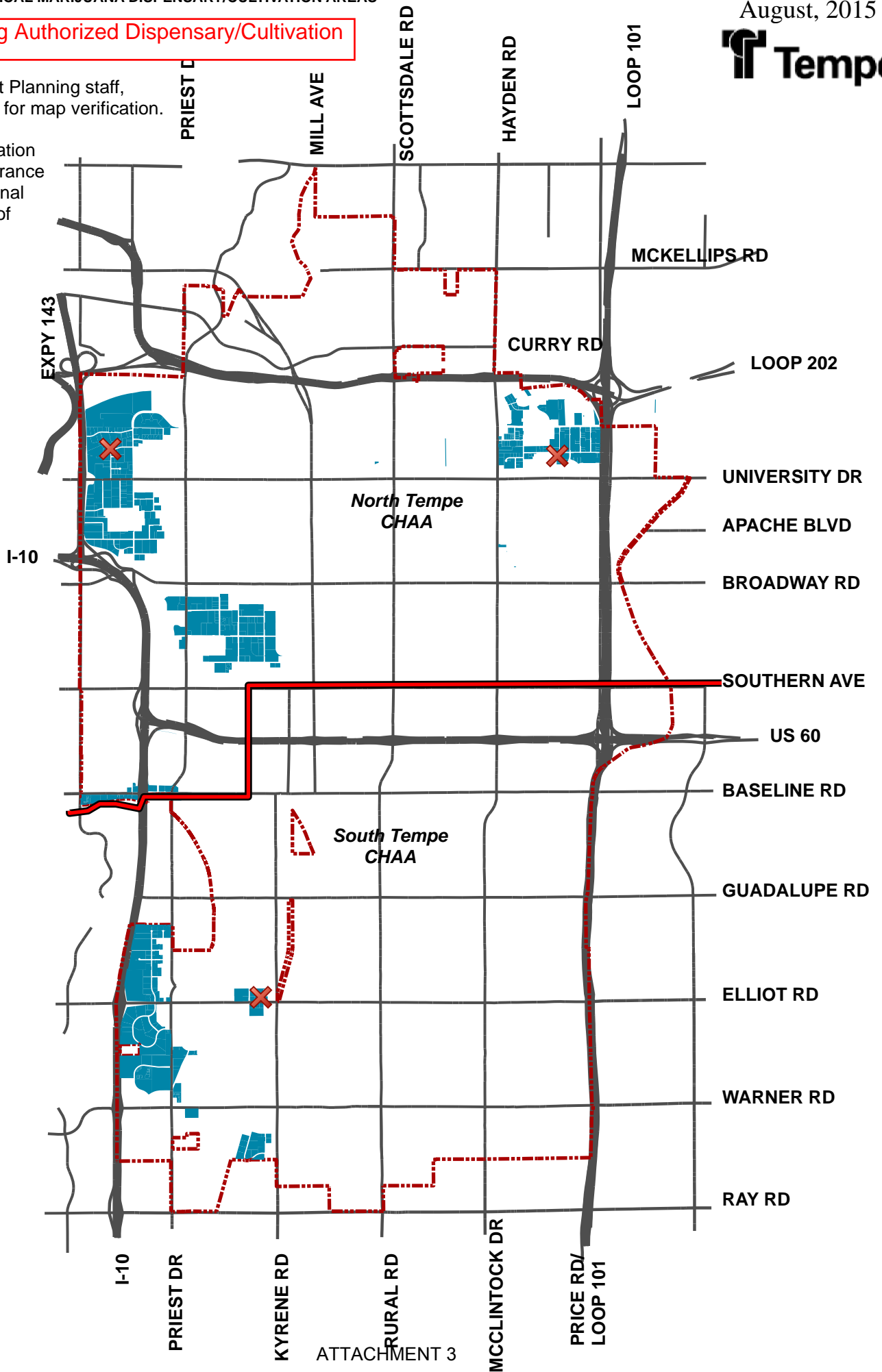




**X Existing Authorized Dispensary/Cultivation**

NOTE: Contact Planning staff,  
, for map verification.

Only an application  
for zoning clearance  
will provide a final  
determination of  
property site.





White Berberian PLC  
60 East Rio Salado Parkway, Suite 900  
Tempe, Arizona 85281  
(480) 366-5933 Telephone  
(480) 718-8368 Facsimile  
[www.wbazlaw.com](http://www.wbazlaw.com)

August 28, 2015

Sender's Direct: (602) 615-2083  
[swhite@wbazlaw.com](mailto:swhite@wbazlaw.com)

City of Tempe  
Community Development Department  
David Nakagamara  
Ryan Levesque  
31 East 5<sup>th</sup> Street  
Tempe, AZ 85281

Re: Medical Marijuana Ordinance Change Requests

Dear David and Ryan:

Thank you for meeting with me and Jerry Eaton on May 27<sup>th</sup>. As you are aware, we have been operating medical marijuana dispensary in south Tempe for more than two years. I think the existence of the medical marijuana industry in Arizona, and particularly in the City of Tempe, has gone much smoother than anyone would have imagined. It went well because societal attitudes are evolving, Tempe took a very involved and strategic approach to the new industry, and Tempe has responsible operators. As with all things, we now have the significant benefit of hindsight. Our operational experience, along with our interaction with the community and City of Tempe, have led us to believe that certain amendments to Tempe's medical marijuana ordinance would benefit the community and continue to diminish the black market for marijuana.

As you originally requested, I have created a list of items that we feel should be addressed to improve the existing medical marijuana ordinance, continue Tempe's conservative approach to marijuana regulation, and plan for the potential passage of an initiative that permits marijuana use for all adults twenty-one or older. I apologize if some of these suggestions are duplicative of ones that others have made or ones that I have previously submitted.

- 1. Younger Patients** – Currently, the City zoning ordinance does not permit medical marijuana patients under the age of 21 to enter the dispensary. I believe that the city included that provision to avoid making Arizona State University a place that attracted retail dispensaries. The concern did not manifest. While well meaning, the practical impact of the restriction is potentially three-fold. First, one of the great benefits of the medical marijuana program has been the impact on the black market. But by not permitting a certain segment of the population, who have already been certified as someone who would benefit from medical marijuana, to enter a legal dispensary, that individual may be inclined to seek marijuana from a less regulated source. The source could be a black market dealer, who has not

worked with the Tempe Police Department to ensure a secure facility, and who is not regulated or taxed. Second, the patient could simply travel to any adjacent city, none of which have this restriction. In that case, you are asking a patient to travel further, to a facility not governed by the City's ordinance. Third, the Tempe facilities still serve patients 18 – 20 years old. But instead of inviting them into a secure location, we are required to deliver to them, potentially to a place without all of the provisions required by the ordinance. For these reasons, we suggest eliminating the restriction on younger patients.

2. **Increase Patient Access** – The City of Tempe has the strictest hour limitations in the state. While Tempe's conservative approach to medical marijuana was prudent, after seeing no real issues after more than two years of operations, it is probably time to start easing some of those restrictions to be consistent with adjacent cities. Phoenix, for example, now permits medical dispensaries to be open until 10pm. There have been no incidents in Phoenix since hours were expanded, so we request that we be permitted to remain open until 10pm.
3. **Allow exit doorway** – After more than two years of operations, the restriction that limits dispensaries to a single door presents unnecessary operational challenges. Our site preparation included placing signage and cameras all around the building. Having an additional physical door could allow us to bring larger quantities of product through a door that does not permit all customers and the public to see both the product and the money received for the product. We believe it would make the business and surrounding community safer. The City could place restrictions on what the second door is used for and add additional security precautions to address any concerns that it has.
4. **Provide for conservative growth** – Signatures are currently being gathered for an adult use (or recreational) initiative. To date, more than 60,000 signatures have been gathered. A recent Rocky Mountain Poll suggests that Arizona citizens are likely to vote in favor of an adult use initiative. The initiative draft has zoning restrictions that require immediate consideration. For example, the initiative language does not permit the City to opt out of the adult use program. Instead, the City must allow existing medical marijuana dispensaries to operate an adult use store in the same jurisdiction. The practical impact of that provision the number of stores selling marijuana in Tempe will double (each medical licensee will now have a medical and an adult use store). The City's current zoning allows for up to thirteen locations, and in August, people with medical marijuana stores in rural areas can apply to move them to Tempe. I have heard that some operators are considering Tempe. If Tempe does not restrict existing operators from moving now, it could have up to at least twenty-six marijuana stores by 2017. It is, therefore, appropriate to not permit any additional marijuana stores to move to Tempe until the City determines that it is ready for more than four stores by 2017. At this time, the City should prohibit additional medical marijuana stores from moving into Tempe.

If you have any questions about these suggestions, please do not hesitate to contact me.  
Thank you.

Very truly yours,

**WHITE BERBERIAN PLC**

A handwritten signature in black ink, appearing to be 'S. White', written over the company name.

Steven M. White





# SWC Tempe

A State Licensed Dispensary

August 30, 2015

Ryan Levesque, Deputy Director  
City of Tempe Community Development Department  
31 E. 5th St.  
Tempe, AZ 85281

Re: Code Text Amendment within the Zoning and Development Code, Section 3-426, Section B (2).  
Setback Requirements for a Medical Marijuana Dispensary for Consideration by the City of  
Tempe Development Review Commission

Mr. Levesque:

This letter is a request for a Code Text Amendment within the Zoning and Development Code, Section 3-426, Section B (2), consisting of changes within the Code that regulate the location setback requirements for a Medical Marijuana Dispensary as required for the City of Tempe. **The request for change does not include cultivation facilities.**

**BACKGROUND INFORMATION:** MEDICAL MARIJUANA setback requirements are governed by the Zoning and Development Code, Section 3-426, Section B (2). Dispensary and Cultivation requirements are deemed the same. Our experience operating two dispensaries and cultivation facilities have demonstrated that this is not accurate. We respectfully request a modification to Section 3-426, Section B (2) to allow a dispensary no closer than 250 feet from a residential area. The current requirement for dispensaries and cultivation is 500 feet from a residential area.

### **Modified language on setback requirements for dispensaries**

The proposed modified language follows with the modifications from the current regulation, and is included in the attachments:

2009 E. 5<sup>th</sup> St. Ste. 11  
Tempe, AZ 85281

ATTACHMENT 7



# SWC Tempe

A State Licensed Dispensary

- 2 A medical marijuana dispensary ~~or medical marijuana cultivation facility~~ shall not be operated or maintained on a parcel within ~~five hundred (500) feet~~ two hundred fifty (250) feet from a residential zoning district or the property line of a parcel solely devoted to a residential use in any zoning district, and a medical marijuana cultivation facility shall not be operated or maintained on a parcel within five hundred feet from a residential zoning district or the property line of a parcel solely devoted to a residential use in any zoning district measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point of the property line of a parcel containing such use

SWC operates a dispensary in Prescott with two residences on each side. There has never been a complaint or any issue with the residences. The dispensary faces both homes and share a property line.

### City Comparison of Setback Requirements:

- Mesa – no residential zone setbacks, pages 31-39 and 31-40
- Prescott – no residential zone setbacks, only schools, one page document
- Scottsdale – 500 ft. from residential zones, page 13
- Tucson – no residential zone setback, pages 1-2
- Gilbert – 500ft from residential zones, page 15
- Phoenix – 250 ft. from residential zones, page 7
- Surprise – 500 ft. from residential zones, one page document

For your convenience and comparison, I have attached the respective Ordinances from each city.

**FISCAL IMPACT:** There is no fiscal impact on City funds

**ATTACHMENTS:** Ordinances for Tempe with the requested Amendment and the Ordinances on various cities

We have provided a successful, safe business with the City of Tempe, and would appreciate your approval of this action item. Please do not hesitate to call or email me with any questions or follow up items.

Regards,

Jeff Tice  
President  
Salubrious Wellness Clinic, Inc.  
602-549-9946

2009 E. 5<sup>th</sup> St. Ste. 11  
Tempe, AZ 85281

ATTACHMENT 8