

BOCC DECISION MATRIX

Juniper Preserve Psilocybin Service Center Land Use File Nos. 247-23-000614-CU, 615-SP, 247-24-000292-A					
	Issue Area	Applicable Approval Criteria	Applicant and Oppositional Responses	Hearings Officer and Staff	Board Decisions
1	Does the site plan provide adequate screening of the parking area?	<p>DCC 18.116.030(F)(1): Except for parking to serve residential uses, an off-street parking area for more than five vehicles shall be effectively screened by a sight obscuring fence when adjacent to residential uses, unless effectively screened or buffered by landscaping or structures.</p> <p>DCC 18.124.060(G): Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be designed, located and buffered or screened to minimize adverse impacts on the site and neighboring properties.</p>	<p><u>The Applicant</u> asserts that adequate screening and buffering will be provided based on the intervening distance, proposed landscaping, orientation of adjacent townhouses, and existing trees on the neighboring property to the south.</p> <p>Finally, the applicant has indicated they are amenable to a condition of approval requiring additional trees to be planted if the Board determines it is necessary.</p> <p><u>Oppositional comments</u> were generally directed at the overall compatibility of the service center with surrounding residences, and did not specifically address screening of the parking area.</p>	<p>The Hearings Officer (HOff) found the proposed screening along the south boundary of the parking area is not sufficient. The HOff also found the applicant did not provide sufficient evidence to address the potential conflict between these screening requirements and the clear vision area required by DCC 18.116.030(F)(7).</p> <p>The HOff found that DCC 18.124.060(G) cannot be met without also satisfying DCC 18.116.030(F)(1).</p> <p>Staff disagrees with the applicant’s argument that existing screening on a neighboring property can be used to satisfy this criterion. Staff notes this neighboring property is not subject to this land use review, and is not required to maintain existing screening.</p>	<p>Does the applicant propose sufficient screening between the parking area and adjacent residences?</p> <ol style="list-style-type: none"> 1. If yes, the Board can continue reviewing the applications, and move to overturn the Hearings Officer’s denial and approve the application. 2. If no, the Board can either: <ol style="list-style-type: none"> A. Uphold the Hearings Officer’s denial; or B. Include a condition of approval requiring additional landscaping on the subject property.

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2	Is the required clear vision area provided for the service drive?	DCC 18.116.030(F)(7): Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right of way line and a straight line joining said lines through points 30 feet from their intersection.	<p><u>Applicant comments</u> assert the required clear vision area is located at the intersection of the service drive and parking area. Furthermore, to the extent there is a conflict between the clear vision area and required screening of the parking area, the clear vision area takes precedence because it relates to vehicle and pedestrian safety.</p> <p>The applicant submitted a revised site plan dated July 16, 2024, which shows two possible locations of the required clear vision area. The applicant submitted a memorandum from their traffic engineer, dated July 17, 2024, which asserts the clear vision area should be located at the entrance to the parking area.</p> <p><u>Oppositional comments</u> generally did not address the clear vision area or dispute its location.</p>	<p>The Hearings Officer (HOff) found the site plan did not identify the required clear vision area or provide enough detail. The HOff did not identify the location of the clear vision area, but found that the portion of Nicklaus Drive between the parking area and the southwest corner of the subject property qualifies as a service drive.</p> <p>Comments dated July 19, 2024, from the Deschutes County Transportation Planner concur with the analysis prepared by the applicant's traffic engineer.</p>	<p>Does the subject property contain a service drive clear vision area?</p> <ol style="list-style-type: none"> 1. If no, the Board can continue reviewing the applications and find that this criterion does not apply. 2. If yes, is there sufficient evidence in the record to show that a clear vision area will be provided? <ol style="list-style-type: none"> A. If yes, the Board can continue reviewing the applications, and move to overturn the Hearings Officer's denial and approve the application. B. If no, the Board may uphold the Hearings Officer's denial.

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3	Is transportation access adequate? The use requires transporting psilocybin across a Bureau of Land Management (BLM) right-of-way (ROW).	DCC 18.128.015(A)(2): The site under consideration shall be determined to be suitable for the proposed use based on the following factors: ... Adequacy of transportation access to the site	<u>Applicant comments</u> assert: <ul style="list-style-type: none"> • The Board may interpret the geographic scope of this review and only consider Nicklaus Drive, the road immediately leading to the subject property. • The applicant is amenable to a condition of approval that the psilocybin service center will cease operation if BLM threatens to revoke the ROW. • The HOff incorrectly interpreted the terms of the ROW, which is a third-party contract. Any arguments regarding BLM revoking access to the resort are speculative and requiring interpreting a contract, which is outside of the bounds of this land use application. • Psilocybin and cannabis facilities are permitted uses in DCC despite federal illegality. <u>Oppositional comments</u> assert: <ul style="list-style-type: none"> • It violates federal law to transport psilocybin across the ROW into the destination resort. • BLM may revoke the ROW easement if psilocybin is transported over it, which would remove transportation access for the entire resort. • This criterion does not specify that it is limited to 'direct' access, and the review is not limited to Nicklaus Drive. • Staff from BLM were acting in their official capacity when they submitted comments on this application. 	The Hearings Officer (HOff) finds the Board has not previously interpreted the geographic scope of DCC 18.128.015(A)(2). The HOff found that the BLM ROW was addressed in the application materials and was subject to this criterion. The HOff concludes the site is not suitable based on transportation access because use of the ROW requires compliance with federal laws; federal law prohibits transporting psilocybin across BLM property; and the applicant intends to transport psilocybin across federal land. The HOff asserts that their findings are case-specific and do not preclude approval of psilocybin facilities under different circumstances.	Is analysis of the BLM ROW necessary to demonstrate that the site is suitable for the proposed use based on transportation access? <ol style="list-style-type: none"> 1. If no, the Board can continue reviewing the applications, and move to overturn the Hearings Officer's denial and approve the application. 2. If yes, is transportation access adequate based on both the physical capacity of the surrounding roadway and the provisions of the BLM ROW? <ol style="list-style-type: none"> A. If no, the Board may either: <ol style="list-style-type: none"> 1. Uphold the Hearings Officer's denial or 2. Impose a condition of approval requiring the proposed use to cease operation if BLM revokes the ROW. B. If yes, the Board may move to overturn the Hearings Officer's denial and approve the application.