

REPORT TO THE PLANNING COMMISSION



DATE: October 10, 2017

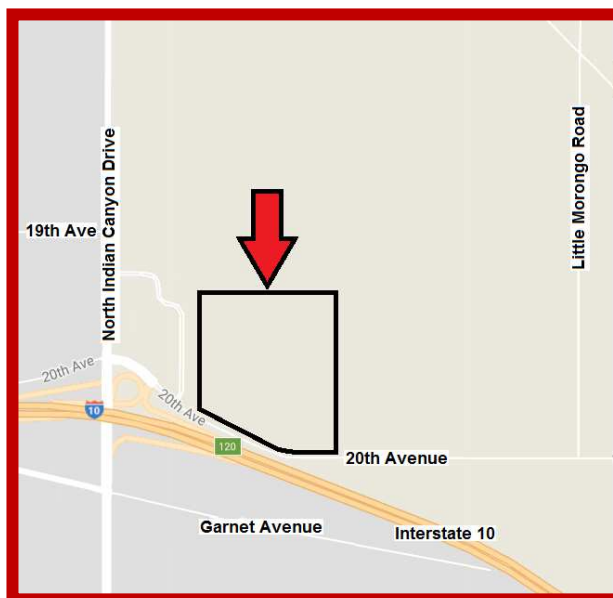
TITLE: Specific Plan 02-17, General Plan Amendment No. 03-17, Zoning Ordinance Amendment No. 02-17, Conditional Use Permit No. 28-17 and Tentative Parcel Map No. 37332. A recommendation to the Planning Commission regarding a Specific Plan and related amendments to establish development regulations and guidelines for a vacant property 64.9 acre property, a Conditional Use Permit to develop a medical marijuana cultivation facility of approximately 1.5 million square feet, and a Tentative Parcel Map to subdivide the properties into three lots, located at the northeast corner of the intersection of Interstate 10 and North Indian Canyon Drive, approximately one-half mile east of Indian Canyon Drive, and fronting the north side of 20th Avenue (APN: 666-370-019) in the I-L (Light Industrial) zone. Applicant: Michael J. Avenatti / Desert Harvest

Prepared by: Craig A. Ewing, Consulting Planner

Reviewed by: Scott Taschner, Senior Planner
Jennifer Mizrahi, City Attorney
Daniel Porras, Community Development Director

RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from Planning Commission;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Opportunity for Applicant Rebuttal
- 7) Close the Public Hearing;
- 8) Planning Commission discussion and questions to Staff; and
- 9) Recommendation that the Planning Commission recommend to the City Council 1) Adoption of the Mitigated Negative Declaration of the Desert Harvest Specific Plan and related actions; 2) Approval of Specific Plan 02-17; 3) Approval of General Plan Amendment 03-17; 4) Approval of Zoning Ordinance Amendment 02-17 to establish development regulations and guidelines for the subject site; 5) Approval Conditional Use Permit No. 28-17 to develop of an indoor marijuana cultivation facility of approximately 1.5 million square feet and interim cultivation facility of 10,560 square feet; and 6) Approval of Tentative Parcel Map No. 37332 to divide the properties into three lots, located on 64.9 acres at the northeast corner of the intersection of Interstate 10 and North Indian Canyon Drive, approximately one-half mile east of Indian Canyon Drive, and fronting the north side of 20th Avenue (APN: 666-370-019) in the I-L (Light Industrial) zone.



The Planning Commission’s recommendation contained in this staff report, along with the findings contained herein are Planning Commission’s written recommendation, pursuant to the DHSMC Sections 17.100.030, 17.88.030 and other applicable local law which provides that the Planning Commission must make a written recommendation to the City Council.

DISCUSSION

BACKGROUND

The Desert Hot Springs Municipal Code (“DHSMC”) provides for the adoption of Specific Plans and related actions, as follows:

- Chapter 17.128 provides for the approval of Specific Plans;
- Chapter 17.100 provides for the adoption of General Plan Amendments; and
- Chapter 17.88 provides for the adoption of Zoning Ordinance Amendments.

In addition, Chapters 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. Further, Title 16 (Subdivisions) of the Desert Hot Springs Municipal Code (DHSMC), allows the division of properties, subject to compliance with the California Subdivision Map Act (California Government Code Section 66410 et seq.) and approval of a tentative map by the Planning Commission. The applicant, Michael J. Avenatti / Desert Harvest has filed applications for a Specific Plan, General Plan Amendment, Zoning Ordinance Amendment to establish development regulations and guidelines for the site, a Conditional Use Permit to establish a medical marijuana cultivation facility and a Tentative Parcel Map to subdivide the site.

The site is located at the northeast corner of the intersection of Interstate 10 and North Indian Canyon Drive, approximately one-half mile east of Indian Canyon Drive, and fronting the north side of 20th Avenue (APN: 666-370-019) in the I-L (Light Industrial) zone. The property is a single vacant parcel with a gross area of approximately 64.9 acres. Its total street frontage along 20th Avenue Lane is approximately 1,720 feet. Following dedication of rights-of-way for two public streets, the site will have a net area of approximately 62.6 acres.

Immediately surrounding properties are developed as follows:

	Zoning & General Plan Designations	Current Land Use
North and East	IL (Light Industrial) District	Vacant Lands
South	Interstate 10	Freeway
West	IL and C-R (Retail Commercial)	Vacant and Limited Development

PROJECT SUMMARY

The project is described in the proposed Desert Harvest Specific Plan as *“a high quality, mixed-use commercial and industrial project. This will include two commercial planning areas along Interstate-10 Freeway and 20th Avenue corridor connected by an open space / retention area containing citrus orchards and date groves. The rear of the site would be occupied by an industrial planning area containing a fenced, secured marijuana cultivation campus.”* Chapter Two of the proposed Specific Plan establishes the commercial planning areas, labeled PA-1 and PA-2, and the industrial planning area, designated PA-3 (Figure 2.1). Since the General Plan Land Use and Zoning Map presently designates the entire site as I-L (Light Industrial), an

amendment to the General Plan and Zoning Ordinance are necessary to incorporate these planning areas into the City’s land use map, as well as establish appropriate zoning regulations and guidelines to fulfill the objectives of the Specific Plan.

The Specific Plan anticipates that the commercial areas PA-1 and PA-2 will be developed with uses generally conforming to those permitted in the C-G (General Commercial) zone. PA-1 would be eligible for up to 45,000 square feet of building area, and PA-2 will be allowed up to 161,000 square feet, including a multi-story “vertical greenhouse”. A medical marijuana cultivation facility – the largest proposed use in the Specific Plan – would be a conditionally-permitted use, and a CUP application has been submitted for approximately 1.5 million square feet of indoor cultivation space, as well as an interim cultivation facility of 10,560 square feet, in the rear industrial planning area (PA-3).

In order to provide for orderly development of the three planning areas, a Tentative Parcel Map has been submitted to subdivide the site into three lots with interior boundaries co-terminus with the planning area boundaries. Parcel No. 1 / PA-1 will have about 5.15 acres; Parcel No. 2 / PA-2 will have approximately 8.03 acres; and Parcel No. 3 / PA-3 will comprise about 49.42 acres. Dedication of land along the south and east property boundaries will be made to support widening of 20th Avenue and partial construction of Calle de los Romos, respectively. The net site area after dedications will be approximately. 62.6 acres.

Development of the Planning Areas, as proposed, will yield the following building totals (square feet):

Occupancy / Use	PA-1	PA-2	PA-3	Total
Retail Commercial	45,000	-	-	45,000
Mixed Agriculture and Retail	-	161,000	-	161,000
Cultivation and Processing of Medical Marijuana	-	-	1,482,000	1,482,000
Total Square Feet	45,000	161,000	1,482,000	1,688,000

Vehicular access is provided at four locations, plus one emergency accessway (Figure 2.2). Two driveways accessing PA-1 and PA-2 along 20th Avenue, with a third driveway into PA-2 on Calle de los Romos. Controlled access to PA-3 is found at the site’s northeast corner on Calle de los Romos with the emergency access driveway nearby.

Within the site, vehicular circulation and truck access / parking is provided by a network of roadways between and around the proposed buildings. Vehicular access to PA-3 is gate-controlled at both entry points. Parking spaces are provided within each planning area, but the specific number will be determined as development plans are submitted and in accordance with the adopted parking and design standards. Pedestrian access to the site is available within PA-1 and PA-2, including entry walkways at each driveway and a botanical trail within the site. A perimeter fence and controlled entry points around PA-3 limit pedestrian access to this planning area, and an underground passageway between all buildings in PA-3 is proposed to provide secure internal access.

All development plans presented in the Specific Plan, including phasing plans, building and circulation layouts, landscaping and related on-site improvement (utilities, grading and drainage) are identified as “conceptual”; the actual physical development of the property may be different from that shown in the Specific Plan. However, the plan provides extensive design and

development guidelines for use in evaluating development proposals to assure that actual construction fulfills the objective of a high-quality project.

The phasing plan identifies four phases to be implemented over five years; it is identified as “conceptual and subject to change” and does not correspond with the planning areas / map parcels. Based on the conceptual phasing plan, the project would develop as follows:

- Phase 1 – Establish one greenhouse in PA-3 and supporting water supply (lake in southeast corner of PA-1)
- Phase 2 – Develop about half the remainder of the cultivation space in PA-3;
- Phase 3 – Develop the retail / agricultural facilities of PA1 and PA-2;
- Phase 4 – Development the second half of cultivation space in PA-3

Actual phasing of the project could be different and the Specific Plan would allow the project to be developed in any schedule that meets the project’s needs. (An interim cultivation facility may be developed prior to the initiation of Phase 1.)

Design guidelines within the Specific Plan (Chapter 4) establish the intensions for building architecture and site landscaping within each planning area, within an overall design theme, “based on modern, glass and steel architectural aesthetics...” Guidelines addressing roof, window, architectural design and color, and landscaping establish both appearance and functionality within the desert climate and along the freeway frontage. The guidelines would be used to evaluate future site development and construction under the Design Review permit authority, but are not intended to apply to any interim facility.

Lastly, the Specific Plan provides policies for administration / implementation of the Plan (Chapter 5) and an analysis of the Specific Plan’s consistency with the Desert Hot Springs General Plan (Chapter 6).

SPECIFIC PLAN ANALYSIS

General Plan Amendment: The Desert Harvest Specific Plan’s “Master Plan” (Chapter Two) proposes to amend the Desert Hot Springs General Plan Land Use and Zoning Map to replace the I-L land use designation with the Planning Area designations – PA-1, PA-2 and PA-3 – as indicated on the Specific Plan’s Conceptual Land Use Plan, Figure 2.1. (Accompanying this revision will be an amendment to the Zoning Ordinance to establish the development regulations for each planning area; see next section). The Master Plan also provides direction on site’s overall development, including policies related to on-site circulation, landscaping, utilities, grading, drainage and phasing.

Adoption of the Specific Plan will establish these Master Plan policies as the basis for reviewing future improvement plans, including grading, circulation and landscaping. Staff has reviewed these policies and finds no conflicts with the City’s General Plan policies, and has no concerns with the proposed five-year phasing schedule. Section 17.100 of the Municipal Code requires that certain findings be made by the City Council prior to amending the General Plan. An analysis of the Specific Plan in light of these required findings, as well as findings for the other requests, is provided later in this report.

Zoning Ordinance Amendment: The proposed Specific Plan “Development Regulations” (Chapter Three) establishes use limitations and development standards for each of its three planning areas, and these regulations constitute an amendment to the Zoning Ordinance. In summary, PA-1 and PA-2 are retail-oriented areas with allowed uses more typical of the C-G (General Commercial) zone, while PA-3 is generally consistent with the existing, underlying I-L (Light Industrial) zone. Each planning area has unique sets of standards which are described and compared below; however, it should also be noted that, at a minimum, the Specific Plan

calls for Design Review approval by Planning Commission for all development in the three Planning Areas.

Planning Area PA-1. As the more retail oriented of the three planning areas, PA-1 proposes the following uses which would be allowed as a matter of right. This list of uses is compared with how these same uses are treated in the C-G (General Commercial) and I-L (Light Industrial) zones. Please note the following: “P” means permitted as of right, “D” means Design Review required, “C” means Conditional Use Permit required, and “X” means not permitted.

PA-1 Retail Commercial Permitted Uses

Allowable Uses	Desert Harvest Specific Plan	C-G Zone	I-L Zone
Banks and Financial Services	P (D)	P	X
Convenience Stores	P (D)	D	D
Cycling/Motorcycle Stores	P (D)	C	C
Drive-in and Drive-through Sales	P (D)	D	X
Drug Stores	P (D)	P	X
Dry Cleaners	P (D)	C	D
Entertainment Facilities	P (D)	D	D
Food Products	P (D)	C	D
Grocery Stores and Markets	P (D)	P	X
Health/Fitness Facilities	P (D)	P	P
Indoor Recreation Facilities	P (D)	D	D
Liquor Stores	P (D)	C	C
Marijuana Dispensaries	P (D)	C	X
Marijuana Businesses ¹	P (D)	X	C
Medical Services	P (D)	C	C
Motor Vehicle Fueling / Service Stations	P (D)	D	D
Offices	P (D)	P	D
Personal Services	P (D)	D	X
Pet Grooming	P (D)	P	P
Printing/Publishing	P (D)	C	P
Restaurants, with alcoholic beverages	P (D)	C	C
Restaurants, Drive In	P (D)	C	C
Retail Stores, General Merchandise	P (D)	P	X
Shopping Centers	P (D)	D	X
Studios	P (D)	P	P
Wholesaling	P (D)	D	P
Accessory uses (customarily incidental to a permitted use when located on the same site with the main building and use.)	P (D)	P	C
Interim Marijuana Dispensaries ²	P (D)	X	X
<p>1. <i>Other Marijuana related businesses that may be allowed in commercial zones in the future by City Ordinance subject to obtaining the necessary permits.</i></p>			
<p>2. <i>Interim Marijuana dispensaries are allowed subject to Administrative Design Review, the filing of a formal Development Permit application for a permanent dispensary within the Desert Harvest Specific Plan and issuance of an interim Regulatory Permit. Interim facilities are characterized as follows: a) operational for a limited duration only while permanent facilities are being entitled, designed and constructed, b) may use non-permanent structures, such as modular buildings, modified storage containers, prefabricated buildings, natural light greenhouse or similar structures, c) include all security components of a permanent facility but using temporary materials, such as chain link fencing, strip paved access roads, portable sanitary restroom facilities, bottled water or other certified drinking water source, etc., d) isolated from construction activities by fencing, building walls or other means, e) removed from property after permanent facilities are completed and operational. Interim approval may be revoked if a permanent facility is not approved within 1 year and showing substantial progress toward construction within 2 years from the date the interim regulatory permit is issued.</i></p>			

As can be seen, a number of uses subject to Conditional Use Permits in the C-G or I-L zones would be permitted as of right in PA-1. Of concern to staff is the allowance of “Interim Marijuana Dispensaries”, subject to the requirements of footnote 2. Staff believes that interim facilities for public sale / distribution of medical marijuana from “modular buildings, modified storage containers, prefabricated buildings, natural light greenhouse or similar structures” are not appropriate for a freeway-visible site, and recommends that this use be deleted from PA-1. If the City is agreeable to temporary dispensary facilities, staff recommends a more restrictive list of permissible structures, specifically deleting “modified storage containers”. Finally, staff supports the use of Design Review for all projects, subject to review and approval by the Planning Commission (not staff) and including conformance to the Specific Plan Design Guidelines.

Site development standards are also proposed for PA-1 and these are presented below, again with comparison to the C-G and I-L zones:

PA-1 DEVELOPMENT STANDARDS

Standard	Desert Harvest Specific Plan	C-G Zone	I-L Zone
Min. Lot Size	5,000 SF	5000 SF	20,000 SF
Min. Front Setback	20'	10'	20' (10' Side Street)
Min. Side Setback	Zero	Zero (10-20)	10' (0)
Min. Rear Setback	Zero	Zero (10-20)	10'
Min. Distance between Buildings	20' ¹	20'	Not Listed
Max. Structure Height	35'	35'	50' (2 stories)
Max. Building Coverage	35%	35%	75%
Off Street Parking ²		From Zoning Ordinance Parking Standards	
Marijuana Dispensaries	1 space/250 SF	1/250 SF	
Restaurant, Sit Down	1 space/125 SF GFA	1/75 SF GFA	
Restaurant, Drive Thru	1 space/100 SF GFA	1/100 + Drive-up lanes w/ 6 spaces	
<i>Notes:</i>			
1. Unless attached buildings are proposed, where no side yard or building separation would be required			
2. Any use not listed would be in accordance with DHS Municipal Code 17.48.040			

The above chart shows that most PA-1 development standards match with those of the C-G zone, except the front setback standard is more restrictive, conforming to that of the I-L zone. Staff also notes that the parking standards for restaurants are lower in PA-1 and staff recommends that the requirement for six spaces in each drive-through lane – as found in the Zoning Ordinance Parking Standard – be added to the standard for PA-1.

Planning Area PA-2. The second planning area is something of a hybrid between retail commercial and light industrial since it includes a significant indoor agricultural component in the “vertical harvest” building. A comparison of the use and development standards with the C-G and I-L zones is provided below:

PA-2 Permitted Uses

Allowable Uses	Desert Harvest Specific Plan	C-G Zone	I-L Zone
Commercial Gardening	P (D)	D	D
Crop Production	P (D)	D	D
Food Products	P (D)	C	D

Convenience Stores	P (D)	D	D
Drive-in and Drive-through Sales	P (D)	D	X
Restaurants, with alcoholic beverages	P (D)	C	C
Offices	P (D)	P	D
Testing Laboratories	P (D)	X	C
Accessory uses (customarily incidental to a permitted use when located on the same site with the main building and use.)	P (D)	Not Listed	Not Listed
Interim Marijuana Dispensaries ¹	P (D)	X	X
<p>1. <i>Interim Marijuana dispensaries are allowed subject to Administrative Design Review, the filing of a formal Development Permit application for a permanent dispensary within the Desert Harvest Specific Plan and issuance of an interim Regulatory Permit. Interim facilities are characterized as follows: a) operational for a limited duration only while permanent facilities are being entitled, designed and constructed, b) may use non-permanent structures, such as modular buildings, modified storage containers, prefabricated buildings, natural light greenhouse or similar structures, c) include all security components of a permanent facility but using temporary materials, such as chain link fencing, strip paved access roads, portable sanitary restroom facilities, bottled water or other certified drinking water source, etc., d) isolated from construction activities by fencing, building walls or other means, e) removed from property after permanent facilities are completed and operational. Interim approval may be revoked if a permanent facility is not approved within 1 year and showing substantial progress toward construction within 2 years from the date the interim regulatory permit is issued.</i></p>			

Two uses allowed in PA-2 are not listed in one or the other zone, but staff has no concerns with their inclusion in the planning area. As discussed above with regards to “Interim Marijuana Dispensaries”, staff believes that interim dispensary facilities are not appropriate for a freeway-visible site, and recommends that this use be deleted from PA-2. If the City is agreeable to temporary dispensary facilities, staff again recommends a more restrictive list of permissible structures, specifically deleting “modified storage containers”. As with PA-1, staff supports the use of Design Review for all projects, subject to review and approval by the Planning Commission (not staff) and including conformance to the Specific Plan Design Guidelines.

The development standards for PA-2 are presented with comparisons to the C-G and I-L zones:

PA-2 DEVELOPMENT STANDARDS

Standard	Desert Harvest Specific Plan	C-G Zone	I-L Zone
Min. Lot Size	5,000 SF	5000 SF	20,000 SF
Min. Public Street (Front / Side) Setback	20'	10'	20' (10' Side Street)
Min. Side Setback	Zero	Zero	10' (0)
Min. Rear Setback	Zero	Zero	10'
Min. Distance between Buildings	20' ¹	20'	Not Listed
Max. Structure Height	75' (4 stories)	35'	50' (2 stories)
Max. Building Coverage	35%	35%	75%
Off Street Parking ²		From Zoning Ordinance Parking Standards	
Marijuana Harvesting / Cultivation	1 space / 2,500 SF ³		1 / 2,500 SF
Restaurant, Sit Down	1 space / 125 SF GFA		1 / 75 SF GFA
Restaurant, Drive Thru	1 space / 100 SF GFA		1 / 100 SF + Drive-up lanes w/ 6 spaces
<p>Notes:</p> <ol style="list-style-type: none"> 1. <i>Unless attached buildings are proposed, where no side yard or building separation would be required</i> 2. <i>Any use not listed would be in accordance with DHS Municipal Code 17.48.040</i> 3. <i>Including hallways, mechanical rooms, elevator shafts, stairways, storage areas, restrooms, locker rooms, packaging rooms, break rooms and similar support areas on floors where cultivation of fresh vegetables is the primary function.</i> 			

Most development standards conform to the C-G zone with two exceptions: The front setback requirement is more restrictive, matching the I-L zone. Also, the maximum structure height substantially increased from 35 feet (C-G zone) or 50 feet (I-L) zone to 75 feet or four stories. This height accommodates the “vertical harvest” building, but as all development in PA-2 will require Planning Commission approval of a Design Review permit, the Commission will determine under what circumstances the additional height is appropriate.

Planning Area PA-3. This area is entirely dedicated to medical marijuana cultivation and processing, and limits uses to those which support this industry. A list of allowed uses are compared with those of the I-L (Light Industrial) zone.

PA-3 Retail Commercial Permitted Uses

Allowable Uses	Desert Harvest Specific Plan	I-L Zone
Commercial Gardening	P (D)	D
Crop Production	P (D)	D
Food Products	P (D)	D
Motor Vehicle Fueling / Service Stations	P (D)	D
Light Manufacturing Facilities	P (D)	P
Marijuana Cultivation ¹	C	C
Marijuana Manufacturing / Extraction / Processing ¹	C	C
Marijuana Distribution / Packing / Shipping ¹	C	C
Marijuana Testing Laboratories ¹	C	C
Mixed Use Industrial / Offices	P (D)	C
Offices	P (D)	D
Security Services	P (D)	Not Listed
Storage	P (D)	D
Utilities	P (D)	Not Listed
Interim Marijuana Facilities ^{1,2}	P (D)	C
Accessory uses (customarily incidental to a permitted use when located on the same site with the main building and use.)	P (D)	Not Listed
<p>1. Cultivation projects with multiple uses may incorporate all uses under a common CUP application. The CUP may also include in interim facility plan.</p> <p>2. Interim Marijuana facilities, including cultivation, manufacturing, testing, and distribution are permitted subject to administrative design review, the filing of a formal CUP application for a permanent facility within the Desert Harvest Specific Plan and issuance of an interim Regulatory Permit. Interim facilities are characterized as follows: a) operational for a limited duration only while permanent facilities are being entitled, designed and constructed, b) may use non-permanent structures, such as modular buildings, modified storage containers, prefabricated buildings, natural light greenhouse or similar structures, c) include all security components of a permanent facility but using temporary materials, such as chain link fencing, strip paved access roads, portable sanitary restroom facilities, bottled water or other certified drinking water source, etc., d) isolated from construction activities by fencing, building walls or other means, e) removed from property after permanent facilities are completed and operational. Interim approval may be revoked if a permanent facility is not approved within 1 year and showing substantial progress toward construction within 2 years from the date the interim regulatory permit is issued.</p>		

A few of the uses allowed in this planning area are not permitted in the I-L zone – security services, utilities and accessory uses – however, staff sees no issues with including them in PA-3. Staff supports the requirement for Conditional Use Permits for medical marijuana-related uses, and also supports the use of Design Review for all projects, including Interim Marijuana Facilities, subject to review and approval by the Planning Commission (not staff) and including conformance to the Specific Plan Design Guidelines.

The development regulations for PA-3 is compared with the I-L zone:

PA-3 DEVELOPMENT STANDARDS

Standard	Desert Harvest Specific Plan	I-L Zone
Min. Lot Size	20,000 SF	20,000 SF
Min. Public Street (Front / Side) Setback	20'	20' (10' Side Street)
Min. Side Setback	10'	10' (0)
Min. Rear Setback	10'	10'
Min. Distance between Buildings	20' ¹	Not Listed
Max. Structure Height		50' (2 stories)
Office / Processing	65' (4 stories)	
Greenhouse	50' (2 stories)	
Max. Building Coverage	75%	75%
Off Street Parking ²	From Zoning Ordinance Parking Standards	
Office / Administration	1 space / 250 SF	1 space / 200 - 350 SF ³
Manufacturing / Processing	1 space / 750 SF	1 / 750 SF
Laboratory	1 space / 750 SF	1 / 750 SF
Marijuana Cultivation	1 space / 2,500 SF	1 / 2,500 SF
<i>Notes:</i>		
1. Unless attached buildings are proposed, where no side yard or building separation would be required		
2. Any use not listed would be in accordance with DHS Municipal Code 17.48.040		
<i>Staff Note:</i>		
3. The parking standard for office uses varies based on the size of the office: GFA up to 2,000 sf, 1 space / 200 SF; 2001 - 7500 SF / space / 250 SF; 7,501 to 40,000 SF / 1 space / 300 SF; 40,001 SF and greater / 1 space / 350 SF		

The PA-3 development standards are similar to those of the I-L zone, except the additional height allowed for buildings containing office / processing uses.

In summary, the list of uses and development regulations for PA-1, PA-2 and PA-3 provide for the implementation of the Plan's overall goals and objectives.

Specific Plan Implementation: Adoption of the Specific Plan will establish certain implementation regulations which include "Design Guidelines" (Chapter Four) and "Plan Administration" (Chapter Five). Development of the site will be reviewed under the provisions of these chapters, some of which will be incorporated into the new zoning designation. In general, all future development will be subject to review against the Specific Plan Design Guidelines, typically through the Design Review approval. The Plan also establishes the Planning Commission as the reviewing authority for Design Review. Staff believes that this is an appropriate review process as it will assure that future construction will fulfill the goals, objectives and guidelines of the Specific Plan.

CONDITIONAL USE PERMIT ANALYSIS

The Conditional Use Permit application proposes the development of eight structures entirely within PA-3:

- Seven identical buildings, each composed of a one-story cultivation building and a two-story head house (processing / administrative) building, and
- One four story processing building in the rear of the planning area

The proposed total building area is 1,481,518 square feet, with the division of various uses as follows:

Activity	Square Feet (All Buildings)
Office / Administration	41,491
Processing and Manufacturing	38,855
Cultivation	1,401,172
TOTAL	1,481,418

Square footage among the proposed activities may vary once floor plans are submitted for construction.

The seven identical cultivation / head house buildings occupy the majority of PA-3 in a regular grid pattern, with the four-story processing building offset from the others at the rear. A grid of access roads between and surrounding all eight buildings provide vehicular access to each building and to two large parking lots flanking the rear building. Parking is also provided along the north and south sides of all buildings and in other locations around the site. Desert-appropriate landscaping is provided around the site's perimeter as well as within the site, and an eight-foot high fence surrounds and secures the cultivation facility.

In addition, the applicant has submitted a site plan for Interim Cultivation Facilities which would provide more expedited start-up of the cultivation use through a limited number of smaller buildings. Sixteen cultivation "pods" of 640 square feet each, plus a 320 square foot security / administration building are proposed. The cultivation buildings are distributed at the southerly end of PA-3, and the security building located at the site of the future permanent security gate. Three parking spaces per cultivation pod and three spaces at the security building are shown for a total of fifty-one spaces. Vehicular access is provided by 24-foot wide access roads composed of compacted with a crushed rock surface. Temporary power poles and security cameras are also shown on the site plan.

General Plan / Specific Plan Consistency: The project proposes to establish a Medical Marijuana Cultivation Facility in accordance within the Desert Harvest Specific Plan Section of the DHSMC, which allows this use with approval of a CUP and Regulatory Permit. The proposal also conforms to the Desert Harvest Specific Plan use regulations for PA-3. Additional findings related to the General Plan and Specific Plan are provided below.

Site Coverage: The project site is PA-3 which as a net area of 49.42 acres. Under the proposed Desert Harvest Specific Plan standards for PA-3, the maximum allowable coverage is 75%. The total square footage of the proposed buildings on site is 1,194,187 square feet (27.41 acres) which represent 55.5% site coverage. The project conforms to this standard.

Building Height: The highest point of the seven greenhouse / head house buildings will be 50 feet from adjacent grade. The maximum height of the four-story processing building is about 61 feet from adjacent grade. While the maximum allowed height in the I-L zone is 50 feet, the standards for Desert Harvest Specific Plan PA-3 retain the 50 foot height limit for greenhouses and other industrial buildings, but allow a maximum height of 65 feet for office / processing buildings. The proposed buildings would conform to the height standards of PA-3.

Building Setbacks: The minimum setbacks for Planning Area PA-3 are 20 feet in front, 10 feet in the rear, and 10 feet on the side. PA-3 adds a required minimum separation between buildings of 20 feet. The orientation of PA-3 / Tentative Parcel Map 37332 Lot No. 3 is toward Calle de los Romos, which sets the easterly property line as the front lot line. The westerly property line is the rear and all other lines are side lot lines. The buildings facing Calle de los Romos are all at least 60 feet from the front lot line, while those facing the rear lot line are also set back at least 60 feet. Side lot lines range from 15 to approximately 60 feet. All buildings are separated

by a distance of about 60 feet. Therefore, the project meets minimum setback standards of PA-3.

Circulation and Parking: Ingress and egress to the site will be provided from one driveway accessing 20th Avenue through PA-2, and from one driveway accessing Calle de los Romos at the northeast corner of the site. Both driveways are controlled by secure gates, including a manned gate-house at the 20th Avenue / PA-2 entry. A third emergency-only driveway is provided to Calle do los Romos about 300 feet south of the main access driveway.

Parking spaces for 1,026 vehicles are provided; among them are twenty-two handicap-accessible spaces. Based on the proposed floor plan and a parking standard of 1 space for 250 feet of office and administrative uses, 1 space for every 750 square feet for processing / industrial use, and 1 space for every 2500 square feet of cultivation areas, staff provides the following parking calculation:

Parking Calculation

Proposed Uses (Sq. Ft.)	Zoning Requirements	Number of Spaces Required	Number of Spaces Provided
Office / Administration 41,491	1 spaces/ 250 sf	166.0	1026 (including 22 for disabled access)
Manufacturing 38,855	1 space / 750 sf	51.8	
Cultivation 1,401,172	1 spaces/ 2500 sf	<u>560.5</u>	
Total: 1,481,518		778.3 or 779 spaces	

Actual uses may vary once interior improvement plans are submitted, and staff includes a standard condition to assure that interior uses do not create a demand for parking greater than provided on site and in accordance with the parking standards of the zoning code. Lastly, since other industrial uses have higher parking demand than cultivation, staff supports the project's provision of additional parking so that future uses are not as likely to be constrained by available parking. Based on the above analysis, the project provides sufficient parking for the proposed use.

Elevations, Colors and Materials: The proposed structures metal-clad, metal framed buildings similar to other industrial and greenhouse buildings. The applicant proposes to distinguish the buildings' architectural treatment with brushed metal panels on the lower elevations (up to 15 feet on the greenhouses / up to 12 feet on the back processing building), horizontal 'rainscreen' panels at the mid-level of the processing building (from 12 to about 25 feet up from ground level), glass on all upper walls and the use of aluminum panels with a custom-fabricated pattern to highlight the head house elevations and the central entry on the rear processing building. The entire look is consistent among the buildings and appears modern and sleek.

Landscaping: The landscape plan provided with the CUP application shows planted areas around the perimeter of PA-3, as well as within the parking areas at the rear of the site, and along the central drive aisle. Low-water use trees and plants are listed on the plan, including Palo Verde, Desert Willow, Mesquite, Date and Mexican Fan Palms, Bird of Paradise, Desert Lantana, Yucca, Texas Ranger and Rosemary. The overall planting plan is appropriate in scale and plant selection.

An eight-foot tube-steel fence is proposed surrounding PA-3, which includes the cultivation facility. Controlled access gates are found at the two entry driveway and the gates' locations will accommodate a short queue of vehicles on site

Lighting: Existing exterior lighting is provided, including a photometric study that indicates one foot-candle minimum lighting is provided throughout the vehicle circulation and parking area, with an average two foot-candles provided at entrances and loading doors (Exhibit 10). The plan appears to meet the requirements of Section 17.16.260.e for lighting in the industrial zone:

One foot-candle evenly distributed across a parking lot is the required minimum. At entrances, loading docks and other limited areas, up to 2 foot-candles may be appropriate.

In the event that any changes to the lighting plan is proposed, a revised plans shall be submitted to the city for review of design, placement, and configuration of any changed lighting fixtures.

Phasing: The medical marijuana cultivation project is proposed to be constructed within the five-year phasing plan of the Desert Harvest Specific Plan; however, the specific timing is not established at this time. Staff has included conditions on both the Conditional Use Permit and the Tentative Parcel Map to assure the construction of necessary public and on-site improvements in the appropriate phase. Otherwise, staff has no concern with the proposed phasing. As future phases come on line, any changes to the site plan, elevations or other approved plans will be reviewed by staff; substantial changes may require an amendment to this permit in accordance with the requirements of the municipal code.

Security: No specific security plan has been submitted; however, the Desert Harvest Specific Plan indicates that PA-3 will be enclosed with new 8-foot high perimeter fencing, including gated entry/exit drives, as indicated. Also, an underground passage connecting all eight buildings in PA-3 is proposed to provide secured access between buildings. 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; fencing; background checks; name and contact information of Security Company monitoring the site and any additional information required by the City.

Odor Control: No specific odor control is indicated. At such time as tenant improvements are submitted, odor control will be required, subject to review and approval by the Fire Department.

Hours of Operation: Hours will be consistent with chapter 5.50.100 of the DHSMC. Medical Marijuana Cultivation Facilities may operate between the hours of 8:00 am and 10:00 pm up to seven days per week. This facility is developed for the cultivation of marijuana and may require staff and security services to be present on premises 24 hours per day.

Interim Cultivation Facilities: The proposed interim facilities plan (Exhibit x) indicates seventeen temporary structures (sixteen for cultivation and one for security / administration) as well as associated circulation and parking. The arrangement of buildings easily conforms to all setback limitations and lot coverage is less than 1%; no building elevations are shown, but building height will be limited to 30 feet. Parking conformance is provided, as follows:

Parking Calculation

Proposed Uses (Sq. Ft.)	Zoning Requirements	Number of Spaces Required	Number of Spaces Provided
Office / Administration 320	1 spaces/ 250 sf	1.3	51 (disabled access provided per code)
Cultivation 10,240	1 spaces/ 2500 sf	<u>4.1</u>	
Total: 10,560		5.4 or 6 spaces	

According to the proposed zoning standards for PA-3, interim cultivation facilities may be allowed, subject to the following:

- a) *operational for a limited duration only while permanent facilities are being entitled, designed and constructed,*
- b) *may use non-permanent structures, such as modular buildings, modified storage containers, prefabricated buildings, natural light greenhouse or similar structures,*
- c) *include all security components of a permanent facility but using temporary materials, such as chain link fencing, strip paved access roads, portable sanitary restroom facilities, bottled water or other certified drinking water source, etc.,*
- d) *isolated from construction activities by fencing, building walls or other means, and*
- e) *removed from property after permanent facilities are completed and operational.*

Further, interim approval may be revoked if a permanent facility is not approved within 1 year and showing substantial progress toward construction within 2 years from the date the interim regulatory permit is issued.

Staff has reviewed the proposed site plan for interim cultivation facilities and finds that the physical improvements generally conform to the above limitations. Staff has also developed specific conditions of approval applicable to the interim cultivation facilities as part of the recommended CUP conditions.

TENTATIVE PARCEL MAP ANALYSIS

The current lot configuration one large parcel of approximately 64.9. The proposed map creates three lots that match the Specific Plan planning areas, as well as makes provisions condominium subdivisions in the future. The resulting lots range in size from 5.15 to 49.42 acres and comply with the 0.46 acre (20,000 square feet) minimum area of required in the I-L (Light Industrial) zone and Desert Harvest Specific Plan. Each parcel has frontage and direct access on to public streets, as well as internal access between the parcels.

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 facility and tentative parcel map 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 Initial Study and Mitigated Negative Declaration have been circulated for comments (comment period ended 6 November 2017). No comments have been received up to the time this report was prepared. The MND is attached for consideration by the Planning Commission (Exhibit 11); the City Council must certify the MND prior to final action on the project.

FISCAL IMPACT

Development of this project will generate revenues to the City in the form of building permit fees to defray plan check and inspection costs, for each project phase. In addition, the City will receive on-going revenue from marijuana taxes. Based on the proposed cultivation and processing space of 1,440,027 square feet, total annual marijuana tax revenue is estimated to be **\$14,445,270** (\$75,000 + \$ 14,370,270.)

GENERAL PLAN AMENDMENT FINDINGS

Under Section 17.100.050 of the Desert Hot Springs Municipal Code, an amendment to the General Plan may be adopted only if all of the following findings are made:

A. That the proposed amendment is internally consistent with the General Plan;

The proposed Desert Harvest Specific Plan has been evaluated against the General Plan of the City of Desert Hot Springs to identify any potential internal inconsistencies (Specific Plan "Chapter 6 – General Plan Consistency"). The proposed Specific Plan introduces limited retail commercial uses to a site presently designated I-L (Light Industrial) but provides for adequate public and private improvements to avoid conflicts with the General Plan Land Use, Circulation, Housing and other Elements of the Community Development Chapter; as well as with Environmental Resources, Environmental Hazards, and Public Facilities and Facilities Chapters. Staff has identified no internal inconsistencies with the proposed Specific Plan and the General Plan.

B. That the proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City;

The proposed Desert Harvest Specific Plan provides for development of a mixed use commercial / industrial development, including provisions for public and private improvements to address vehicular circulation, including emergency services, as well as drainage, air quality and other environmental factors. The proposed Specific Plan implements General Plan economic goals through the establishment of policies and regulations supporting a medical marijuana cultivation facility. Staff has concluded that the proposal would not be detrimental to the public interest, health, safety, convenience or welfare of the City.

C. That the proposed amendment would maintain the appropriate balance of land uses within the City; and

The proposed Desert Harvest Specific Plan modifies the underlying I-L (Light Industrial) land use by introducing retail commercial on about 20 percent (13.1 acres) of the 64.9 acre site. The retail component is located near the Interstate 10, similar to nearby retail commercial development. Further, it will be only a fractional reduction of the City's total land designated for light industrial development of approximately 900 acres. Staff believes that the Specific Plan will maintain the appropriate balance of land uses within the City.

D. That in the case of an amendment to the General Plan Land Use Map, the subject parcel(s) is physically suitable (including, but not limited to access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation(s) and the anticipated land use development(s).

The proposed Desert Harvest Specific Plan would amend the General Plan Land Use Map for the vacant 64.9 acre site to establish three Planning Areas to support development of a mixed use commercial / industrial complex. The site is generally flat and rectangularly-shaped to allow for development according to the Specific Plan's standards and guidelines. Two public streets fronting the south and east property boundaries of the site provide adequate access, and no physical constraints to the proposed development have been identified. The Specific Plan's amendment to the Land Use Map provides for a mix of uses that are compatible with surrounding industrial and commercial zones. Staff believes the subject parcel is physically suitable for the requested land use designation and anticipated development.

ZONING ORDINANCE AMENDMENT FINDINGS

Zoning Code Amendments – changes either to the map or the text - are regulated under Section 17.88 of the Desert Hot Springs Municipal Code. According to Section 17.88.050, an amendment to the Zoning Ordinance may be adopted only if the following findings are made:

A. The proposed amendment is consistent with the General Plan;

The proposed Desert Harvest Specific Plan, including its proposed zoning map and text amendments, has been evaluated against the General Plan of the City of Desert Hot Springs to identify any potential inconsistencies (Specific Plan "Chapter 6 – General Plan Consistency"). The proposed Specific Plan introduces limited retail commercial uses to a site presently designated I-L (Light Industrial) but provides for adequate public and private improvements to avoid conflicts with the General Plan Land Use, Circulation, Housing and other Elements of the Community Development Chapter; as well as with Environmental Resources, Environmental Hazards, and Public Facilities and Facilities Chapters. Staff has identified no inconsistencies between the proposed Specific Plan and the General Plan.

B. The amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The proposed Desert Harvest Specific Plan, including its proposed zoning map and text amendments, provides for development of a mixed use commercial / industrial development, including provisions for public and private improvements to address vehicular circulation, including emergency services, as well as drainage, air quality and other environmental factors. The proposed Specific Plan implements General Plan economic goals through the establishment of policies and regulations supporting a medical marijuana cultivation facility. Staff has concluded that the proposal would not be detrimental to the public interest, health, safety, convenience or welfare of the City.

SPECIFIC PLAN APPROVAL FINDINGS

Under Section 17.128.070 of the Desert Hot Springs Municipal Code, a Specific Plan may only be adopted only if all of the following findings are made:

A. The proposed plan is consistent with the General Plan;

The proposed Desert Harvest Specific Plan has been evaluated against the General Plan of the City of Desert Hot Springs to identify any potential inconsistencies (Specific Plan "Chapter 6 – General Plan Consistency"). The proposed Specific Plan introduces limited retail commercial uses to a site presently designated I-L (Light Industrial) but provides for adequate public and private improvements to avoid conflicts with the General Plan Land Use, Circulation, Housing and other Elements of the Community

Development Chapter; as well as with Environmental Resources, Environmental Hazards, and Public Facilities and Facilities Chapters. Staff has identified no inconsistencies between the proposed Specific Plan and the General Plan.

- B. The proposed plan would not be detrimental to the public interest, health, safety, convenience, or welfare of the City;*

The proposed Desert Harvest Specific Plan provides for development of a mixed use commercial / industrial development, including provisions for public and private improvements to address vehicular circulation, including emergency services, as well as drainage, air quality and other environmental factors. The proposed Specific Plan implements General Plan economic goals through the establishment of policies and regulations supporting a medical marijuana cultivation facility. Staff has concluded that the proposal would not be detrimental to the public interest, health, safety, convenience or welfare of the City.

- C. The subject property is physically suitable for the requested land use designation(s) and the anticipated land use development(s);*

The proposed Desert Harvest Specific Plan would amend the General Plan Land Use Map for the vacant 64.9 acre site to establish three Planning Areas to support development of a mixed use commercial / industrial complex. The site is generally flat and rectangularly-shaped to allow for development according to the Specific Plan's standards and guidelines. Two public streets fronting the south and east property boundaries of the site provide adequate access, and no physical constraints to the proposed development have been identified. The Specific Plan's amendment to the Land Use Map provides for a mix of uses that are compatible with surrounding industrial and commercial zones. Staff believes the subject parcel is physically suitable for the requested land use designation and anticipated development.

- D. The proposed plan shall ensure development of desirable character which will be compatible with existing and proposed development in the surrounding neighborhood; and*

The proposed Desert Harvest Specific Plan includes development regulations (zoning standards), design guidelines and review procedures to assure that future development of the site is of a desirable character, both functionally and esthetically. These regulations, guidelines and procedures will also assure that the commercial and industrial uses allowed on the site are compatible with surrounding commercial and industrial development.

- E. The proposed plan will contribute to a balance of land uses so that local residents may work and shop in the community in which they live.*

The proposed Desert Harvest Specific Plan will convert a small amount (13.1 acres) of industrially zoned land to commercial use. The mix of commercial and industrial uses on the site, including a medical marijuana cultivation complex, will create employment and shopping opportunities for the Desert Hot Springs community. Staff believes that the proposed Specific Plan will contribute to a balance of land uses, within which local residents may both work and shop.

CONDITIONAL USE PERMIT FINDINGS

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 Planning Commission before granting a

CUP request. Staff has developed recommendations for each finding, including reference to the Desert Harvest Specific Plan, where appropriate:

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 the City of Desert Hot Springs Zoning Ordinance Section "Desert Harvest Specific Plan" as permitted within Planning Area PA-3, subject to approval of a Conditional Use Permit. The project is proposed to be located within eight new commercial / greenhouse / industrial buildings that comply with applicable provisions of the Zoning Ordinance. An Interim Cultivation Facility of seventeen small building totaling 10,560 square feet is also proposed. 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.*

The Desert Harvest Specific Plan identifies the underlying Planning Area PA-3 as intended to allow, "...light industrial buildings containing a marijuana cultivation campus along with affiliated circulation and infrastructure systems." The proposed medical marijuana cultivation facility conforms to this statement, and will occupy eight new commercial / industrial buildings similar to other industrial buildings found in the surrounding I-L (Light Industrial) zone. An interim cultivation facility is also proposed. The proposed use, including interim facility, will produce goods and products in a manner similar to other industrial uses and will not introduce any activities that would impair the integrity or character of the adopted Specific Plan for the site, or of the surrounding Light Industrial or General Commercial zones. Staff recommends this finding.

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

The site will be developed with eight commercial / greenhouse / industrial buildings and will include parking, landscaping and other features and amenities appropriate to the development. An interim cultivation facility totaling 10,560 square feet is also proposed. The proposed medical marijuana cultivation facility, including interim cultivation facility, is physically organized in a manner similar to other industrial establishments. The site provides sufficient parking and delivery access. On this basis, 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 site is presently vacant. The proposed medical marijuana cultivation facility, including interim cultivation facility, is an industrial use and is specifically allowed, subject to a Conditional Use Permit in Planning Area PA-3 of the adopted Specific Plan for the site. The proposed commercial / greenhouse / industrial buildings can accommodate a wide variety of commercial / industrial uses. The proposed cultivation facility, including interim cultivation facility, does not appear to be outside the range of activities typical for a commercial / greenhouse / industrial building, and is proposed to entirely occupy the proposed buildings. 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.*

All surrounding lands within 1/4 mile (1320 feet) to the north and east of the subject property are vacant and zoned for light industrial use, so future land uses in the vicinity can be expected to be commercial / industrial uses similar to the proposed cultivation facility. Lands to the west are designated for freeway-oriented commercial uses and to the south are developed with the Interstate 10 limited access freeway. The applicant proposes to entirely occupy the site, except for partial occupancy through the interim cultivation facility, and the proposed use is not directly accessed from surrounding land uses. All activities, including interim cultivation, will be contained within the proposed buildings, and the operation will appear as a commercial / industrial use consistent with the permitted uses of the surrounding I-L (Light Industrial) zone and Desert Harvest Specific Plan. Consequently, the proposed cultivation facility is expected to be compatible with existing and future land uses in the surrounding general area. Staff recommends this finding.

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

The proposed medical marijuana cultivation facility will be located within eight new commercial / greenhouse / industrial buildings, and an interim cultivation facility will be located within seventeen small buildings. The proposed one-, two- and four-story buildings will be of conventional metal frame / metal panel construction with appropriate and necessary accessory features (parking, security, landscaping, etc.) Lands immediately abutting the site are generally vacant. Future commercial / industrial development is limited by the standards of Planning Area PA-3 of the Desert Harvest Specific Plan from exceeding 65 feet in height and 75% lot coverage. The subject 49.42 net acre site is presently vacant, but would be occupied by eight buildings that do not exceed about 65 feet in height and contain a total area of about 1.5 million square feet; lot coverage is approximately 55.5%. The interim cultivation facility will not exceed 30 feet in height and will have a lot coverage of less than 1%. The scale, mass, coverage, density and intensity of the proposed use, including the interim cultivation facility, will be consistent with general commercial / industrial activities, and the site's location and development plan are compatible with adjacent commercial / industrial uses in the vicinity. Staff recommends this finding.

7. *That there are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.*

The subject site is proposed to be developed with eight commercial / greenhouse / industrial buildings and will be provided with necessary public services and utilities prior to occupancy. An interim cultivation facility is also proposed. The proposed medical marijuana cultivation facility, including the interim 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.

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

The subject site has sufficient on-site parking – 1026 spaces are provided, 779 are required. The interim facility provides fifty-one spaces and six are required. The Public Works Department is recommending conditions to assure that street driveway access meets current design standards. 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 businesses of surrounding mountains. At build-out the proposed medical marijuana cultivation facility will fully occupy the site within buildings at approximately 50 to 65 feet in overall height. The limited amount of additional height is expected to result in no adverse affect on long-range views from surrounding areas. The proposed interim cultivation facility will have negligible effect on views. Staff recommends this finding.

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

The proposed medical marijuana cultivation facility, including the interim cultivation facility, can be considered necessary and essential to the community to the extent that it is supported by customers that cause it to succeed as a local commercial / 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 the Desert Harvest Specific Plan and related zoning ordinance amendments for the site to implement the General Plan and provide for review and approval of individual development projects. The proposed medical marijuana cultivation facility, including interim cultivation facility, will be subject to all requirements of this Conditional Use Permit, as prescribed by the Zoning ordinance and the adopted conditions of approval.

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

The City has adopted the Desert Harvest Specific Plan to guide development of the site. The proposed medical marijuana cultivation facility, including interim cultivation facility, will conform to the adopted Specific Plan as it will be located within proposed commercial greenhouse / industrial buildings within the Desert Harvest Specific Plan Planning Area PA-3 and all public improvements will be provided prior to occupancy.

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

Industrial Land Use

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

The proposed medical marijuana cultivation facility, including interim cultivation facility, will be a clean industrial development and will expand the economic and employment base of the community by the products it will offer dispensaries within the State of California and the new employees that will be hired. The only non-industrial uses in the vicinity are free-way oriented commercial businesses which are oriented away from the project. The proposed cultivation facility, including interim cultivation facility, will operate with security and environmental measures that will assure its compatibility with all surrounding uses.

Policy 2: Industrial lands shall be located in areas that maximize all available and planned infrastructures, including but not limited to water and sewer service, electric and natural gas service, and major transportation corridors, and should minimize the impact on public health and safety.

The proposed site will be served with necessary utilities and is located near a Major Arterial (North Indian Canyon Drive). A review of the project indicates that no significant impact on public health and safety will occur.

Policy 4: The City of Desert Hot Springs shall seek to attract appropriate industrial users for which the area is particularly suited and encourage those industries to take advantage of the local labor force and markets with which the City has a comparative advantage.

The City has adopted policies and standards to encourage the development of a medical marijuana cultivation industry. The applicant has proposed a cultivation facility, including interim cultivation facility, in conformance with these policies and standards, and is expected to take advantage of the local labor force and markets.

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 project has been reviewed against applicable local development standards and guidelines. The proposal has been determined to meet these standards and guidelines or conditions have been imposed to assure that the project conforms.

Community Design

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

The project proposes to construct eight commercial / greenhouses / industrial buildings with attractive and appropriate colors, materials, architectural features and landscaping, in conformance with the Design Guidelines of the Desert Harvest Specific Plan. Any changes to the exterior elevations, color / material board, landscape plan or lighting plan will be reviewed by staff 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, and the applicant proposes to construct eight new metal frame / metal panel buildings at a height not to exceed approximately 50, with limited building areas up to 65 feet. The development conforms to the adopted standards and guidelines of the Desert Harvests Specific Plan. Therefore, the proposed medical marijuana cultivation facility, including interim cultivation facility, will not affect the community's scenic viewsheds.

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.

No signs are approved as part of this Conditional Use Permit. All exterior signs shall reviewed under a separate application and be subject to approval under the Desert Hot Springs Zoning Code and Desert Harvest Specific Plan, including limitations on size, scale and number. The code does not permit signs to exceed the height of existing construction which will result in no impacts on scenic viewsheds. No exposed neon shall be used for signs or window graphics.

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.

The proposed lighting plan appears to comply with the City's lighting standards for industrial development, and appears designed 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 dispensary 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, including interim cultivation facility, will expand the type of commercial / industrial services available in the community and provide opportunities for new employment and business support services.

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

The establishment of a medical marijuana cultivation facility, including interim 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 Harvest Specific Plan 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 on 20 July 2017, deemed complete on 31 July 2017 and since then 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) Section 17.180 (Medical Marijuana Facilities Location), and the Desert Harvest Specific Plan.

Fire and Police Protection

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

The proposed medical marijuana cultivation facility, including interim 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 dispensary 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 permits 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.

The project appears to be consistent with the applicable goals and policies of the General Plan and Desert Harvest Specific Plan. Staff recommends this finding.

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

The proposed medical marijuana cultivation facility will occupy eight new commercial / industrial buildings, and an interim cultivation facility will occupy 10,560 square feet of temporary buildings; both activities will be located in a designated industrial zone, and operated in accordance with the City's regulations and conditions of approval. Consequently, no significant adverse or harmful effects on the environment or on any natural resources are anticipated. Staff recommends this finding.

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

The proposed medical marijuana cultivation facility will be operated as a commercial / industrial use within eight new commercial / greenhouse / industrial buildings, and an interim cultivation facility will occupy 10,560 square feet of temporary buildings; both will be operated in accordance with all applicable regulations and conditions of approval. A review of the proposed project has identified the potential for certain environmental impacts; however, mitigation measures have been developed which will reduce all identified potential impacts to less-than-significant levels. A draft Negative Declaration with Mitigation Measures has been prepared for the project.

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

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

TENTATIVE PARCEL MAP FINDINGS:

According to Municipal Code Section 16.24.150 (Commission determination) a tentative map may be denied by the Commission on any of the grounds contained in the Map Act, General Plan or the municipal code. The Commission shall deny the tentative map if it makes any of the following mandatory findings contained in Map Act Section 66474. Staff has developed a response to each finding, as follows:

1. *That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.*

As noted in the findings (above) for the associated Conditional Use Permit, the proposed development of a medical marijuana cultivation facility conforms to the General Plan and Desert Harvest Specific Plan. The proposed tentative map subdivides one existing lot into three lots to allow for this development. The conclusions related to the CUP findings regarding General Plan and Specific Plan consistency may also apply to the proposed tentative map.

2. *That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans;*

The proposed tentative map subdivides one existing lot into three lots. The lots proposed by the tentative map will all comply with the minimum lot area standard for Desert Harvest Specific Plan Planning Area PA-3. Consequently, the proposed tentative map will fulfill the goals and policies of the General Plan and Desert Harvest Specific Plan, as indicated in the CUP findings (above).

3. *That the site is not physically suitable for the type of development.*

The lots proposed by the tentative map will each be of a size (lot area), width, depth and surface (generally flat) to allow development, including accessory activities and features, such as vehicular access, drainage and flood control. As proposed, the site appears physically suitable for the type of development

4. *That the site is not physically suitable for the proposed density of development.*

The proposed map will create three lots each having sufficient area and shape to allow for development of a commercial / industrial facility of approximately 1.5 million square feet, while also conforming to applicable development standards such as setbacks, height and parking. As proposed, the site appears physically suitable for the proposed density of development.

5. *That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.*

The proposed map and related development proposal have been evaluated for potential impacts to the environment. While potential impacts were identified, adequate mitigation measures to reduce such impact to non-significant levels have been developed and incorporated into the project's design, development and implementation. With these mitigation measures, the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. *That the design of the subdivision or type of improvements is likely to cause serious public health problems.*

The proposed map and related development proposal have been evaluated for potential impacts to public health, including geologic hazards, hazardous materials and emergency services. Standard conditions were determined to be sufficient so that no serious public health problems are anticipated to result from the project.

7. *That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.*

The proposed tentative map will include a dedication of right-of-way for a portion of 20th Avenue and Calle de los Romos to provide vehicular access to the site and development. No other access easements have been identified as necessary for the site or surrounding area that would pass through or make use of the subject property.

Staff has concluded that the proposed map meets the tests of the above mandatory findings and may be approved.

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council: 1) Adoption of the Mitigated Negative Declaration for the Desert Harvest Specific Plan and related actions, 2) Approval of the Desert Harvest Specific Plan 02-17, 3) Approval of General Plan Amendment 03-17, and 4) Approval of Zoning Ordinance Amendment 02-17 to establish development regulations and guidelines for the subject site; and 5) Approval Conditional Use Permit No. 28-17 to develop of an indoor marijuana cultivation facility of approximately 1.5 million square feet and interim cultivation facility of 10,560 square feet; and 6) Approval of Tentative Parcel Map No. 37332 to divide the properties into three lots.

EXHIBIT(S)

- 1) Recommended Conditions of Approval
- 2) Desert Harvest Specific Plan (draft)
- 3) Zoning Amendment Ordinance (draft)
- 4) Tentative Parcel Map 37342
- 5) CUP 28-17 Site Plan
- 6) CUP 28-17 Site Plan
- 7) CUP 28-17 Site Plan
- 8) CUP 28-17 Site Plan
- 9) CUP 28-17 Landscape Plan
- 10) CUP 28-17 Lighting Plan
- 11) Draft Initial Study / Negative Declaration with Mitigation Measures