

REPORT TO THE PLANNING COMMISSION



DATE: July 20, 2016

TITLE: Conditional Use Permit No. 11-16 and Development Agreement DA 04-16. A recommendation of the Planning Commission to the City Council for the approval of a Conditional Use Permit and Development Agreement to establish a medical marijuana cultivation facility located on the south side of Two Bunch Palms Trail, approximately 1400 feet east of Little Morongo Road. Applicant: Wendy Block / DHS Properties Investments LLC

Prepared by: Craig A. Ewing, Consulting Planner

Reviewed and Approved by: Nathan Bouvet, Community Development Director

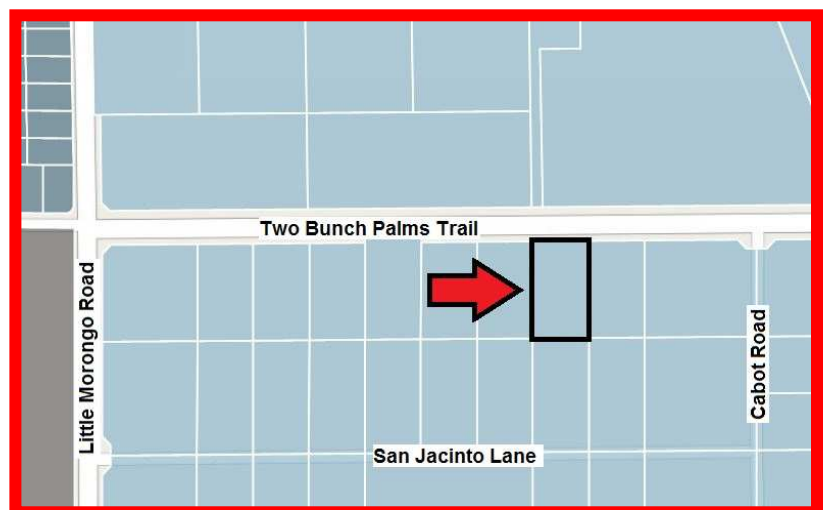
RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from Planning Commission;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Close the Public Hearing;
- 7) Opportunity for Applicant Rebuttal;
- 8) Planning Commission discussion and questions to Staff; and
- 9) Consider a motion that the Planning Commission approve a Conditional Use Permit (CUP 11-16) and Development Agreement (DA 04-16) to operate a medical marijuana cultivation facility within a new 30,550 square foot two-story building (max. height not to exceed 35 feet) as well as associated parking and other improvements, and operate a medical marijuana cultivation facility on a vacant 1.07 acre property located on the south side of Two Bunch Palms Trail, approximately 1400 feet east of Little Morongo Road in the I-L (Light Industrial) District.

DISCUSSION

BACKGROUND

Sections 5.50 and 17.180 of the Desert Hot Springs Municipal Code (DHSMC), allow medical marijuana cultivation facilities in Industrial Districts subject to a Conditional Use Permit (CUP) and Development Agreement approved by the City Council and a Regulatory Permit approved by the City Manager. The applicant, DHS Properties / Wendy Block, has filed application to construct a facility for the indoor cultivation of medical marijuana.



The site is located on the south side of Two Bunch Palms Trail, approximately 1400 feet east of Little Morongo Road and is rectangular in shape (165 ft x 283 ft). Its gross is 46,684 square feet

(1.07 acres); a five-foot dedication for public rights of way along Two Bunch Palms Trail is required and yields a net area of 45,860 square feet, or 1.05 acres. The site is relatively flat and has a very slight downward slope from north to south. The site does not appear to have been developed in the past and is presently covered with scrub brush, cobbles and debris. The site is zoned Light Industrial (I-L) District where the proposed use may be developed, subject to approval of a conditional use permit. Public street improvements for Two Bunch Palms Trail will be required. Draft conditions of approval (Exhibit No. 1) and a draft Negative Declaration with Mitigation Measures (Exhibit No. 2) have been prepared and are attached to this report.

Surrounding properties consist of:

	<u>Zoning & General Plan Designations</u>	<u>Current Land Use</u>
North	IL (Light Industrial) District	Vacant
East, South and West	IL (Light Industrial) District	Vacant, Industrial Development and Religious Institution

PROJECT SUMMARY

The applicant, DHS Properties / Wendy Block, has filed a Conditional Use Permit (CUP) application to construct a new building for the indoor cultivation of medical marijuana located on Assessor Parcel Number (APN) 665-030-062. The 1.07 acre site is presently vacant, flat and generally undisturbed. The proposed two-story building will have a total floor area of 30,550 square feet (lot coverage is 15,275 sf). Uses within the building will consist of approximately 28,878 square feet of cultivation area, about 1,672 square feet for office / staff support space.

On-site vehicular circulation is proposed via a paved two-way drive aisle on three sides of the building (east, south and west). Parking for nineteen (19) vehicles, including 2 for disabled access, is located along the east-side drive aisle. Access to public streets is provided with two two-way driveway aprons on Two Bunch Palms Trail. An underground retention basin is proposed beneath the southerly (rear) drive aisle, and a trash enclosure and underground propane take are proposed in the southeast corner of the site. Tube steel fencing is proposed around the site's perimeter with controlled gates at the driveways. Landscaping is proposed around the entire perimeter of the site; no phasing is proposed. (See Exhibit No. 3.)



The project proposes construction of a single building of metal frame and panel construction. The elevations begin with basic surface panels with horizontal ridges in beige; several cinnamon-colored vertical architectural elements – many of which are outwardly-canted or

sloped – provide visual relief to the otherwise simple building. Other architectural elements include framed windows on the lower and upper floors, and a curved metal canopy above the main entrance facing Two Bunch Palms Trail (north elevation). A loading door is located at the rear of the east elevation. (See Exhibit Nos. 4, and 5.)

Landscaping around the perimeter of the site will include a variety of low- and moderate-water use plants, including Palo Verde trees, Mexican palm trees (hybrid), trailing indigo, desert spoon, blue elf aloe, feathery cassia and lantana. *Pyracantha* is proposed along the perimeter side and rear yard fences while the remainder of the plants are distributed along the street frontage and east side yard (Exhibit No. 6.)



CUP ANALYSIS

General Plan and Zoning Consistency: The project proposes to establish a Medical Marijuana Cultivation Facility in accordance with Section 17.180 of the DHSMC, which allows this use with approval of a CUP and Regulatory Permit.

Site Coverage: The project site consists of one lot totaling 1.07 gross acres (46,684 square feet) in size, which will be reduced by right-of-way dedications to 1.05 net acres (45,860 square feet). Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total square footage of the proposed building lot coverage is 15,275 square feet, or 33.3% of the 1.05 acre project site, placing the project, within the maximum allowed coverage.

Building Height: The highest point on all proposed buildings will be no more than 35 feet above adjacent grade. This is below the maximum height of 50 feet allowed in the IL District.

Building Setbacks: The minimum setbacks in the City's Industrial Zoning Districts are 20 feet in front, 10 feet in the rear, and 10 feet on the sides. Proposed setbacks are 22 feet in the front (Two Bunch Palms Trail), 60 feet on the east side, 32 feet on the west side and 42 feet in the rear (south). Therefore, the proposed building meets minimum setback requirements.

Circulation and Parking: Ingress and egress to the site will be provided from two driveways accessing Two Bunch Palms Trail on the north side of the property. The driveway on the northwest corner is designated for emergency-access only. All entries will have controlled gates and be monitored by onsite security personal.

Off-Street parking standards for Medical Marijuana Cultivation uses are not specifically defined in the City Zoning Code. Staff has determined that a combination of the Office parking ratio (1 space per 250 square feet) and the Plant Nurseries standard (1 space per 2,500 square feet) can be applied to the floor plan to determine an appropriate level of on-site parking. The

applicant has applied these standards using a limited amount of administrative space, as follows:

Applicant's Proposed Parking Calculation

<u>Use</u>	<u>Area (Sq. Ft.)</u>	<u>Ratio</u>	<u>Number of Spaces</u>
Administration	1,672	1 per 250 square feet	6.7
Cultivation Activities	28,878	1 per 2,500 square feet	<u>11.6</u>
Total Spaces Required			18.3 or <u>19</u>
Total Spaces Provided			19

Staff believes that the actual administrative area is about 2,024 square feet (office and two bathrooms) and a recalculation would yield a requirement of twenty (20) spaces. Further, a review of the floor plan indicates a number of uses that are not specifically related to cultivation (break room, storage, warehouse / employee room, machine room, etc.) If all the non-cultivation areas were assessed at the Office parking standard, the parking requirement would be much higher:

<u>Use</u>	<u>Area (Sq. Ft.)</u>	<u>Ratio</u>	<u>Number of Spaces</u>
Administration	6,818	1 per 250 square feet	27.3
Cultivation Activities	23,732	1 per 2,500 square feet	<u>9.5</u>
Total Spaces Required			36.8 or <u>37</u>

Staff notes that there is not sufficient experience to know how much parking is needed to support medical marijuana cultivation operations. This applicant believes that nineteen spaces will be adequate for the operation. It should be noted, however, that the building may in time revert to an industrial / warehouse use, which has an overall standard of one space per 750 square feet. Under that standard, this building would require 41 spaces (30,550 sf / 750 sf per space). At the risk that at some time in the future the building may be under-parked, staff is recommending the applicant's calculation for the proposed use.

Elevations, Colors and Materials: The proposed structure is a metal frame and metal panel building with an opaque roof (no greenhouse). The horizontal seams of the base exterior wall panels establish the underlying pattern for the building while the darker vertical elements provide a dynamic, if somewhat top-heavy look to the building. Strong frames surrounding the




windows complement the bold vertical elements and the curved metal awning over the street-facing entry provides a bit of sparkle to emphasize the front door. Colors are warm, desert-oriented beige and cinnamon for the walls, with slightly darker beige used on the window frames; all appear appropriate and well-coordinated. The building's architecture is well-

distributed on all four sides. Staff recommends the ALRC consider if the overall design and color palette is appropriate to the building and site.

Landscaping: Landscaping is proposed around the entire perimeter of the site, which includes substantial plantings along the street frontage and the parking area. Low- and moderate-water use plants have been selected and the plan appears to provide an attractive and appropriate landscape setting. The project proposes to install a perimeter fence composed of tube steel (maximum allowed height is six feet), including controlled gates at the driveway entrances.

Lighting: Exterior lighting will be provided at all exterior doors and for the parking area, subject to review by the Police Department (Exhibit No. 7). Lighting will be oriented downwards and shielded within the property to contain illumination within the project boundary. Lighting will also be reviewed as part of the City's required Regulatory Permit.

PLANTING LEGEND						
TREES	PLANTING SIZE	SCIENTIFIC NAME	COMMON NAME	WATER NEEDS	PLANT FACTOR	
	7	24"-BOX MULTI TRUNK	CERCIDIUM FLORIDUM	BLUE PALO VERDE	LOW	0.2
	6	7'-8' HT. SKINNED TRUNK	WASHINGTONIA HYBRID	HYBRID PALM	MODERATE	0.5
SHRUBS						
	11	5-GAL	SENNA ARTEMISIODES	FEATHERY CASSIA	LOW	0.2
	16	15-GAL	DASYLIRION WHEELERI	DESERT SPOON	LOW	0.2
	8	5-GAL	LANTANA 'NEW GOLD'	YELLOW LANTANA	MODERATE	0.5
	17	5-GAL	DALIA GREGGII	TRAILING INDIGO BUSHLOW	MODERATE	0.2
	6	8' HT. MIN 20 CANNES	FOUQUIERIA SPLENDENS	OCOTILLO	LOW	0.2
	15	5-GAL	ALOE 'BLUE ELF'	BLUE ELF ALOE	LOW	0.2
	15	15-GAL ESP.	PYRACANTHUS COCCINEA	SCARLET FIRETHORN	MODERATE	0.5
3'-4' DIA. DESERT SELECT BOULDERS						
4"-6" DIA. HICKORY CREEK FRACTURED GRANITE						
3/4" SOUTHWEST BROWN CRUSHED ROCK IN ALL PLATERS BY TRI STATE MATERIALS						

Phasing: The applicant proposes to construct the project in a single phase.

Security: Security measures have been considered and incorporated into the facility. The site will be enclosed within perimeter fencing. Gated entry/exit drives will control vehicular access to and from the property. A detailed, comprehensive security plan will be reviewed by the City Manager during the Regulatory Permit phase. This will include specific locations and areas of coverage by security cameras; location of audible interior and exterior alarms; location of exterior lighting; fencing; background checks; name and contact information of Security Company monitoring the site and any additional information required by the City.

Odor Control: The project will implement best management practices to reduce the effects of plant odors during flowering which include the use of odor masking agents and neutralizers. Carbon filters will also be installed as part of the air conditioning and cooling system.

Hours of Operation: Hours will be consistent with chapter 5.50.100 of the DHSMC. Medical Marijuana Cultivation Facilities may operate between the hours of 8:00 am and 10:00 pm up to seven days per week. This facility is geared to the cultivation of marijuana and may require staff to be present on premises 24 hours per day. Only authorized staff and delivery personnel will be allowed to enter the premises during the off-hours.

ARCHITECTURAL AND LANDSCAPE REVIEW COMMITTEE REVIEW (ALRC)

The ALRC was to review the project on July 7, 2016; however, there was not a quorum in order to meet and provide further recommendation before the July 12, 2016, Planning Commission meeting so the ALRC meeting was cancelled and rescheduled to July 14, 2016. As a Condition of Approval any further comments and or recommendations provided at the July 14, 2016, ALRC meeting will be required of the applicant and forwarded to the PC for consideration prior to the meeting.

DEVELOPMENT AGREEMENT ANALYSIS

The City is requiring all Medical Marijuana Cultivation to process a Development Agreement that incorporates indemnification provisions in favor of the City. The Development Agreement format

was prepared by the City Attorney and will be reviewed and approved in final form prior to its presentation to the City Council for approval.

The Desert Hot Springs Municipal Code (17.84 Development Agreements) and State law provide that the City and a developer may enter into a development agreement for the purpose of providing the developer with assurances that their development entitlements will not be subject to revocation, termination or modification because of future changes in the City's zoning, planning and land use regulations. In exchange, the City receives certain benefits in the form of revenue, improvements, etc. that the City could not otherwise legally impose on the particular project for a variety of reasons. Such reasons include, but are not limited to, (a) the lack of a nexus between a certain condition of approval and the scope of the project's impacts on the environment or surrounding neighborhood or (b) the legal exclusion of a certain use from the imposition of certain fees or taxes. Development agreement authority is essentially one of the only exceptions to the general principle that prohibits cities from contracting away their future police powers. Moreover, development agreement authority has served as an effective means for cities to encourage economic development, which has become increasingly important to some cities in the absence of redevelopment authority.

ENVIRONMENTAL ANALYSIS

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), an Initial Study has been prepared and which has determined that development of the proposed medical marijuana cultivation facility would not have a significant impact on the environment, with the implementation of mitigation measures. A draft Mitigated Negative Declaration (MND) is proposed and contains certain measures for Cultural Resources and Biological Resources. The draft Mitigated Negative Declaration is being circulated for comments (comment period ending August 4, 2016) and no comments were received. The MND is attached for consideration by the Commission, and the City Council will consider certification of a Mitigated Negative Declaration prior to final action on the project.

FISCAL IMPACT

The proposed cultivation facility has paid all required fees for processing and will contribute \$25 per square foot for the first 3,000 square feet, and then \$10 per square foot for the remaining space once it opens.

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council approval of Conditional Use Permit No. 11-16 and Development Agreement 04-16, subject to the Conditions of Approval and including the following findings:

- 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.*

The application is for a Medical marijuana cultivation facility which is identified in Section 17.180.070 of the City of Desert Hot Springs Zoning Ordinance as permitted within any industrial zone which includes the I-L (Light Industrial) zone), subject to approval of a Conditional Use Permit. The project is proposed to be located within an existing industrial building that complies with applicable provisions of the Zoning Ordinance. Conditions of approval have been prepared and are recommended to assure the proposed use will comply with applicable Zoning Ordinance provisions. Staff recommends this finding.

2. *That the proposed use would not impair the integrity and character of the land use district in which it is to be located.*

Section 17.16.010.B.1 of the Desert Hot Springs Zoning Ordinance identifies the underlying I-L (Light Industrial) zoning district as, "...intended to retain, enhance, and intensify existing and provide for the new development of lighter industrial uses along major transportation routes serving the City." The proposed medical marijuana cultivation facility qualifies as a "lighter industrial operation" in that no heavy manufacturing operations will be conducted on the site. Further, the use will occupy a site with access to Two Bunch Palms Trail, which is designated a Minor Arterial in the Circulation Element of the 2000 Desert Hot Springs General Plan.

3. *That the subject site is physically suitable for the type and intensity of land use being proposed.*

The site is proposed to be developed as a light industrial site with parking, landscape and other features and amenities appropriate to the development. The proposed medical marijuana cultivation facility is physically organized to provide adequate parking, loading and pedestrian circulation for the proposed use. Consequently, the site is physically suitable for the type and intensity of the proposed dispensary. Staff recommends this finding.

4. *That the proposed use is compatible with the land uses presently on the subject property.*

The proposed medical marijuana cultivation facility is a light industrial use with ancillary processing and administration activities, and can be considered similar to other industrial establishments allowed in the I-L (Light Industrial) zone, such as plant nurseries without on-site sales and light manufacturing operations. The proposed building is developed to accommodate the proposed use and appears to be able to accommodate a wide variety of industrial uses, if needed. The proposed cultivation facility does not appear to be outside the range of activities typical for a light industrial site and appears compatible with surrounding light industrial uses. Staff recommends this finding.

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.*

Existing and future land uses within the general area of the proposed medical marijuana cultivation facility are light industrial land uses. Lands to the north, east, south and west are either vacant or developed with light industrial uses (and one religious institution, to be relocated); all surround lands are zoned for light industrial development. The site will be a self-contained development with all vehicle circulation needs accommodated on site. The proposed building is located in the center of the subject property and the proposed use is not directly accessed from surrounding land uses. The height and general configuration of the proposed structure is similar to other industrial buildings in the area. Any signage will comply with the Desert Hot Springs Zoning Code. All activities will be contained within the existing building and the operation will appear as a light industrial use consistent with the intent of the zone. Consequently, the proposed cultivation facility is expected to be compatible with existing and future industrial development in the surrounding area. Staff recommends this finding.

6. *That the proposed use is compatible in scale, mass, coverage, density, and intensity with all adjacent land uses.*

The proposed medical marijuana cultivation facility will be located within a new 30,550 square foot two-story building and, with supporting parking, landscaping and other amenities, will occupy the entire site. The site is presently vacant. Adjacent land uses are light industrial, subject to a maximum building height limit of two stories or 50 feet and lot coverage of 75%. The subject 1.05 acre site (net acreage) will be developed in one phase with a two-story building that would not exceed about 35 feet in height, contain a total of 30,550 square floor area, and have a lot coverage of 15,275 square feet, about 33.3% of 45,860 sq. ft. net lot area. The scale, mass, coverage, density and intensity of the proposed use will be consistent with light industrial activities; its location within an existing light industrial setting will allow it to be compatible with adjacent industrial uses. Staff recommends this finding.

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.*

The subject site will be developed as a light industrial use with all public services and utilities installed prior to occupancy. The proposed medical marijuana cultivation facility cultivation will not create an extraordinary demand for water, sanitation or other public utilities and services that would result in any detriment to public health and safety. Staff recommends this finding.

8. *That there will be adequate provisions for public access to serve the site.*

The subject site will be fully developed with vehicular and pedestrian access, both from public rights-of-way as well as within and throughout the site. The proposed medical marijuana cultivation facility will not create any additional demand for access than will be provided by the associated parking and drive aisle. Staff recommends this finding.

9. *That there will not be an adverse effect upon desirable neighborhood characteristics.*

Desirable neighborhood characteristics include long-range views from existing properties and business of surrounding mountains, and the future development of light industry on the site and surrounding area. The proposed building's low height (less than 35 feet) will not impede long-range views. While the proposed medical marijuana cultivation facility will fully occupy the subject site, surrounding lands available for other businesses will not be limited in their future development by the proposed use. Staff recommends this finding.

10. *That the proposed use is necessary and essential to the community.*

The proposed medical marijuana cultivation facility can be considered necessary and essential to the community to the extent that it is supported by wholesale customers that cause it to succeed as a local light industrial business. Further, the proposed use must also operate under City regulations and conditions of approval so that only the necessary and essential elements of the business – as determined by the City – are expressed over the life of the business. Staff recommends this finding.

11. *That the proposed use is consistent with applicable goals and policies of the General Plan.*

Staff has identified the following General Plan goals and policies applicable to the application and provides responses to each.

Administration

Goal: Comprehensive and integrated administration and implementation of all elements of the Desert Hot Springs General Plan through consistent and effective policies and programs.

The City has adopted a zoning ordinance to implement the General Plan and provide for review and approval of individual development projects. The proposed medical marijuana cultivation facility will be subject to all requirements of this Conditional Use Permit, as prescribed by the Zoning ordinance and the adopted conditions of approval.

Policy 7: The City shall encourage in-fill development within already urbanized areas of the corporate boundaries of the City, and expansion of new development shall be logically phased and, as appropriate, guided by the development of existing and new Specific Plans.

The proposed medical marijuana cultivation facility will be located on a vacant property within a partially-developed industrial area, located in the I-L (Light Industrial) zone. All public improvements are either in place or will be constructed prior to occupancy. No specific plan has been adopted for the subject property.

Policy 8: City shall provide opportunities for review and comment on development proposals through public hearing notices sent to owners of property located at least within 300 feet of development proposal sites.

Prior to Planning Commission review of the project application, notice of the proposed medical marijuana cultivation facility conditional use permit hearing was provided to property owners within 300 feet of the proposed site. In addition, a public hearing before the Planning Commission has in fact been held where persons were provided a meaningful opportunity to be heard.

Industrial Land Use

Goal: Lands that provide for the development of non-polluting, energy-related and other clean industrial development that broadens the economic and employment base of the City, and assures compatible integration with other, non-industrial land uses.

The proposed medical marijuana cultivation facility is anticipated to be a non-polluting and clean industrial use that will generate jobs and revenue for the community, thereby broadening the economic and employment base of the city. The operation will be located on a vacant property within a partially-developed industrial area, located in the I-L (Light Industrial) zone, and be developed with all support amenities (parking, trash enclosures, landscaping, etc.) to assure compatible integration with all industrial and non-industrial land uses.

Policy 6: The City shall require adherence to applicable development standards and guidelines to assure aesthetically acceptable industrial developments for all new industrial sites.

The proposed use will be located in a new building with new associated site improvements, including parking, vehicle circulation, landscaping and trash enclosures. These improvements have been reviewed for adherence to applicable development standards and guidelines. The proposed architecture and landscape architecture, as conditioned, will result in esthetically acceptable development.

Community Design

Goal 2: Variety of community design, architecture and landscaping compatible with the City's desert setting and surrounding development.

The proposed use will be located in a new building with new associated site improvements, including parking, vehicle circulation, landscaping and trash enclosures. These improvements have been reviewed for adherence to applicable development standards and guidelines. The building exterior, site landscaping, fencing and other improvements are designed with appropriate materials, colors, plant types and other design elements to assure compatibility with the City's desert setting and surrounding development.

Policy 1: Private and public sector development projects shall equally apply City community design standards, thereby protecting the community's scenic viewsheds, providing community cohesion and enhancing the image of Desert Hot Springs as a resort residential community.

The site is presently vacant, but will be developed and used for light industrial use. The proposed building exterior (including height), site landscaping, fencing and other improvements are designed with appropriate materials, colors, plant types and other design elements that protect scenic viewsheds, provide community cohesion and enhance the image of the City.

Policy 9: Signs shall be limited to the minimum size, scale and number needed to provide functional identification and exposure necessary to convey messages, while minimizing impacts on traffic safety, streetscape and scenic viewsheds.

All exterior signs shall be subject to approval under the Desert Hot Springs Zoning Code. The city sign regulations do not permit signs to exceed the height of building eave lines which will result in no impacts on scenic viewsheds.

Policy 10: Lighting shall be limited to the minimum height, number and intensity of fixtures needed to provide security and identification in residential, commercial and industrial development, taking every reasonable measure to preserve the community's night skies.

All exterior lighting shall comply with Section 17.40.170 (Outdoor Lighting) to assure that only the minimum level of lighting necessary to provide the needed security is installed. All proposed exterior lighting shall be reviewed by staff for conformance to the applicable standards. Therefore, the proposed medical marijuana cultivation facility is taking reasonable steps to preserve the night skies.

Economic Development:

Goal 1: A broadly based, healthy and balanced economy that provides a full range of economic and employment opportunities.

The proposed medical marijuana cultivation facility will provide opportunities for new employment and business support services.

Goal 2: Continued growth, which assures the maintenance of revenue, base adequate to support present and future public services and facilities needs.

The establishment of a medical marijuana cultivation facility will provide additional revenues to the City to support present and future public needs.

Policy 11: Make every effort to expedite the processing of development proposals, which address the economic development goals of the community and take the initiative to incubate new programs and projects.

The application for a Conditional Use Permit is required by the Desert Hot Springs zoning code to assure compatibility with surrounding land uses and to develop project-specific conditions to assure successful operation in concert with the City's development goals. The application was received in 7 April 2016 and the City Council hearing is anticipated for September 2016. The application has been processed expeditiously.

Hazardous and Toxic Materials

Goal: The assured safety of City of Desert Hot Springs residents and visitors through the regulation of the manufacture, transport, use and disposal of toxic and hazardous materials.

Any hazardous or toxic materials associated with the proposed operation shall be regulated by the provisions of all applicable law, including the Desert Hot Springs Municipal Code, including Section 5.50 (Medical Marijuana Facilities Regulatory Permit), Section 17.40 (Property Development Standards) and Section 17.180 (Medical Marijuana Facilities Location).

Fire and Police Protection

Goal: A high level of police and fire protection and service.

The proposed medical marijuana cultivation facility will include security measures, including door locking systems, exterior lighting, camera monitoring and other systems to minimize the impact on police protections services. Fire suppression systems will also be incorporated into the operation to minimize the impact on fire protection service. Consequently, the proposed medical marijuana cultivation facility is not expected to demand a high level of police and fire protection services.

Policy 1: All new and improved developments shall be reviewed for their impact on safety and the provision of police and fire protection services.

The proposed application and associated regulatory permit will include requirements for review of the proposed operation by City police and fire services. Any identified impacts on safety will be addressed by conditions of approval or regulatory requirements.

Policy 2

Enforce fire standards and regulations in the course of reviewing building plans and conducting building inspections.

All plans and improvements for interior or exterior building improvements will be subject to review and enforcement under fire codes and regulations.

Staff recommends this finding.

12. *That there will not be significant harmful effects upon environmental quality and natural resources.*

The proposed medical marijuana cultivation facility will be sited on vacant property currently zoned for light industry. Further, the cultivation facility will operate in accordance with the City's regulations and conditions of approval. Based on the draft environmental document, no significant adverse or harmful effects on the environment or on any natural resources are anticipated, subject to the implementation of specific mitigation measures and conditions of approval. Staff recommends this finding.

13. *That the negative impacts of the proposed use are mitigated and/or a mitigated negative declaration may be filed.*

The proposed medical marijuana cultivation facility will be operated as a light industrial use in a new building within the Light Industrial zone. It will be operated in accordance with all applicable regulations and conditions of approval. A review of the proposed project has identified no negative impacts, subject to the implementation of specific mitigation measures and conditions of approval. Staff recommends this finding.

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.

The proposed medical marijuana cultivation facility has been reviewed by City departments and other public agencies for any potential detrimental effects on public interests, health, safety, convenience or welfare of the City. Any potential concerns have been addressed by recommended conditions of approval, and no unresolved concerns remain. Staff recommends this finding.

DEVELOPMENT AGREEMENT NO. 04-16

1. *That the property proposed to be subject to the agreement is not less than 1 acre in size*

The site has a total gross area of 1.07 acres (approximately 46,684 square feet).

2. *That the application is made on forms approved, and contains all information required, by the Director;*

The applicant has submitted a draft development agreement on the City's template for review.

3. *That the Development Agreement contains provisions that: specify the duration of the agreement; specified the permitted uses of the property; specified the density or intensity of use(s); set forth the maximum height and size of the proposed structure; set forth provision, if any for reservation or dedication of land for public purpose; provision not permitting protection from a future increase in development fees; provisions for a tiered amendment review procedure; and provisions for a health and safety exception such as "compelling public necessity"*

All required provisions are incorporated into the draft agreement.

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council approval of Conditional Use Permit No. 11-16 and Development Agreement DA 04-16, subject to the attached conditions.

EXHIBITS:

Exhibit No. 1 – Draft Conditions of Approval

Exhibit No. 2 – Draft Negative Declaration with Mitigation Monitoring Program

Exhibit No. 3 – Proposed Site Plan

Exhibit No. 4-5 – Floor Plans, Perspectives and Elevations

Exhibit No. 6 – Landscape Plan

Exhibit No. 7 – Lighting Plan

Exhibit No. 8 – Draft Development Agreement