

REPORT TO THE CITY COUNCIL



Date: February 21st, 2017

Project Applicant / Title: 1) Rob Allen/Allen Cooper on behalf of Cabot Building Partners &, 2) Amanda Bui, on behalf of DHS Therapeutics.

Project Description:

- 1) Four (4) Conditional Use Permit Applications (on the same project site).
- 2) Tentative Parcel Map (TPM 37065)
- 3) Two (2) Development Agreement Applications (DA 08-15 & 01-16)

Applications for construction of four (4) 36,000 square foot industrial buildings for the purpose of indoor cultivation of medical marijuana on a 6.29 acre site located on the east side of Cabot Road approximately 670 feet south of Two Bunch Palms Trail in the Light Industrial (I-L) Zone. APN's: 665-030-026 & 665-030-038

Case Planner / Prepared by: Scott Taschner, Associate Planner

Reviewed by: Charles Rangel, Interim 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;
- 7) Opportunity for Applicant Rebuttal;
- 6) Close the Public Hearing;
- 8) Planning Commission discussion and questions to Staff; and
- 9) Consider a motion to recommend approval of: (1) A Mitigated Negative Declaration for the DHS Therapeutics and Cabot Building Partners Development Project 2) Four Conditional Use Permit applications (CUP 09-15, CUP 01-16, CUP 18-16 & CUP 19-16 (part of the same development project) and, 3) Development Agreement Nos. 08-15 & 01-16, for the development of a medical

marijuana cultivation building complex on the east side of Cabot Road approximately 670 feet south of Two Bunch Palms Trail in the Light Industrial (I-L) Zone. APN's 665-030-026 & 665-030-038 (064, 066 per the county website), subject to the attached conditions of approval, the mitigation measures outlined in the MND, and the findings outlined in the staff report.

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) approved by the Planning Commission and a Regulatory Permit approved by the City Manager. The applicant, Cabot Building Partners and DHS Therapeutics, have filed applications to construct facilities for the indoor cultivation of medical marijuana. The project site is located on the east side of Cabot Road approximately 670 feet south of Two Bunch Palms Trail. The action includes a Tentative Parcel Map four (4) Conditional Use Permits and two a Development Agreements. The Planning Commission has authority to review and to recommend action on these items to the City Council for final determination.

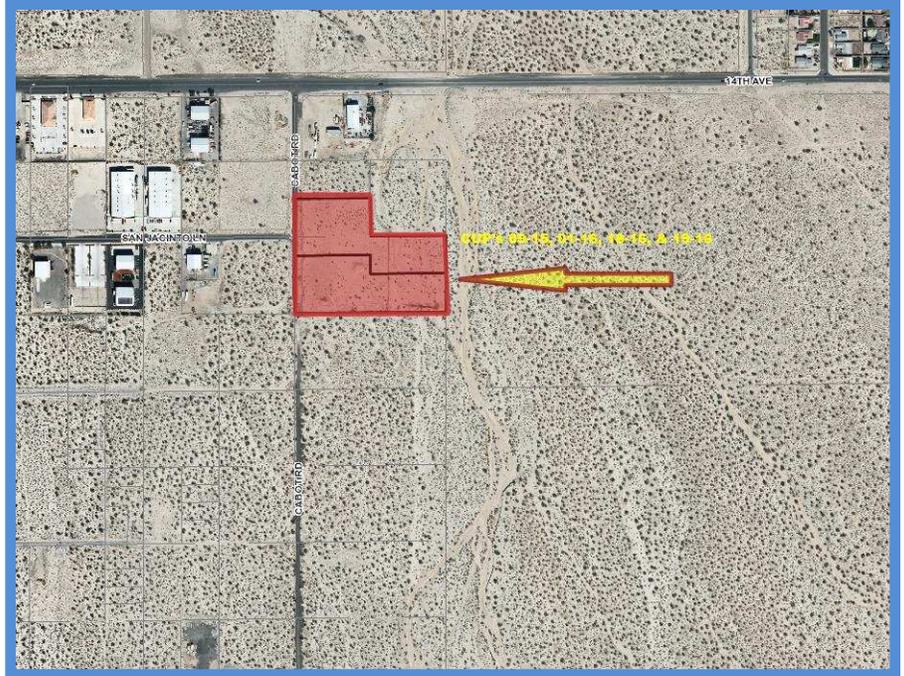
The proposed project is located on a qualifying site, zoned Light Industrial (I-L). Chapter 17.16 of the Desert Hot Springs Municipal Code directs development in I-L Industrial District. The proposed project is consistent with chapter 17.16, in that the design meets all necessary design standards, including setbacks, building heights, parking, and lot coverage. The site is characterized by partially disturbed desert land with scattered vegetation on a vacant, infill site bordered on the west side by Cabot Road (improved) and the remaining three sides, by vacant land. The eastern portion of the property borders the Coachella Valley Multi-Species Habitat Conservation Plan, and the Morongo Wash Conservation Area. No building construction is proposed on this portion of the property; however this portion of the site will be used for on-site retention of water.

Surrounding properties consist of:

	<u>Jurisdiction</u>	<u>Zoning & General Plan</u>	<u>Current Land Use</u>
North	City	LI (Light Industrial)	Vacant Land
West	City	LI (Light Industrial)	Cabot Road/Vacant Land
South	City	LI (Light Industrial)	Vacant Land
East	City	LI (Light Industrial)	Morong Wash Conservation Area / MSHCP Conservation Area

PROJECT SUMMARY

The applicant, Cabot Building Partners & DHS Therapeutics, has filed Conditional Use Permit (CUP) applications to construct a medical marijuana cultivation facility complex located on Assessor's Parcel Number (APNs') 665-030-064 & 066 (6.29 acres). The proposed cultivation facility consists of a) four two-story buildings, containing approximately 36,000



square feet each; approximately 27,256 square feet of cultivation and processing areas, 1,270 square feet of miscellaneous warehouse / hallways areas, and 1477 square feet of office and break room per building requiring a parking plan with a minimum of 18 parking stalls (2 handicapped). The project affords 23 spaces per building (2 are designated handicapped). The entire project site would be secured within a perimeter fence. The project would be built all at one time without phasing. Construction is expected to start in late 2017 and be completed the following year. The project site plan is shown on Exhibit No. 2, Proposed Site Plan.

CUP ANALYSIS

General Plan and Zoning Consistency: The project proposes to establish a Medical Marijuana Cultivation Facility in accordance with Section 5.50 and 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 6.29 acres total gross area over the 4 lots, resulting in four 1.49 acre building sites (64,904 sq ft, each). Under the Industrial Zoning District standards, the maximum coverage for the site is 75%. The building footprint is proposed at 36,000 sq ft resulting in a building to lot coverage of 55% on each lot/building site, which is below the maximum allowed.

Building Height: The proposed primary building has roofs of varying heights ranging from 18 to 33 feet tall. All buildings are well below the maximum height of 50 feet allowed in the zone.

Building Setbacks: The required minimum setbacks from the property line for Industrial Zoning Districts are 20 feet in front, 10 feet in the rear, and 10 feet on side property lines. The project proposes 20 feet in the front and 24 feet on all other sides to accommodate drive aisles. Therefore, the project exceeds all minimum setback requirements.

Circulation and Parking: Ingress and egress to the site will be provided from Cabot through two driveways to a publicly accessible, central parking area on either side of each of the proposed buildings. Access to the interior portions of the facility would be restricted by gated driveways from the main parking lot and from Cabot Road. Both gates would be monitored by onsite security personnel and also equipped with a Knox Box to allow access by emergency vehicles. Internally, a looped, connecting driveway provides vehicular and fire access to all portions of the site.

Parking Calculations by Use:

Use	Square Footage	Calculation	Required
Cultivation / Processing	27,256	1/2500	10.9
Misc Industrial	1,270	1/750	1.7
Office	1,477	1/300	4.92
		Total Required	18 (17.52)
		Total Provided	22

Elevations, Colors and Materials: The applicant is proposing a traditional two story metal wall panel/plaster warehouse style building with aluminum doors and a sand plaster finish on the decorative plaster elements. The overall architectural character would be that of an attractive, upscale, well-maintained industrial building. Project elevations are shown in Exhibit No. 4, Architectural Floor Plan, Exhibit No. 3

Landscaping: Landscaping has been designed to balance aesthetic, water use and security objectives. Parkway landscaping is provided within and adjacent to the ROW along Cabot Road consisting of Mexican Fan Palms and Acacia Trees., Low level plantings include Lantana, Agave and Barrel Cactus and Desert Gold decomposed Granite. Landscaping is intended to create an attractive visual

presentation and soften the harder architectural elements while also promoting sufficient visibility to law enforcement vehicles from the street. Landscaping is consistent with the MSWD and the City's goals for water conservation by utilizing drought-tolerant plant materials and drip applicators to avoid overwatering and promote water efficiency. Project landscaping is shown in Exhibit No. 6, Conceptual Landscape Plan

Lighting: Exterior lighting for the site has been oriented downwards and focused within the property to limit light pollution. The photometric lighting plan demonstrates, one foot candle increments across parking surface and site circulation displaying highest intensity of illumination around building openings (doors and windows) for security and safety. This will allow all employees or police officers to have 100 foot face recognition. Lighting levels are displayed in Exhibit No. 8, Lighting Plan.

Phasing: The applicant proposes to improve the property in one phase with completion of construction expected by early next year.

Security: Security measures have been thoroughly incorporated into the project. The site is entirely enclosed within perimeter fencing. Gated entry/exit drives will control vehicular access onto and off the property. Security cameras are mounted on all exterior doors, perimeter fencing and entry gates. A more 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; 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 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 a part of the evaporative cooling system.

Hours of Operation: Hours will be consistent with Chapter 5.50.100 of the DHSMC. Medical Marijuana Cultivation Facilities are open to the public 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 will 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.

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. (\$75,000 + \$242,560 = \$317,560 on each of the resulting four properties). **Total Combined Project = \$1,270,240**

DEVELOPMENT AGREEMENT ANALYSIS

The City is requiring all Medical Marijuana Cultivation to process a Development Agreement that establishes indemnification provisions in favor of the City. The final Development Agreement will be reviewed and approved by Staff and the City Attorney before presentation to the City Council for approval. The applicant has requested the inclusion of additional provisions that address phasing and defer of perimeter street improvements and associated power pole relocations until such time as needed. The development agreement is attached as Exhibit No. 8 – Development Agreement.

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 the assurance 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"), two Initial Studies have been prepared and which as determined that development of the proposed medical marijuana cultivation facility building complex would not have a significant impact on the environment, with the implementation of mitigation measures. Two Draft Mitigated Negative

Declarations (See Exhibit 9 & 10) is proposed and contains certain measures for Cultural Resources and Biological Resources. The draft Mitigated Negative Declarations are attached for consideration by the Commission during the statutory public comment period (ending January 30th, 2017). The City Council will consider certification of the two (2) Mitigated Negative Declarations (MND's) prior to final action on the project.

RECOMMENDATION

The Planning Commission made a positive recommendation to the City Council for the: (1) adoption of the two Mitigated Negative Declarations for the Cabot Building Partners / DHS Therapeutics Cultivation Building Complex, and (2) approval of four Conditional Use Permits (CUP's 09-15, 01-16, 18-16, & 19-16) and, 3) Tentative Tract Map 37065 and, 4) Development Agreement No's. 08-15 & 01-16-16 subject to the Conditions of Approval, the Mitigation Measures outlined in the MND, and subject to the following findings:

CONDITIONAL USE PERMIT NO'S.. CUP 08-15, 01-16, 18-16 & 19-16

- A. *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 building complex 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.

- B. *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 building complex 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 indirect access to Two Bunch Palms Trail, which is designated a Minor Arterial in the Circulation Element of the 2000 Desert Hot Springs General Plan.

- C. 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 building complex 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.

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

The proposed medical marijuana cultivation building complex 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 and other cultivation facilities without on-site sales and with some 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 building complex 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.

- E. 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 building complex are light industrial land uses. Lands to the north, east, south and west are zoned for, and partially developed with light industrial uses. The site will be a self-contained development with all vehicle circulation needs accommodated on site. The proposed buildings are generally located in the center of the buildable portion (western side) of the property and the proposed uses are 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.

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

The proposed medical marijuana cultivation building complex will be located on a 6.29 acre site, within four (4) 36,000 square foot buildings and will provide all necessary on-site parking, access, circulation, drainage, security, landscaping and other onsite improvements to compliment the development. 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 6.29 acres (net area) site will be developed with four (4) 2-story buildings that will not exceed about 33 feet in height. The total building footprints of the four sites are approximately 144,000 square feet bringing the building lot coverage to about 52%. The project site consists of one 6.29 acres total gross area over the 4 lots, resulting in four 1.49 acre building sites (64,904 sq ft, each). Under the Industrial Zoning District standards, the maximum coverage for the site is 75%. The building footprint is proposed at 36,000 sq ft resulting in a building to lot coverage of 55% on each lot/building site, which is below the maximum allowed. 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.

- G. 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 building complex 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.

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

The project 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 building complex will not create any additional demand for access than will be provided by the associated parking and drive aisle. Staff recommends this finding.

- I. 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 height (approximately 33 feet) will not impede long-

range views. In addition, the proposed medical marijuana cultivation facility will not fully occupy the subject site due to the requirement for on-site water retention on the east side of the property. Surrounding lands available for other businesses will not be limited in their future development by the proposed use. Staff recommends this finding.

J. 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.

K. 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 building complex 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 building complex 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 City Council will be heard in February of 2017 providing persons another 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 building complex 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.

Any 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 building complex 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 building complex 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 March of 2016, however revised materials were submitted, September 2016, December 2016, and January 2017, and the Planning Commission hearing is to be held on January 31st, 2017. The application has been processed expeditiously considering the amount of revisions and corrections to the project.

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 building complex 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(s) 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.

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

The proposed medical marijuana cultivation building complex 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.

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

The proposed medical marijuana cultivation building complex 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 building complex 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. 08-15 & 01-16

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

The total project site has a total gross area of 6.29 acres (each DA having approximately 1.49 acres of associated development) and each is consistent with the 1 acre minimum size.

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

The both applicant(s) have 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.

EXHIBITS:

- Exhibit No. 1 - Conditions of Approval
- Exhibit No. 2 - Proposed Site Plan
- Exhibit No. 3 - Architectural Floor Plan
- Exhibit No. 4 - Colored Elevations
- Exhibit No. 5 - Conceptual Landscape Plan
- Exhibit No. 6 - Lighting Plan

Exhibit No 7 – Security Camera Plan

Exhibit No. 8 - Mitigated Negative Declaration – AB&D Holdings

Exhibit No 9 – Mitigated Negative Declaration - Cabot