



PLANNING DIVISION
STAFF REPORT

City Council

January 27, 2020

CASE No.: **ZON18-00891**

PROJECT NAME: **Alpha Creations**

Owner's Name:	PDE Investments, LLC
Applicant's Name:	Matthew Rettig
Location of Request:	535 West Baseline Road
Parcel No(s):	302-04-008P
Request:	Rezone from Neighborhood Commercial (NC) to Light Industrial (LI)
Existing Zoning District:	Neighborhood Commercial (NC)
Council District:	3
Site Size:	1.4± acres
Proposed Use(s):	Commercial Uses.
Existing Use(s):	General retail uses
P&Z Hearing Date(s):	May 22, 2019 / 4:00 p.m.
Staff Planner:	Evan Balmer, AICP
Staff Recommendation:	APPROVAL with Conditions
Planning and Zoning Board Recommendation:	Approval with conditions
Proposition 207 Waiver Signed:	Yes

HISTORY

On **August 25, 1986**, the City Council approved to rezone the property from Single Residence with a Planned Area Development Overlay (RS-PAD) to Neighborhood Commercial (NC).

On **March 21, 2005**, the City Council approved a Site Plan for the property to allow development of the current building and site layout.

PROJECT DESCRIPTION

Update since the May 22, 2019 Planning and Zoning Board hearing:

The Planning and Zoning Board considered the subject request on May 22, 2019 and recommended approval to the City Council by a vote of 4-0. The applicant's request during the Planning and Zoning Board's review included limiting certain uses allowed in the Light Industrial (LI) zoning district that are likely to be incompatible with the surrounding developments and neighborhood. Medical marijuana dispensary uses were not part of the restricted uses requested at the time of the Planning and Zoning Board's consideration. However, after the Planning and Zoning Board's hearing, staff and the applicant reviewed the development agreement required to restrict uses, as required in the City's Zoning Ordinance, and agreed to include medical marijuana dispensary to the list of prohibited uses (see Exhibit A). Currently, there is a medical marijuana dispensary located within 750 feet of the subject property. Per Section 11-31-34-A of the Mesa Zoning Ordinance, a minimum separation distance of 5,280 feet is required between medical marijuana dispensaries. Restricting such a use with the proposed rezoning removes any ambiguity of the required separation distance and potential discourse of approving the rezoning to allow medical marijuana uses. Per the associated development agreement with the subject request, the applicant can request the City Council to review and amend the list of restricted uses in the future. However, any such amendment shall be reviewed through the public hearing process.

Background:

The applicant is requesting to rezone the property from Neighborhood Commercial (NC) to Light Industrial to accommodate commercial uses. The intent of the initial application was to rezone the property to the LI zoning district to allow medical marijuana dispensary uses on the property. However, after several deliberations and requirements for a development agreement, both the applicant and staff agreed to prohibit medical marijuana dispensary uses on the property. The subject request includes an associated development agreement to prohibit certain uses that are generally allowed in the LI district. The purpose for restricting the uses is to ensure the rezoning of the property from Neighborhood Commercial to Light Industrial will not result in incompatible uses to the surrounding neighborhood. The applicant is not proposing any changes to the previously approved building elevations or site plan.

General Plan Character Area Designation and Goals:

The General Plan character area designation on the site is Employment. Per Chapter 7 of the General Plan, the Employment area character designation is for employment-type uses and typically have minimal connections to the surrounding areas. Examples of uses in the district are large manufacturing facilities, warehousing, business parks, etc. Supporting retail and office uses may be included in the district. Overall, the goal of the Employment character area is to provide a wide range of employment opportunities in high quality settings. Currently, the property abuts residential uses to the south and a proposed medical office development to the west. The location of the property adjacent to residential uses and offices conforms to supporting retail and office uses that could be allowed in the Employment character area designation on the property. In addition, the property is located at the edge of the Employment character area designation where lower intensity uses, such as neighborhood scale commercial uses can be located to serve as a buffer between more intense industrial uses and surrounding residential uses.

Because of the proposed development agreement to restrict likely incompatible uses allowed in the LI zone district, rezoning of the property to allow general commercial uses allowed in the LI district will conform to the Employment character area designation on the property and the surrounding developments in the area. Staff reviewed the request and determined it is consistent with the criteria for review outlined in Chapter 15 (pg. 15-1&2) of the Mesa 2040 General Plan.

Zoning District Designations:

The applicant is requesting to rezone the property to allow certain commercial uses allowed in the LI zoning district. Per Section 11-7-2 of the MZO, there are a number of intense uses allowed in the LI district, such as auto repair and manufacturing uses. After careful review of the request, staff determined allowing an LI designation on the property with potential high intensity uses will be incompatible to the adjacent residential zoning designation and neighborhood to the south of the property unless those high intensity uses are prohibited on the property through a development agreement. After several deliberations, the applicant has agreed to enter into a development agreement to restrict all the potential incompatible uses allowed in the LI district. With the development agreement to restrict uses on the property, rezoning of the property to LI will be compatible to the surrounding area and zoning districts.

Surrounding Zoning Designations and Existing Use Activity:

Northwest (Across Baseline Road) LI Office Park	North (Across Baseline Road) LI Office Park	Northeast (Across Baseline Road) LI Medical Office
West NC Medical Office	Subject Property NC Multi-tenant Commercial	East LI Commercial
Southwest RS-6 Residential	South RS-6 Residential	Southeast LI Commercial

Compatibility with Surrounding Land Uses:

The property to the south of the subject property is zoned RS-6 and developed as a single-family residential neighborhood. The property to the east is zoned LI and developed as an employment park. According to City records, the City approved the zoning designation in 1975. The properties to the north, across Baseline Road, are zoned LI and currently used as medical offices. Per Section 11-31-3A-A-4 of the City's zoning ordinance, a minimum distance of 5,280 feet is required between medical marijuana dispensary facilities. As of writing this report, no medical marijuana dispensary facility shall be allowed within 5,280 feet of the current and approved medical dispensary located at 2152 S. Vineyard #120.

In addition to the zoning designations, Section 11-31-34 of the Mesa Zoning Ordinance requires additional standards for medical marijuana facilities including distance separations from other land uses. Section 11-31-34-A-4 requires a distance of 1,200 feet between medical marijuana

dispensaries and public parks in the LI or GI districts. As shown in Figure 1 below, the majority of the site is within 1,200 feet from a park located on Jerome Avenue to the north and only three suites at the east end of the building can be potentially used as marijuana dispensary facility if such uses are not prohibited on the property through a development agreement. Section 11-31-34-A-2 of the MZO also requires a minimum separation distance of 5,280 feet between dispensary uses, which prohibits concentration of such uses in an area of the City. Further, per Section 11-31-34 (E) of the MZO, all medical marijuana dispensary, cultivation facilities and infusion facilities locations are required to be registered with the City's Planning Division. Approval of such registration shall be dependent on conforming to all requirements of Section 11-31-34 of the MZO, including minimum distance separation requirements. Any potential future modifications to the development agreement alone to allow a medical marijuana on the property does not authorize a medical marijuana facility use on a property, unless the facility can conform to all performance standard requirements, as outlined in Section 11-31-34 of the MZO.

Neighborhood Participation Plan and Public Comments:

The applicant has completed a Citizen Participation Process, which included mailed letters to property owners within 1,000' of the site, as well as HOAs and registered neighborhoods within a mile radius of the site. The applicant held two neighborhood meetings on February 23, 2019 and March 9, 2019 at the Holiday Inn & Suites at 1600 S. Country Club Drive, which is located within ½ mile of the site. The sign in sheets and meeting minutes are provided in the applicant's Citizen Participation Report. Below is the summary of comments and concerns expressed at the neighborhood meetings:

- Can the property be rezoned to a less intense zoning designation?
- Can the existing wall on the south side of the property be raised from 6' to 8'?
- Current tenants of the building are using temporary signage.
- If the rezoning is granted, what security measures would be implemented at the dispensary?
- One resident expressed his opinion that the availability of medical marijuana dispensaries is important for residents with medical needs.
- Dispensary hours of operation

As of writing this report, staff has spoken to one resident who expressed concerns with the initial intent to allow a medical marijuana dispensary on the property. However, the associated development agreement to prohibit medical marijuana dispensary on the property should address the concern. In addition, staff had also initially informed the resident prior to the revised prohibited uses of the applicant's intent to relocate the existing medical marijuana facility on Vineyard and potential development agreement to restricts uses on the property, and the resident seemed less concerned after obtaining such information.

Staff Recommendations:

The subject request with associated development agreement to restrict certain land uses on the property is consistent with the General Plan; therefore, staff recommends approval with the following conditions:

Conditions of Approval:

1. Compliance with all City development codes and regulations.
2. Execute a development agreement, as approved by City Council, to restrict certain land uses on the property
3. Landscaping shall comply with the landscape plan approved with zoning case Z05-020. Any dead, dying or missing landscape materials shall be replaced in kind and all landscaping shall be trimmed to maintain natural surveillance.