

REPORT TO THE PLANNING COMMISSION



DATE: November 27, 2017

TITLE: Conditional Use Permit No. 27-16 - An application for the development of a new single-story cultivation building totaling approximately 20,492 square feet (on a 1.26 acre site) located on the south side of San Jacinto Lane approximately 1300 feet east of Little Morongo Road in the I-L (Light Industrial) zone. (APN: 665-030-036). Applicant: Bill Mason on behalf of San Jacinto Grow.

Prepared by: Scott Taschner, Senior Planner

Reviewed by: Daniel Porras, Community Development Director

RECOMMENDATION

- 1) Staff Report;
- 2) 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) Staff recommendation: That the Planning Commission approves Conditional Use Permit No. 27-16 for the development of a new single-story cultivation facility located on the south side of San Jacinto Lane approximately 1300 feet east of Little Morongo Road in the Light Industrial (I-L) Zone, APN 665-030-036.

DISCUSSION

BACKGROUND

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) approved by the Planning Commission and a Regulatory Permit approved by the City Manager. The applicant, San Jacinto Grow, has filed application to establish a facility for the indoor cultivation of medical marijuana.

The site is located on the south side of San Jacinto Lane between Cabot Road to the East and Little Morongo Road to the west. The project site is located on a rectangular 1.26-acre lot. The site is generally flat with a total street frontage of approximately 170 feet. The site is currently vacant.



PROJECT SUMMARY

The proposed project includes one (1) single-story building totaling 20,492 square feet of floor area. The buildings are of steel frame construction with an exterior stucco finish. The proposed building height is approximately 28 feet. Public street dedications and improvements will be required along the San Jacinto Lane street frontage.

Immediately surrounding properties are developed as follows:

	<u>Zoning & General Plan Designations</u>	<u>Current Land Use</u>
North, West, and East	IL (Light Industrial)	Light Industrial Uses
South	IL (Light Industrial) and OS / FW (Open Space / Flood Waters)	Vacant Land

The applicant has provided a floor plan indicating the interior use breakdown as follows:

Interior Building Area	Bldg. 1
Office / Admin / Misc.	540
Cultivation	<u>19,952</u>
Total Sq Ft.	20,402

Loading doors are provided on the west side of the building



The proposed buildings' exterior colors are white, medium and medium-dark grey. Landscaping and fencing are provided around the perimeter of the site, as described below.

CUP ANALYSIS

General Plan and Zoning Consistency: The project proposes to establish a Medical Marijuana Cultivation Facility in accordance with Section 17.180 of the DHSMC, which allows this use with approval of a CUP and Regulatory Permit.

Site Coverage: The project site consists of five lots totaling 1.26 gross acres (54,886 sq. ft.). Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total square footage of the proposed buildings on site is 20,492 square feet which represent 37.3% site coverage. The project conforms to this standard.

Building Height: The highest point on all proposed buildings will be about 28 feet 3 inches feet from adjacent grade. This is below the maximum height of 50 feet allowed in the I-L District.

Building Setbacks: The minimum setbacks in the City's Light Industrial (I-L) Zone are 20 feet in front, 10 feet in the rear, and 10 feet on the sides (both interior and street sides). The proposed buildings are approximately 26 feet 5 inches feet from the front property line, approximately 32' feet 5 inches from the rear property line and at least 27 feet to all side property lines. Therefore, the project meets minimum setback standards.

Circulation and Parking: Ingress and egress to the site will be provided from two main driveways on San Jacinto Lane. As noted above, parking for 28 vehicles is provided.

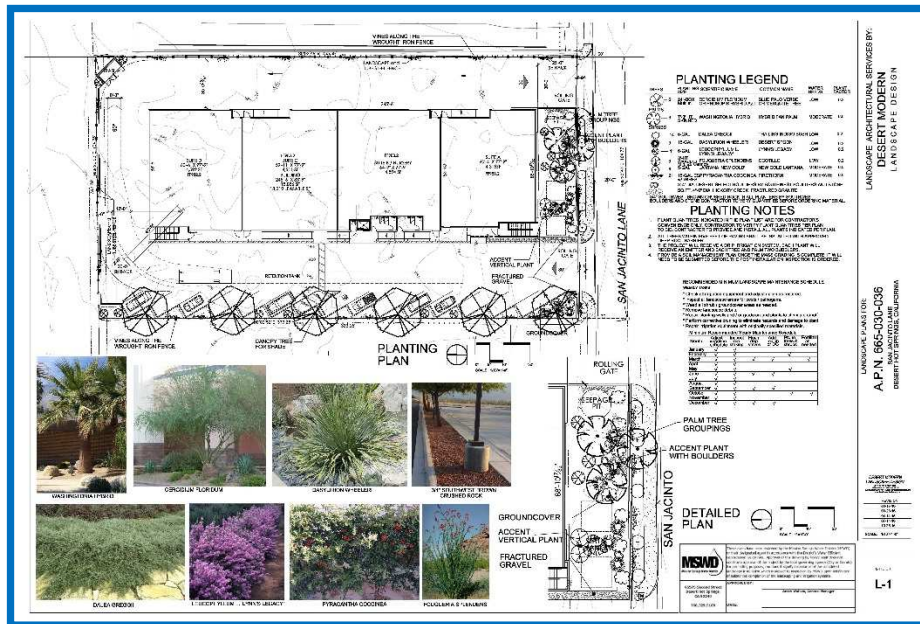
Staff provides the following parking calculation, based on the proposed floor plan and these parking standards:

- 1 space for 250 square feet of office and administrative uses,
- 1 space for every 750 square feet for processing / manufacturing use, and
- 1 space for every 2500 square feet of cultivation / warehouse areas,

Parking Calculation			
Proposed Uses	Zoning Requirements	Number of Spaces Required	Number of Spaces Provided
Total Administration 540 sf	1 spaces/ 250 sf	3	28 (including 2 for disabled access)
Cultivation: 19,592 sf	1 spaces/ 2500 sf	8	
Total: 20,492 sf		11 spaces (see discussion below)	

Elevations, Colors and Materials: The proposed structure is similar to other industrial / manufacturing developments in the area. The applicant is proposing to add architectural treatments on the corners with alternating colors, textures, shapes and height. The corner metal clad panels and roof structure will approach about 28 feet 3 inches in height and will be painted darker grey than the remainder of the building. Entry and loading doors will be painted contrasting grey. The building will have a parapet roof to conceal rooftop mounted equipment. Single casement windows will be provided at the guards office and will have dark grey reflective tinting and window eyebrows to assist with solar control. The overall architecture is simple and modern, and the color scheme is appropriate to the design.

Landscaping: The landscape plan shows planted areas around the perimeter of the site, with larger planting areas facing San Jacinto Lane; planted areas along the perimeter of the building are provided, as well. All plant species are low- or moderate-water use trees (Blue Palo Verde, Mesquite, and Hybrid Fan Palms; and shrubs, including Desert Spoon, Trailing Indigo Bush, Lynn's Legacy Firethorn, Lantana and others. The overall planting plan is appropriate in scale and plant selection (see excerpt from landscape plan, below).



A 7-foot-high tube-steel fence is proposed around the perimeter of the property which, along with controlled access gates. The code allows for fence heights on property line of 6 feet, but the applicant is requesting relief from the code to allow for one additional foot of height to provide additional security. Staff believes this is a reasonable request since they are using a tubular steel fence.

Lighting: The proposed exterior lighting includes only building mounted light fixtures. Staff is recommending that the Planning Commission require additional lighting in the form of free-standing light poles for the entrance along San Jacinto and for the parking areas and drive aisles., 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. 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 applicant proposes to construct the project in a single phase; Staff has included conditions to assure the construction of necessary public improvements in the event of any phasing. If the project is phased, 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 site is will be enclosed with new tube-steel perimeter fencing, including gated entry/exit drives as indicated. 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. The city has added two standard conditions (COA's No 4 & 5) to bring the security plan under the aegis of the conditional use permit.

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.

PROJECTED EMPLOYMENT

The applicant has not indicated the estimated number of full-time and part-time employees at full build-out.

ENVIRONMENTAL ANALYSIS

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), an Initial Study has been prepared and which has determined that development of the proposed medical marijuana cultivation facility 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 Mitigated Negative Declaration is being circulated for comments (comment period ending November 13, 2017) and no comments have been received as of the writing of this staff report. The MND is attached for consideration by the Commission, and the City Council will consider certification of a Mitigated Negative Declaration prior to final action on the project.

FISCAL IMPACT

The proposed cultivation facility has paid all required fees for application processing and will annually contribute \$25 per square foot for the first 3,000 square feet, plus \$10 per square foot for the remaining cultivation / processing space once it opens. The exact amount of cultivation / processing space cannot be known at this time. **The plans show an estimated total cultivation / processing area of 19,952 square feet, which would yield \$244,520,020 annually.**

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, as follows:

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 one new industrial building that comply 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 17.12.010.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 qualifies as “industrial uses operating entirely in enclosed buildings” and as “clean manufacturing operations, warehousing and distribution facilities”, and will occupy an existing commercial / industrial building similar to other industrial buildings in the area. The proposed use 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 it is 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 one new industrial building and will include parking, landscaping and other features and amenities appropriate to the development. The proposed medical marijuana cultivation facility is 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 plan is similar to industrial development in the vicinity. 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 is an industrial use 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 building may accommodate a wide variety of commercial / industrial uses. The proposed cultivation facility does not appear to be outside the range of activities typical for a commercial / 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 city limits and 1/8 mile feet of the subject property are 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. Surrounding lands to the north, east, and west are presently built up with commercial / industrial uses. The land to the south is presently vacant. Some of these lands are either proposed or under development for industrial use. The applicant proposes to occupy the entire site, and the proposed use is not directly accessed from surrounding land uses. All activities will be contained within the proposed buildings, and the operation will appear as a commercial / industrial use consistent with the permitted uses of the I-L (Light Industrial) zone. 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 one new commercial / industrial building. The proposed one-story building 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 1.26 gross acre site is presently vacant, but would be occupied by one buildings that will not exceed about 30 feet in height and will contain a total area of about 20,492 square feet; lot coverage is approximately 37.3% of the net lot area (after street dedications). The scale, mass, coverage, density and intensity of the proposed use 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 one commercial / industrial building and will require that all public services and utilities are installed and made 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; 28 spaces are provided and 11 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 28 feet 3 inches in overall height. The proposal is expected to result in no adverse affect 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 a proposed commercial / industrial building 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 and was advertised in the Desert Star Weekly 22 days prior to the public hearing. 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 which 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 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 project site, building, and future operations have been conditioned to provide water, sewer, electric and natural gas as a requirement prior to occupancy.

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 City guidelines. The proposal has been determined to meet these standards and guidelines, or project specific 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 one commercial / industrial building with attractive and appropriate colors, materials, architectural features and landscaping. 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 one new metal frame 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 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 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 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 October 27, 2016, but was deemed incomplete and later withdrawn, until a new owner asked to resurrect the project in September 2017. 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 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. 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 one new commercial / industrial building 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 one new commercial / industrial buildings. It 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 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.

RECOMMENDATION

Staff finds that the proposed project is substantially consistent with the General Plan and meets the development standards of the I-L (Light Industrial) zoning district. Staff recommends that the Planning Commission approves Conditional Use Permit No. 27-16, subject to the findings contained herein and the Conditions of Approval.

EXHIBIT(S)

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| Exhibit 1 | Draft Conditions of Approval |
| Exhibit 2 | Site Photos |
| Exhibit 3 | Site Plan |
| Exhibit 4 | Floor Plan |
| Exhibit 5 | Building Elevations |
| Exhibit 6 | Building Elevations |
| Exhibit 7 | Landscape Plan |
| Exhibit 8 | Lighting Plan |
| Exhibit 9 | Grading Plan |
| Exhibit 10 | Draft Initial Study / Mitigated Negative Declaration |