

REPORT TO THE CITY COUNCIL



DATE: November 7, 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.
Applicant: Michael J. Avenatti / Desert Harvest

Prepared by: Craig A. Ewing, Consulting Planner

Reviewed by: Daniel Porras, Community Development Director

RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from City Council;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Opportunity for Applicant Rebuttal
- 7) Close the Public Hearing;
- 8) City Council discussion and questions to Staff; and
- 9) Certify the Negative Declaration and Mitigation Monitoring Program, adopt the Findings of Fact, and approve: Specific Plan 02-17, General Plan Amendment 03-17, and introduction of Zoning Ordinance Amendment 02-17 to establish development regulations and guidelines for the subject site; Conditional Use Permit No. 28-17 to develop of an indoor marijuana cultivation facility of approximately 1.5 million square feet; and 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.

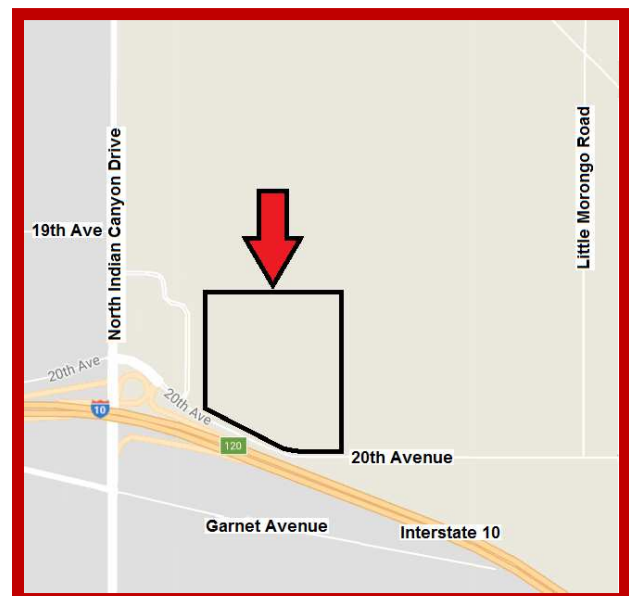
DISCUSSION

BACKGROUND

The applicant, Michael J. Avenatti / Desert Harvest has filed applications to:

1. Establish development regulations and guidelines for the site, involving:
 - a. A Specific Plan,
 - b. General Plan Amendment, and
 - c. Zoning Ordinance Amendment.
2. Allow a medical marijuana cultivation facility via a Conditional Use Permit, and
3. Subdivide the property through a Tentative Parcel Map.

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 vacant parcel and has an area of approximately 64.9 acres. Following dedication of rights-of-way for 20th Avenue and Calle de los Romos, the site will have a net area of approximately 62.6 acres.

On October 10, 2017, the Planning Commission reviewed the project and, following a public hearing, adopted staff's recommendation of approval, subject to the following change:

- Add three “water monuments” at the main entrances to the site, with design subject to approval by the Community Development Director.

Finally, in preparation of this report, staff modified certain recommended conditions of approval to correct errors and to allow flexibility to the applicant in these project elements:

- Addressing archaeological / cultural mitigations (CUP condition 16; TPM condition 17)
- Recording the final map (CUP conditions 53 and 150; TPM condition 22) and
- Constructing public improvements (CUP condition 77; TPM condition 43)

All changes are shown in the attached recommended conditions of approval (Exhibit 5).

PROJECT SUMMARY

The project involves five actions by the City Council, centered on approval of a proposed Desert Harvest Specific Plan, which sets forth the following objective for development of the site: *“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.”*

The proposed Specific Plan is more fully described in the attached Planning Commission Staff Report of October 10, 2017, but may be summarized as follows:

- Chapter One contains the *Introduction and Setting*.
- Chapter Two establishes a *Master Plan* for the site, including:
 - Two commercial planning areas, labeled PA-1 and PA-2, and one industrial planning area, designated PA-3 (see Figure 2.1);
 - Vehicular and pedestrian circulation plans;
 - Landscape areas, including entries, “harvestable plantings” and a lake / irrigation reservoir;
 - Grading, drainage and utility plans; and
 - A plan for phasing the development over roughly five years.

Please note: The City's General Plan Land Use and Zoning Map presently designates the entire site as I-L (Light Industrial). The Specific Plan requires an amendment to the General Plan to incorporate the Planning Areas into the City's land use map.

- Chapter Three contains the *Development Regulations* for implementing the Master Plan, and it will be the basis for amending the Zoning Ordinance.
- Chapter Four presents a set of *Design Guidelines* for future development, including architecture (elevations, roof, windows, color), and landscaping.

- Chapter Five describes *Plan Administration*, including the procedures for reviewing future development, and how to amend and enforce the Specific Plan.
- Chapter Six provides an analysis of Specific Plan's *General Plan Consistency*.

The Specific Plan anticipates that the commercial areas PA-1 and PA-2 will be developed with retail uses generally conforming to those permitted in the C-G (General Commercial) zone, including medical marijuana dispensaries. A medical marijuana cultivation facility – the largest proposed use in the Specific Plan – would be allowed in the rear industrial planning area (PA-3).

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

The Specific Plan shows vehicular access at four locations, plus one emergency accessway (Figure 2.2). Within the site, vehicular circulation and truck access / parking is provided by a network of roadways. Parking spaces are provided, but the specific number will be determined as development plans are. A perimeter fence and controlled entry points around PA-3 limit access to this planning area, and an underground passageway between all building in PA-3 provides secure internal access.

The phasing plan identifies four phases to be implemented over five years, and is considered conceptual. 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 is proposed to be developed prior to the initiation of Phase 1.

Design guidelines establish the overall theme for building architecture as, "based on modern, glass and steel architectural aesthetics..." 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, a Conditional Use Permit application has been submitted for the cultivation facility and a Tentative Parcel Map has been submitted to subdivide the site into three lots which match the planning area boundaries.

SPECIFIC PLAN ANALYSIS

General Plan Amendment: An amendment to the Desert Hot Springs General Plan Land Use would replace the I-L land use designation with the Planning Area designations – PA-1, PA-2 and PA-3. The Specific Plan also provides direction on the 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.

Zoning Ordinance Amendment: Use limitations and development standards for each planning area require an amendment to the Zoning Ordinance. PA-1 and PA-2 are retail-oriented areas with allowed uses more typical of the C-G (General Commercial) zone, including medical marijuana dispensaries. PA-3 is generally consistent with the existing, underlying I-L (Light Industrial) zone, including medical marijuana cultivation. Each planning area has unique sets of standards (described and compared in the Planning Commission staff report, attached). Temporary facilities for dispensaries and cultivation are also permitted in their respective Planning Areas. A key element of the zoning regulations calls for Design Review or CUP approval by the Planning Commission for all development in the three Planning Areas. 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.

Specific Plan Amendment: The Planning Commission's recommendation to require three water features at the 20th Avenue driveway entries included a provision that the design of these "water monuments" be approved by the Community Development Director. Staff recommends that they be required as part of the landscape plans for PA-1 and PA-2, which would be reviewed by the Planning Commission in the normal course of project review.

CONDITIONAL USE PERMIT ANALYSIS

The Conditional Use Permit application is limited to the cultivation facilities within PA-3 and proposes the development of eight structures, totaling nearly 1.5 million square feet:

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

Staff has evaluated the CUP application and determined that all zoning standards (site coverage, building height, setbacks, parking, etc.) and on-site truck parking needs are met by the request. The proposed structures are metal-clad, metal framed buildings similar to other industrial and greenhouse buildings. The landscape plan provided with the CUP application shows low-water use trees and plants, and the overall planting plan is appropriate in scale and plant selection.

An eight-foot tube-steel fence is proposed surrounding PA-3, including controlled access gates at the two entry driveways. A photometric study shows that the necessary minimum lighting would be provided throughout the vehicle circulation and parking area. A phasing plan proposes full build-out within about five years. About 520 employees are estimated from project build-out.

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. Twenty-one groupings of four cultivation "pods" (1,280 square feet per group; 26,880 square feet total), plus a 320 square foot security / administration building are proposed. The cultivation buildings are distributed throughout the eastern half of PA-3, and the security building is located at the site of the future permanent security gate. Four parking spaces per cultivation group and three spaces at the security building are shown for a total of eighty-seven spaces. Vehicular access is provided by 24-foot wide access roads composed of compacted soil with a crushed rock surface. Temporary power poles and security cameras are also shown on the site plan. Staff has reviewed the proposed site plan for interim cultivation facilities and finds that the physical improvements generally conform to the limitations of the Specific Plan. 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

Presently, the site is one large parcel of approximately 64.9 acres. The proposed map creates three lots that match the Specific Plan Planning Areas, and complies with the minimum area that is required in the I-L (Light Industrial) zone and Desert Harvest Specific Plan. Dedication of land will be made to support widening of 20th Avenue and partial construction of Calle de los Romos.

ENVIRONMENTAL ANALYSIS

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), an Initial Study has been prepared which has 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 November 6, 2017). No comments have been received up to the time this report was prepared. The MND is attached for consideration by the City Council (Exhibit 14); the 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 for each project phase. In addition, the City will receive on-going revenue from marijuana taxes. Based on the proposed cultivation space of 1,401,172 square feet, total annual marijuana tax revenue is estimated to be **\$14,086,720** (\$75,000 + \$ 14,011,720.)

FINDINGS

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, Sections 5.50 and 17.180 of the Desert Hot Springs Municipal Code (DHSMC), allow medical marijuana cultivation facilities in Industrial Districts subject to a Conditional Use Permit (CUP). 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.

Each of the five requested actions requires the City Council to make certain findings, which are listed and analyzed in Exhibit No. 2 attached to this report. Staff recommends that the City Council adopt these findings as its own findings of fact.

RECOMMENDATION

Staff recommends that the City Council: 1) Certify the Mitigated Negative Declaration of the Desert Harvest Specific Plan; 2) Adopt the attached Findings for the Project (Exhibit 2); and approve the requested actions: 3) General Plan Amendment 03-17, 4) Specific Plan 02-17, amended to add three water features at the 20th Avenue drive entries subject to Design Review, and 5) Introduction of Zoning Ordinance Amendment 02-17 to establish development regulations and guidelines for the subject site; 6) 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 7) Tentative Parcel Map No. 37332 to divide the properties into three lots, subject to the amended Conditions of Approval (Exhibit 5).

EXHIBIT(S)

- 1) Desert Harvest Specific Plan (draft)
- 2) Recommended Findings of Fact
- 3) General Plan Amendment / Specific Plan Approval Resolution (draft)
- 4) Zoning Amendment Ordinance (draft)
- 5) Recommended CUP Conditions of Approval
- 6) Planning Commission Staff Report (10 October 2017)
- 7) Tentative Parcel Map 37342
- 8) CUP 28-17 Site Plan
- 9) CUP 28-17 Site Plan
- 10) CUP 28-17 Site Plan
- 11) CUP 28-17 Site Plan
- 12) CUP 28-17 Landscape Plan
- 13) CUP 28-17 Lighting Plan
- 14) Draft Initial Study / Negative Declaration with Mitigation Measures