

EXHIBIT B-2



CITY OF
TUCSON

PLANNING AND
DEVELOPMENT
SERVICES
DEPARTMENT

ZONING
ADMINISTRATION
DIVISION

March 8, 2018

Jesse Callahan
May, Potenaza, Baran & Gillespie, P.C.
201 N. Central Avenue
Phoenix AZ 85004

RE: 1038 E. Lester Street

Dear Mr. Callahan:

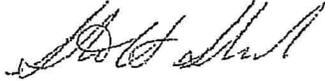
The City of Tucson's Planning and Development Services Department received your letter dated February 23, 2018 regarding the proposed Medical Marijuana Dispensary located at 1525 N. Park Avenue and its proximity to a possible church located at 1038 E. Lester Street. The property at 1038 E. Lester Street is zoned NR-1. The "N" designates the Neighborhood Preservation Zone for the Jefferson Park neighborhood and the "R-1" is residence zone. Per the Unified Development Code (UDC), TABLE 4.8-2: PERMITTED USES - URBAN RESIDENTIAL ZONES, the R-1 zone allows Religious Use subject to the applicable dimensional standards.

Staff has researched the site at 1038 E Lester and found no plans or Certificate of Occupancy for a church. Plans in the City of Tucson's Planning and Development Services Department records show a single family residence with a detached garage. If the church were to come in today and try to obtain a Certificate of Occupancy for the use it would be denied based on not meeting the applicable dimensional standards. Church uses within the NR-1 Zone, UDC TABLE 6.3-2.B: EXCEPTIONS TO THE R-1, R-2, R-3, MH-1, & MH-2 DIMENSIONAL STANDARDS outlines the requirements for a minimum lot size of 20,000 sq. ft. The current lot size is 6,000 sq. ft. They also do not appear to meet the required number of vehicle parking spaces, based on UDC TABLE 7.4.4-1: MINIMUM NUMBER OF MOTOR VEHICLE SPACES REQUIRED.

Contrary to the assertion in your letter, the use does not "meet the requirements under the Tucson zoning code to qualify as a church." If a use is a change of use, and it is established without prior zoning review/approval, the use is not considered to be a legal use. Since no plans have been submitted, permits obtained or a C of O issued for a change of use, the only currently recognized legal use of the property is residential. The Additionally, MMJ regulations state that a "church" means a building that is erected or converted for use as a church, where services are regularly convened that is used primarily for religious worship...and that a reasonable person would conclude is a church by reason of design, signs, or other architectural features. There is no indication that the structures were built, erected or converted for use as a church, or that the structures are used primarily for worship. As noted above, the currently recognized legal use of the property is residential.

Based on the above information the use at 1038 E. Lester Street was not established pursuant to the processes required by the City's zoning code as a church and is thus currently recognized by the City as a residential use. The proposed medical marijuana dispensary is, therefore, not encroaching into the 1000' setback.

Sincerely,



Steve Shields
Acting Site Review Section Manager
City of Tucson - Planning and Development Services Department

C: Piroshka Glinsky, City Attorney's Office