

# Clay County Rezoning Petition

Date	08/25/2022	File Number	22-094
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Application Fee - \$150

Applicant is: Owner

Section 1: Applicant/Owner/Contact Information			
	Applicant	Owner	Contractor
Name	Peterson Johnathan S & Kelli		
Address	45304 302 ST Wakonda SD 57073		
Phone	(605) 660-5821		
E-mail			

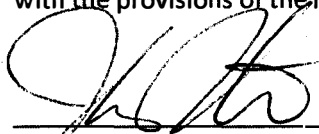
Section 2: Property Information	
Street Address	45304 302 ST Wakonda SD 57073
Short Legal Description	S 775' OF W 880' SW 1/4 29-95-53 STAR TWP
Parcel ID	03000-09553-293-03

Section 3: Zoning District/Land Use of Adjacent Property			
A-1 Agricultural	North	A-1 Agricultural	East
A-1 Agricultural	South	A-1 Agricultural	West

Section 4 Reason for Rezoning Petition
<p>For a Medical Marijuana cultivation facility to <i>CI-Com</i></p> <p><i>S' 560 of the W' 355 in the SW4 of 29-95-53</i></p>

Be as specific as possible about the property and reason for rezoning.

I, the undersigned, do hereby affirm: the above statements are true and correct and agree to comply with the provisions of the regulations of Clay County.



Applicant's Signature

8/25/22

Date

CLAY COUNTY  
211 W MAIN SUITE 201  
VERMILLION SD 57069

OFFICIAL RECEIPT#

68926

DATE: 8/25/22  
RECEIVED FROM: JOHN PETERSON  
CHECK#: 2742

KEYED BY:  
DELIVERED BY: BY  
DREW

---FOR---  
CONDITIONAL USE PERMITS  
FILE# 22095  
PETITION TO CHANGE ZONING ORD  
FILE #22094

GL#	AMOUNT
10100R3461100	100.00
10100R3461200	150.00
TOTAL AMOUNT	250.00

### AREA STATEMENT:

**TOTAL BUILDING SIZE:** 48' X 105'10"  
7194 SQ FT

#### BRIEF:

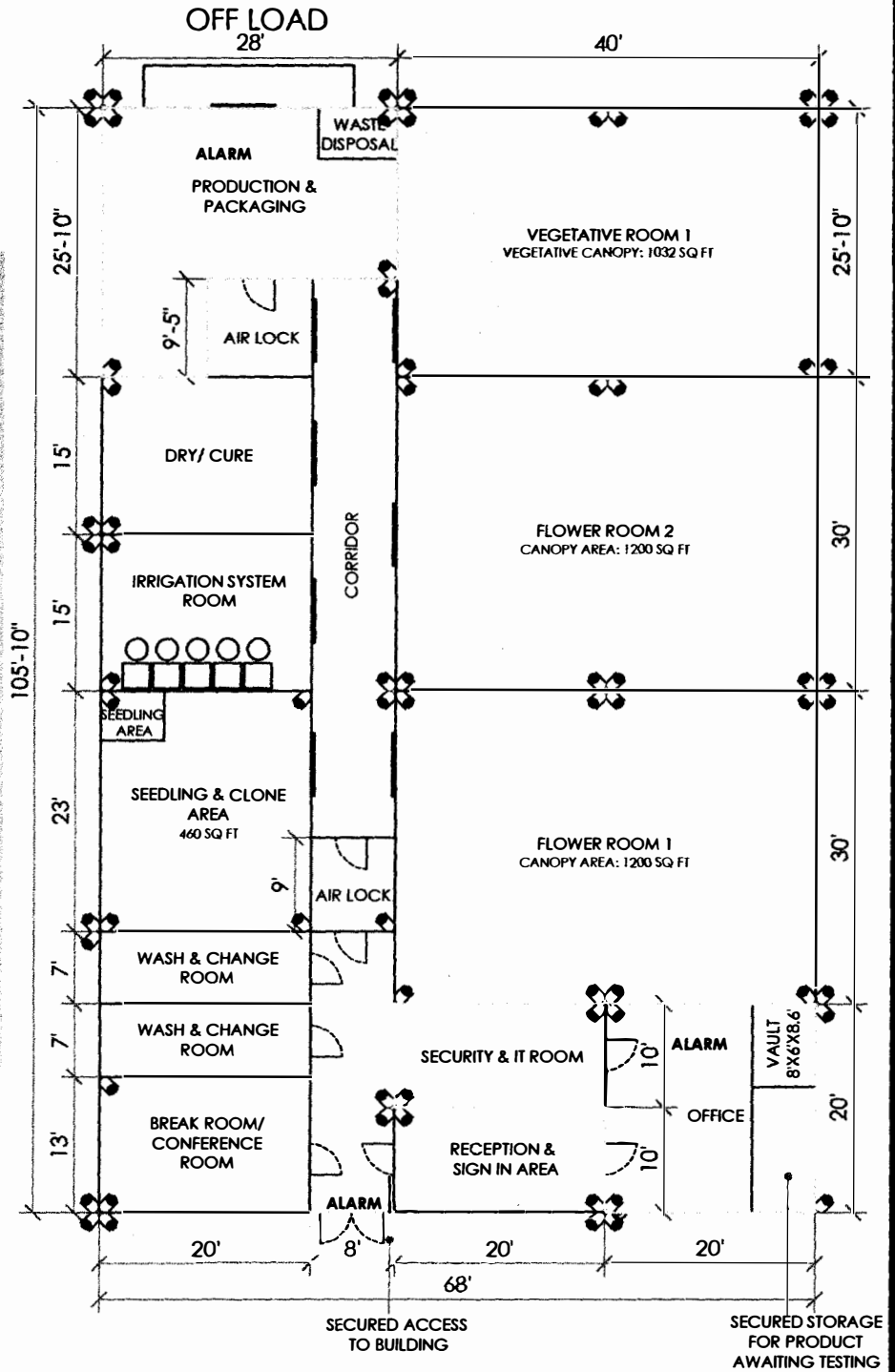
**ADMIN:** 1340 SQ FT  
RECEPTION/SIGN IN  
WASHROOM  
SECURITY/IT  
OFFICE  
BREAK ROOM/CONFERENCE

**PROCESSING AREAS:** 1613 SQ FT  
MOTHER/CLONE  
NUTRIENT MIXING  
WATER STORAGE  
DRY/CURE

**PLANTATION AREA:** 3432 SQ FT  
FLOWER AREA: 2400 SQ FT  
VEG AREA: 1032 SQ FT

**CANOPY SPACE**  
**FLOWER (2-TIER):** 4800 SQ FT  
**VEG (1-TIER):** 1032 SQ FT  
(including the circulation area)\*

**OTHER:**  
PRIMARY CIRCULATION: 809 SQ FT



PLAN LEGEND	
SYMBOL	DESCRIPTION
	SECURITY CAMERA
	SECURED ACCESS AREA

Prepared By

Name: JOHN PETERSON

Address: 45304 302ND ST

Address: WAKONDA SD 57073

Phone: 605 660 5821

Waiver for Cannabis Facility Setback  
Clay County, South Dakota

I, Angela Stratman

Am aware of the proposed {Cannabis Facility Type} - CULTIVATION

being proposed by Johnathan S Peterson

In the

The East 220 Feet of The West 1020 Feet of The North 355 Feet of the N $\frac{1}{2}$  of The NE $\frac{1}{4}$  of Section 32, Township 95 North, Range 53 West Of The 5th P.M., Clay County, South Dakota, Except Lot H-1 of the NE $\frac{1}{4}$  STAR TWP

and do not object to the Cannabis Facility as proposed.

Dated this 22 day of Aug, 2022

signature

Angela Stratman

address

44686 303 ST

city, state zip

Volin, SD 57072

phone

605-267-2129

Subscribed and sworn to (or affirmed) before me this 22 day of Aug, 2022

Paul Koch  
Notary Public South Dakota

My commission expires 8-20-2025



**ORDINANCE #2022-01**

AN ORDINANCE OF CLAY COUNTY, SOUTH DAKOTA, AMENDING ORDINANCE NO. 2013-04, BEING THE 2013 REVISED ZONING REGULATIONS FOR CLAY COUNTY BY ADDING AMENDMENT SECTION 3.14 MEDICAL CANNABIS ESTABLISHMENTS AND CHAPTER 2.02, DEFINITIONS, DEFINITIONS.

**WHEREAS**, the State of South Dakota permits the sale and consumption of medical cannabis pursuant to South Dakota Codified Law (SDCL) Chapter 34-20G; and,

**WHEREAS**, pursuant to SDCL 34-20G-55, county government may require a local registration, license, or permit for a medical cannabis establishment to operate within that County; and

**WHEREAS**, pursuant to SDCL 34-20G-58, county government may enact ordinances or regulations governing the time, place, manner, and number of licensees operating within its jurisdiction; and

**WHEREAS**, also pursuant to SDCL 34-20G-58, county government may establish civil penalties for violation of an ordinance governing the time, place, and manner of medical cannabis establishments that operate locally; and

**WHEREAS**, under the provisions of SDCL 34-20G-60, county government may require a medical cannabis establishment to obtain a county license, permit, or registration prior to operating, and may charge a reasonable fee for that license; permit, or registration, and

**WHEREAS**, the County believes that regulation of medical cannabis is necessary for the health and safety of this community SDCL 7-18A-8; then and therefore,

**WHEREAS**, the State of South Dakota permits the sale and consumption of cannabis pursuant to South Dakota Codified Law, medical cannabis establishments licensed under this ordinance may sell cannabis for qualifying patient's use so long as they comply with the provisions of South Dakota Codified Law and the South Dakota Department of Health.

**BE IT ORDAINED BY THE COUNTY COMMISSION OF CLAY COUNTY, SOUTH DAKOTA AS FOLLOWS:**

Section 1.

That a NEW SECTION be ADDED to the Clay County Zoning Ordinance under Article 3 – General District Regulations – to read as follows:

**Section 3.14 Medical Cannabis Establishments**

In order to minimize the negative effects cannabis establishments have on adjacent land uses, and to promote the public health, safety, and general welfare of the County, the County Commission adopts the following regulations, recognizing that it has a great interest in the present and future character of the County's agricultural and commercial areas.

A. Regulations Relating to Medical Cannabis Facilities no medical cannabis cultivation facility shall be owned or operated at a location within the County’s zoning jurisdiction except as provided by this section:

1. A medical cannabis testing facility, medical cannabis manufacturing facility, medical cannabis dispensary, & medical cannabis cultivation facility shall be considered a conditional use in the following districts: C-1: Commercial & I-2: General Industrial.

B. Setbacks: No medical cannabis facility shall operate within two-thousand six hundred and forty feet (2640’) of a residential building, cemetery, church, daycare, or school existing before the date of the cannabis dispensary application. Setback distances shall be measured from the nearest property line of the designated cannabis facility to the subject’s closest edge. Such setback distance requirements may be waived provided that the Applicant obtains waivers from all owners of such property within the separation distance. Any authorized landowner that is within the separation distance may waive the separation distance through a written instrument to be filed with the Clay County Register of Deeds. This waiver shall run with the land.

1. No medical cannabis facility shall operate within one thousand feet (1,000') of another cannabis manufacturing facility. However, co-location of different types of cannabis establishments, under common ownership, shall be allowed on the same location.

C. Additional Variance and Conditional Use Factors for Cannabis Establishments:

In addition to any other factor which may be properly considered in the grant or denial of a variance or conditional use permit, the following factors shall be relevant for variance and conditional use requests relating to cannabis establishments:

1. That the proposed land use is consistent with the intent of this chapter and will not be contrary to public interest or injurious to nearby properties
2. That the proposed land use will not cause or contribute to the formation or expansion of blighted area.
3. Co-location of different types of cannabis establishments, under common ownership, shall be allowed on the same location.

D. Prohibited Districts for Cannabis Establishments

1. All types of medical cannabis establishments are prohibited in the following districts: NRC: Natural Resource Conservation & RR: Rural Residential.
2. All non-licensed medical cannabis establishments are prohibited in all zoning districts.

E. County Conditional Use Permit. Any person or entity who proposes to own or operate cannabis establishments shall obtain a Conditional Use Permit in accordance with the requirements of Article 11.

1. Each individual medical cannabis establishment shall be required to obtain a conditional use permit, regardless of ownership or co-location.

Zoning Ordinance

2. No medical cannabis establishment may convert from one medical cannabis establishment type to another without first obtaining a conditional use permit.
  3. The applicant will be required to submit background checks in accordance with the Clay County Licensing Regulations for Cannabis Establishments as part of the conditional use permit. The background checks will not be considered by the Planning and Zoning Commissions when reviewing conditional use permits.
- F. A County Conditional Use Permit for Medical Cannabis Establishments may be approved conditioned on obtaining both a County and State medical cannabis establishments license.
- G. Standards for issuance of a building permit for a medical cannabis establishments:
1. No building permit shall be issued by the Zoning Administrator until the Applicant has received their County and State medical cannabis establishments license(s)
  2. Should a signed and approved County building permit be required by an agency before a County and/or State cannabis establishments license(s) are granted, a building permit may be issued the Zoning Administrator. However, any construction of structures shall not commence until the Applicant has provided copies of their completed County and State cannabis establishments license(s) to the Zoning Administrator.

Section 2.

The following definitions shall be added to Article 2 – Definitions, Section 2.02 Definitions.

**BLIGHTED AREA:** an area characterized by traits such as dilapidation, overcrowding, deterioration, dangerous structures, unsanitary, inadequate infrastructure, nuisance, or other factors which inhibit the growth and development of an area.

**NON-LICENSED CANNABIS ESTABLISHMENT:** an entity which would otherwise meet the definition of a cannabis establishment but which is not legally licensed.

**MEDICAL CANNABIS OR CANNABIS.** Marijuana as defined in SDCL § 22-42-1 and SDCL 34-20G-1.

Section 3.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Adopted by majority vote of the Clay County Board of Commissioners in regular session this \_\_ day of \_\_\_\_\_, 2021.

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County Commission Chairperson

Attest:

(seal)

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Carrie Crum  
County Auditor

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Adoption: \_\_\_\_\_  
Published: \_\_\_\_\_





To: Clay County Planning Commission  
Re: Memo Rezone & CUP Application 22-095  
Date: Sept 26th, 2022

### **Introduction**

John Peterson has applied for a property rezone and a CUP for land located at 45304 302 ST Wakonda SD 57073. The rezone and CUP would be for a commercial medical marijuana cultivation facility.

The land for the rezone would be approximately 4.2 acres in size. There is one residential property to the west (Mr. Peterson's) and 1 residence approximately .4 miles to the due east. The rest of the land bordering the site is open cropland.

The legal description is: The South 560 Feet of the West 355 Feet of the Southwest Quarter (SW 1/4) of Section Twenty-nine (29), Township Ninety-five (95) North, Range Fifty-three (53) West of the 5th P.M., Clay County, South Dakota.

### **Issues**

Medical marijuana is relatively new for Clay County and the County passed ordinance #2022-01 to manage this new land use. The relevant zoning rules from this new ordinance are:

1. Must be in a zoned a C-1: Commercial or I-2: General Industrial district.
2. ½ mile setback from a residential building, cemetery, church, daycare, or school unless a waiver is obtained.
3. Must obtain a CUP

### **Zoning Administrator Comments**

John Peterson has obtained a signed setback waiver from the Stratman's at 44686 303 St Volin, SD 57072. And has applied for both a CUP and a rezone.

### **Compliance with the Comprehensive Plan**

There appears to be no conflict with the comprehensive plan.

### **Conclusion/Recommendations**

The Zoning Administrator recommends approval of the rezoning and the CUP with the following conditions added to the CUP:

1. A plat is recorded for the site.
2. The proposed rezoning is approved by the County Commission.
3. Construction of structures shall not commence until the Applicant has provided copies of their completed State cannabis establishments license(s) to the Clay County Zoning Administrator.