

REPORT TO THE PLANNING COMMISSION



DATE: February 28, 2017

TITLE: Conditional Use Permits (CUP 16-16 & 17-16) for the development of two adjacent 2.31 acre lots and construction of two 51,968 square foot greenhouse & building complexes as well as associated parking and other improvements on each lot (APN: 663-280-003/ 004). Each project sites are located on Thomas Avenue east of Little Morongo Road and north of Two Bunch Palms Trail and within the General Plan Light Industrial (I-L) Zone.

Prepared by: Daniel McVey, Assistant Planner; Scott Taschner, Associate Planner

Reviewed by: Daniel Porras, Public Works Manager

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 that the Planning Commission recommends approval to City Council of the following (1) two Conditional Use Permits (CUP 16-16 & 17-16) for the construction of two 51,968 square foot cultivation building & greenhouse facilities (on each site); and (2) a Development Agreement (DA 11-16), and (3) a Mitigated Negative Declaration for the Maddox Cultivation project(s) located on Thomas Avenue and east of Little Morongo Road and north of Two Bunch Palms Trail and within the General Plan Light Industrial (I-L) Zone APN's: 663-280-003 & 004.

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, Brian Maddox, has filed an application to construct a facilities for the indoor cultivation of medical marijuana.

The site is located on the southern side of Thomas Avenue and is east of Little Morongo Road. Each parcel's gross size is 102,708 square feet (2.50 acres). 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 on Thomas Avenue will be required. Draft conditions of approval and a draft Negative Declaration with Mitigation Measures have been prepared and are attached to this report.

Surrounding properties consist of:

	<u>Jurisdiction</u>	<u>Zoning & General Plan Designations</u>	<u>Current Land Use</u>
North	City	IL (Light Industrial) District	Vacant Land
West	City	IL (Light Industrial) District	Vacant Land
South	City	IL (Light Industrial) District	Vacant Land
East	City	IL (Light Industrial) District	Vacant Land

PROJECT SUMMARY

The applicant, Brian Maddox, has filed a Conditional Use Permit (CUP) application to construct a new building (one each site) for the indoor cultivation of medical marijuana located on Assessor Parcel Numbers (APN) 662-280-003 & 004. Both 2.31 acre lots are presently vacant, flat and generally undisturbed.

The proposed two-story steel frame buildings will have a total floor area of 13,120 square feet. Uses within the buildings will consist of approximately 10,010 square feet of cultivation area, 2,416 square feet for office/staff support space, and 688 square feet for storage. The greenhouse (which will be used exclusively for cultivation) will total 38,858 square feet in total.

On site vehicle circulation is proposed via a paved one-way drive aisle with the entrance on the east side and exit on the west side of each parcel. Parking for twenty six (26) vehicles, including two (2) for disabled access, is located along the east and west side drive aisles. Access to Thomas Avenue is provided with the westerly exit. The trash enclosures are proposed along the western boundary as well. Wrought iron fence is proposed around the site's perimeter with controlled gates at the driveways. Landscaping is proposed around the entire perimeter of the sites which will include; Blue Palo Verdes, Hybrid Fan Palms, Indigo Bush, Desert Spoons, Ocotillos, and Firethorns. Both project sites (parcels) are proposing to be completed in four phases, with construction to begin in late 2017.

CUP ANALYSIS

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

Site Coverage: Each project sites for the two lots consist of 2.31 acres and 100,010 square feet each. Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total of the proposed building lot coverage is 52% for each parcel.

Building Height: The highest point on the proposed buildings will be no more than 32 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. The proposed building setbacks are 30 feet in the front (fronting Thomas Road), 46 feet three inches and 54 feet four inches on the sides, and 31 feet in the rear. The proposed setbacks meet the minimum setback requirements of the City.

Circulation and Parking: Ingress and egress to the sites will be provided from two driveways both of which access Thomas Avenue. Both projects will have one way entry and exits. Both gates will have controlled gates and be monitored by onsite security personnel.

Off-Street parking standards for Medical Marijuana Cultivation uses are not specifically defined in the city zoning code. Therefore, staff has applied for similar uses including Office (1 space per 300 square feet), Industrial (1 space per 750 square feet), and plant nurseries (1 space per 2500 square feet), resulting in a requirement of 25 total parking spaces. The proposed site improvements will provide 26 parking stalls. 1 more than the amount required.

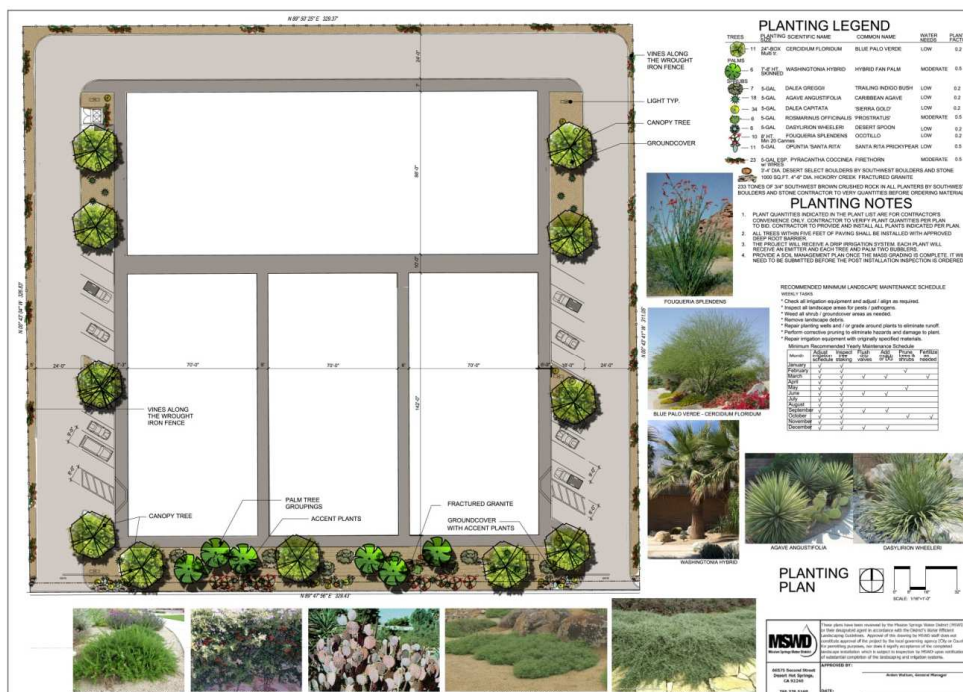
Parking Calculation

<u>Use</u>	<u>Area (Sq. Ft.)</u>	<u>Ratio</u>	<u>Number of Spaces</u>
Office	2,416	1 per 300 square feet	8
Cultivation Activities	48,858	1 per 2,500 square feet	19.4
Ancillary Industrial Uses	688	1 per 750 square feet	1
Total Spaces Required			28.4
Total Spaces Provided			29

Architecture:

The proposed projects will be steel frame/greenhouse structures. Contrasting accent colors will bring out and visually enhance the architectural features and elements. The overall architectural character will be that of an attractive, well-maintained industrial building. Exhibit 5, Architectural Floor Plan shows the typical interior layout of the proposed buildings while Exhibit 4, Building Elevations depicts the exterior architectural treatments to be used. Site perimeter will be enclosed with wrought-iron or tubular steel fencing to enhance visuals and secure perimeter. Exhibit No 5.

Landscaping: The landscaping proposed around the entire perimeter of the site, will include substantial plantings along the street frontage of Thomas Avenue and the parking area.



Landscaping has been designed to balance aesthetic, water use and security objectives. Landscaping will consist of; Blue Palo Verdes, Hybrid Fan Palms, Desert Spoons, Ocotillo's, Firethorns, along with low level plantings and tubular steel/wrought iron fencing to visually enhance, protect and blend the cultivation facilities

into its surroundings while also promoting visibility by law enforcement vehicles from the street.

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

Phasing: The applicant proposes to construct each project in four phases.

Security: Security measures have been considered and incorporated into the facilities. 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: Each 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. Staff has added conditions of approval No.'s 4 & 5 to help mitigate future odors coming from the property.

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 facilities 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.

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 each 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 as determined that development of the proposed medical marijuana cultivation facilities 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 mitigation measures for Cultural and Biological Resources. The

draft Mitigated Negative Declaration is being circulated for comments (comment period ending March 13 2017) and no comments have been received as of February 23, 2017. 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 each project. .

FISCAL IMPACT

The proposed cultivation facilities 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. 16-16 & 17-16 and Development Agreement 11-16 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 facilities 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. Each project is proposed to be compliant 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 facilities qualifies as a "lighter industrial operation" in that no heavy manufacturing operations will be conducted on the site.

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 facilities 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 facilities 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 facilities 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 facilities are light industrial land uses. Lands to the north, east, south and west are either vacant or developed with light industrial uses. All surrounding 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 facilities 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 facilities' will be located within new two story 51,968 square foot buildings 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 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. Each project sites for the two lots consist of 2.50 acres and 102,708 square feet each. Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total of the proposed building lot coverage is 51% for each parcel.

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 facilities 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 facilities 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 (32 feet) will not impede long-range views. While the proposed medical marijuana cultivation facilities 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 facilities 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 facilities 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 facilities 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 each project application, notice of the proposed medical marijuana cultivation facilities conditional use permit hearing was provided to property owners within 300 feet of the proposed site. A notice of the public hearing was also published in the Saturday February 18, 2017 Desert Sun newspaper. The application has been available for review in the Planning Department at City Hall. No persons have submitted written comments or expressed concerns for the proposed project.

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 facilities are 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 facilities are 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 facilities 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 two medical marijuana cultivation facilities 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 applications were received in 18 August 2016 and the Planning Commission and City Council hearings are set for Early 2017. 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.

Both of the proposed medical marijuana cultivation facilities 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 facilities are 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 facilities will be sited on vacant property currently zoned for light industry. Further, the cultivation facilities 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 facilities 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.

Both of the proposed medical marijuana cultivation facilities have 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. 11-16

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

Each site has a total gross area of 2.31 acres (approximately 100,010 square feet each).

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 Permits No. 16-16 and 17-16, Development Agreement DA 11-16; and adoption of the Initial Study and draft Mitigated Negative Declaration, subject to the attached conditions.

EXHIBITS:

- Exhibit No. 1 – Draft Conditions of Approval
- Exhibit No. 2 – Site Plan CUP 170-16
- Exhibit No.3 – Site Plan – CUP 16-16
- Exhibit No 4 – Building Elevations
- Exhibit No 5 – Floor Plan
- Exhibit No 6 – Landscape Plan
- Exhibit No 7 – Lighting Plan
- Exhibit No 8 – Security Camera Plan
- Exhibit No 9 – Draft Negative Declaration with Mitigation Monitoring Program
- Exhibit No. 10 – Draft Development Agreement