



Zoning Examiner

Preliminary Report

July 3, 2024

Aari Ruben
4850 S. Park Ave
Tucson, AZ 85710

**SUBJECT: TP-ENT-0124-00002 Desert Bloom Dispensary – E Speedway Blvd,
C-2 (Ward 6)**

Public Hearings: May 16, 2024

June 27, 2024

Dear Mr. Ruben:

Pursuant to the City of Tucson Unified Development Code and the Zoning Examiner's Rules and Procedures (Resolution No. 9428), this letter constitutes written notification of the Zoning Examiner's summary of findings for special exception case TP-ENT-0124-00002 Desert Bloom Dispensary – E Speedway Blvd, C-2 (Ward 6).

At the expiration of 14 days of the conclusion of the public hearing, the Zoning Examiner's Report to the Mayor and Council (including background information, public hearing summary, findings of fact, conclusion, recommendation, and public hearing minutes) shall be filed with the City Manager. A copy of that report can be obtained from the Planning and Development Services Department (791-5550) or the City Clerk.

If you or any party believes that the Zoning Examiner's recommendation is based on errors of procedure or fact, a written request to the Zoning Examiner for review and reconsideration may be made within 14 days of the conclusion of the public hearing.

The public hearing held by the Zoning Examiner shall constitute the public hearing by the Mayor and Council. However, any person may request a new public hearing before the Mayor and Council. A request for a new public hearing must be filed in writing with the City Clerk within 14 days of the close of the Zoning Examiner's public hearing.

TP-ENT-0124-00002 Desert Bloom Dispensary – E Speedway Blvd, C-2 (Ward 6)



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BACKGROUND

This is a request by Aari Ruben of Medmar Tanque Verde, LLC for approval of a Special Exception Land Use to allow a marijuana dispensary, as permitted in the *Unified Development Code* (UDC). The project site, which is located at 5851 E Speedway Blvd, includes an existing multi-tenant commercial building comprised of five suites.

Two suites are currently unoccupied, and the Applicant wishes to operate their dispensary in a 9,720-square-foot area in the southeast corner of the building. This area is a portion of a larger 25,600-square-foot suite, and the remaining 15,873 square feet of that area is planned to be converted to a market and café in a separate development package submittal.

There are no changes to building heights or gross floor area. The subject parcel is primarily C-2, with an approximately 100-foot by 300-foot area on the north end of the parcel zoned R-1. The multi-tenant commercial building is entirely within the C-2 zone. The parcel is located at the northwest corner of Speedway Boulevard and Sahuara Avenue.

On December 20, 2022, Mayor & Council approved an amendment to the UDC relating to adult use and medical marijuana establishments. A marijuana dispensary may now be allowed in the C-2 zone as a Special Exception Land Use subject to approval through a Mayor & Council Special Exception Procedure (Section 3.4.4 and 5), and is subject to Sections 4.8.6 and 4.9.9 of the UDC. Mayor & Council is the final review authority to render a decision to grant the use with or without conditions, or to deny the use.

SUMMARY OF FINDINGS

Planning & Development Services Recommendation – The Planning & Development Services Department recommends approval of the special exception request, subject to preliminary conditions.

Public Outreach – The project team held a neighborhood meeting on November 10, 2023, which was noticed using labels provided by PDSD. Eight neighbors attended the meeting.

The Applicant team gave a presentation on the history of Desert Bloom Dispensary, and the proposal to relocate to 5851 E Speedway Blvd. The team also presented concept plans for the market and café the Applicant intends to open in the same building.

Concerns were raised about traffic and parking, and the Applicant team explained parking would be on-site, in the rear of the building. Access to the parking area would be provided from Speedway Blvd and Sahuara Ave.



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Concerns were raised about loitering and on-site consumption, which the Applicant team explained is prohibited by state law. The dispensary will also have camera monitoring and on-site security. The team expressed that the security measures would have a positive impact on existing security issues at the site.

An attendee expressed that they had already “had enough” of adult-themed businesses in the area; the Applicant team responded by explaining that dispensaries serve a diverse group of patrons that would be indistinguishable from the meeting attendees. They were also reassured that the market and café would not be marijuana-themed businesses but would be focused on “healthy living.”

An attendee asked about long lines frequently seen outside dispensaries; the project team responded stating the relocation is to alleviate these issues at the current location, and they would be able to provide a larger waiting area inside the building. The team stated that they did not expect lines outside the building.

Finally, an attendee gave positive feedback on the proposal believing it is a good addition to the area. He stated he was a long-time resident in the area and would be among the dispensary’s first visitors.

Background Information

Existing Land Use:

Existing retail space was previously a JoAnn Fabrics. Other uses on the site include personal service, retail, dental office, and restaurant space.

Current Zoning:

C-2: This zone provides for general commercial uses that serve the community and region.

Residential and other select agriculture, civic, recreational, and utility uses may also be permitted that provide reasonable compatibility with adjoining residential uses.

Surrounding Zoning and Land Use:

North: R-1; Single Family Homes

East: R-1, C-2; Single Family Homes, Rental Car Agency

South: Arterial Roadway, C-2 opposite; Tire Shop, Smoke Shop, Tattoo Parlor, Bike Shop West:

R-1, C-2; Single Family Homes, Commercial Retail, Smoke Shop, Massage Parlor



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Applicant's Request – The Applicant's project, Desert Bloom Dispensary, is a marijuana dispensary; retail trade use group that requires a Mayor & Council Special Exception.

Planning Considerations – Land use policy direction for this area is provided by *Plan Tucson* and the *Arcade-Alamo Area Plan*.

Plan Tucson (PT): The proposed use lies within the Business Centers building block of the Future Growth Scenario Map. Business centers are major commercial or employment districts that act as major drivers of Tucson's economy. These centers generally contain corporate or multiple-use office, industrial, or retail uses. Existing examples in Tucson include the University of Arizona Science and Technology Park, Tucson Mall, and the Tucson International Airport Area. The following policies support the proposed dispensary relocation:

LT.28.4.4 Supports a mix of commercial, residential, office, governmental, and other service activities at all major employment center.

LT.28.4.6 Support environmentally sensitive design that protects the integrity of existing neighborhoods, complements adjacent land uses, and enhances the overall function and visual quality of the street, adjacent properties, and the community.

LT.28.4.7 Support infill and redevelopment projects that reflect sensitivity to site and neighborhood conditions and adhere to relevant site and architectural design guidelines.

LT.28.4.8 Protect established residential neighborhoods by supporting compatible development, which may include other residential, mixed-use infill, and appropriate nonresidential uses.

Arcadia-Alamo Area Plan: Nonresidential policy encourages nonresidential policies designed in harmony with adjacent development. The applicant is not proposing any changes to site configuration and is requesting the Special Exception to relocate to an existing commercial site. It is in conformance with *Plan* nonresidential policies. The subject parcel is identified as "Office, Commercial, High Density Residential" in the *Area Plan* Conceptual Land Use Map.

Project Background

The special exception site is located on East Speedway Boulevard, an arterial route, at the northwest corner of the intersection of Speedway Boulevard and Sahuara Avenue. The site is currently zoned C-2, and a Mayor & Council Special Exception is required for the proposed Marijuana Dispensary use. The Applicant is proposing to open the 9,700 square-foot facility in the southeast portion of the empty suite on the east side of the building.



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Design Considerations

Land Use Compatibility – The proposed land use is a Marijuana Dispensary as defined by Section 4.9.9.E.1 of the UDC. It is permissible in the C-2 Zone subject to review and approval per the Mayor & Council Special Exception Procedure established by Section 3.4.4 of the UDC.

The Preliminary Development Plan shows that the project includes a 9,700 square-foot space within an existing, larger structure. The structure is the only building on site and includes multiple suites with several occupancies – a nightclub, warehouse, and mercantile space currently operate within the structure.

The building is located towards the front edge of the property, with most of the on-site parking provided to the rear. Vehicle access is provided along Speedway to a single row of diagonal parking in front of the building, as well as a vehicle access lane running north along the west edge of the building. Vehicle access is also provided from Sahuara Avenue, and the Applicant is proposing to install signage and a concrete diverter directing traffic existing the parcel south on Sahuara Ave towards Speedway Blvd to limit impacts to the residential neighborhood north of the site.

The entire building requires 254 parking spaces, and 462 parking spaces are provided on-site. No bicycle parking is indicated on the preliminary development plan or design compatibility report, a future development package must include adequate bicycle parking. There are no existing billboards on the property.

With an approved Special Exception, the Applicant will file a security plan with the State of Arizona to ensure compliance with A.R.S §36-2804(B)(1)(C). The security plan will include:

- Surveillance cameras covering all exterior and interior areas of the property, and all portions of the building used for storage and dispensary uses with a minimum backup storage of thirty (30) days;
- A 24-hour independently monitored security alarm system (with backup cellular communication capability, audible alarms, motion detectors, panic buttons, yard signs and window stickers);
- Controlled access to loading areas;
- Trackable and controlled keycard access to the building and all portions used for dispensary and secure storage purposes (with employees only given keycard access to areas where they work); and



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- Secure and controlled access to all areas where marijuana products are stored or displayed.

In addition to the security plan filed by Applicant, A.R.S. § 36-2806(H) requires AZDHS to carry out a minimum of one unannounced inspection of the Project per year.

Use-Specific Standards

The following Use-Specific Standards under Section 4.9.9.E.1 of the UDC are applicable to the proposed Special Exception:

- *UDC 4.9.9.E.1.a – The total maximum floor area of a marijuana dispensary shall not exceed 10,000 square feet.*

The proposed dispensary is proposed to occupy 9,700 square feet of the building.

- *UDC 4.9.9.E.1.b – A medical marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.*

The proposed dispensary will occupy a suite within a permanent building made of brick with a concrete foundation and utility connections.

- *UDC 4.9.9.E.1.c – The permitted hours of operation of a marijuana dispensary are from 7:00 am to 10:00 pm.*

The proposed dispensary will adhere to the required hours of operation.

- *UDC 4.9.9.E.1.d – A marijuana dispensary shall have an interior customer waiting area equal to a minimum of 25% of the sales floor area.*

The proposed dispensary will have a sales floor that meets the minimum required area. For a dispensary that is 10,000 square feet, the floor area will be a minimum of 2,425 square feet.

- *UDC 4.9.9.E.1.e – A marijuana dispensary shall not have outdoor seating areas.* The existing shopping center has no outdoor seating areas, and none will be provided for the proposed dispensary.



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- *UDC 4.9.9.E.1.f – A marijuana dispensary may deliver marijuana, once rules permitting and regulating delivery are approved by the AZDHS and become effective, and shall comply with state law and all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.*

The proposed dispensary will comply with all state laws and applicable regulations regarding delivery should they begin offering a delivery service from this location.

- *UDC 4.9.9.E.1.g – A marijuana dispensary shall be setback a minimum of 2,000 feet from any other marijuana dispensaries, measured in a straight and direct horizontal line between the two closest exterior or applicable interior suite walls of marijuana dispensaries.*

No marijuana dispensaries are located within 2,000 feet of the subject building. The nearest dispensary is approximately 4,800 feet northeast of the project site.

- *UDC 4.9.9.E.1.h – a marijuana dispensary shall be setback a minimum of 500-feet from a K-12 public, private, or charter school or a licensed childcare center, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a school or childcare center.*

The proposed dispensary meets this setback requirement, as the closest childcare center is 2,400 feet north of the project site.

- *UDC 4.9.9.E.1.i – a marijuana dispensary shall be setback a minimum of 500-feet from a public park listed in Section 6 of the Technical Standards Manual or library, and a minimum of 500-feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary, to the closes property line of a library, public park, licensed residential substance abuse diagnostic and treatment facility, or other licensed drug or alcohol rehabilltee facility. –*

The proposed dispensary meets this setback requirement, as the closest public park is 3,000 feet north of the project site. No residential treatment or other rehabilitation facility is located within 500 feet of the project site.



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- *UDC 4.9.9.E.1.j – The expansion of an existing marijuana dispensary shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a school.*

The proposed dispensary meets this setback requirement, as the closest school is 2,400 feet north of the project site.

- *UDC 4.9.9.E.1.k – A marijuana dispensary shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency. –*

The proposed dispensary will comply with all applicable health regulations from the Arizona Department of Health Services and other authorized regulatory agencies.

- *UDC 4.9.9.E.1.l – Odor Mitigation*

(1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated.

(2) An odor mitigation plan shall be submitted demonstrating compliance with odor control requirements.

An approved odor mitigation plan will ensure compliance with all odor mitigation regulations.

Special Exception Findings

Section 3.4.5.A of the UDC requires that Mayor and Council grant a special exception only after finding that the requested special exception:

1. Meets the standard expressly applied by all adopted codes and regulations for that type of land use, or for the land use class applicable to the proposed use. – The application materials demonstrate that the Project meets all applicable standards and regulations governing marijuana dispensaries.
2. *Does not adversely affect adjacent land uses or the surrounding neighborhood; or that such adverse effects can be substantially mitigated through the use of additional conditions.* - Use as a marijuana dispensary conforms to and complements adjacent land uses and the surrounding neighborhood because:
 - The Project represents an investment and improvement on a parcel and building that are currently underutilized.
 - The security plan required by the State of Arizona will ensure the Project is safe for its patients, employees, and neighbors, as well as increase the safety of the



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surrounding properties;

- The Applicant is familiar with odor mitigation requirements as they currently operate a dispensary, and an odor mitigation plan will be included at the time of development package or building permit submittal; and
 - The Project reactivates a vacant commercial space.
3. *Provides for adequate and efficient vehicular and pedestrian access and circulation and vehicular parking.* - The Property will include paved off-street parking that meets the requirements of the UDC. The parking utilizes two existing entrances, on Speedway Blvd and Sahuara Ave. The Applicant proposes a modification to the egress on Sahuara Ave to limit traffic impacts to the residential land use north of the site. The project is also located adjacent from a bus stop on Speedway Blvd.
 4. *Can be adequately and efficiently served by public facilities and services, such as water, storm water drainage, fire and police protection, and solid and liquid waste disposal and/or collection as may be required by the various public and private agencies.* – This project requires no additional public facilities or services as compared to the property’s previous uses. The project is in Tucson Police Department’s Operations Division East as well as by Tucson Fire. Solid waste facilities will be designed according to City of Tucson code.
 5. *Complies with the General Plan and any applicable sub-regional, area, or neighborhood plan.* - The Project will be a retail establishment, and the property is already zoned C-2 Commercial. Further, the project lies within the Business Centers building block of the Future Growth Scenario Map. Business centers are major commercial or employment districts that act as major drivers of Tucson’s economy.

Drainage/Grading/Landscape

The site is an existing development that will be improved as part of the proposed project; as such, there will be no elevation changes due to grading. There are no proposed improvements to site landscaping.

Traffic/Circulation

The site will largely retain the existing traffic circulation and curb cut locations. Parking will be provided per City of Tucson parking requirements. No new ADA compliant parking or bicycle parking are indicated – development package must demonstrate compliance with applicable requirements per the UDC. The Applicant is proposing a diverter to prevent traffic leaving the site on Sahuara from turning north towards residential land uses, and instead directs cars south towards Speedway Blvd.



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May 16, 2022 Zoning Examiner Hearing

The Applicant was unable to appear at the May 16, 2024 Zoning Examiner hearing due to technology issues. Five persons, parishioners at St. Melany's Byzantine Catholic Church, a nearby place of worship, spoke in opposition to the special exception request. The speakers raised issues concerning existing problems posed by homeless individuals in the area and on church property, moral and other opposition to the sale of marijuana, concerns about children attending religious, educational and other activities at the church given the proximity of the proposed dispensary, and other concerns. One speaker expressed the view that because marijuana is illegal under federal law, a dispensary should not be a permitted use.

The Zoning Examiner continued the matter to May 30, 2024, and then to June 27, 2024, to give the Applicant the opportunity to appear.

June 27, 2024 Zoning Examiner Hearing

The Applicant and the Applicant's representative spoke in support of the special exception. The Applicant noted that the dispensary would fully comply with the extensive regulations governing dispensaries, including regulations requiring security and surveillance systems and preventing loitering. In addition, the Applicant testified that consumption is prohibited onsite. The Applicant also testified that given the extensive regulations, there have been very few problems associated with dispensaries. The Applicant's representative testified that the project included a market and café, in addition to the dispensary, and that the café would not be an "Amsterdam style" café.

Four persons spoke in opposition to the special exception. One of the speakers owns a house in the neighborhood, which she rents to others. She stated that marijuana is illegal under federal law. She stated that she was concerned that Raytheon, a Tucson employer, conducts random drug tests of its employees and she is concerned that this would limit the potential tenants who would be willing to rent from her. Another speaker who is a member of the congregation at St. Melany's, testified that she did not want her grandchildren to be exposed to marijuana smoke or intoxicated people. Another parishioner stated that the church was in the neighborhood first, and that it would not be fair if the presence of the dispensary had an impact on the church's ability to create a school in the future. The pastor of St. Melany's testified that he was concerned about the odor of marijuana smoke, people straying onto church property, and possible impacts on the church's ability to open a school in the future.

The Applicant responded to these concerns, stating that no onsite consumption is permitted; that he wanted to be a good neighbor to the church and the neighborhood, that he had shared his



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telephone number with St. Melany's pastor, and that the dispensary's security personnel would be available to assist with any problems posed by people loitering in the neighborhood.

As of the date of the Zoning Examiner hearings, there was one (1) written approval and twenty-four (24) written protests.

Conclusion – The proposed special exception is consistent with *Plan Tucson*, and in compliance with performance criteria of UDC Sections 3.4.4, 3.4.5, 4.8.6 and 4.9.9. Subject to compliance with the preliminary conditions proposed by PDSD, approval of the special exception land use in the C-2 zone is appropriate.

Sincerely,

John Iurino

Zoning Examiner

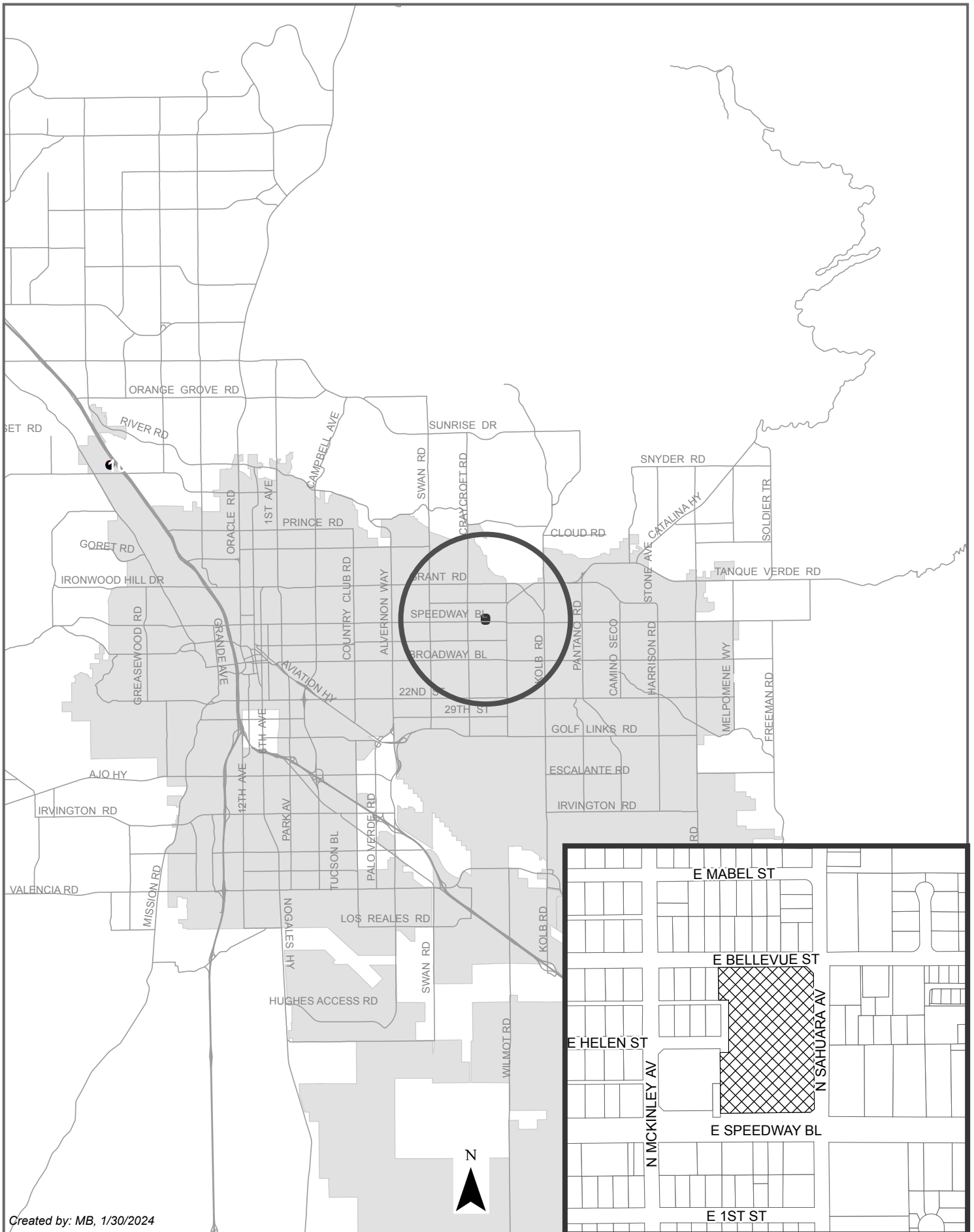
ATTACHMENTS:

Case Location Map

Rezoning Case Map

Cc: Mayor and Council

TP-ENT-0124-00002 Desert Bloom Releaf Center - Speedway



TP-ENT-0124-00002 Desert Bloom Releaf Center - Speedway

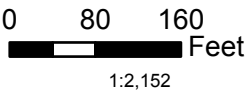


Area of Special Exception Request

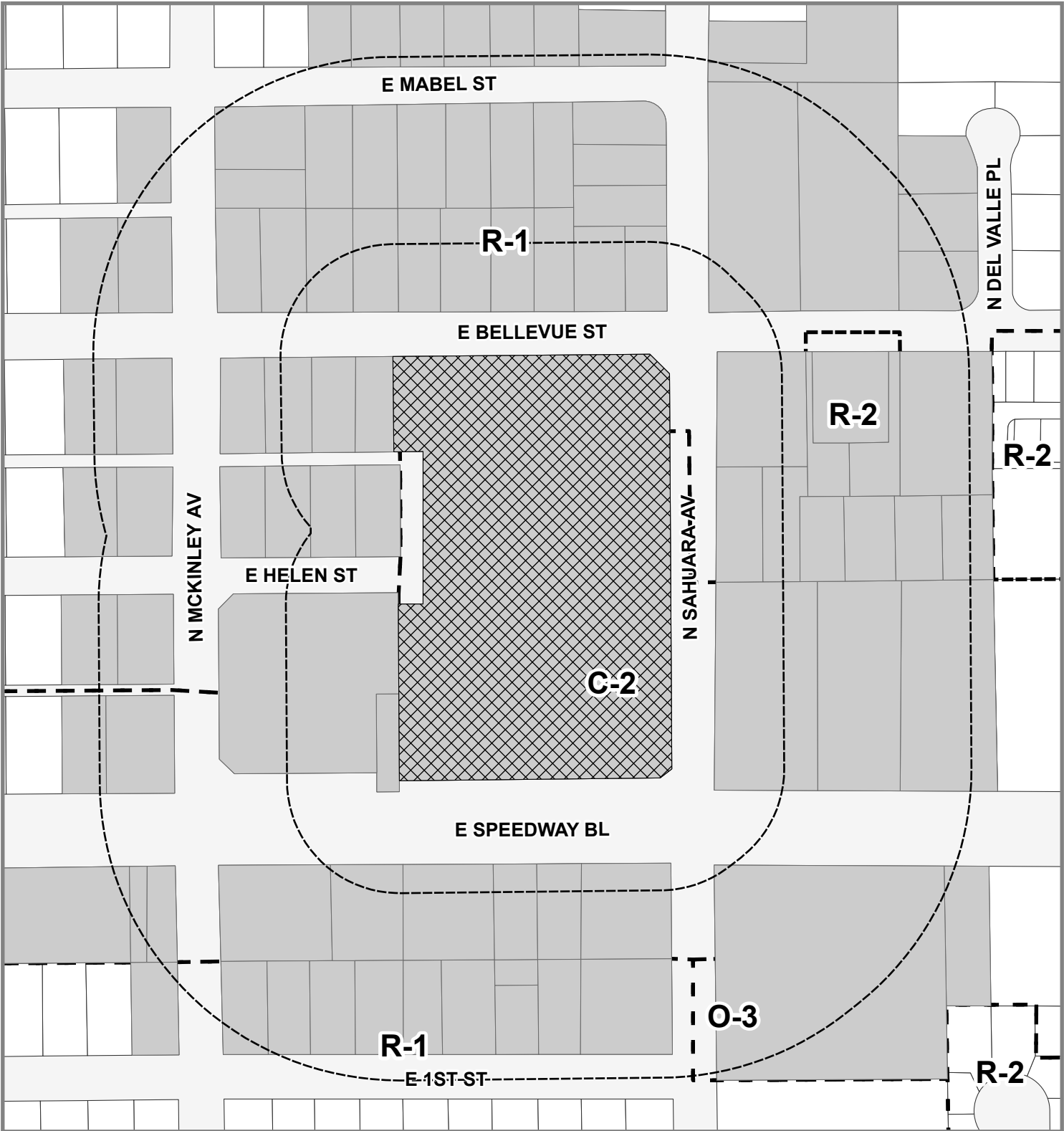
Address: 5851 E SPEEDWAY BL
Base Maps: Twp. 1403 Range 1402 Sec. 01
Ward(s): 6






2020 Aerial

Created by: MB, 1/30/2024



TP-ENT-0124-00002 Desert Bloom Releaf Center - Speedway



-  Area of Special Exception Request
-  Properties Notified
-  Zone Boundaries
-  400' Notification Area
-  Protest Area (150 ft. Radius)

Address: 5851 E SPEEDWAY BL
Base Maps: Twp. 1403 Range 1402 Sec. 01
Ward(s): 6

0 80 160 Feet



1:2,204