



APPLICATION
TO
REZONE/**CHANGE TEXT**

West Bountiful City

PLANNING AND ZONING

West Bountiful, UT 550 N 800 W 84087

(801) 292-4486

www.WBCity.org

PROPERTY ADDRESS: 580 W. 100 N., West Bountiful, UT. 84010 **DATE OF APPLICATION:** 4/30/20

PARCEL NUMBER: 06-039-0128 **CURRENT ZONE:** C-G **PROPOSED ZONE:** C-G Conditional Use

LEGAL DESCRIPTION ATTACHED: YES NO

Applicant Name(s): Wholesome Therapy (Cannabis Cultivation) & Canyon 100 N Bountiful L.C.

Applicant Address (if different than above): 476 Heritage Park Blvd, Layton, UT. 84031

Primary phone: (404) 556-1111 **E-mail address:** smaxski@mac.com

Primary phone: (801-776-8111 **E-mail address:** dino@durbanogroup.com

Describe in detail the request for which this application is being submitted and the reasons why the change will benefit the people of West Bountiful. A separate sheet with additional information may be submitted if necessary.

(SEE ATTACHED)

I hereby apply to change text in the West Bountiful Municipal Code, or rezone the property identified above in accordance with the provisions of Utah State Code 10-9a-503. I certify that the above information is true and correct to the best of my knowledge.

Date: 5/1/20

Applicant Signature: Dino Pasqua

FOR OFFICIAL USE ONLY

Application & \$150 Fee Received Date: _____

Public Hearing Date: _____

Letters sent to affected neighbors: _____

Planning Commission Approval: _____

City Council Approval: _____

PROPOSED TEXT CHANGE/AMENDMENT

The "Applicant," Wholesome Therapy, would like to propose the following text change/amendment to the [West Bountiful Municipal Code §17.16.020](#) (Agricultural District, A-1, Permitted Uses); [§17.32.020, 030](#) (Commercial General District, C-G, Permitted and Conditional Uses); and [§17.36.020](#) (Light Industrial District, L-I, Permitted Uses):

§17.16.020 – Agricultural District, A-1, Permitted Uses:

"F. Cannabis Production Establishment as defined by Utah Code Ann. §4-41a-102 and permitted under Title 4, Utah Agricultural Code, Chapter 41a, Cannabis Production Establishments.

§17.32.020 – Commercial General District, C-G, Permitted Uses:

"B. Drug Store, including Medical Cannabis Pharmacy as defined by Utah Code Ann. §4-41a-102;

§17.32.030 – Commercial General District, C-G, Conditional Uses:

"N. Cannabis Production Establishment as defined by Utah Code Ann. §4-41a-102 and permitted under Title 4, Utah Agricultural Code, Chapter 41a, Cannabis Production Establishments.

§17.36.020 – Light Industrial District, L-I, Permitted Uses:

"J. Cannabis Production Establishment as defined by Utah Code Ann. §4-41a-102 and permitted under Title 4, Utah Agricultural Code, Chapter 41a, Cannabis Production Establishments.

NOTICE: This application for a text change shall also constitute a "**petition**" as described in [Utah Code Ann. \("UCA"\) § 10-9a-528\(b\)\(i\)](#), which states:

"(3)(a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

- (i) regarding a cannabis production establishment, **Section 4-41a-406**; or
- (ii) regarding a medical cannabis pharmacy, **Section 26-61a-507**.

(b) A municipality shall take the action described in Subsection (3)(a):

- (i) before January 1, 2021, **within 45 days** after the day on which the municipality receives a **petition** for the action; and
- (ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2)."

Id. (emphasis added); *see also* UT St §17-27a-525.

REASONS THE PROPOSED TEXT CHANGE/AMENDMENT IS APPROPRIATE AND NECESSARY

Utah recently adopted the *Hemp and Cannabinoid Act* ("**HCA**"; UCA §4-41, *et seq.*, effective 5/14/2019) as well as *Cannabis Production Establishments* ("**CPE**"; UCA §4-41a, *et seq.*, effective 12/3/18) providing for the cultivation, processing and sale of medical cannabis statewide.

Pursuant to HCA §10-9a-528(b)(i), as cited above, West Bountiful City has yet to adopt/amend its zoning regulations to comply with CPE §4-41a-406. Consequently, this application will also serve as a “**petition**” to West Bountiful City to amend/adopt the appropriate zoning regulations to comply with the HCA and CPE, as proposed above. It also serves the dual purpose of qualifying the Applicant, Wholesome Therapy, for the necessary permitted and conditional use permit under West Bountiful City Code §17.32.030 as proposed above—permitted use for the Medical Cannabis Pharmacy and conditional use for the Cannabis Production Establishment under the proposed C-G amendments above.

Wholesome Therapy has been approved by the State’s Department of Agriculture to open and operate a Medical Cannabis Pharmacy as defined by the HCA and CPE. In order to operate its pharmacy efficiently and economically, the Applicant needs approximately 18,400sqft to also operate as a Cannabis Production Establishment, as defined by Utah Code Ann. §4-41a-102. Cannabis Production Establishments are defined by the CPE to permit “cultivation” and “processing” of cannabis for medicinal purposes. See [Utah Code Ann. §4-41a-102\(7\)](#).

The location of this cannabis production is being proposed in the back of the same building as the Medical Cannabis Pharmacy which shall be located at 580 W 100 N, West Bountiful City (The “Carr Printing Building” or “Carr Building”). This would allow them to occupy 18,400sqft of currently unusable space in the back of this building for cannabis cultivation and processing for the very limited purpose of supporting their Medical Cannabis Pharmacy. Both the pharmacy and production establishment would be heavily regulated by the State. The Applicant would follow all state mandated protocols, which are very robust. The location would be highly secure and the public would not even know it was there. There are no windows and only two doors that would access this area at the back of the building.

The Carr Building is currently in the C-G zone, however. Consequently, the proposed text amendment to that zone’s conditional uses is necessary to allow the Applicant’s production establishment to operate in the back of the building.

By way of background, Carr Printing, LC, has operated out of the Carr Building for decades—long before the current zoning map was enacted. The Carr Building was originally zoned as Light Industrial (L-I). The permitted uses of which would have allowed for Cannabis Production Establishments under the HCA and CPE today had it remained L-I. Point being that allowing the Applicant’s Cannabis Production Establishment to operate in the back of the Carr Building is not far afield from the Carr Building’s original zoned purpose and current uses. Carr Printing’s printing business is technically Light Industrial but was grandfathered in after the building was rezoned to C-G. Carr Printing still operates there today under a non-conforming use permit. Being that the Carr Building always has been and is currently used by Carr Printing for L-I services, there doesn’t appear much, if any, additional harm, risk or danger in allowing Applicant’s Cannabis Production Establishments—another L-I permitted use according to the CPE—as a conditional use under C-G.

Another reason to adopt the proposed language and grant the requested conditional use is that the 60,000sqft Carr Building cannot support parking for 60,000sqft of retail business. By rezoning it to C-G, the City unintentionally made it impossible to comply with the City’s parking space requirements for retail (§17.52.040). Retail space requires anywhere from 1:100 to 1:200 stalls/sqft, which would require between 300 to 600 stalls. The Carr Building, which was built decades ago in an L-I zone, only has 100 stalls. In other words, current C-G parking requirements could only ever allow for 10,000 to 20,000sqft of retail space, or up to a third of the building. In order to satisfy C-G parking requirements, the building

would have to be torn down and rebuilt to either reduce its square footage or to provide enough parking. That is simply not an option. There is another solution, however. Adopting the proposed text changes and granting the Applicant a conditional use permit to use 18,400sqft of space as a Cannabis Production Establishment as a supplement/support space for its permitted retail space would largely eradicate this issue since the Applicant's Cannabis Production Establishment would not require much, if any, additional parking stalls while occupying nearly a third of the building. Applicant will already have enough parking for its employees and customers as a part of its Medical Cannabis Pharmacy.

Not only are the proposed text changes necessary to comply with the HCA and CPE but granting the Applicants petition will also provide an efficient, simple solution to the parking issue created when the City rezoned the Carr Building, all without increasing the burdens or risks to the community at large.

Furthermore, granting the Applicant's petition allows the City to keep the building in the C-G zone and bring more retail to the area, increasing revenue for the City. It also allows the building owner to make great use of an unusable portion of the building.

Granting this petition/text change is a win-win for the City, its residents and for the Applicant, Wholesome Therapy as an excellent solution to the unique issues surrounding the Carr Building. We hope you will adopt the proposed text change language above and also issue the C-G Conditional Use Permit Application submitted on April 15th by Wholesome Therapy.

NOTE: Cannabis cultivation, processing and medical cannabis pharmacies are highly regulated by requiring secure facilities—no windows—with preferred out of sight and fully enclosed premises. The Carr Building is a near perfect fit and a rarity in what otherwise is an accommodating retail property.