

## REPORT TO THE PLANNING COMMISSION

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**DATE:** November 14, 2017

**TITLE:** Amendment to Conditional Use Permit No. 04-16 to 1) allow cannabis manufacturing within the previously approved building; 2) amend Development Agreement No. 02-16 to include manufacturing and other ancillary activities; 3) to allow for a .5 phase plan, to construct a portion of the permanent building for temporary occupancy - for the 2.52 - acre site located on the southwest corner of Cabot Road and San Jacinto Lane. APN: 665-030-037, Applicant: Vets Leaf Inc.

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**Reviewed by:** Daniel Porras P.E., Community Development Director

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### 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) A recommendation from staff for approval of the Amendment to Conditional Use Permit (CUP 04-16) to 1) allow for cannabis manufacturing within the previously approved building, 2) an amendment to the Development Agreement (DA 02-16), and to 3) implement a .5 phase plan - for the project located at the southwest corner of Cabot Road and San Jacinto Lane in the I-L (Light Industrial) District. APN: 665-030-037.

### PRIOR ACTIONS

On July 5, 2016 the City Council of Desert Hot Springs approved the original project, Conditional Use Permit No. 04-16 & Development Agreement No 02-16.

### BACKGROUND

Sections 5.50 and 17.180 of the Desert Hot Springs Municipal Code (DHSMC), allow medical marijuana cultivation facilities and ancillary activities in Industrial Districts subject to a Conditional Use Permit (CUP) approved by the City Council and a Regulatory Permit approved by the City Manager. The applicant, Vets Leaf Inc. has filed an application to amend CUP 04-16 to allow for cannabis manufacturing and to



amend their DA to reflect those activities/uses.

### **DISCUSSION**

The applicant is proposing two changes to the construction/development plans. First, they would like to add manufacturing to their business plan. They are proposing that a small portion (approximately 400 square feet) of the headhouse be converted for manufacturing uses/activities. This is shown on Exhibit No. 4.

The second change to the development plans is to implement a .5 construction phase plan to facilitate the client being able to get temporary occupancy without having to construct the entire project. This plan includes construction and completion of the headhouse and two of the green houses as indicated on Exhibit No. 3. The applicant has not indicated to staff the construction timeline for the .phase plan or for final construction, but it is staff understanding that they are ready to begin site improvements as soon as they obtain grading and building permits.

### **ENVIRONMENTAL DETERMINATION**

On July 5<sup>th</sup>, 2016, The City Council approved the permanent cultivation project (CUP 04-16) and in doing so certified the Mitigated Negative Declaration for the Project. Pursuant to Section 15162(a) of the CEQA regulations, once an MND has been certified for a project, no subsequent environmental review needs to be completed unless there are substantial changes in the project that warrant additional review. The planning commission only needs to make a finding that the request for an amendment is consistent with the original MND, and no further analysis is required. No significant changes are proposed as a part of the amendment.

### **FISCAL IMPACT**

The current proposal has paid all application fees and the permanent development / cultivation facility will contribute \$25 per square foot for the first 3,000 square feet.

### **RECOMMENDATION**

Staff recommends that the Planning Commission recommend to the City Council approval of the amendment to Conditional Use Permit No. 04-16, subject to the Conditions of Approval and including the following findings:

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 an amendment of the previously approved medical marijuana cultivation facility which is identified in Section 17.180.070 of the City of Desert Hot Springs Zoning Ordinance as permitted within any industrial zone which includes the I-L (Light Industrial) zone), subject to approval of a Conditional Use Permit. The project is proposed to be compliant with applicable provisions of the Zoning Ordinance. Conditions of approval have been prepared and are recommended to assure the proposed use will comply with applicable Zoning Ordinance provisions. Staff recommends this finding.

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

Section 17.16.010.B.1 of the Desert Hot Springs Zoning Ordinance identifies the underlying I-L (Light Industrial) zoning district as, "...intended to retain, enhance, and intensify existing and provide for the new development of lighter industrial uses along major transportation routes serving the City." The proposed amendment of the

previously approved medical marijuana cultivation facility only changes some of the interior uses of the building and will have no impact on the adjacent properties or the land use district.

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

The site is proposed to be developed as a light industrial site with parking, landscape and other features and amenities appropriate to the development. The proposed amendment of the previously approved medical marijuana cultivation facility only changes some of the interior uses of the building and will have no impact on the adjacent properties or the land use district. Consequently, the site is physically suitable for the type and intensity of the proposed dispensary. Staff recommends this finding.

4. *That the proposed use is compatible with the land uses presently on the subject property.*

The proposed amendment of the previously approved medical marijuana cultivation facility only changes some of the interior uses of the building. The manufacturing activities will be ancillary to the main use of the building and will complement the business activities taking place within the building. Therefore, staff has concluded that the proposed amendment is compatible with the land uses approved for the site. 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.*

The proposed amendment of the previously approved medical marijuana cultivation facility only changes some of the interior uses of the building. The manufacturing activities will be ancillary to the main use of the building and will complement the business activities taking place within the building. Therefore, staff has concluded that the proposed amendment is compatible with the land uses approved for the site and the site. Staff recommends this finding.

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

7. The proposed amendment of the previously approved medical marijuana cultivation facility only changes some of the interior uses of the building. The manufacturing activities will be ancillary to the main use of the building and will complement the business activities taking place within the building. Therefore, staff has concluded that the proposed amendment is compatible with the land uses approved for the site and the site. The scale, mass, coverage, density and intensity of the proposed use will be consistent with light industrial activities; its location within an existing light industrial setting will allow it to be compatible with adjacent industrial uses. Staff recommends this finding.

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

The subject site will be developed as a light industrial use with all public services and utilities installed prior to occupancy. The proposed temporary medical marijuana cultivation facility cultivation 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.

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

The temporary site will be conditioned to provide the necessary access and improvement to support the temporary cultivation facility. The permanent project /site site will be fully developed with vehicular and pedestrian access, both from public rights-of-way as well as within and throughout the site. The proposed temporary medical marijuana cultivation facility will not create any additional demand for access than will be provided by the associated parking and drive aisle. Staff recommends this finding.

10. *That there will not be an adverse effect upon desirable neighborhood characteristics.*

Desirable neighborhood characteristics include long-range views from existing properties and business of surrounding mountains, and the future development of light industry on the site and surrounding area. The proposed building's low height (approximately 9.5 feet) will not impede long-range views. While the proposed temporary medical marijuana cultivation facility will fully occupy the subject site, surrounding lands available for other businesses will not be limited in their future development by the proposed use. Staff recommends this finding.

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

The proposed amendment to the previously approved cultivation project only changes some of the interior uses and the construction timeline of the project. This is necessary and essential to the operations and success of the business and therefore to the community to the extent that it is supported by wholesale customers that cause it to succeed as a local light industrial business. Further, the proposed use must also operate under City regulations and conditions of approval so that only the necessary and essential elements of the business – as determined by the City – are expressed over the life of the business. Staff recommends this finding.

12. *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 amendment to the previously approved marijuana cultivation facility will be subject to all requirements of the Amendment and Conditional Use Permit, as prescribed by the Zoning ordinance and the adopted conditions of approval.

*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 temporary medical marijuana cultivation facility conditional use permit hearing was provided to property owners within 300 feet of the proposed site. A notice of the public

hearing was also published in the Friday November 3<sup>rd</sup>, 2017 Desert Star Weekly The application has been available for review in the Planning Department at City Hall. No persons have submitted written comments or expressed concerns for the proposed project.

### 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 amendment to the previously approved medical marijuana cultivation facility is anticipated to be a non-polluting and clean industrial use that will generate jobs and revenue for the community, thereby broadening the economic and employment base of the city. The operation will be located on a vacant property within a partially-developed industrial area, located in the I-L (Light Industrial) zone, and be developed with all support amenities (parking, trash enclosures, landscaping, etc.) to assure compatible integration with all industrial and non-industrial land uses.

### Economic Development:

*Goal 1: A broadly based, healthy and balanced economy that provides a full range of economic and employment opportunities.*

The proposed amendment of the medical marijuana cultivation facility will provide opportunities for new employment and business support services.

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

The establishment of a temporary 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 as 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 was approved. The application was received on August 8, 2017 and the Planning Commission will hear the item on November 14<sup>th</sup>, 2017

### 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 temporary medical marijuana cultivation facility will include security measures, including door locking systems, exterior lighting, camera monitoring and other systems to minimize the impact on police protection services. Fire suppression systems will also be incorporated into the operation to minimize the impact on fire protection service. Consequently, the proposed medical marijuana cultivation facility is not expected to demand a high level of police and fire protection services.

*Policy 1: All new and improved developments shall be reviewed for their impact on safety and the provision of police and fire protection services.*

The proposed application and associated regulatory permit will include requirements for review of the proposed operation by City police and fire services. Any identified impacts on safety will be addressed by conditions of approval or regulatory requirements.

### *Policy 2*

*Enforce fire standards and regulations in the course of reviewing building plans and conducting building inspections.*

All plans and improvements for interior or exterior building improvements will be subject to review and enforcement under fire codes and regulations.

Staff recommends this finding.

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

The proposed amendment and temporary medical marijuana cultivation facility will be sited on vacant property currently zoned for light industry. Further, the cultivation facility will operate in accordance with the City's regulations and conditions of approval. Based on the draft environmental document, no significant adverse or harmful effects on the environment or on any natural resources are anticipated, subject to the implementation of specific mitigation measures and conditions of approval. Staff recommends this finding.

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

The proposed amendment and temporary medical marijuana cultivation facility will be operated as a light industrial use in a new building within the Light Industrial zone. It will be operated in accordance with all applicable regulations and conditions of approval. A review of the proposed project has identified no negative impacts, subject to the implementation of specific mitigation measures and conditions of approval. Staff recommends this finding.

*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 amendment and temporary medical marijuana 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.

### **RECOMMENDATION**

Recommendation from staff for approval of the Amendment to Conditional Use Permit No. 04-16, and Development Agreement No 02-16, to allow for manufacturing uses within the previously approved building, and to allow for a .5 construction phasing plan for the project located at the southwest corner of Cabot Road and San Jacinto Lane in the I-L (Light Industrial) District. APN: 665-030-037., subject to the attached conditions and the findings contained herein.

### **EXHIBITS:**

- 1) Draft Conditions of Approval
- 2) Revised Development Agreement
- 3) Revised Site / Phasing Plan
- 4) Revised Floor Plan
- 5) Elevations
- 6) Security Plan