



CITY OF DESERT HOT SPRINGS

65950 PIERSON BLVD
DESERT HOT SPRINGS, CA 92240

www.CityofDHS.org

**Minor Modification (MM)
(Amendment for Extraction / Manufacturing)
CUP 11-16**

Record of Decision

MM No. 01-17
Date: 06/06/2017
Approved _____
Denied _____
**Approved Subject
to Conditions: X**

Applicant: Ryan Fingerhut

Address/APN: 665-030-062

Zoning / Land Use: I-L(Light Industrial) / Vacant

Request: Pursuant to Section 17.76.080 & 17.180.060 of the Desert Hot Springs Zoning Code, the applicant is requesting a minor modification to their Conditional Use Permit (CUP 11-16), adding manufacturing and extraction activities / uses to the previously approved cultivation facilities.

Required Findings:

- A. *There are no impacts or changes to the following:*
- i. *On-site circulation and parking, loading and landscaping;*
 - ii. *Placement and/or height of walls, fences, and structures;*
 - iii. *Exterior architectural features, including colors, and/or modification of finished materials that do not alter or compromise the previously approved theme;*
 - iv. *The density or intensity of a development project;*
 - v. *Size of structure(s) or expansion of use, other than the use of manufacturing;*
 - vi. *Existing or approved grade elevations;*
 - vii. *Paving; and*
 - viii. *Hours of operation.*

The proposed change in use of interior spaces to include manufacturing / extraction activities will not affect the projects on site circulation and/or parking, the placement of walls and/or structures, the exterior architecture, the density of the development, the overall size of the structure, the approved grading plan, paving, nor will it affect the hours of operation.

B. The Medical Marijuana Cultivation Facility and its manufacturing use is consistent with the goals, objectives, policies and programs of the general plan;

The proposed change in use of interior spaces to include manufacturing / extraction will not change the projects consistency with the policies and goals of the general plan. The project will be conditioned for safety and, as conditioned will not be determinantal to the vernal welfare of the city's residents.

C. The Medical Marijuana Cultivation Facility and its manufacturing use complies with all applicable zoning and other regulations;

The proposed change in use is only for a small portion of the overall building. The new extraction/manufacturing activities will be consistent with the City's Ordinance, the City's Zoning Code and all other local and state regulations

D. The Medical Marijuana Cultivation Facility and its manufacturing use will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity;

The proposed change in use of interior spaces to include manufacturing / extraction has been reviewed for compliance to local and state laws and will not be determinantal to the safety & general welfare of the neighbors and or detrimental to the neighboring properties.

E. The location, design and operation of the Medical Marijuana Cultivation Facility and its manufacturing use will be compatible with existing and planned land uses in the vicinity.

The proposed addition of manufacturing/ extraction to the cultivation facility will be compatible with existing and surrounding development

**** Medical Marijuana Manufacturing Facilities Not Operating within a duly Existing Medical Marijuana Cultivation Facility. Medical Marijuana Manufacturing Facilities which are not operated within an existing and duly approved Medical Marijuana Cultivation Facility or which results in any additional impact or expansion of use or structure(s) shall obtain a City-issued Conditional Use Permit**

PLANNING DEPARTMENT CONDITIONS:

Administrative

1. This approval is for an amendment to CUP 11-16, to include manufacturing/ extraction activities within the building, and as shown on the revised floor plan.
2. Applicant/Developer shall indemnify, protect, hold harmless and defend, with counsel selected by the City, the City and any agency or instrumentality thereof, an/or any of its officers, employees and agents from any and all claims, actions, or proceedings against the City to attack, set aside, void, annul, seek monetary damages resulting from an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board or legislative body including actions approved by the voter of the City, concerning the entitlement application. City shall promptly notify both the Applicant/Developer and landowner of any claim, action, or proceeding to which this condition is applicable and shall further cooperate fully in the defense of the action. The City reserves its right to take any and all action the City deems to be in the best interest of the City and its citizens in regard to such defense.
3. All development on the Project Site shall be in compliance with all applicable provisions of the City's Municipal Code as well as all applicable provisions of the adopted Building and Fire Codes. All new construction shall obtain a building permit and comply with the requirements of the Planning, Building, and Fire Departments.
4. No Certificate of Occupancy (CofO) shall be granted until all Conditions of Approval have been completed and approved by the Planning, Engineering, Building, and Fire Departments unless otherwise identified herein. A Temporary Certificate of Occupancy (TCO) may be issued for a specific time period if a significant amount of issues have been resolved and there remains only minor issues that do not pose a threat to health & safety.
5. The development of the Project on the Project Site shall be in substantial compliance with the exhibits contained in the project file for CUP 11-16 & MM 01-17 as shown in all Exhibits attached hereto and incorporated herein by this reference.

6. Within fifteen (15) days of final approval (expiration of the appeal period) by the Planning Commission, the Applicant/Developer shall sign and return a copy of this record of decision indicating that he/she has read and agrees to the conditions imposed herein. This approval shall become void, and any privilege, permit, or other authorization granted under these entitlements if compliance with this condition has not been undertaken within the specified time limits.
7. A scanned copy of the signed Conditions of Approval shall be included in the Building Construction Plans submitted for plan check.
8. The applicant/developer shall be in compliance with all City Council/Planning Commission approved conditions of approval from the original approval of CUP No. 11-16
9. The Conditional Use Permit (CUP 11-16) and Minor Modification (MM 01-17) shall remain in sustainable compliance with the approved plans both sets of conditions.
10. All Improvements shall conform to the Uniform Building Code, Fire Code, Desert Hot Springs Zoning Code as modified herein, and shall require building permits, and Fire Department review and approval.
11. This Minor Modification shall be subject to the expiration dates of the original Condition Use Permit entitlement, as outline in the conditions for CUP 11-16.

Interior Only.

12. Medical marijuana testing shall be conducted only in the interior of fully enclosed structures, facilities, buildings, or other fully enclosed spaces consistent with the purpose and intent of this Chapter. No medical marijuana testing operations shall be visible from any public right of way.

Operational Requirements:

13. Manufacturers are limited to certain equipment, methods, solvents, gases and mediums when creating medical marijuana extracts.
14. Medical Manufacturing Facilities with a state license of a Type-6 (non-volatile) or a Type 7 (volatile) classification may be allowed to operate under this Chapter.
15. All other methods of extraction shall be conducted in an environment appropriate to the solvent being used, with consideration to proper ventilation and ignition source controls.
16. All equipment, systems and manufacturing processes must meet or exceed all applicable state and federal requirements and regulations regarding air, water, health and safety, and handling, processing and storage of hazardous materials, solvents, gases and waste. No manufacturing facility shall commence operations or be issued any form of certificate of occupancy without first obtaining all required fire, environmental, health and safety, planning, and building certificates, permits and approvals required under City's Municipal Code and all other applicable county, state and federal regulations.
17. **PhD Chemist.** As a condition of obtaining a City-issued medical marijuana regulatory permit and conditional use permit, a licensee of a manufacturing facility desiring to operate under this ordinance shall first verify that the licensee employs or contracts with a person who has a PhD in chemical sciences who shall supervise the design, installation and operation of the facility's systems and manufacturing processes. Such person shall inspect the premises on a quarterly basis and provide such inspection report to the City. The licensee shall submit to the City a written statement that he or she certifies under penalty of perjury that the name of the employee/contractor is true and correct. The employee/contractor shall also submit a written statement that he or she certifies under penalty

of perjury his or her educational qualifications and verifying that the supervisor is employed or contracted to supervise the design, installation and operation of the facility's systems and manufacturing processes.

18. **State Regulations.** In the event the State of California implements health and safety regulations applicable to Medical Marijuana Manufacturing Facilities, upon implementation of such state regulations, all Medical Marijuana Manufacturing Facilities operators shall immediately implement the state regulations. Should there be a conflict between the provisions of this Chapter and the state regulations, the state regulations shall control.

Medical Marijuana Testing Facilities

19. **Permitted Locations.** Medical Marijuana Testing Facilities shall only be located in any Industrial District in the City.
20. **Interior Only.** Medical marijuana testing shall be conducted only in the interior of fully enclosed structures, facilities, buildings, or other fully enclosed spaces consistent with the purpose and intent of this Chapter. No medical marijuana testing operations shall be visible from any public right of way.
21. **Permits.** Medical marijuana Testing Facilities shall obtain a City-issued conditional use permit and regulatory permit, and a Development Agreement if the property is raw land.

Medical Marijuana Distribution Facilities

22. **Permitted Locations.** Medical Marijuana Distribution Facilities shall only be located
23. in Industrial Districts in the City, upon issuance of a conditional use permit and a medical marijuana regulatory permit issued pursuant to the City's Municipal Code.
24. **Permits.** Medical Marijuana Distribution Facilities shall obtain a City-issued conditional use permit and regulatory permit, and a Development Agreement if the property is raw land.
25. **Interior Only.** Other than loading, unloading and transportation, all Distribution of medical marijuana and medical marijuana products shall be conducted only in the interior of enclosed structures, facilities, or buildings.
26. **Labor Peace Agreements.** All applicants for a conditional use permit pursuant to this Chapter shall provide a statement that the applicant will enter into, or shall demonstrate that it has already entered into, and will abide by the terms of a labor peace agreement, as defined in California Business & Professions Code Section 19300.5(v).
27. **Public Safety.** All applicants for conditional use permit to operate a Medical Marijuana Distribution Facility under this Chapter shall: (a) demonstrate that such facility will be equipped with adequate security installations and systems to prevent trespassing, theft and diversion of medical marijuana for unlawful purposes, including exterior lighting, an alarm system, and 24-hour, on-site security personnel, tag and trace protocols and video surveillance; and (b) shall maintain such security installations and systems while in operation.

Medical Marijuana Facilities—Required License and Permits.

28. In addition to those other requirements which may be imposed pursuant to this Chapter, no person or entity shall engage in medical marijuana activity or open or operate a Medical Marijuana Facility without possessing and obtaining the following:
- i. A medical marijuana regulatory permit issued by the City pursuant to Chapter 5.50 of the City's Municipal Code; and

ii. A Conditional Use Permit, pursuant to the conditions set forth in this Chapter and the City's Municipal Code; and

iii. Any applicable State-required permit.

29. The fact that a person or entity possesses other types of state or municipal permits or licenses does not exempt the person or entity from the requirement of obtaining a City-issued conditional use permit to operate a Medical Marijuana Facility.

30. Licenses and Permits Applicable to Location.

No person or entity shall locate or operate a Medical Marijuana Facility under the authority of a license or permit at any place other than the address of the Medical Marijuana Facility as stated in the medical marijuana regulatory permit issued by the City and the conditional use permit issued pursuant to this Chapter.

31. Signage and Notices.

In addition to the requirements otherwise set forth in this Chapter, business identification signage for all Medical Marijuana Facilities shall conform to the requirements of the City's Municipal Code, including, but not limited to, issuance of a City sign permit.

32. Compliance with Laws.

a. It is the responsibility of the owners and operators of all Medical Marijuana Facilities to ensure that such facilities are, at all times, operating in compliance with all applicable federal (not dealing with medical marijuana) state and local laws and regulations and any additional operating procedures or requirements which may be imposed as conditions of approval of a given Medical Marijuana Facility. Nothing in this Chapter shall be construed to authorize any action which violates federal (not dealing with medical marijuana), state law or local law with respect to the operation of a commercial medical marijuana business.

b. Medical Marijuana Facilities shall be permitted only as provided in this Chapter and if not expressly permitted by this Chapter, shall be prohibited.

c. Any person or entity operating a Medical Marijuana Facility shall at all times remain in compliance and operate in accordance with the applicable provisions of this Chapter, the City's Municipal Code, the CUA, the MMPA, the MMRSA, and all other applicable state laws pertaining to Medical Marijuana Facilities.

d. Failure to abide by any laws mentioned in this subsection shall constitute a public nuisance and shall subject the Medical Marijuana Facility to revocation of any and all entitlements, licenses and permits.

33. Administration and Enforcement.

a. In addition to the administration of the permitting requirements under this Chapter and the City's Municipal Code, the City Council or its designee may require, as a condition to granting or renewing permits, any information reasonably necessary to implement the intent of this Chapter to ensure that all medical marijuana is grown, processed, manufactured and distributed in a manner not in conflict with this Chapter, and to ensure that any and all related city taxes are being properly reported and paid.

b. A conditional use permit, and any modifications thereto as provided in Section

17.180.060, approved for a Medical Marijuana Facility may be suspended or revoked for any violation of this Chapter and pursuant to the procedures generally applicable to Conditional Use Permits as set forth in the City's Municipal Code. Violations of this Chapter are subject to administrative, civil, and/or criminal penalties, as set forth in the City's Municipal Code, and remedies for such violations include but are not limited to civil injunctive relief, civil or

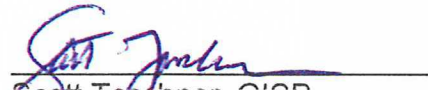
administrative nuisance abatement actions or proceedings, summary abatement of immediately hazardous conditions, and all other applicable fines, penalties and remedies. This Ordinance is adopted to address public health and safety issues, and as such, is expressly intended to be interpreted strictly and enforced rigorously in a manner such as to deter further violations.

FIRE DEPARTMENT CONDITIONS

34. The floor plan on sheet A101 change for extraction and agriculture lab appears to be within code. Please have the California licensed engineer designing the extraction system and room design per Riverside County Fire Departments technical policy, TP 16-005, Plant Processing and Extraction Facilities. This policy covers the installation, maintenance, operation, and permitting requirements as they pertain to Plant processing and Extraction Facilities in new and existing facilities under the jurisdictions of the RCFD in accordance with CFC Sections 1.11.2.4, 102.9, 104.1, and 104.9.

APPLICANT

DATE



Scott Taschner, GISP
Senior Planner, Acting Planning Manager

6-6-2017

DATE

Cc: Applicant
File
Building & Safety