

**EXHIBIT B-5**



CITY OF  
TUCSON

PLANNING AND  
DEVELOPMENT  
SERVICES  
DEPARTMENT

ZONING  
ADMINISTRATION  
DIVISION

March 26, 2019

Jesse R. Callahan, Esq.  
May, Potenza, Baran & Gillespie  
Attorneys at Law  
201 North Central Avenue  
Phoenix, Arizona 85004-0608

Sent via email to: [jcallahan@maypotenza.com](mailto:jcallahan@maypotenza.com) & [gcartwright@maypotenza.com](mailto:gcartwright@maypotenza.com)

SUBJECT: Medical Marijuana Dispensary  
1525 North Park Avenue, Tucson, Arizona  
Pima County Tax Parcel Number: 123-15-070B  
Development Plan/ Permit Numbers: DP18-0043/ T18CM05428  
Activity # T19SA00122

Dear Mr. Callahan,

I am in receipt of your letters dated February 23, 2018<sup>1</sup> (Exhibit #1), March 12, 2018 (Exhibit #2) and March 22, 2019 (Exhibit #3), relating to the permitting of a medical marijuana dispensary located at 1525 North Park Avenue in Tucson, Arizona (the "Property"). It appears from each of your letters that you are seeking clarification as to the City's application of code required setbacks from certain sensitive uses. Specifically, the application of setbacks contained in the Unified Development Code (UDC) section 4.9.4.E.1.k, which requires a medical marijuana dispensary be setback "a minimum of 1,000 feet from...a church...and 2,000 from a licensed residential substance abuse diagnostic and treatment facility, or other licensed residential drug or alcohol rehabilitation facility..."

You state in your third letter, dated March 22, 2019, that the City is in violation of ordinances 10850, 11199, 11346 and 11612 because in your opinion, the Property lies within 1,000 feet of "The Drikung Dzogchen Center, a Buddhist

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<sup>1</sup> The City provided a courtesy response to your initial inquiry (concerning the UDC definition of "church") dated February 23, 2018, and responded via letter on March 8, 2018 (Exhibit #4). You replied to that courtesy response on February 23, 2018 by disagreeing with the City's position (relating to the UDC definition of "church") and by raising a new issue (relating to the UDC definition of "a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility").

Planning and Development Services Department (PDSD) - 201 North Stone Avenue  
P.O. Box 27210 - Tucson, AZ 85726-7210  
Telephone: (520) 791-5550 - Fax: (520) 791-4340  
Website: [www.tucsonaz.gov/pdsd](http://www.tucsonaz.gov/pdsd)  
Email: [DSD\\_Zoning\\_Administration@tucsonaz.gov](mailto:DSD_Zoning_Administration@tucsonaz.gov)

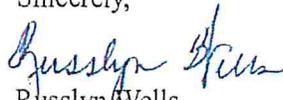
'church'" and within 2,000 feet of a "drug or alcohol rehabilitation facility operated by COPE Community Services, Inc." If you are seeking further clarifications of specific UDC sections and the application of those sections to the Property in question, there is a procedure in place in the UDC that provides for such clarification.

Pursuant to Unified Development Code (UDC) section 1.5.1, the procedure for requesting clarifications of the substantive provisions of the UDC or the application of substantive zoning provisions in the zoning certification of a site plan, tentative plat, or final plat, is to request a Zoning Administrator determination. Any person may request a written zoning determination pursuant to UDC section 1.5.1.B.2, provided that request is made in writing to the Zoning Administrator and includes the information required by UDC section 1.5.1.B.1, specifically: the name and address of the person requesting the certification or determination; the ordinance, code or part therefore, or substantive policy statement that requires determination or clarification; the requesting party's proposed determination or clarification; and whether the issue(s) are currently being considered by the City in connection with a pending application or request for approval and the identity of the proposed project or development.

A fee in the amount of \$236.50 is also required at the time your written request for a zoning determination is submitted.

Please feel free to contact me if you have questions about the procedure for requesting a zoning determination, or with your written request for a zoning determination. You may reach me via e-mail at [Russlyn.Wells@tucsonaz.gov](mailto:Russlyn.Wells@tucsonaz.gov) or by telephone at 520-837-4948.

Sincerely,



Russlyn Wells  
Zoning Administrator

C: Scott Clark, Director Planning and Development Services  
Mike Rankin, Principal City Attorney  
Piroshka Glinsky, Principal Assistant City Attorney  
Steve Shields, Section Manager Site Review

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