

## REPORT TO THE CITY COUNCIL



**DATE:** July 5, 2017

**TITLE:** Conditional Use Permit No. 03-17, Development Agreement No. 01-17, and Tentative Parcel Map No. 37286 for the Development of a Two-Story Cultivation Building Totaling Approximately 22,000 Square Feet (SF) on a 1.26 Acre Site Located on Palomar Lane Between Little Morongo Road and Cabot Road in the I-L (Light Industrial) Zone (Applicant: Desert Grow, LLC)

**Prepared by:** Benjamin Torres, Associate Planner

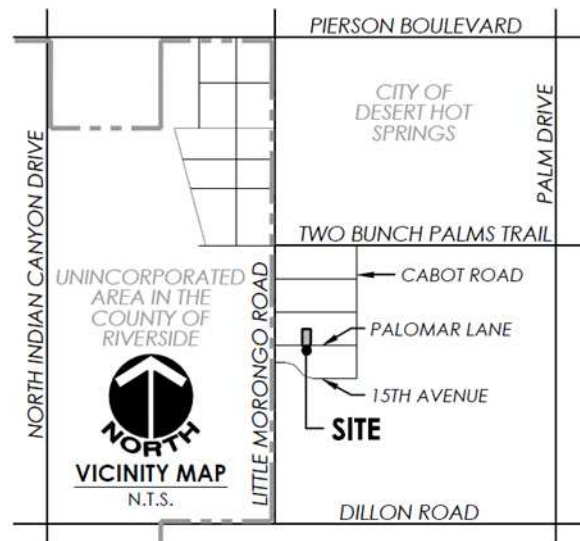
**Reviewed by:** Daniel Porras, Community Development Director

### RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from City Council;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Opportunity for Applicant Rebuttal;
- 7) Close the Public Hearing;
- 8) City Council discussion and questions to Staff; and
- 9) Approve: (A) a Mitigated Negative Declaration for the Desert Grow Cultivation Project; (B) Conditional Use Permit No. 03-17; (C) Development Agreement No. 01-17; and (D) Tentative Parcel Map No. 37286, for a two-story cultivation building totaling approximately 22,000 square feet to be constructed on Palomar Lane between Little Morongo Road and Cabot Road in the I-L (Light Industrial) District. APN 665-040-017

### EXECUTIVE SUMMARY

The applicant, *Desert Grow LLC*, has filed a Conditional Use Permit (CUP), Development Agreement (DA), and Tentative Parcel Map (TPM) applications for the construction of a new medical marijuana cultivation facility on a 1.26 acre site located on Palomar Lane between Little Morongo Road and Cabot Road. The development will consist of a two-story cultivation building totaling approximately 22,000 square feet (SF). Street improvements, on-site parking, and landscaping are also proposed. The entire project site will be secured by 6 foot high tubular steel/wrought iron perimeter fencing.



### PRIOR ACTIONS

The Planning Commission reviewed the proposed project on June 13, 2017 and unanimously recommended approval of the project, with minor changes to the Conditions of Approval. MSA Consulting, the project representative requested changes to two (2) Conditions of Approval regarding grading and issuance of permits, staff have revised the Conditions of Approval to reflect these changes. The Planning Commission Staff Report (**Exhibit 1**) contains detailed

project information on CUP Analysis, Parking, Landscape, Project Findings, and other project specific information that was reviewed by the Planning Commission.

### **PROJECT PHASING**

The project is proposed to be built in one (1) phase.

### **TRUCK CIRCULATION, PARKING, ROLL-UP DOORS**

Ingress and egress to the site will be provided from two driveways, both accessing Palomar Lane located south of the project site. Both entries will have controlled gates and will be monitored by on-site security personal. Semi-trucks/tractor trailers will be able to safely enter and maneuver within the project site. The project will provide temporary parking for semi-trucks/tractor trailers (**Exhibit 4**) and will provide roll-up doors large enough for box-sized trucks to enter the building (**Exhibit 6**). The project will provide adequate parking for the proposed uses.

### **PROJECTED EMPLOYMENT**

The applicant has estimated that the facility will employ 13 full time employees.

### **ENVIRONMENTAL CLEARENCE**

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 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 was circulated for a 20-day comment period beginning on June 14, 2017 and ending on July 5th, 2017. The MND is attached for consideration by the City Council for certification prior to final action on the project.

### **FISCAL IMPACT**

The proposed cultivation facility will utilize 17,740 square feet for the cultivation of medicinal marijuana and will annually contribute \$25 per square foot for the first 3,000 square feet (**\$75,000**), and then \$10 per square foot for the remaining space (**\$147,400**); for a total annual medicinal marijuana cultivation tax of **\$222,400** once it opens.

### **RECOMMENDATION AND REQUIRED FINDINGS**

Staff finds that the proposed project is substantially consistent with the General plan and meets the development standards of the I-L (Light Industrial) zoning district. Based on the findings below, staff recommends certification of the Initial Study, Negative Declaration and Mitigation Monitoring Program, and approval of Conditional Use Permit No. 03-17, Development Agreement No. 01-17, and Tentative Parcel Map No. 37286, subject to the attached Conditions of Approval.

Conditional Use Permits are regulated under Section 17.76 of the Desert Hot Springs Municipal Code and require that certain findings be made by the City Council before granting a CUP request. Staff has developed recommendations for each finding based on the analysis contained in the attached Planning Commission staff report for June 13, 2017, as follows:

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 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 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 facility qualifies as a "lighter industrial operation" in that no heavy manufacturing operations will be conducted on the site. Staff recommends this finding.

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 uses and they appear 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. 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 within 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 proposed 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 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 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.

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

8. *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 (approximately 25 feet) is consistent with the development standards of the zoning district and will not impede long-range views. While the proposed project 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.

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

The proposed use 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.

10. *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 project will be subject to all requirements of the 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 project 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.*

The project was noticed to neighboring owners within 300 feet of the project site (on June 1, 2017) and in the Desert Star on Friday, June 2, 2017 per state noticing requirements. The Planning Commission will open the public hearing and take public comments and/or testimony on the dais and prior to any action or recommendation to the City Council.

### 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 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 project 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 Standards) 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 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 Operation and 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 protection 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.

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

The proposed medical marijuana cultivation facility will be located 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 Mitigated Negative Declaration, 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.

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

The proposed project 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.

13. *That the proposed location, size, design, and operating characteristics of the proposed use would not be detrimental to the public interests, health, safety, convenience, or welfare of the City.*

The proposed project 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.

In reviewing this application, plans, documents and other supporting information, staff has determined that the City Council can make these findings.

**EXHIBITS:**

- 1) Planning Commission Staff Report (June 13, 2017)
- 2) Recommended Conditions of Approval
- 3) Proposed Site Plan
- 4) Truck Turning & Loading Site Plan
- 5) Perspectives, Elevations, and Floor Plans
- 6) Revised Elevation showing Roll Up Doors
- 7) Landscape Plan
- 8) Lighting Plan
- 9) Tentative Parcel Map
- 10) Draft Development Agreement (DA 01-17)
- 11) Draft Ordinance for DA
- 12) Draft Negative Declaration with Mitigation Monitoring Program