

REPORT TO THE PLANNING COMMISSION



DATE: January 13, 2015

TITLE: Consideration of a Conditional Use Permit application to allow Brown Dog Health and Wellness Medical Marijuana Dispensary to operate a medical marijuana dispensary with limited cultivation operations of up to 99 mature plants located in an existing building at 66595 Pierson Boulevard between Palm Drive and Ocotillo Drive in the in the Community Retail and Services District of the Vortex Specific Plan.

Prepared by: Alexander P. Meyerhoff, AICP, Community Development Director

RECOMMENDATION

That the Planning Commission approve Conditional Use Permit No. 05-14 Medical Marijuana Dispensary to operate a medical marijuana dispensary with limited cultivation operations of up to 99 mature plants located in an existing building at 66595 Pierson Boulevard between Palm Drive and Ocotillo Drive in the in the Community Retail and Services District of the Vortex Specific Plan.

BACKGROUND

This CUP application is the second step in a three step approval process. Earlier in the year the City Council, agreed to allow a total of three medical marijuana dispensaries within the City limits in commercial zones. The Council established criteria for scoring and ranking medical marijuana dispensaries with limited cultivation operations of up to 99 mature plants. The Council also allowed medical marijuana cultivation operations to be permitted through the Conditional Use Permit (CUP) process in Industrial zones. The Council did not limit the number of cultivation operations.

The City Council directed staff to open the application period for medical marijuana dispensary applications, which closed on Monday, November 24, 2014. The City received 19 applications. The applications were then reviewed by the City Manager, Police Chief, and Community Development Director and scored by the City Attorney. The City Attorney also conducted fact checking, back ground investigations and reviewed the applications for consistency with the Medical Marijuana Dispensary guidelines established by the City Council. The top three scoring applications were selected for processing as Conditional Use Permits.



The Applicants, Andrew Milks and Jonathan Milks, filed a CUP application on November 20, 2014, to establish a medical marijuana dispensary, with limited cultivation operations up to 99 mature plants, on this site. The project site, a single parcel, measures 50' in width and is 130' in depth, is approximately 8,000 square feet in total area. A 10' driveway adjacent to the western property line leads to a secured and enclosed parking area in the southern half of the site.

The site was most recently utilized by Alcoholics Anonymous, a twelve-step, self-help program. The AA program vacated the property on December 14, 2014. The applicants request approval of a Conditional Use Permit to allow the subject business, a medical marihuana dispensary with limited on-site cultivation, to operate.

General Plan and Zoning Consistency

The site is located within the Vortex Specific Planning Area. Current General Plan and Zoning designations for the site are Vortex Specific Plan, Community Retail & Services “Old Town” (Planning Area 1.06).

The Zoning, General Plan Land Use designations, and current land uses for surrounding properties are as follows:

Zoning & General Plan Designations

North =	MXD – Mixed Use Development Core
West =	Community Retail & Services (PA 1.06)
South =	Green Infrastructure System Overlay - Parking
East =	Community Retail & Services (PA 1.06)

Current Land Use

Vacant – Specific Plan
Vacant – Specific Plan
Single Family Residential
Vacant – Specific Plan

Vortex Downtown Specific Plan

Pursuant to the Land Use Plan and Planning Areas exhibit in the Vortex Downtown Specific plan, the site is located in Planning Area 1.06 “Old Town”. Pursuant to Section 6.1.2 Community Retail and Services (Retail) of the Vortex Downtown Specific Plan:

“The Retail land use category provides the projects shopping destination, which complements the Mixed-Use Core and offers a range of commercial, service and eating establishments on 21.33 areas. These uses are best located along both sides of Palm Boulevard (Drive) and Pierson Boulevard and in order to be visible to the highest traffic volumes and pedestrian areas.”

Pursuant to Appendix A: Implementation of the Vortex Downtown Specific plan, both Health and fitness Centers and Medical Services, Clinics and Laboratories are Permitted Uses (P) in the Community Retail & Service (Retail) land use designation.

Thus the proposed land use, a service-commercial retail establishment, is consistent with the General Plan and Zoning designations.

Site Analysis

Existing improvements include a two story building with 1,894 square feet of gross leasable area (GLA) on the first floor and 1,700 square feet of GLA on the second floor. Total GLA within the building envelope is 3,594 square feet. Additional improvements include 788 square feet of open patio and 2,006 square feet of covered patio. The site is presently secured by a block wall measuring between 8’ and 10’ in height. The project site is 8,000 sq. ft. in area.

The site is relatively flat and drains to the south. The site is developed with a two story building positioned directly behind the sidewalk. A single driveway provides access from Pierson Boulevard to the rear parking area. Pierson Boulevard has off-site improvements including curb, gutter, landscaping and sidewalks.

The Applicants propose improvements to the building and site, including minor demolition of both interior and exterior areas, architectural enhancements of the building envelope (exterior) ,

painting, renovations to the interior of the building to conform with proposed business operations, on-site landscaping, lighting, painting, parking lot improvements to comply with current ADA standards, and a trash enclosure.

The first floor presently contains two existing office areas, two restrooms, a kitchen area and extensive storage areas (three) The second floor presently includes a kitchen, two bathrooms two bedrooms, a living room and an extended reading nook.

Extensive remodeling within the existing building envelope is proposed. The proposed first floor plan will include: waiting area, reception area, bathroom, small kitchen area, acupuncture area, showroom, safe area, storage and a yoga area and special event room. The proposed second floor plan includes: bathrooms (two), multiple work areas, storage areas, processing areas and drying areas.

Lot Coverage and Building Height

The existing lot coverage is 23%, which is within the maximum floor area ratio (FAR) of 0.25 allowed in the Community Retail & Services (Planning Area 1.06 “Old Town”). No change to the building footprint is proposed. Therefore, lot coverage will not cause any detrimental impacts to the surrounding area.

The Zoning District permits a maximum height of up to 30 feet in this Planning Area. The existing building has two (2) stories above ground and the roofline is ±20 feet in height and satisfies the code requirement. No changes to the height or mass of the building are proposed. The building height will not cause any detrimental impacts to the surrounding area.

Setbacks

The Vortex Downtown Specific Plan is a form-based code, therefore, traditional setbacks are not regulated in the Vortex Downtown Specific Plan. The project is in compliance with all of the Building Setback Standards contained in Table A.2 of the Specific Plan. In addition, no changes are proposed to the foot print of the building.

Site Circulation/Off-Street Parking

Existing ingress and egress to the site is provided by one (1) driveway on Pierson Boulevard. The existing driveway on the westernmost portion of northern property line and is a one-way customer drop off-area with a width of 10 feet. The remainder of the north property line is within in the building envelope. There is no opportunity to widen this driveway. The site design and proposed circulation pattern is consistent with the proposed use.

Parking Calculation		
Use	Ratio	Number of Spaces
1,603 square feet of habitable retail space	3 spaces/ 1,000 square feet	4.8
1,632 square feet of habitable indoor nursery	1 space per 500 square feet	3.2
Parking Provided		7
Parking Required		8.0
Parking Gap		1

The previous use of the building location, a twelve-step counseling program, regularly hosted group meetings with between 20 to 30 people in attendance. There is no record of complaints

regarding parking from adjacent businesses or residents during the AA meetings formerly hosted at the site. Based upon an analysis of the parking standards contained in the Vortex Downtown Specific Plan and the Municipal Code for both retail spaces and for a indoor nursery requirement the total required spaces is eight. This leaves the applicant with a gap of one parking space and Section 17.120 of the Municipal Code allows the Community Development Director to reduce the parking requirement by ten percent or one space with an application for a Minor Modification. The applicant will be conditioned to apply for a Minor Modification to be approved by the Community Development Director. The gross floor areas were adjusted to reflect the subtraction of non-habitable areas.

Transit Service

The site is accessible to Sunline Transit. Sunline Routes #14 and #15 both serve the adjacent intersection of Palm Drive and Pierson Boulevard.

Elevations, Colors and Materials

The existing architecture is a nondescript two story stucco cube. The applicant has provided a series of architectural renderings which depict a tan stucco building, with brown window frames, brown cornice, an arch over the driveway and approximately 30' architectural stone along the front elevations. Additional enhancements include architectural quality lighting fixtures, landscaping and a modest sign. Closed circuit cameras are prominently mounted on each building elevation.

Section 7.3.4 of the Specific Plan (Design Details) includes a list of design details, some combination of which should be included for each building:

- Light fixtures
- Balconies on the second floor or higher floors
- Decorative bulkheads
- Shutters
- Awnings for windows or balconies
- Contemporary, functional cornice
- Pedestrian arcades

The proposed elevations include both light fixtures and cornice. The architect should also consider the use of decorative metal awnings to enhance the building elevations. The Specific Plan also notes that the color palate should include base colors and accent colors.

Landscaping

Existing landscaping along Pierson includes a single street tree, a Washingtonia robusta (Mexican fan palm), in the corridor's signature diamond planter. The site features the signature diamond sidewalk concrete, planter and block pattern. No changes are proposed to this landscape along Pierson.

The project includes enhanced landscaping enhanced to compliment the building Landscaping will include the following material.

Common Name	Botanical Name	Size	Count
Mexican Fan Palm	Washintonia robusta	24" box	2
Chilean Mesquite	Prosopsis chilensis	24"box	1
Calliandra	Calliandra ineaquilatera	5 gal	2
Agave Americana	Medio Picta Agave	24" box	3
Agava Gemniflora	Twin Flower Agave	5 gal	3
Golden Barrel Cactus	Echinocactus grussonni	5 gal	3
Queen Victoria Agave	Agave Victoriae reginae	5 gal	3

Barrel Cactus	Fish Hook Barrel Cactus	5 gal	4
Ocotillo	Fouquieria splendens	5 gal	4
Crossvine	Bignonia capreolata	5 gal	3
California Gold Decomposed Granite		3/8" depth	1,600 sq ft.
Coral Tan Irregular Boulders		1'-6" to 3'-0"	3

Lighting Plan

The applicant has submitted a parking lot lighting plan and photometric study that have a range of values from 1.0 foot-candle to 14.7 foot-candles in the parking area. The average lighting in the parking lot will not exceed 4.0 foot-candles. Three 18 foot tall light poles and one building mounted light fixture will provide illumination in accordance with City standards.

Phasing Plan

The applicant proposes to improve this property in a single phase.

Consistency Finding

Staff has reviewed the plans for the proposed project and has determined that, based upon this analysis, the proposed project conforms to the development standards of Community Retail & Services (PA 1.06) Zoning District.

Operational Issues

In reviewing the project, staff has reviewed and summarized a number of operational issues below.

Security

The operator has entered into a contract with a security company to provide on-site security. Guards will be provided during all hours of operation. During the evening hours, guards will make night rounds, patrolling the outside perimeter of the building to ensure that there is no loitering or other inappropriate activity.

A total of 24 closed circuit television cameras (CCTV) will be installed both inside and outside of the building. They will be hard wired, feature hi-definition night vision, 1080 pixel resolution with both color and infrared for nighttime vision. The CCTV will record to DVR for 240 continuous hours (10 days) straight.

The secured parking area is walled in, with a wall measuring between 8' to 10' in height. Perimeter security beams will also be installed in the tops of the walls, to notify the operator in the event that an interloper attempts to enter the premises by scaling the walls.

Odor Control

The operator will provide a complete odor control and ventilation system for both dispensary and cultivation areas. A dual stage odor control system, with carbon filters, negative pressurized intakes and ventilation will be installed. The first stage of the air filtration system intakes exterior fresh air through a carbon filter, and the second stage of the air filtration system sends the interior return air through a second carbon filter which is then vented outside as a fresh air return.

Outdoor Sales

No outdoor sales are proposed or permitted by the ordinance.

Age Restrictions

All patients must have a valid recommendation from a California doctor that states the need for medical marijuana. Although they are not presently serving this clientele, the applicant will take a very specialized interest should such clientele develop. All will be reviewed on a case by case

basis. Brown Dog prohibits members under the age of 18 from entering the premises at any time. With the approval of their legal guardians, they allow members under the age of 18, on a case by case basis. The requirement is for the legal guardian to complete membership paperwork on behalf of the minor patient to legally become their caregiver. Once the guardian is the legal caregiver of the minor patient, the guardian may visit the dispensary and pick up medication on behalf of the patient.

The applicant believes that this policy will allow minors with cancer, epilepsy, and other life threatening diseases to access the medication if that is the route the guardian and doctor of the child wish to take.

Hours of Operations

Operations will initially be between the hours of 9:00am to 8:00pm, seven days per week. The City's ordinance presently allows operations from 8:00am to 10:00pm.

Delivery Hours

Delivery hours will be offered for small group of homebound patients.

Staff has reviewed the operational plan and determined that the establishment of this business is appropriate for the location in the Community Retail & Services (PA 1.06) Zoning District. Staff recommends that the Planning Commission adopt the findings below.

Conditional Use Permit Analysis

Conditional Use Permits are regulated under Section 17.76 of the Desert Hot Springs Municipal Code and require the following findings and two additional findings that staff has added that are specific to the project:

1. That the proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Zoning Ordinance;
2. That the proposed use would not impair the integrity and character of the land use district in which it is to be located;
3. That the subject site is physically suitable for the type and intensity of land use being proposed;
4. That the proposed use is compatible with the land uses presently on the subject property;
5. That the proposed use would be compatible with existing and future land uses within the general area in which the proposed use is to be located;
6. That the proposed use is compatible in scale, mass, coverage, density, and intensity with all adjacent land uses;
7. that there are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;
8. That there will be adequate provisions for public access to serve the site;
9. That there will not be an adverse effect upon desirable neighborhood characteristics;
10. That the proposed use is necessary and essential to the community.

11. That the proposed use is consistent with applicable goals and policies of the General Plan;
12. That there will not be significant harmful effects upon environmental quality and natural resources;
13. That the proposed location, size, design, and operating characteristics of the proposed use would not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

In reviewing this application, plans, documents and other supporting information, staff has determined that the Planning Commission can make these findings and has added additional findings specific to the project..

ENVIRONMENTAL ANALYSIS

The Applicant proposes the continued use of an existing structure where minor improvements are proposed to bring the property into compliance including, plumbing fixtures, electrical switches, lighting, painting, paving, restriping the parking lot, and upgrading the landscaping which is will cause negligible environmental impacts.

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 *et seq*, and the CEQA Guidelines, Title 14, Chapter 3 of California Code of Regulations, the projects is found to be Categorically Exempt from further environmental review as a Class 1 (Existing Facility) Categorical Exemption of Section 15302 of CEQA.

ARCHITECTURAL AND LANDSCAPE REVIEW COMMITTEE (ALRC)

The ALRC is scheduled to review the project on January 8, 2015. Findings from that meeting will be presented to the Planning Commission during the public hearing.

FISCAL IMPACT

Improvements to the existing hotel will generate one-time revenues to the City in the form of Building Permits. In addition, the City will also receive on-going revenue from the marijuana taxes.

RECOMMENDATION

Staff finds that the proposed project is substantially consistent with the General Plan and meets the development standards of the MXD – Mixed Use Development Core Zoning District. Staff recommends that the Planning Commission approve Conditional Use Permit No. 05-14 subject to the Conditions of Approval and the adoption of a the following Minute Motions:

APPROVAL OF AN EXEMPTION TO CEQA based on the finding that the project qualifies as Categorically Exempt under Section 15302 Class 2 (Existing Facility). The Desert Hot Springs Planning Department is custodian of the documents or other material which constitute the record of proceedings upon which this decision is based.

APPROVAL OF CONDITIONAL USE PERMIT NO. 05-14 to allow a Medical Marijuana Dispensary subject to the following findings and the attached Conditions of Approval:

1. That the proposed use is conditionally permitted within the Vortex Downtown Specific Plan, Community Retail & Services "Old Town" (Planning Area 1.06) and complies with all of the applicable provisions of this Zoning Ordinance;

2. That the proposed use would not impair the integrity and character of the Vortex Downtown Specific Plan, Community Retail & Services "Old Town" (Planning Area 1.06) in which it is to be located.
3. That the project site, located at 66595 Pierson Boulevard, is physically suitable for the type and intensity of Medical Marijuana Dispensary being proposed.
4. That the proposed Medical Marijuana Dispensary is compatible with the land uses presently on the subject property and/or immediately adjacent.
5. That the proposed Medical Marijuana Dispensary would be compatible with existing and future land uses within the Vortex Specific Plan "Old Town" area in which the proposed use is to be located.
6. That the proposed Medical Marijuana Dispensary is compatible in scale, mass, coverage, density, and intensity with all adjacent land uses.
7. That there are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed Medical Marijuana Dispensary would not be detrimental to public health and safety.
8. That the project site will have adequate provisions for public access to serve the site located at 66595 Pierson Boulevard.
9. The proposed Medical Marijuana Dispensary will not be an adverse effect upon desirable neighborhood characteristics.
10. That the proposed Medical Marijuana Dispensary is necessary and essential to the community.
11. That the proposed Medical Marijuana Dispensary is consistent with applicable goals and policies of the Commercial Retail designation of the Desert Hot Springs General Plan.
12. The architecture of the proposed Medical Marijuana Dispensary will make a positive contribution to the immediate area of the project and the City as a whole.
13. The landscape palette has a variety of materials and will accent the architecture of the site and provide a positive contribution to the immediate area of the project and the City as a whole.
14. That there will not be significant harmful effects upon environmental quality and natural resources from the proposed Medical Marijuana Dispensary
15. That the proposed location, size, design, and operating characteristics of the proposed Medical Marijuana Dispensary would not be detrimental to the public interests, health, safety, convenience, or welfare of the City of Desert Hot Springs.

EXHIBIT(S)

1. Planning Commission Submittal