

**CITY OF TEMPE  
BOARD OF ADJUSTMENT**

**Meeting Date: 11/28/2018  
Agenda Item: 2**

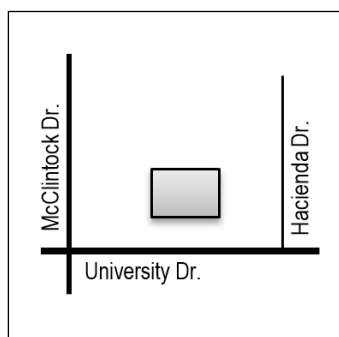
**ACTION:** Request a Variance to reduce the separation requirements for a Medical Marijuana Cultivation Facility from a religious worship facility and from a residential zoning district for PETER HANTZ COMPANY, located at 1840 East University Drive. The applicant is Gerald Johnson, Johnson & Wolman. (PL180158)

**FISCAL IMPACT:** N/A

**RECOMMENDATION:** Staff – Deny

**BACKGROUND INFORMATION:** PETER HANTZ COMPANY (PL180158) is a proposed Medical Marijuana Cultivation Facility which would be located within the north half of an existing industrial building. On June 25, 2018, the applicant filed an Administrative Review application (ADM180009) for zoning clearance for a Medical Marijuana Cultivation Facility. After review of the request, a determination was made on August 1, 2018 that the subject property did not comply with Tempe’s Medical Marijuana Ordinance (Ord. No. O2017.25) regarding the separation requirements from a religious worship facility (1,320 feet) and from a residential zoning district (500 feet). The applicant has now filed a variance application to reduce these separation requirements. The request includes the following:

VAR180008 Variance to reduce the separation requirements for a Medical Marijuana Cultivation Facility from a religious worship facility (from 1,320 feet to zero (0) feet) and a residential zoning district (from 500 feet to 281 feet).



Property Owner / Applicant	Gerald Johnson, Johnson & Wolman
Zoning District	GID (General Industrial District)
Site Area	1.92 acres
Building Area	12,000 s.f. (of a 30,990 s.f. building)
Building Setbacks	87' front (south), 18.5' west side, 1' east side, 7' rear (north) (25', 0, 0', 0' min.)

**ATTACHMENTS:** Development Project File

**STAFF CONTACT(S):** Karen Stovall, Senior Planner (480) 350-8432

Department Director: Chad Weaver, Community Development Director  
 Legal review by: N/A  
 Prepared by: Karen Stovall, Senior Planner  
 Reviewed by: Ryan Levesque, Deputy Community Development Director – Planning

## **COMMENTS**

The site contains a single-story industrial building that was constructed in the early 1980s. Primary access to the site is from a 30-foot wide drive that extends from University Drive. The site can also be accessed from McClintock Drive to the west and from Hacienda Drive to the east.

Pursuant to the Zoning and Development Code, Section 3-426, Medical Marijuana regulations, cultivation uses are allowed in industrial zoning districts, subject to compliance with the separation requirements found in the code and other operational requirements (no use permit requirement). An applicant must file an Administrative Review application to seek a "Use Acceptance" of a medical marijuana cultivation facility. The use acceptance letter, if granted, allows the applicant to complete the remaining steps of filing an application with the Arizona Department of Health Services and subsequent application of building permits for related tenant improvements, before the use goes into operation.

Part of the administrative review process includes verifying whether the proposed cultivation site complies with the necessary separation requirements in the Zoning and Development Code (Sec. 3-426), which includes:

- 1,320-foot separation from the property lines of a parcel containing a child care facility, charter/private/public school, a religious worship facility, or a public park/library/community building
- 500-foot separation from a residential zoning district or parcel solely devoted to a residential use in any zoning district.

These distances are measured by a straight line, from parcel line to parcel line, in all directions, without regard to intervening structures or objects.

When evaluating the request for a medical marijuana cultivation facility at the subject site, it was determined that the property is less than 1,320 feet away from a religious worship facility. The subject site is directly adjacent to Big House Inc., which is a religious facility located at 637 South McClintock Drive.

It was also determined that the subject property is less than 500 feet away from a residential zoning district. The subject site is within 500 feet of several residential subdivisions, the closest being Casitas Tempe Amended, which is on the south side of University, is zoned R-2, and is approximately 281 feet away.

As a result, and through the City's administrative review process, the subject property was determined not in compliance with the above two use separation requirements.

## **PUBLIC INPUT**

A neighborhood meeting was required for this application. The applicant held the meeting on October 17, 2018 at 6:00 p.m. at the Peter Hantz Company, located at 1840 East University Drive. In addition to the applicant's team, seven individuals were in attendance. The attendees expressed concern with the following: odor; security; how the use will impact the value of adjacent properties; that approval of a variance on this site may lay the groundwork for other marijuana-related uses; and a concern that another business could occupy the site under the same variance and not operate the business in the same good-neighborly manner. The applicant responded that the plants would be grown inside eight-foot wide by 20-foot long metal containers located inside the building and carbon filters and ozone scrubbers would be installed to prevent odors; they must have a security plan approved by the City of Tempe and will comply with whatever is required of that plan; they did not know how property values may be affected; and that they do not intend to sell or lease the building to another user. The applicant's meeting summary is attached.

Planning staff also received two e-mails and a written letter regarding the request. This correspondence is included in the attachments.

## **PROJECT ANALYSIS**

### **VARIANCE**

The applicant requests a variance to reduce the required separation requirements for a Medical Marijuana Cultivation Facility

from a religious worship facility and from a residential zoning district. The specific separation reductions are as follows:

- a. Reduce the required separation from a religious worship facility from 1,320 feet to zero (0) feet.
- b. Reduce the required separation from a residential zoning district from 500 feet to 281 feet.

Section 6-309 D. Variance Approval Criteria (*in italics*):

1. *That special circumstances are applicable to the property, including its size, shape, topography, location, or surroundings;*

The applicant states there are special circumstances related to the rear (north) half of the building, which has a separate warehouse, office space, and parking area. The applicant also claims financial challenges due to downsizing of the business and difficulty leasing the rear half of the building due to a lack of visibility from a public street.

The site/building design and business financials are not special circumstances associated with the property on which the building is located. The property does not have public street frontage; however, there are numerous commercial and industrial properties in the immediate vicinity and throughout the City of Tempe that do not have frontage on a public street. Access to these properties is allowed by private street or cross-access easement. As an example, two properties addressed as 1917 and 1923 East 5<sup>th</sup> Street, just over 1,000 feet to the northeast of subject site and also zoned GID, do not have street frontage.

2. *The strict application of this Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;*

Regardless of whether or not properties have visibility from public streets, all properties within 1,320 feet of the identified religious worship facility and within 500 feet of the identified residential zoning districts would be denied zoning clearance for a Medical Marijuana Cultivation Facility. The special circumstances claimed by the applicant do not deny the property of privileges enjoyed by other properties in the same zoning district.

3. *The adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;*

As explained above, other properties that do not comply with the required separation requirements would also be denied zoning clearance. If approved, the variance would grant special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district.

Other properties along McClintock Drive have previously been denied zoning clearance for Medical Marijuana uses. Approval of the variance would not be consistent with previous decisions made on other properties in the vicinity.

4. *A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner.*

There are no special circumstances applicable to the property as it relates to the required separation requirements for a Medical Marijuana Cultivation Facility.

#### **REASONS FOR DENIAL:**

Based on the information provided by the applicant, the public input received, and the above analysis, staff recommends denial of the requested Variance. This request does not meet the required criteria for Variance approval.

Typically, when a use acceptance for a Medical Marijuana use is sought, the application is made by an entity that has lawful authorization to conduct a Medical Marijuana business and has a valid license with the Arizona Department of Health Services. This applicant / property owner has neither. The separation requirements approved by the Tempe City Council specifically identified areas that would not negatively impact the protected land uses identified in the code and created an overall limitation in the total number of dispensaries and cultivation facilities in Tempe. Prior to Council's third amendment to

the Medical Marijuana ordinance, Tempe had only two (2) dispensaries and one (1) cultivation facility. Tempe now has five (5) approved dispensaries and at least two (2) cultivation facilities. There are many other properties within the one-half square mile of this industrial park that would meet the separation requirements, including an active dispensary located near Price Road and 5<sup>th</sup> Street. There is no justifiable argument to grant a Variance from the separation requirements. If granted, the property owner would need to seek out a lawful business already associated with a Medical Marijuana Dispensary to operate on the subject site.

**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. This Variance is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed.
2. The applicant shall submit a new Administrative Review application for zoning clearance in order to receive approval prior to start of operation.

**CODE/ORDINANCE REQUIREMENTS:**

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

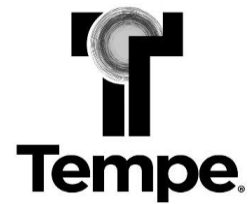
- Specific requirements of the **Zoning and Development Code (ZDC)** are not listed as a condition of approval but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through [www.tempe.gov/planning/documents.htm](http://www.tempe.gov/planning/documents.htm) or purchase from Development Services.
- **SIGNS:** Separate plan review process is required for signs in accordance with requirements of ZDC Part 4 Chapter 9 (Signs). Refer to [www.tempe.gov/signs](http://www.tempe.gov/signs).

**HISTORY & FACTS:**

- |                    |  |
|--------------------|--|
| October 6, 1983    | Design Review Board approved the building elevation and site plan for STEEL TECH (DR-83.131), located at 1840 East University Drive.   |
| September 26, 1984 | Board of Adjustment approved the following requests for LAMARR LTD. (in cooperation with Steel Tech) (A-84-9.5), located at 1840 East University Drive: <ul style="list-style-type: none"><li>• Variance to reduce the required on-site percentage of landscaping from 10% to 3%.</li><li>• Variance to reduce the required number of off-street parking spaces from 79 to 75.</li></ul> |
| August 1, 2018     | Community Development, Planning Division denied the Use Acceptance request for a Medical Marijuana Cultivation Facility for PETER HANTZ COMPANY (PL180158), located at 1840 East University Drive.   |

**ZONING AND DEVELOPMENT CODE REFERENCE:**

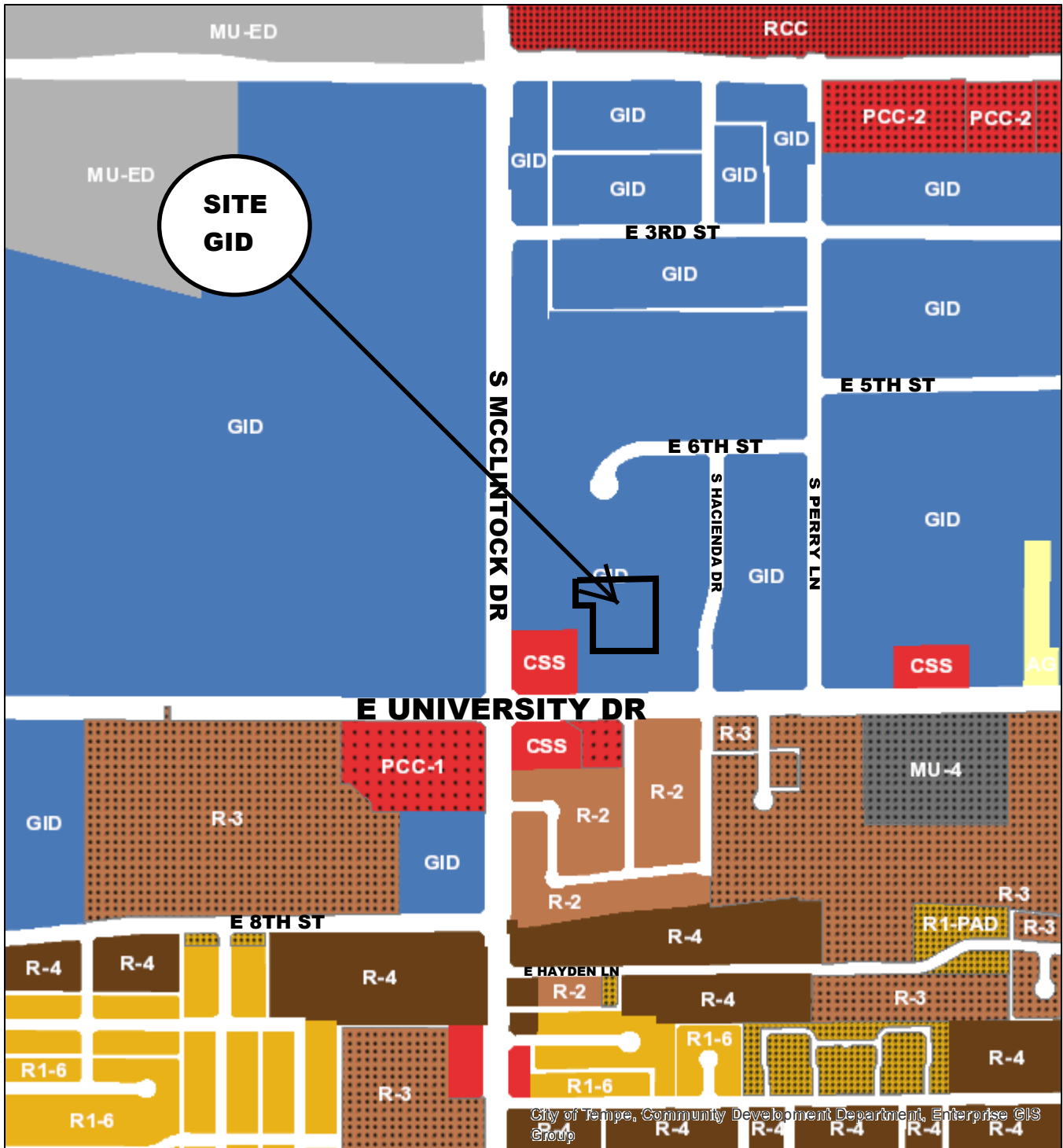
Section 3-426 Medical Marijuana  
Section 6-309 Variance



**DEVELOPMENT PROJECT FILE**  
for  
**PETER HANTZ COMPANY**  
**(PL180158)**

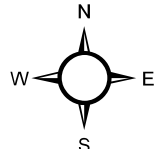
**ATTACHMENTS:**

- 1-18. Site Context (Location Map, Aerial, Site Photos)
- 19. Map showing separation between subject site and religious worship facility and residential zoning
- 20. Applicant's Letter of Explanation
- 21. Aerial with subject site highlighted
- 22. Site Plan
- 23. Floor Plan
- 24-37. Neighborhood Meeting Summary and Public Input



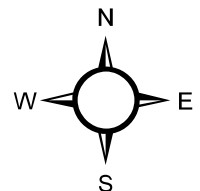
City of Tempe, Community Development Department, Enterprise GIS Group

- |  |   |  |
|--|---|--|
| General Industrial District (GID)              | Planned Commercial Center General (PCC-2)           | Multi-Family Residential (R-2)         |
| Mixed Use High (MU-4)                          | Regional Commercial Center (RCC)                    | Multi-Family Residential Limited (R-3) |
| Mixed Use Educational (MU-ED)                  | Agricultural (AG)                                   | Multi-Family Residential General (R-4) |
| Commercial Shopping and Services (CSS)         | Single-Family Residential (R1-6)                    |  |
| Planned Commercial Center Neighborhood (PCC-1) | Single-Family Residential Planned Area Dev (R1-PAD) |  |





Aerial Map





---

# Peter Häntz Company

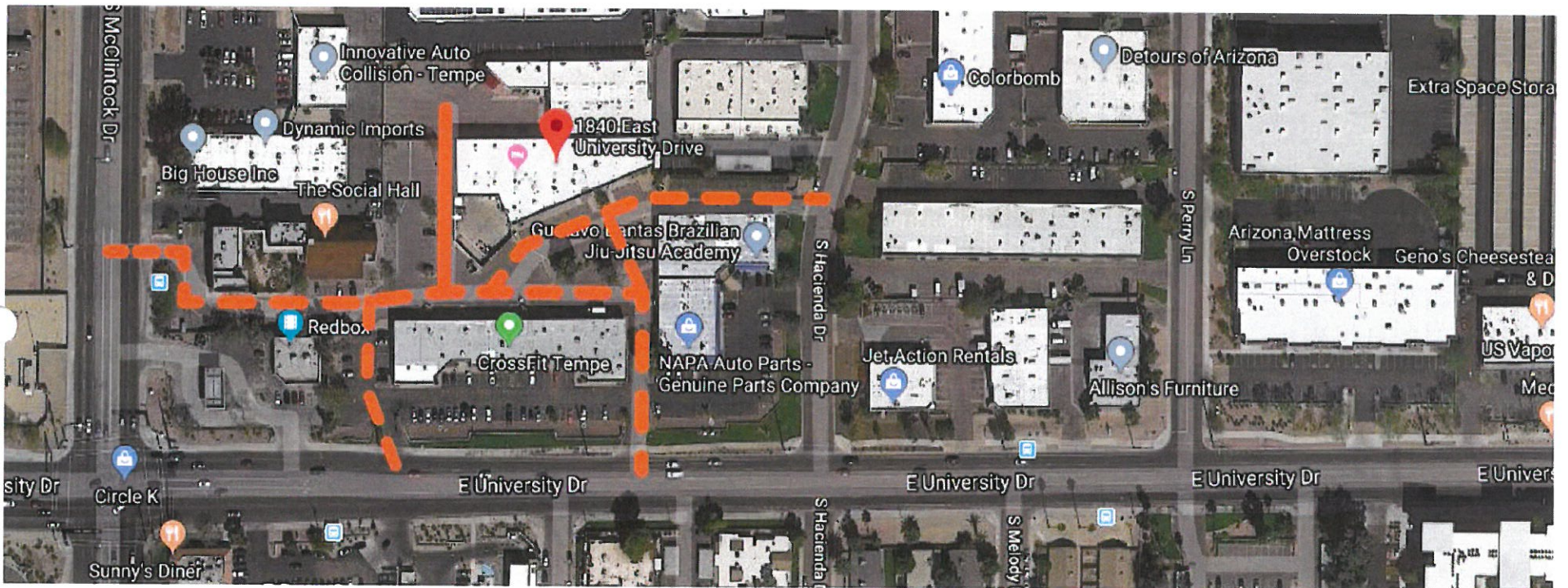
1840 East University Drive, Suite 1 & 2  
Tempe, Arizona 85281



The property at 1840 East University Drive, Tempe is a two suite building. Suite 1 is located on the South, Suite 2 is located on the North.

Suite 2 is only accessible through an easement that follows the property line of 1840 E University and 715 S McClintock Dr, Tempe, AZ 85281. (Solid Line)

Suite 1 is accessible through multiple paths (dotted line) and has a greater street visibility from multiple directions.





715 S McClintock Dr,  
Tempe Property Line

Easement to  
1840 E University Drive, Suite 2



Only street visibility

715 S McClintock Dr



Easement Access from  
1840 E University Drive, Suite 2



Main Entrance of Building



Bay doors to Warehouse



Parking spaces

Parking spaces

Parking spaces



ATTACHMENT 11





ATTACHMENT 12



ATTACHMENT 13



ATTACHMENT 14



ATTACHMENT 15



ATTACHMENT 16



ATTACHMENT 17



Parking spaces

Parking spaces

Parking spaces





# Johnson & Wolman LLC.

1840 east university drive • tempe, arizona 85281 • 480.967.6464 • 800.999.4247 • fax 480.967.0777

To Whom It May Concern;

May 21, 2018

Johnson & Wolman property owners of 1840 E University Drive in Tempe Arizona are requesting a variance to reduce separation requirements. Johnson & Wolman has had to down size in the past year creating financial challenges, renting our unused space would help make building payments, utilities and property taxes

The special circumstances applying to the property is the building has a separate warehouse and office space located at the rear of the property. A separate parking lot is secluded from the main entrance making it a very private area.

The strict application if the zoning variance will deprive Johnson & Wolman of renting the space for the cultivation of medical marijuana. The space is difficult to rent as it does not have the same visibility as other buildings in the area. The lack of visibility of the location would make it ideal for the prospective tenant. They have limited areas to choose from, this location would be secure and have 24 hour security.

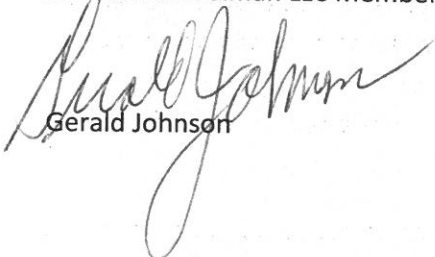
The adjustment to the variance restriction shall not constitute a grant of special privileges; the cultivation of medical marijuana is becoming a growing need for the medical community. Arizona has approved the use of medical marijuana. This business will not use this location for retail distribution; it will be for cultivation and wholesale to approved licensed professionals only. Therefore not imposing limitations to properties in the vicinity and zone in which the property is located.

A variance to reduce separation to conduct business as stated above is necessary to lease the space at 1840 E University Dr in Tempe Arizona. The City of Tempe has made this involuntary request to the business owners:

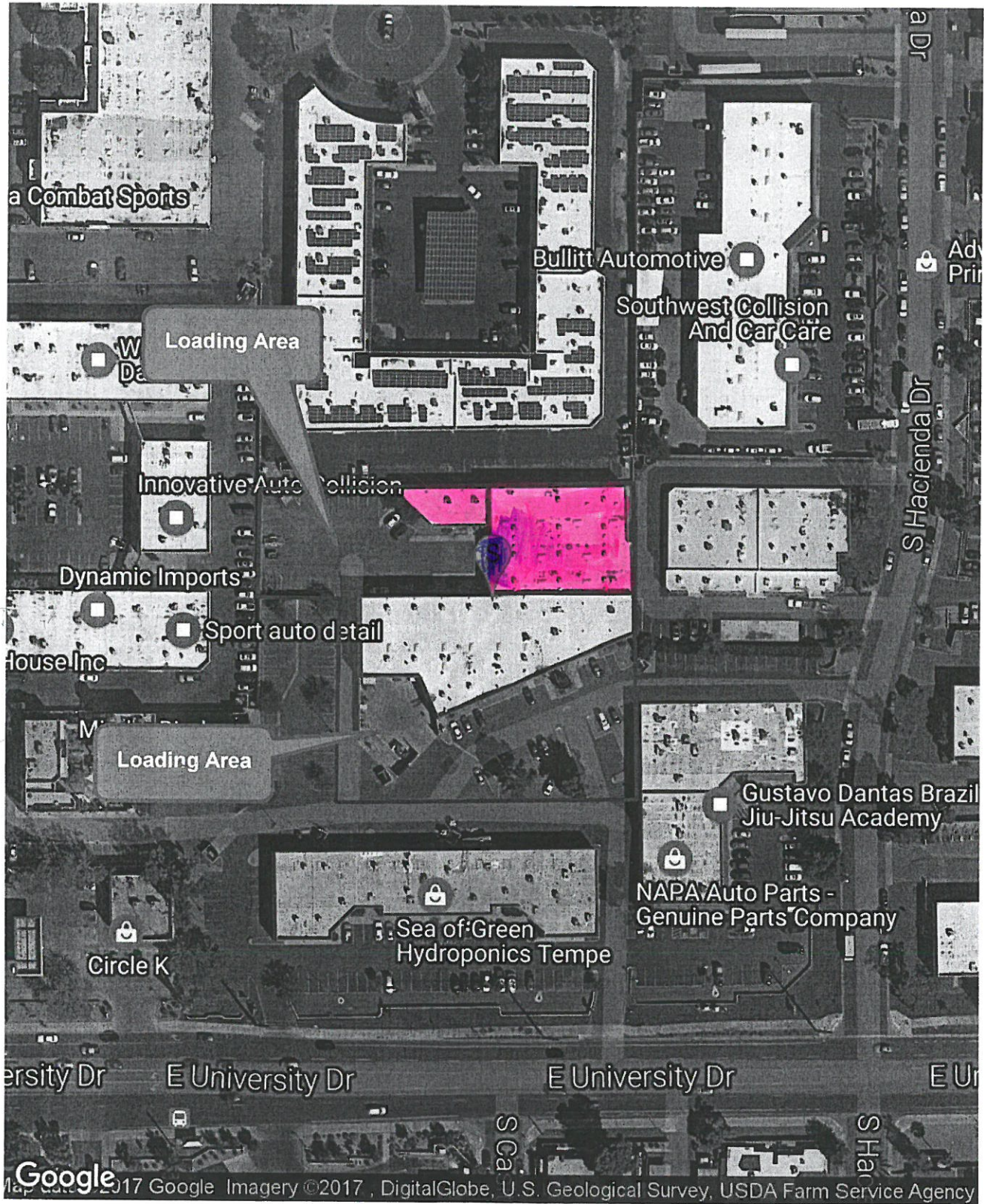
This variance to reduce separation requirements does not make any changes in the current uses and densities permitted in any zoning classification or zoning district in the area.

A variance to reduce separation shall not authorize relief from any item clearly restricted by this code.

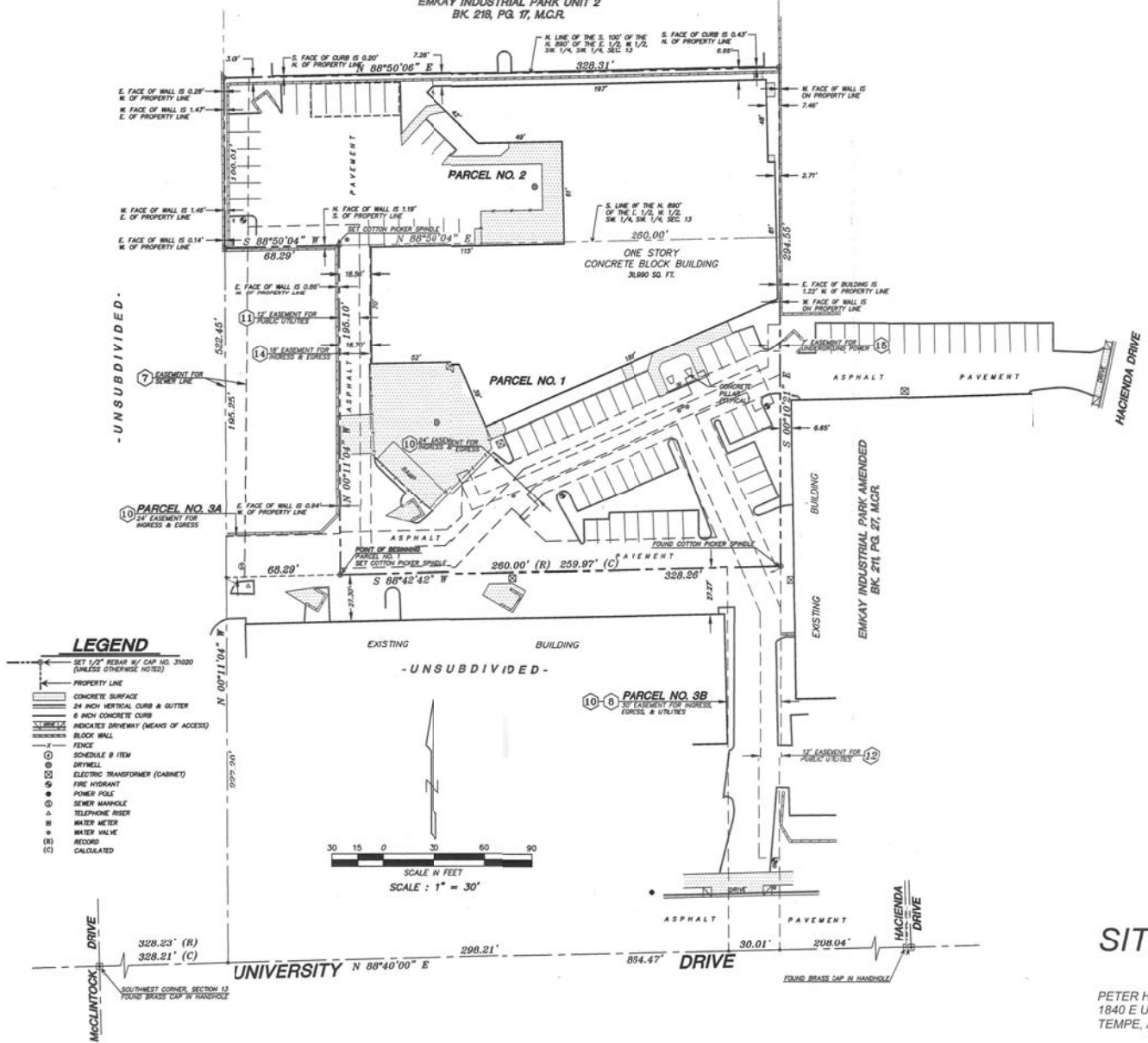
Johnson & Wolman LLC Member

  
Gerald Johnson

AERIAL PHOTOGRAPH



EMKAY INDUSTRIAL PARK UNIT 2  
BK. 218, PG. 17, M.C.R.



- LEGEND**
- SET 1/2" REBAR w/ CAP NO. 31020 (UNLESS OTHERWISE NOTED)
  - PROPERTY LINE
  - CONCRETE SURFACE
  - 24 INCH VERTICAL CURB & GUTTER
  - 6 INCH CONCRETE CURB
  - INDICATES DRIVEWAY (MEANS OF ACCESS)
  - BLOCK WALL
  - FENCE
  - SCHEDULE B ITEM
  - DRYWELL
  - ELECTRIC TRANSFORMER (CABINET)
  - FIRE HYDRANT
  - POWER POLE
  - SEWER MANHOLE
  - TELEPHONE RISER
  - WATER METER
  - WATER VALVE
  - RECORD
  - CALCULATED

**SITE PLAN**

PETER HANTZ COMPANY  
1840 E UNIVERSITY DR SUITE 2  
TEMPE, ARIZONA 85281

Scaled Floor Plan

Back Warehouse



2. The notification letters for the neighborhood meeting were mailed out on September 27<sup>th</sup> 2018. There was a sign posted at the front of buildings facing the street on University. The sign was also posted on September 27<sup>th</sup> 2018. It had the date and time of the meeting with summary of what the meeting was going to be about.

3. A map is included containing the notification area

4. A list of names of registered neighborhood and homeowners is also included.

5. A meeting was held on Wednesday October 17<sup>th</sup> 2018 at 6:00pm at the Peter Hantz Company located at 1840 E. University Dr. Tempe, AZ 85281. Refreshments were provided in our conference room. We began by introducing ourselves and spoke about what we want to do. Once we finished we asked if there were any questions or concerns. There were questions and we answered as best as we could.

6. There were 105 letters mailed out to individuals and or property owners. Of those 105 letters 7 individuals attended the meeting. To my knowledge none of these individuals provided written comments of phone calls.

7. The questions that the people that attended were as follows:

- Where is the Medical Marijuana going to be grown and how (hydroponically)? The Medical Marijuana will be grown in 6x20 ft containers inside the building and will be secured. Nothing will be grown outside of the building. It will be grown hydroponically.

- Who are the team members? Gerald Johnson and staff. Staff is still to be determined.
- Who will be the licensed cultivator? Gerald Johnson
- Will we be applying for a dispensary license? Not at this time we won't be.
- How many employees? 20
- Will there be enough electricity and will there be backup generators? Yes there will be plenty of electricity. At this moment we do not plan on having backup generators.
- Are we already associated with a dispensary? No we are not
- How long has the site been marked for lease? 1 ½ years.
- Is water recycled or disposed of in the sewer? Disposed in the sewer lines
- What is Sea of Green's involvement in the business? They have been helping with consulting us. We plan on purchasing our equipment from them.
- Will having this business in the area increase or decrease property value? It should increase the property value.
- What is the anticipated timing for the application and obtaining building permits? Right now we are not sure. We are taking 1 step at a time.
- What about the smell? The containers will have carbon filters that will eliminate most of the smell if not all.
- Will we have security, security cameras? We will have security cameras around the building and once we go into the next step we will have the Tempe Police Department come over and they will advise us as to what else we will need for security purposes.

- How are we going to secure the building? The building has locks and security system right now. We will follow whatever the Police Department advices also.

The concerns that the people had were as follows:

- The odor and how it may affect nearby businesses and tenants. The odor will be contained. The containers will have carbon filters that will eliminate most of the smell if not all. Any air that we eject from the building will have an ozone generator to reduce the remainder of smell.
  - Is variance going to exist after we leave? If approved, could not be valid for a single business. It would be valid for any user of the site that operates in conformance to the variance approval and stipulations
  - Will next tenant follow the rules? We do not plan on selling and or having another tenant at this time. We would hope that if we did the tenant would also follow the same rules.
  - Although not proposed at this time, this owner may want to open a dispensary in the future. As of right now we do not have any intentions of opening up a dispensary.
8. We have attached a copy of letter mailed out and also a picture of the sign that was posted out front.
9. Final report submitting to the assigned planner on Monday October 22<sup>nd</sup> 2018.

## Stovall, Karen

---

**From:** Ellacia Maxey  
**Sent:** Tuesday, October 09, 2018 10:26 AM  
**To:** Stovall, Karen  
**Cc:** Patti Hussey  
**Subject:** Medical Marijuana Cultivation Facility

Good Morning, Karen,

I have just been informed about the Medical Marijuana Cultivation Facility trying to open at 1840 E University Dr. I would like to know how to go about trying to stop this as I manage 3 properties in the direct area and this type of business would affect my tenants.

Thank you

**Ellacia Maxey**, Property Supervisor





## **Stovall, Karen**

---

**From:** Georgia Case  
**Sent:** Wednesday, October 10, 2018 10:50 AM  
**To:** Stovall, Karen  
**Subject:** medical marijuana facility

Hi Karen,

Could you send me a brief project overview or link? I am trying to determine why a homeowner or property owner would be welcoming to such a facility.

I am concerned about families in the area that I own rentals as this is a vulnerable population.

I will write a complaint to staff if I feel it is warranted.

With best regards,

Georgia Case

--

**Georgia B. Case**

Initech Holdings, LLC  
1835 E. Sixth St., Suite #27  
Tempe, AZ 85281  
602-684-5131  
480-290-7892 fax



November 15, 2018

Karen Stovall  
Planning Division  
City of Tempe Community Development Department  
120 E. Fifth Street  
Tempe, AZ 85281  
[karen\\_stovall@tempe.gov](mailto:karen_stovall@tempe.gov)

Re: Variance to Reduce / Eliminate Required Spacing for a Marijuana Cultivation  
1840 E. UNIVERSITY DRIVE

Dear Ms. Stovall:

We are writing in opposition to a variance request recently filed seeking to reduce and eliminate the required separation requirements for a property located at 1840 E. University Drive. We understand this request will be considered by the Board of Adjustment at the November 28, 2018 hearing.

We own and operate the Sixth Street Commerce Center, which is located at 1835 E. 6<sup>th</sup> Street. We are located directly north of the subject property. The Sixth Street Commerce Center is home to 20 small businesses, including our own, U.S. Digital Designs, Stark Machine & Design, and Tempe Solar Park. We, along with other surrounding business and property owners, will be negatively impacted if the Board of Adjustment were to approve the requested variances. Our concerns relate to (i) how this will impact our property and the surrounding business community and (ii) whether this request meets the ordinance and statutory requirements necessary for granting the variance. Finally, we are concerned that approval would create a precedent for other cultivation facilities to simply ignore the City Council imposed ordinance standards, thus opening the door for future variance requests.

**Not an Appropriate Location:** Unlike marijuana dispensaries, cultivation facilities are restricted to industrial zoned districts (GID or HID) which are typically isolated and away from residential and commercial businesses. However, the subject site is located within a mixed area. Within a 500-foot radius, there are churches, restaurants, bars, athletic/dance studios, homes, retail and industrial uses. Moreover, the north wall of the building intended to house the cultivation site sits directly on our south property line; **there is no setback between the building and our property line.** This fact alone will make it nearly impossible to adequately address the odor and security concerns described below.

The diverse mix of uses in the neighborhood makes this a vibrant area, with significant day, evening and late-night activity. While the property is zoned GID, it is immediately adjacent to a commercial shopping and services district (CSS) and in close proximity to residential and religious use facilities. The Council imposed separation and locational restrictions precisely to prevent cultivation facilities from locating near these active areas.

**Smell / Odor Concerns:** Cultivation facilities, even more than dispensaries, emit a distinctive smell. At the meeting, the applicant clearly was unaware of this issue. When we asked about it, he candidly admitted his ignorance of the issue and deferred to an attendee for his opinion. The attendee opined, off the cuff, that filters could be installed. However, this explanation is a far cry from a plan for odor remediation. Based upon our experience, it is virtually impossible to contain the smell of a cultivation site, even when expertly operated by industry veterans with a state of the art plan. The smell emitted by this cultivation will have a significant impact on both the surrounding community and our property. This problem is exacerbated by the lack of a setback between the cultivation building and our property. While our area currently has a low vacancy rate, the introduction of an odor producer in the area will discourage future businesses from choosing to locate here and push away existing businesses, especially restaurants with outdoor dining, and child-focused businesses such as churches and athletic/dance studios.

**Security Concerns:** Marijuana cultivation facilities have unique security issues. They are high target facilities and require specialized site planning coordinated with the Police Department. CPTED (Crime Prevention Through Environmental Design) site planning principles discourage hidden buildings and encourage higher-security users to locate in areas easily policed. This site lacks direct street access, meaning that police cannot passively drive by to monitor the building with ease. Moreover, the property owner proposes to utilize only the back portion of the building for the cultivation site. The back side of the building sits directly on our property line, which is completely hidden from the public and patrolling police vehicles. Because there is no setback, there are no security measures that the applicant can unilaterally take to wall off or otherwise adequately secure this side of the building. This will clearly create security risks and increased costs for us and our tenants, since the easiest way for criminals to access the cultivation facility will be through our property.

This site is also located immediately adjacent to a late night restaurant/bar. The cultivation facility shares vehicular ingress with the restaurant and their parking area is tucked into the subject parcel. As mentioned above, the City intended for cultivation facilities to be located away from commercial areas. Clearly, a late-night use and a cultivation facility does not meet their intent.

**Separation of Protected Uses:** The City's zoning ordinance requires separation to certain uses, including residential and religious uses. These standards are unique to marijuana uses. Since the Council initially imposed these standards, they have revised their standards twice. Both times, they have imposed additional requirements in order to limit the number of dispensaries allowed and increase separation requirements. As recently as the 2017, the Council actually increased the

separation requirements for dispensaries and kept in place the long-standing requirements for cultivation facilities. As such, the Council acknowledges their commitment towards keeping cultivation facilities away from churches, residential and other protected uses.

**Request Does Not Meet Legal Requirements Necessary for Variance:** In their submittal, the applicant indicates that they want to open a cultivation facility because they have an odd shaped lot with limited visibility and are having difficulty renting the building. Interestingly, the applicant has not provided any documentation supporting this claim. Also, Costar, the leading marketing database for commercial property, shows no leasing activity for this property since 2003. Costar's report also shows that market conditions should be favorable to leasing this property. See Costar Report, attached. Even if applicant has made a good faith effort to lease the property without success, leasing challenges are a self-imposed hardship that a variance cannot address. The GID zoning category allows for 60+ other uses, so the applicant's alleged inability to lease to other users is a condition self-imposed, and not a result of the zoning ordinance.

Applicant also claims the odd shape of their parcel or building creates a unique condition. While an odd shaped parcel may create a unique condition meriting a reduction of parking or landscape standards, the shape of the subject property didn't cause the separation issue. Applicant's lot, regardless of its shape, is simply located too close to an existing church and residential neighborhood.

There are no special circumstances relating to this property. There are other GID properties in this area (including our adjacent parcel) and throughout the City that are simply too close to residential and religious uses to meet the required separation standard for cultivation facilities. That's not a hardship and it doesn't constitute a special circumstance. The required separation is in place to ensure that marijuana facilities are not located in close proximity to these existing uses.

If the Board were to approve the request, this would constitute a special privilege to the property owner, a clear violation of the required variance tests. Furthermore, the proposed cultivation site would unfairly burden adjacent properties with increased costs and risks related to security and odor remediation. In short, locating a marijuana cultivation site in this area would deprive us, our tenants, and our neighbors of the right to quietly enjoy and use our property as we currently do. Granting this variance would constitute a special privilege endowed at our expense.

**Precedent for Future Marijuana Uses:** We've looked back at zoning histories for both cultivation facilities and dispensaries. We are unaware of any Board or Hearing Officer approval that eliminated or reduced the required separations for other marijuana facilities. If the Board were to approve the requested variances, they would establish a dangerous new precedent for future separation reductions.


For the foregoing reasons, we respectfully request that the Board of Adjustment deny the variance requests. Approval of this use would have a negative impact on our property (security, odor) as well as the surrounding business and

November 15, 2018

residential communities. Furthermore, we believe this request is inconsistent with the well-established efforts of the City Council to locate marijuana uses away from protected uses such as residential areas and churches. Finally, if the Board were to approve of such an action, it would create a precedent for future marijuana uses to reduce the separation requirements thus eroding the intent of the zoning ordinance.

Sincerely,

Initech Holdings, LLC



---

Dominic Magnoni, Member



---

Todd Smith, Member



# 1940 E University Dr

Tempe, AZ 85281 - Tempe East Ind Submarket

Fully Leased Building

31,426 SF Class C Industrial Warehouse Building Built in 1985

## Sale

Sold Price	\$1,800,000 (\$57.28/SF)
Date	Feb 2002
Sale Type	Owner/User
Financing	Down Payment of \$325,000 (18.06%), 1st Mortgage: Business Loan Express, Bal/Pmt: \$1,475,000/-

## Building

Type	3 Star Industrial Warehouse		
RBA	31,426 SF	Year Built	1985
Stories	1	Tenancy	Multi
Typical Floor Class	31,426 SF	Owner Occup	No
Docks	None	Ceiling Ht	16'
Drive Ins	2 tot./10'w x 12'h	Elevators	None
Cross Docks	None	Rail Spots	None
Levelators	None		
Truck Wells	None		
CoStar Est. Rent	\$7 - 9/SF (Industrial)		
Property Mix	Industrial 25,141 SF 80.0%	Office 6,285 SF 20.0%	
Power	200a/277-480v 3p		
Parking	24 free Surface Spaces are available; Ratio of 0.76/1,000 SF		
Taxes	\$1.02/SF (2017)		
Opportunity Zone	Yes		
Walk Score®	Somewhat Walkable (61)		
Transit Score®	Good Transit (56)		

## Land

Land Acres	1.92 AC	Land SF	83,548 SF
Bldg FAR	0.38		
Zoning	I-1, Tempe		
Parcel	132-40-005L		

## Tenants

Name	SF Occupied
Peter Hantz Company	23,440 SF
Azazi Hair & Anil Beauty Ctr	500 SF
Johnson & Wolman LLC	

## Features

Fenced Lot

## Building Notes

2/02: Johnson & Wolman LLC purchased the building from Presson Corporation. Reference Comps #PXC-22448-03-0220 for more information.

## Public Transportation

Transit/Subway	Drive	Walk	Distance
McClintock Dr/Apache Blvd Transit Stop...	4 min	14 min	0.8 mi
Smith-Martin/Apache Blvd Transit Stop...	3 min	17 min	0.9 mi
Airport	Drive	Walk	Distance
Phoenix Sky Harbor International Airport	11 min		7.1 mi

## Leasing Activity

Sign Date	SF Leased	Use	Rent	Rent Type
Nov 2003	6,000 SF	Industrial	\$7.20/IG	Asking
Oct 2003	3,000 SF	Industrial	-	-
Oct 2003	5,000 SF	Industrial	\$7.20/IG	Asking

## Market Conditions

Vacancy Rates	Current	YOY Change
Subject Property	0.0%	↔ 0.0%
Submarket 2-4 Star	4.4%	↓ -1.5%
Market Overall	7.4%	↓ -0.2%
Market Rent Per SF	Current	YOY Change
Submarket 2-4 Star	\$9.44	↑ 4.1%
Market Overall	\$7.89	↑ 4.3%
Submarket Leasing Activity	Current	YOY Change
12 Mo. Leased SF	320,119	↑ 13.5%
Months on Market	4.1	↓ 0.6 mo
Submarket Sales Activity	Current	Prev Year
12 Mo. Sales Volume (Mil.)	\$25.6	\$33.2
12 Mo. Price Per SF	\$132	\$124

## Property Contacts

True Owner	Peter Hantz Company
Recorded Owner	Johnson & Wolman LLC
Owner Type	Individual
Primary Leasing	Johnson & Wolman LLC

## Assessment

2017 Assessment			
Improvements	\$1,103,400	\$35.11/SF	
Land	\$411,300	\$4.92/SF	
Total Value	\$1,514,700	\$18.13/SF	84% of last sale

## Demographics

	1 Mi	3 Mi
Population	18,246	147,158
Households	7,763	58,992
Average Age	29.70	33.60
Median HH Income	\$24,465	\$42,244
Daytime Employees	11,792	93,830
Population Growth '18-'23	↑ 10.2%	↑ 8.1%
Household Growth '18-'23	↑ 9.7%	↑ 8.2%

## Traffic

Collection Street	Cross Street	Traffic Vol	Year	Distance
S McClintock Dr	E 3rd St N	32,498	2017	0.20 mi
S McClintock Dr	E Randall Dr S	31,194	2017	0.33 mi
E University Dr	S Smith Rd E	37,413	2017	0.35 mi
E University Dr	S Dorsey Ln W	34,703	2017	0.37 mi
E Don Carlos Ave	S McClintock Dr E	1,771	2014	0.41 mi

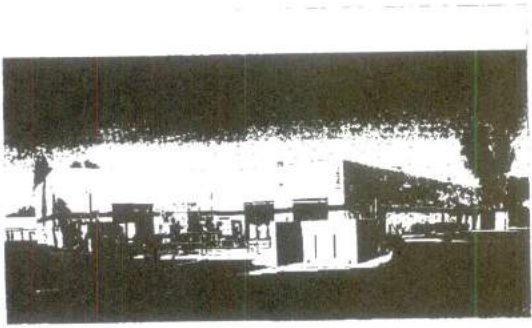
Made with TrafficMetrix® Products

## Location

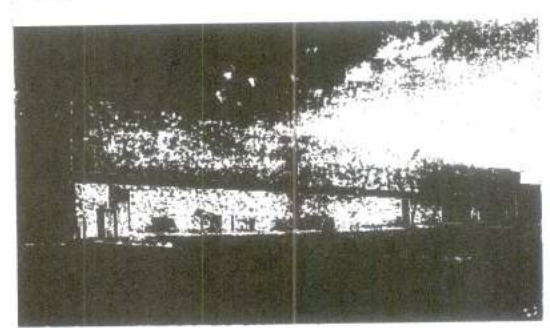
Zip	85281
Submarket	Tempe East Ind
Submarket Cluster	Southeast Ind
Market	Phoenix
County	Maricopa
State	Arizona
CBSA	Phoenix-Mesa-Scottsdale, AZ
DMA	Phoenix, AZ

Property ID: 231568

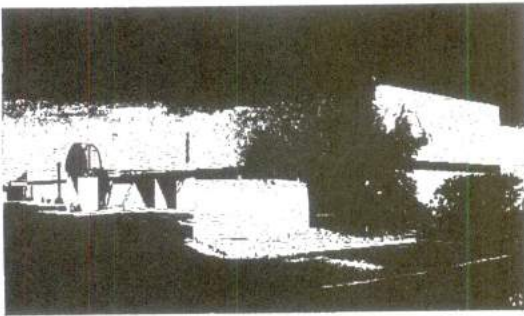
Building Images



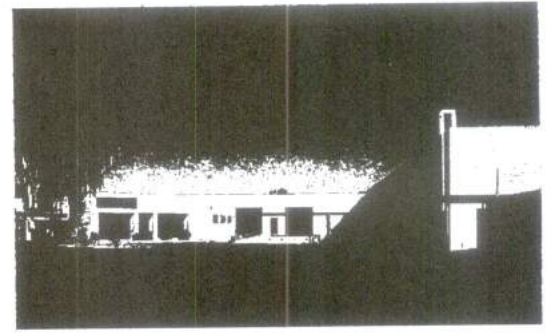
Primary Photo



Building Photo



Building Photo



Alternate Building View



Plat Map



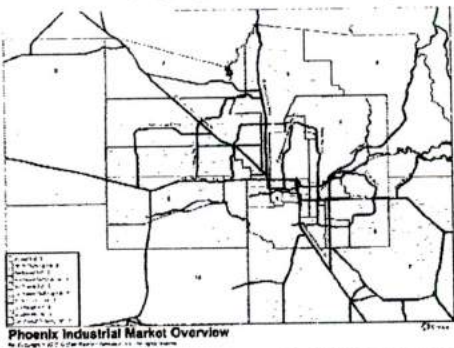
Tempe East Industrial Submarket Map



Southeast Industrial Market Map



Phoenix Industrial Submarket Overview Map



Phoenix Industrial Market Overview Map



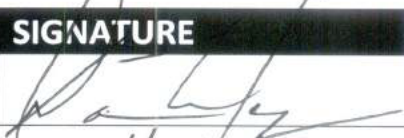


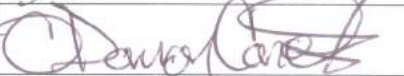


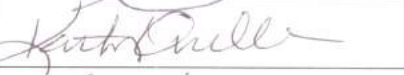
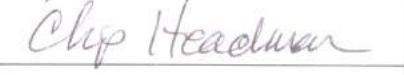





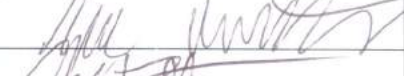

## PETITION OF OPPOSITION

Variance to Reduce / Eliminate Required Spacing (PL 180158)  
 PROPOSED MARIJUANA CULTIVATION  
 1840 E. UNIVERSITY DRIVE

To the Board of Adjustment:

We, the undersigned property owners and/or tenants of property affected by the request described in the above-referenced file, do hereby protest the requested variance requests.

The proposed use, a marijuana cultivation facility, does not meet the Ordinance required spacing requirements. Approval of the variance would grant a privilege to the property owner not enjoyed by others and will set a precedent for other cultivations to locate on properties without regard to the city ordinance, policy and impact on residential, religious and business uses. The proposed use would negatively impact our property and the operation of our businesses. We are concerned about the impact that this will have on our properties and businesses, including security, foul odors, and the location of such a business in a high-activity industrial and retail area.

DATE	NAME	ADDRESS	SIGNATURE
14 Nov 2018	Dominic Magnoni		
11/14/2018	Todd Smith		
11/14/18	Stephen Greene		
11/14/18	<del>Amal Das</del>		
11/14/18	David Kaminski		
11/14/18	Jasen Jensen		
11/14/18	Kathy Quelle		
11/14/18	Chip Headman		
11-14-18	Bob Tarwater		
11/14/18	Jayson Harrison		
11/14/18	MARYL SHEPPARD		
11/14/18	Mark Greenge		
11/14/18	Rodney Jacobs		
11/14/18	Zachary Muchlight		
11/14/18	William Butler		













## PETITION OF OPPOSITION

Variance to Reduce / Eliminate Required Spacing (PL 180158)  
 PROPOSED MARIJUANA CULTIVATION  
 1840 E. UNIVERSITY DRIVE

To the Board of Adjustment:

We, the undersigned property owners and/or tenants of property affected by the request described in the above-referenced file, do hereby protest the requested variance requests.

The proposed use, a marijuana cultivation facility, does not meet the Ordinance required spacing requirements. Approval of the variance would grant a privilege to the property owner not enjoyed by others and will set a precedent for other cultivations to locate on properties without regard to the city ordinance, policy and impact on residential, religious and business uses. The proposed use would negatively impact our property and the operation of our businesses. We are concerned about the impact that this will have on our properties and businesses, including security, foul odors, and the location of such a business in a high-activity industrial and retail area.

DATE	NAME	ADDRESS	SIGNATURE
11-14-18	GLORIA ARRIETA		
11-14-18	Angeli to Ramo2		
11-14-18	Luke Eddington		
11/14/18	TOOD JENNER		
11/14/18	David Gruber		
11/14/18	Eric Dickinson		
11/14/18	Brandon Water		
11-14-18	Catherine Morfio		
11/14/18	MICHAEL MAZ		
11/15/18	Bill Herber		
11/15/18	Ed Burkhardt		
11/15/18	Eric Hanson		
11/15/18	Andrew MacFarlane		