

PLANNING COMMISSION REPORT



Meeting Date: July 12, 2023
General Plan Element: *Land Use*
General Plan Goal: *Create a sense of community through land uses*

ACTION

Harvest of Scottsdale 2-TA-2022

Request to consider the following:

1. A recommendation to City Council regarding a request by owner to amend the Zoning Ordinance (Ord. No. 455) Article I, Section 1.403.M. (Marijuana use) to allow drive-through operations for marijuana dispensaries.

Goal/Purpose of Request

The applicant's request is to allow the opportunity for marijuana dispensaries to have drive-through operations.

Key Items for Consideration

- Consistency with State Law
- Other valley cities allow marijuana dispensaries to have drive-through operations.
- No public comments have been received

OWNER

CLG Investments, LLC
(303) 827-9039

APPLICANT CONTACT

Harvest of Scottsdale
Lauren Niehaus
(303) 827-9039

LOCATION

City-Wide (15190 N Hayden Rd, Catalyst Site)

BACKGROUND

In 2011, the City of Scottsdale Zoning Ordinance was amended in response to the Arizona Medical Marijuana Act (Proposition 203), which legalized the use of marijuana (or cannabis) for medical purposes only (8-TA-2010). How marijuana uses are regulated varies from city to city. In the case of Scottsdale, it was determined that marijuana uses only be permitted in three zoning districts: Commercial Office (C-O), Light Industrial (I-1) and Special Campus (S-C), and that a Conditional Use Permit be required to locate in any of these three districts. Presently, there are six (6) marijuana uses operating in Scottsdale: five (5) dispensaries and one (1) cultivation facility.

Shortly after the original ordinance was adopted, an amendment was approved in 2012 (8-TA-2010#2) in response to knowledge gained through implementation of the original ordinance. This amendment consolidated all Marijuana uses into one use category and expanded the list of protected uses. A third amendment was approved in 2016 (8-TA-2010#3) that further expanded the list of protected uses and increased the previously established separation requirements for new MM uses established after September 30, 2016.

On November 3, 2020 the voters of Arizona passed the Smart and Safe Arizona Act (Proposition 207). The ballot initiative made the Arizona Department of Health Services responsible for adopting rules to regulate marijuana, including the licensing of a new type of marijuana dispensary (for recreational use), cultivation facilities, production facilities and marijuana testing facilities. In June 2021 the Scottsdale City Council approved an amendment to the zoning ordinance (6-TA-2020) allowing recreational marijuana uses at facilities that are also licensed for medical marijuana uses.

Currently the zoning ordinance allows for marijuana uses, including dispensaries, subject to approval of a conditional use permit by the City Council. Section 1.403.M. of the zoning ordinance includes criteria specific to marijuana uses, one of which does not allow for drive-through or drive-in operations at a marijuana establishment. The applicant is proposing to amend this section of the zoning ordinance to allow a marijuana use to have drive-through operations. State Law does not prohibit drive-through operations for marijuana uses and there are dispensaries in other valley cities which currently operate drive-through dispensaries.

Other Related Policies, References:

- Zoning Ordinance
- 8-TA-2010: Approved original Medical Marijuana ordinance
- 8-TA-2010#2: Amended Medical Marijuana ordinance to consolidate all Medical Marijuana uses into one category and expanded list of protected uses
- 8-TA-2010#3: Amended Medical Marijuana ordinance to expand list of protected uses and increase separation requirements for MM uses established after September 30, 2016

- 1-TA-2020: Expanded allowed hours of operation for Medical Marijuana Uses
- 6-TA-2020: Amended ordinance to allow recreational marijuana uses
- 10-UP-2015#4: Related case proposing to utilize drive-through operations at existing marijuana dispensary.
- Arizona Revised Statutes, Title 36, Chapter 28.1
- Arizona Department of Health Services, Title 9, Chapter 17

APPLICANT'S PROPOSAL

The applicant seeks to amend the zoning ordinance, specifically the Conditional Use Permit (CUP) criteria in Sections 1.403.M.1.i, 1.403.M.1.j, 1.403.M.2.i, and 1.403.M.2.j to allow marijuana uses the option to have drive-through operations. The applicant cites in their narrative the fact that State law already permits marijuana uses to operate a drive-through. The applicant also states that the allowance of drive-through operations at dispensaries allows for faster transaction times, and allows for immunocompromised patients to receive their medicine without exposing themselves to in-person shopping. No other amendments to the zoning code's CUP criteria are proposed.

If approved, drive-through operations for marijuana uses would still be subject to the same conditional use permit process, and any existing facilities that desired to add drive-through operations would be required to go back through the process for an amendment to their existing conditional use permit.

IMPACT ANALYSIS

Public Safety

The Scottsdale Police Department has been involved in reviewing the proposed ordinance change to allow drive-through operations at dispensaries. There are no objections to the proposed amendment, subject to the Police Department review and approval of a Security Maintenance & Operations Plan and Public Safety Plan detailing the security measures addressing drive-through operations with the CUP process. Review and approval of these plans is already a requirement of the CUP process.

Housing Cost

In conjunction with state law, staff has considered the scope of the text amendment, as well as aspects which would affect the cost of construction. Staff has not identified any factors that would substantially impact the cost to construct housing for sale or rent.

Community Involvement

The applicant and the City notified the City's Interest Parties List and property owners within 750 feet of the location anticipated to be the first to utilize drive-through operations (15190 N. Hayden Road). Additionally, the City and applicant published an 1/8-page add in a local newspaper. The applicant held two Open House meetings to inform and solicit comment from the public. The Open House meetings were held on November 16, 2022 and November 17, 2022 at the Residence Inn North

Scottsdale, located at 17011 N. Scottsdale Road from 5:30-7:30 PM. Per the applicant's report, there were no attendees at either Open House and the applicant did not receive any other inquiries or comments from the public. Staff has not received any public comment related to this request.

Policy Implications

- Adding the option for drive-through operations may increase convenience for patients and reduce the need for additional dispensaries in Scottsdale in the future.
- There are five (5) existing dispensaries that would require an amendment to their Conditional Use Permit(s) to take advantage of drive-through operations.
- Aligns Scottsdale's ordinance with surrounding communities and State law.

STAFF RECOMMENDATION

Recommended Approach:

Staff recommends that the Planning Commission find that the zoning text amendment is consistent and conforms with the adopted General Plan, and make a recommendation to City Council for approval.

RESPONSIBLE DEPARTMENT

Planning and Development Services

Current Planning Services

STAFF CONTACT

Bryan Cluff
Planning & Development Area Manager
480-312-2258
E-mail: bcluff@ScottsdaleAZ.gov

APPROVED BY



Bryan Cluff, Report Author

6/27/2023

Date



Tim Curtis, AICP, Current Planning Director
Planning Commission Liaison
Phone: 480-312-4210 Email: tcurtis@scottsdaleaz.gov

6/28/2023

Date



Erin Perreault, AICP, Executive Director
Planning, Economic Development, and Tourism
Phone: 480-312-7093 Email: eperreault@scottsdaleaz.gov

06/29/2023

Date

ATTACHMENTS

1. Ordinance No. 4604 (Draft)
 Exhibit A: Harvest of Scottsdale Text Amendment 2-TA-2022
2. Applicant's Narrative
3. Community Involvement
4. Current Marijuana Use Location Map
5. City Notification Map

ORDINANCE NO. 4604

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, TO AMEND ORDINANCE NO. 455, THE ZONING ORDINANCE OF THE CITY OF SCOTTSDALE, FOR THE PURPOSE OF AMENDING ARTICLE I SECTION 1.403.M (MARIJUANA USE), TO ALLOW DRIVE-THROUGH OPERATIONS AT MARIJUANA DISPENSARIES AS PROVIDED IN CASE NO. 2-TA-2022.

WHEREAS, the City of Scottsdale wishes to amend the Zoning Ordinance regarding Article I Section 1.403.M (Marijuana Use) to allow drive-through operations at marijuana dispensaries; and

WHEREAS, the Planning Commission held a public hearing on July 12, 2023; and considered a text amendment to the Zoning Ordinance of the City of Scottsdale, Case No. 2-TA-2022; and

WHEREAS, the City Council has considered the probable impact of Zoning Ordinance (4604) on the cost to construct housing for sale or rent; and

WHEREAS, the City Council has determined that the subject Zoning Ordinance amendment is in conformance with the General Plan.

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. That the Zoning Ordinance of the City of Scottsdale Article I Section 1.403.M (Marijuana Use) is hereby amended as specified in that certain document entitled "Harvest of Scottsdale Text Amendment 2-TA-2022" in **Exhibit A** to this Ordinance, and hereby referred to, adopted, and made a part hereof as if fully set out in this Ordinance. New text represented by bold type with grey shading in **Exhibit A** is hereby referred to, adopted, and made a part hereof as if fully set out in this Ordinance.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this _____ day of _____, 2023.

ATTEST:

CITY OF SCOTTSDALE, an Arizona municipal corporation

By: _____
Ben Lane
City Clerk

By: _____
David D. Ortega
Mayor

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
Sherry R. Scott, City Attorney
By: Joe Padilla, Deputy City Attorney

DRAFT

Section 1.403 Additional Conditions for Specific Conditional Uses

M. Marijuana use.

1. *Active Permitted Uses Existing as of September 30, 2016.* Active Marijuana uses legally established and operating under a valid Conditional Use Permit before September 30, 2016, including extensions, renewals, and amendments to existing approvals, shall be subject to the following conditions:

a. A marijuana operation for recreational purposes is only permitted in establishments that hold both a valid non-profit medical marijuana dispensary registration and a marijuana establishment license.

b. All operations are conducted within a completely enclosed building, in conformance with Arizona Revised Statutes, Title 36, Chapter 28.1, Arizona Medical Marijuana Act, and regulations issued thereunder, as amended.

c. The marijuana use is at least five hundred (500) feet from the following uses within the City limits:

(1) Any residential use in a residential district shown on Table 4.100.A., or the residential portion of a Planned Community PC or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., and

(2) Any Educational service, elementary or secondary school.

d. The marijuana use is at least one thousand three hundred twenty (1,320) feet from the following uses within the City limits:

(1) Medical marijuana caregiver cultivation use, or

(2) Another marijuana use.

However, no separation between these uses is required in the Industrial Park District I-1 where a medical marijuana caregiver cultivation use and a marijuana use hold a state issued caregiver registry identification card and/or a nonprofit medical marijuana dispensary registration certificate under the same name or organization.

e. All distances are measured from the wall of the marijuana use nearest to the district(s) or use(s) indicated above, to the nearest property line of the district(s) or use(s) indicated above.

f. The property owner has provided a written exterior refuse control plan, subject to City approval.

g. The property owner has provided a written public safety plan, subject to City approval.

h. The hours of operation for a marijuana use that provides, shares, exchanges, sells, or dispenses marijuana are no earlier than 6:00 a.m. and no later than 10:00 p.m.

i. There is no ~~drive-through service~~. take-out window or drive-in **services permitted.**

j. Drive-through services may be permitted, subject to City Council approval.

2. *Permits Issued After September 30, 2016.* Marijuana uses seeking a Conditional Use Permit after September 30, 2016, shall be subject to the following conditions:

a. A marijuana operation for recreational purposes is only permitted in establishments that hold both a valid medical marijuana dispensary registration and a marijuana establishment license.

b. All operations are conducted within a completely enclosed building, in conformance with Arizona Revised Statutes, Title 36, Chapter 28.1, Arizona Medical Marijuana Act, and regulations issued thereunder, as amended.

c. The marijuana use is at least one thousand five hundred (1,500) feet from the following uses within the City limits:

- (1) Any residential use in a residential district shown on Table 4.100.A., or the residential portion of a Planned Community PC or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- (2) Any Educational service, elementary and secondary school.
- (3) Any Place of worship.
- (4) Any Day care.
- (5) Any City park or park.

d. The marijuana use is at least two thousand six hundred forty (2,640) feet from the following uses within the City limits:

- (1) Medical marijuana caregiver cultivation use, or
- (2) Another marijuana use.

However, no separation between these uses is required in the Industrial Park I-1 where a medical marijuana caregiver cultivation use or a marijuana use hold a state issued caregiver registry identification card and a nonprofit medical marijuana dispensary registration certificate, respectively, under the same name or organization.

e. All distances are measured from the wall of the marijuana use nearest to the district(s) or use(s) indicated above, to the nearest property line of the district(s) or use(s) indicated above.

f. The property owner has provided a written exterior refuse control plan, subject to City approval.

g. The property owner has provided a written public safety plan, subject to City approval.

h. The hours of operation for a marijuana use that provides, shares, exchanges, sells, or dispenses marijuana are no earlier than 6:00 a.m. and no later than 10:00 p.m.

i. There is no ~~drive-through service~~. take-out window or drive-in **services permitted.**

j. Drive-through services may be permitted, subject to City Council approval.



Project Narrative

15190 N. Hayden Road, Scottsdale, AZ 85260

Trulieve is an industry leading, vertically integrated cannabis company and multi-state operator in the U.S. operating in 11 states, with leading market positions in Arizona, Florida, and Pennsylvania. Trulieve's footprint in Arizona began in 2012, under the name Harvest Health & Recreation Inc. Trulieve currently operates 17 dual-licensed dispensaries in Arizona to serve the medical patients and adult use customers across the state.

Trulieve Cannabis Corp. is seeking a proposed change to the City of Scottsdale Zoning Ordinance to allow drive-thru operations for marijuana dispensaries. Not unlike Arizona's allowance for other drive-thru uses, this option at a dispensary allows for faster transaction times, and importantly, allows for our most immunocompromised patients to receive their medicine without exposing themselves to in-person shopping.

Drive-thru capabilities are allowed by state law. The consumption of cannabis while operating a vehicle, or riding as a passenger, is strictly prohibited by law.

The existing dispensary operates from 7:00am to 10:00pm daily. We anticipate drive-thru service to be consistent with our existing hours of operation.

Trulieve looks forward to working with the City of Scottsdale in pursuing this change.



Mr. Bryan Cluff
City of Scottsdale
3939 N. Drinkwater Blvd.
Scottsdale, AZ 85251

Dear Mr. Cluff:

Below please find complete details regarding the Citizen Review Plan for Trulieve's, Harvest of Scottsdale's Pre-Application Number 711-PA-2022.

Harvest of Scottsdale, a marijuana dispensary located at 15190 N. Hayden Road, Scottsdale, Arizona 85260, is seeking a proposed change to the City of Scottsdale Zoning Ordinance to allow drive-thru operations for marijuana dispensaries. Not unlike Arizona's allowance for other drive-thru uses, this option at a dispensary allows for faster transaction times, and importantly, allows for our most immunocompromised patients to receive their medicine without exposing themselves to in-person shopping.

Drive-thru capabilities are allowed by state law. The consumption of cannabis while operating a vehicle, or riding as a passenger, is strictly prohibited by law.

Specific Community Outreach Activities:

- Trulieve will be mailing an open house invite via 1st class letter to the City's interested party list, as provided by the City of Scottsdale on October 28, 2022.
- Trulieve will be running a 1/8-page advertisement in the Daily Independent, alerting the public as to the scheduled open houses, which will appear in the November 05, 2022 print edition.
- Trulieve will be holding two open houses to allow community members to ask questions of the Trulieve team and gain a greater understanding of the requested text amendment.

Scheduled open houses:

Wednesday, November 16th

Location: Residence Inn Scottsdale North

Address: 17011 N. Scottsdale Road, Scottsdale, AZ 85255

Time: 5:30 – 7:30pm

Thursday, November 17th

Location: Residence Inn Scottsdale North

Address: 7325 East 3rd Ave., Scottsdale, AZ 85251

Time: 5:30 – 7:30pm

Thank you,

A handwritten signature in black ink, appearing to read "Lauren Niehaus".

Lauren Niehaus, Director of Government Relations
Trulieve



October 28, 2022

Dear interested party,

Trulieve's Harvest of Scottsdale marijuana dispensary, located at 15190 N. Hayden Road, Scottsdale, Arizona 85260, is seeking a text amendment to the Scottsdale city code regarding the use of a drive-thru at our existing dispensary.

Drive-thru capabilities are allowed by state law. The consumption of cannabis while operating a vehicle, or riding as a passenger, is strictly prohibited by law. This text amendment change would align the city of Scottsdale with state rules.

As required by the city of Scottsdale, we will be holding two open houses to allow community members to ask questions of the Trulieve-Harvest team. Full project and open house information can be found below.

Project Description: We are requesting a variance from the existing cannabis ordinance, allowing for the addition of drive-thru capabilities at our existing dispensary. Not unlike Arizona's allowance for other drive-thru uses, this option at a dispensary allows for faster transaction times, and importantly, allows for our most immunocompromised patients to receive their medicine without exposing themselves to in-person shopping.

Pre-Application Number: 711-PA-2022

Contact:

Lauren Niehaus
Director of Government Relations, Trulieve
Lauren.Niehaus@trulieve.com
303.827.9039

Scheduled open houses:

Wednesday, November 16th

Location: Residence Inn Scottsdale North

Address: 17011 N. Scottsdale Road, Scottsdale, AZ 85255

Time: 5:30 – 7:30pm

Thursday, November 17th

Location: Residence Inn Scottsdale North

Address: 17011 N. Scottsdale Road, Scottsdale, AZ 85255

Time: 5:30 – 7:30pm

Thank you,

A handwritten signature in black ink, appearing to read "Lauren Niehaus".

Lauren Niehaus, Director of Government Relations
Trulieve



**** REVISED ****

November 10, 2022

Dear interested party,

Trulieve's Harvest of Scottsdale marijuana dispensary, located at 15190 N. Hayden Road, Scottsdale, Arizona 85260, is seeking a text amendment to the Scottsdale city code regarding the use of a drive-thru at our existing dispensary.

Drive-thru capabilities are allowed by state law. The consumption of cannabis while operating a vehicle, or riding as a passenger, is strictly prohibited by law. This text amendment change would align the city of Scottsdale with state rules.

As required by the city of Scottsdale, we will be holding two open houses to allow community members to ask questions of the Trulieve-Harvest team. Full project and open house information can be found below.

Project Description: We are requesting a text amendment to the Scottsdale city code, allowing for the addition of drive-thru capabilities at our existing dispensary. Not unlike Arizona's allowance for other drive-thru uses, this option at a dispensary allows for faster transaction times, and importantly, allows for our most immunocompromised patients to receive their medicine without exposing themselves to in-person shopping.

Pre-Application Number: 711-PA-2022

Contact:

Lauren Niehaus
Director of Government Relations, Trulieve
Lauren.Niehaus@trulieve.com
303.827.9039

Scheduled open houses:

Wednesday, November 16th

Location: Residence Inn Scottsdale North

Address: 17011 N. Scottsdale Road, Scottsdale, AZ 85255

Time: 5:30 – 7:30pm

Thursday, November 17th

Location: Residence Inn Scottsdale North

Address: 17011 N. Scottsdale Road, Scottsdale, AZ 85255

Time: 5:30 – 7:30pm

Thank you,

A handwritten signature in black ink, appearing to be "Lauren Niehaus".

Lauren Niehaus, Director of Government Relations
Trulieve

Harvest of Scottsdale
Open House November 16, 2022
5:30pm - 7:30pm

Residence Inn Scottsdale North
17011 N. Scottsdale Road
Scottsdale, AZ 85255

Comments:

Harvest of Scottsdale
Open House November 16, 2022
5:30pm - 7:30pm

Residence Inn Scottsdale North
17011 N. Scottsdale Road
Scottsdale, AZ 85255

Comments:

Harvest of Scottsdale
Open House November 16, 2022
5:30pm - 7:30pm

Residence Inn Scottsdale North
17011 N. Scottsdale Road
Scottsdale, AZ 85255

Comments:

Harvest of Scottsdale
Open House November 16, 2022
5:30pm - 7:30pm

Residence Inn Scottsdale North
17011 N. Scottsdale Road
Scottsdale, AZ 85255

Comments:

Harvest of Scottsdale
Open House November 16, 2022
5:30pm - 7:30pm

Residence Inn Scottsdale North
17011 N. Scottsdale Road
Scottsdale, AZ 85255

First Name	Last Name	Property Address	Email Address	Phone

Harvest of Scottsdale
Open House November 16, 2022
5:30pm - 7:30pm

Residence Inn Scottsdale North
17011 N. Scottsdale Road
Scottsdale, AZ 85255

First Name	Last Name	Property Address	Email Address	Phone



Residence Inn



Harvest of Scottsdale
Open House November 17, 2022
5:30pm – 7:30pm

Residence Inn Scottsdale North
17011 N. Scottsdale Road
Scottsdale, AZ 85255

First Name	Last Name	Property Address	Email Address	Phone

Harvest of Scottsdale
Open House November 17, 2022
5:30pm – 7:30pm

Residence Inn Scottsdale North
17011 N. Scottsdale Road
Scottsdale, AZ 85255

Comments: _____




Harvest of Scottsdale
Open House November 17, 2022
5:30pm – 7:30pm

Residence Inn Scottsdale North
17011 N. Scottsdale Road
Scottsdale, AZ 85255

Comments: _____

Open House Summary

From: Andrew Bauer <Andrew.Bauer@Trulieve.com>
Sent: Tuesday, June 27, 2023 12:53 PM
To: Cluff, Bryan
Cc: Lauren Niehaus
Subject: RE: [External] RE: APPLICANT PC DATE LETTERS FOR CASES 2-TA-2022 & 10-UP-2015#4 (Harvest of Scottsdale)
Attachments: Trulieve DriveThru_Public Notice_revised.docx; Day 2 comment and sign in.jpg; Day 2 table.jpg; Additional sign in and comment sheets.jpg; Comment sheets and sign in sheets.jpg; Day 1 table setup.jpg; Comment Card_North Scottsdale.docx; Sign In Sheet_North Scottsdale.docx

 External Email: Please use caution if opening links or attachments!

Both of the open houses were at the Residence Inn Scottsdale North. Here's the final letters that went out showing the same address.

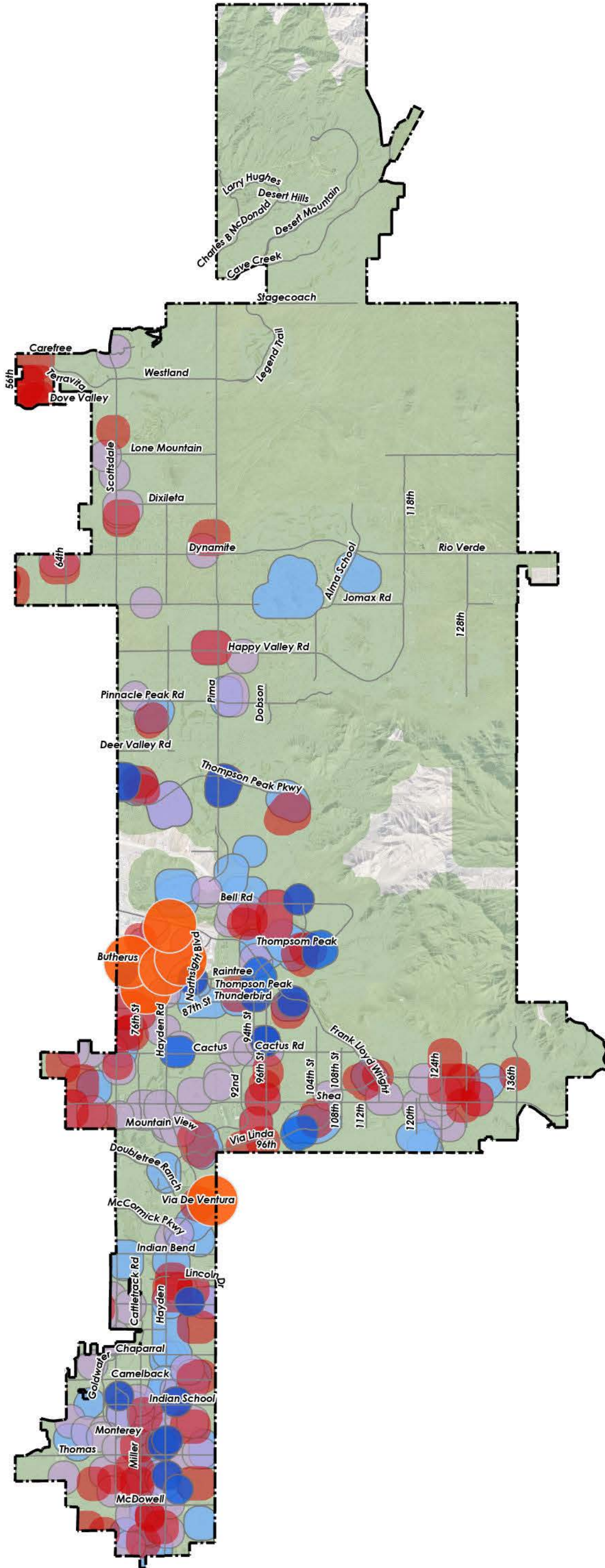
I attached pictures from both days. I also attached the word docs of the sign sheets and comment cards. Let me know if you'd like a PDF of the sign in and comment sheets.

Summary of attendance....zero citizens on either day. On day 2, we had one reporter that showed up to ask a few questions for a story. But no public participation. We've received no public comment on this project to date - at the events or otherwise.

Andrew Bauer | Government Relations Specialist | 602.320.8206 | Andrew.Bauer@trulieve.com

Harvest of Scottsdale

2-TA-2022

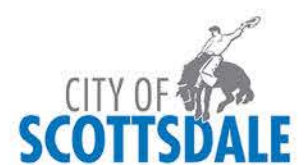


1,500' Buffer From:

- Daycares
- Schools
- Churches
- Parks
- Residential

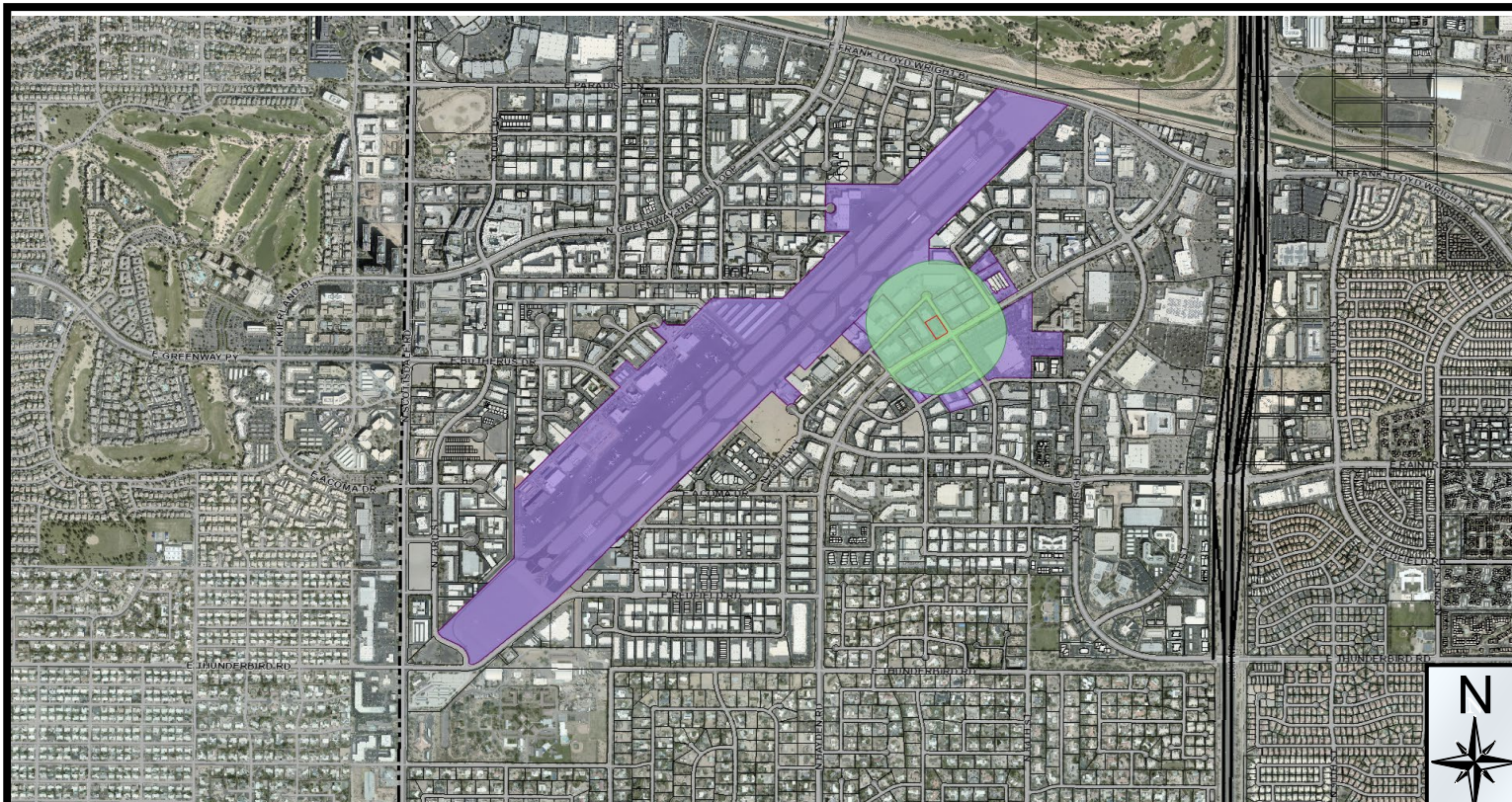
2,640' Buffer From:

- Existing Locations



July 12, 2023

City Notifications – Mailing List Selection Map Harvest of Scottsdale


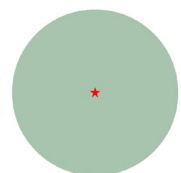


Additional Notifications:

- Interested Parties List
- Adjacent HOA's
- P&Z E-Newsletter
- Facebook
- Nextdoor.com
- City Website-Projects in the hearing process

Pulled Labels
February 17, 2023

Map Legend:

-  Site Boundary
-  Properties within 750-feet

Postcards: 91

2-TA-2022