

CONDITIONAL USE PERMIT CUP 27-17

FINDINGS OF FACT

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 (Section 17.76.050). Staff has developed responses to each finding, presented below, and staff recommends that they be adopted as the Commission's own findings of fact.

1. *That the proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Zoning Ordinance.*

The application is for a medical marijuana cultivation facility which is identified in Section 17.180.060 of the City of Desert Hot Springs Zoning Ordinance as permitted within any industrial zone which includes the I-L (Light Industrial) zone, subject to approval of a Conditional Use Permit. The project is proposed to be located within three new one- and two-story commercial / industrial buildings that comply with applicable provisions of the Zoning Ordinance. A temporary cultivation facility is also proposed. Conditions of approval have been prepared and are recommended to assure that both proposed uses will comply with applicable Zoning Ordinance provisions. Staff recommends this finding.

2. *That the proposed use would not impair the integrity and character of the land use district in which it is to be located.*

Section 17.12.010.B.2 of the Desert Hot Springs Zoning Ordinance identifies the underlying I-L (Light Industrial) zone as intended for, "...*business parks and the development of any and all industrial uses operating entirely in enclosed buildings, and those requiring limited and screenable outdoor storage. Examples include clean manufacturing operations, warehousing and distribution facilities, mini-warehouse storage, and a variety of light manufacturing businesses.*" The proposed medical marijuana cultivation facility and temporary facility qualify as "industrial uses operating entirely in enclosed buildings" and as "clean manufacturing operations, warehousing and distribution facilities", and will occupy new commercial / industrial buildings similar to other industrial buildings in the area. The proposed uses 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 land use district in which they are to be located. 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 three commercial / industrial buildings, preceded by a temporary cultivation facility. Both will include parking, landscaping and other features and amenities appropriate to the development. The proposed medical marijuana cultivation facility and temporary facility are physically organized in a manner similar to other industrial establishments. The site provides sufficient parking based on the proposed uses and is subject to conditions to avoid excess parking demand. Further, the proposed site plans are similar to industrial development in the vicinity. On this basis, the site is physically suitable for the type

and intensity of the proposed cultivation facility and temporary facility. 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 and temporary facility are industrial uses and can be considered similar to other industrial establishments allowed in the I-L (Light Industrial) zone, such as plant nurseries, food products, distribution, light manufacturing and wholesaling. The proposed commercial / industrial buildings may accommodate a wide variety of commercial / industrial uses. The proposed cultivation facility and temporary cultivation facility do not appear to be outside the range of activities typical for commercial / industrial buildings, and are 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 to the west and within 1000 feet of the subject property are zoned for light industrial use; lands to the east are designated for floodway and to the south are designated rural residential. Future land uses in the westerly vicinity can be expected to be commercial / industrial uses similar to the proposed cultivation facilities. Surrounding lands to the east and south are generally isolated from the site by the flood channel, including the on-site flood channel easement. All immediately surrounding lands are presently vacant. Further to the northwest are both vacant and developed lands; the developed parcels include industrial and institutional (religious facilities) uses. In addition, some of the surrounding parcels are either proposed or under development for industrial use. The applicant proposes to occupy the entire site with the permanent facility (the temporary facility will occupy less than 15% of the site). Both the permanent and temporary facilities are not directly accessed from surrounding land uses. All activities will be contained within the proposed buildings, and both operations will appear as commercial / industrial uses consistent with the permitted uses of the I-L (Light Industrial) zone. Consequently, the proposed cultivation facility and temporary facility are 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 three new one- and two-story commercial / industrial buildings, while the temporary cultivation facility will be located in portable trailer-type structures. The proposed permanent buildings will be of conventional construction with appropriate and necessary accessory features (parking, landscaping, etc.) Land uses immediately abutting the site are vacant. Future commercial / industrial development is currently prohibited by the Municipal Code from exceeding 50 feet in height and 75% lot coverage. The subject 5.03 gross acre site is presently vacant, but would be occupied by three buildings, the tallest of which does not exceed about 30 feet in height. The buildings have a combined a total footprint of about 59,850 square feet; lot coverage is

approximately 43% of the net lot area (after street dedication). The temporary facilities will not exceed 1400 square feet of building area and comply with all zoning standards. The scale, mass, coverage, density and intensity of both proposed uses will be consistent with general commercial / industrial activities, and the site's location and development plan are compatible with adjacent industrial and institutional 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 commercial / industrial buildings and will include all public services and utilities installed and available. The proposed medical marijuana cultivation facility will not create an extraordinary demand for water, sanitation or other public utilities and services that would result in any detriment to public health and safety. Staff recommends this finding.

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

The subject site has sufficient on-site parking; sixty-three spaces are provided and forty-eight are required, as currently proposed. 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 lands of surrounding mountains. At build-out the proposed medical marijuana cultivation facility will fully occupy the site within buildings at approximately 30 feet in overall height. The proposal is expected to result in no adverse effect on long-range views from surrounding areas. Staff recommends this finding.

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

The proposed medical marijuana 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 a zoning ordinance to implement the General Plan and provide for review and approval of individual development projects. The proposed medical marijuana 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 proposed medical marijuana cultivation facility will be located within three proposed commercial / industrial buildings in an area presently designated as I-L (Light Industrial) on the adopted zoning map of the City and all public improvements are in place or will be constructed. No specific plan has been adopted for the subject property.

Policy 8: City shall provide opportunities for review and comment on development proposals through public hearing notices sent to owners of property located at least within 300 feet of development proposal sites.

Prior to Planning Commission review of the project application, notice of the proposed medical marijuana 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 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 heavy commercial businesses and a religious institution. The industrial uses are similar in character to light industrial activities. The proposed cultivation facility will operate with security and environmental measures that will assure its compatibility with all industrial and non-industrial 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 is presently served with necessary utilities and will be connected to a Major Arterial (Little Morongo Road). 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 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 a commercial / industrial building with attractive and appropriate colors, materials, architectural features and landscaping, subject to recommended conditions. 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 a new metal frame and panel building at a height not to exceed approximately 30 feet. Therefore, the proposed medical marijuana 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 be reviewed under a separate application and be subject to approval under the Desert Hot Springs Zoning Code, 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 was prepared for an earlier iteration of the site plan, but appeared to comply with the City's lighting standards for industrial development. The project is conditioned to update the lighting plan and comply with the applicable standards, including assuring 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 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 will provide additional revenues to the City to support present and future public needs.

Policy 11: Make every effort to expedite the processing of development proposals, which address the economic development goals of the community and take the initiative to incubate new programs and projects.

The application for a Conditional Use Permit is required by the Desert Hot Springs zoning code to assure compatibility with surrounding land uses and to develop project-specific conditions to assure successful operation in concert with the City's development goals. The application was received on 6 July 2017, deemed complete 21 September 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) and Section 17.180 (Medical Marijuana Facilities Location).

Fire and Police Protection

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

The proposed medical marijuana cultivation facility, including the temporary facility, will incorporate 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. 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 three new one- and two-story commercial / industrial buildings within the Light Industrial (I-L) zone and be 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 three new one- and two-story commercial / industrial buildings. The facility, including the temporary facility, 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 the temporary 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.

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