

REPORT TO THE PLANNING COMMISSION



DATE: December 12, 2017

TITLE: Conditional Use Permit No. 31-17. A request to establish a two (2) story 35,777 Square foot medical marijuana facility to include manufacturing and processing on a vacant 1.26-acre parcel located north of 15th Avenue in between Little Morongo Road and Cabot Road (APN: 665-050-018). Applicant Redshield Capital, LLC

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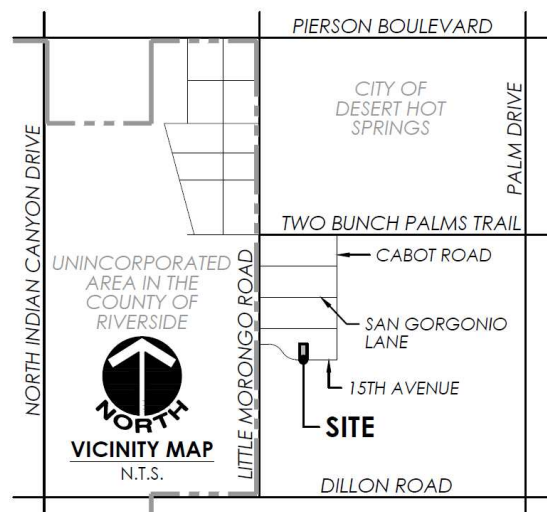
RECOMMENDATION

- 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) Consider a motion that the Planning Commission recommends approval to Planning Commission of the following: (1) a Mitigated Negative Declaration for Conditional Use Permit No. 31-17, (2) Conditional Use Permit No. 31-17 for the development of a two (2) story medicinal marijuana cultivation, manufacturing, and processing facility totaling approximately 35,777 square feet in the I-L (Light Industrial) District. APN 665-050-018.

DISCUSSION

EXECUTIVE SUMMARY

The applicant Redshield Capital, LLC has filed a Conditional Use Permit (CUP), application for the construction of a medical marijuana cultivation/processing facility on a 1.26 gross acre site located north of 15th Avenue in between Little Morongo Road and Cabot Road. The development will consist of a permanent 35,777 square foot two story cultivation/processing facility. Street improvements, on-site parking, and landscaping are also proposed. The entire project site will be secured by wrought iron or tubular steel perimeter fencing. Project construction is proposed in one (1) phase.



BACKGROUND

SITE CONDITIONS

| | |
|--|------------------------|
| Existing Zoning/General Plan Land Use: | I-L (Light Industrial) |
| Existing Use: | Vacant Land |
| Total Project Area: | 1.26 gross acres |
| Assessor's Parcel Number: | 665-050-018 |

The 1.26-acre project site contains slight to moderate amounts of typical desert vegetation (scrub brush and low-lying plants). 15th Avenue currently provides access to the project site, this roadway lacks curb-and-gutter improvements, street lighting, and traffic signal facilities.

Surrounding properties for the project site consist of:

| <u>Direction</u> | <u>Jurisdiction</u> | <u>Zoning & General Plan Designations</u> | <u>Current Land Use</u> |
|-------------------------|----------------------------|--|--------------------------------|
| North | City | I-L (Light Industrial) Zone | Vacant Land |
| West | City | I-L (Light industrial) Zone | Vacant Land |
| South | City | I-L (Light Industrial) Zone | Vacant Land |
| East | City | I-L (Light Industrial) Zone | Vacant Land |

CUP ANALYSIS

General Plan and Zoning Consistency

The project proposes to establish a Medical Marijuana Cultivation/Testing/Processing facility in accordance with Section 17.180 of the DHSMC, which allows these uses with approval of a CUP and Regulatory Permit. The proposed development will be consistent with zoning development standards and all applicable General Plan policies following the Conditions of Approval.

Site Coverage

The project site consists of 1.26 gross acres in size. Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total of the proposed building lot coverage (Ground Floor Area) is 20,390 square feet, or 30% of the project site, placing the project, within the maximum allowed coverage.

Building Height

The highest point structure will be the buildings parapets at 42 feet above 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 Industrial Zoning Districts are 20 feet in front and 10 feet in the rear/side per Section 17.16.030 of the DHSMC. The proposed structures meet all the minimum setback requirements.

Circulation and Parking

Ingress and egress to the site will be provided from two driveways on 15th Avenue. Truck circulation design have been integrated in the design proposal.

Off-Street parking standards for Medical Marijuana Cultivation uses are not specifically defined in the City Zoning Code. Therefore, Staff has applied parking ratios for similar uses including Office (1 space per 250 square feet), industrial (1 space per 750 square feet) and plant nurseries (1 space per 2,500 square feet) resulting in 28 required parking spaces. The proposed site improvements will provide 30 parking spaces. Parking is provided on the rear of the site and covered parking is provided on the ground level of the building.

Cultivation Facility Parking Calculation

| <u>Use</u> | <u>Area (Sq. Ft.)</u> | <u>Ratio</u> | <u>Number of Spaces</u> |
|---------------------------------|------------------------------|-------------------------|--------------------------------|
| Office | 2,463 | 1 per 250 square feet | 10 |
| Processing/Ancillary Industrial | 4,099 | 1 per 750 square feet | 6 |
| Cultivation | 29,215 | 1 per 2,500 square feet | 12 |
| Total Spaces Required | | | 28 |
| Total Spaces Provided | | | 30 |

Architecture

Similar to previously approved cultivation facilities in the area, the permanent building façade would consist of 3 dimensional forms and architectural elements in the style of desert contemporary architecture. Contrasting accent colors will enhance the architectural features and elements of the proposed structure. The overall architectural character will be that of an attractive, well-maintained industrial building. The project site perimeter will be enclosed with wrought-iron or tubular steel fencing to enhance visuals and secure the perimeter.

Landscaping

Landscaping incorporates substantial plantings along the street frontage and in the parking areas with the implementation of the recommended Conditions of Approval. The proposed perimeter landscaping throughout the project site will help enhance the visual character of the streetscape in a manner that is compatible with the local desert environment. Landscaping has been designed to balance aesthetic, water use and security objectives. The proposed landscaping will consist of Phoenix Mesquite, California Fan Palms, along with low level plantings, and wrought iron fencing to visually enhance, protect and blend the cultivation facility into its surroundings while also promoting visibility by law enforcement vehicles from the street.

Lighting

Exterior lighting will be illuminate all exterior doors, signs, walkways, entrances, and parking area, subject to review by the Police Department. Lighting will be oriented downwards and shielded within the property to contain illumination within the project boundary. Lighting will also be reviewed as part of the City's required Regulatory Permit. The project site meets the one (1) candle foot minimum lighting requirement for industrial areas.

Security

Security measures have been considered and incorporated into the project design. The project site will be enclosed within perimeter security fencing. Gated entry/exit drives will control

vehicular access to and from the property. Security cameras will be located on all exterior doors, perimeter fencing, and entry gates. A 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

Operations involved with the proposed project can generate natural odors associated with plant blossoms. As mandated by Municipal Code Chapter 5.50 and 17.180, all medical marijuana cultivation activities are only allowed in the interior of enclosed structures, facilities, and buildings. To comply with the CUP requirements, the structure must provide the necessary odor control, ventilation and filtration systems for the cultivation and office areas of the structures sufficient to ensure that City requirements for odor control are met. Thus, the project is expected to result in minimal exterior plant odors.

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 geared to the cultivation of marijuana and may require staff to be present on premises 24 hours per day. Only authorized staff and delivery personnel will be allowed to enter the premises during the off-hours.

Projected Employment

The project's Initial Study estimated that the CUP project site will employ 22 full time employees.

AGENCY & PUBLIC REVIEW

Public Agency Review

The proposed project was routed to all relevant public agencies and departments for review.

AB 52 Review

The proposed project is subject to review by local Native American Tribal organizations, under Assembly Bill 52 (AB 52) requirements. Per AB 52 requirements, the Community Development Department sent notice to the potentially affected Native American Tribes, requesting their response within 30-days for formal consultation. The request for consultation period began on October 9, 2017 and ended on November 9, 2017, with a formal request for consultation requested by the Soboba Band of Luiseno Indians. A meeting was held with the Twenty-Nine Palms Band of Mission Indians on November 28, 2017 and a meeting was held with the Soboba Band of Luiseno Indians on December 05, 2017.

Public Hearing Notice

The project was noticed to neighboring owners within a 300-foot radius of the project site (on November 20, 2017) and was advertised in the Desert Star on Wednesday, November 22, 2017 per state noticing requirements. No public comments have been received as of this writing.

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 testing and cultivation facilities 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 measure for Cultural Resources and Biological Resources. The draft Mitigated Negative Declaration was circulated for a 20-day comment period which began on November 22, 2017 and ends on December 11, 2017. The

MND is attached for consideration by the Commission to consider certification of a Mitigated Negative Declaration prior to final action on the project.

FISCAL IMPACT

The project, which has 29,215 square feet of cultivation and 4,099 square feet of processing will annually contribute \$25 per square foot for the first 3,000 square feet (**\$75,000**), and then \$10 per square foot for the remaining space (**\$333,140**); for a total annual medicinal marijuana cultivation tax of **\$408,140**.

RECOMMENDATION

Staff recommends that the Planning Commission approve Conditional Use Permit No. 31-17, 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 medical marijuana cultivation, manufacturing, and processing facility which are identified in Section 17.180 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 medical marijuana cultivation facility qualifies as a "lighter industrial operation" in that no heavy manufacturing operations will be conducted on the site. Staff recommends this finding.

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 medical marijuana cultivation facility is physically organized to provide adequate parking, loading and pedestrian circulation for the proposed use with the recommended Conditions of Approval. Consequently, the site is physically suitable for the type and intensity of the proposed facilities. Staff recommends this finding.

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

The proposed medical marijuana cultivation facility is a light industrial use with ancillary processing, manufacturing, and administration activities, and can be considered similar to other industrial establishments allowed in the I-L (Light Industrial) zone, such as plant nurseries without on-site sales and light manufacturing operations. The proposed building is developed to accommodate the proposed uses and they appear to be able to accommodate a wide variety of industrial uses, if needed. The proposed facility does not appear to be outside the range of activities typical for a light industrial site and appears compatible with surrounding light industrial uses. 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.*

Existing and future land uses within the general area of the proposed medical marijuana facilities are light industrial land uses. Lands to the north, east, south and west are vacant, all surrounding lands are zoned for light industrial development. The site will be a self-contained development with all vehicle circulation needs accommodated on-site. The proposed building is located within the center of the subject property and the proposed use is not directly accessed from surrounding land uses. The height and general configuration of the proposed structure is similar to other industrial buildings in the area. Any signage will comply with the Desert Hot Springs Zoning Code. All activities will be contained within the proposed building and the operation will appear as a light industrial use consistent with the intent of the zone. Consequently, the proposed manufacturing, processing, and cultivation facilities are expected to be compatible with existing and future industrial development in the surrounding area. Staff recommends this finding.

6. *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 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.

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

The subject 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 project will not create any additional demand for access than will be provided by the associated parking and drive aisle. Staff recommends this finding.

8. *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 height (42 feet maximum) is consistent with the development standards of the zoning district and will not impede long-range views. While the proposed project will not 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.

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

The proposed use can be considered necessary and essential 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.

10. *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 project will be subject to all requirements of the 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 project will be located on a vacant property within a partially-developed industrial area, located in the I-L (Light Industrial) zone. All public improvements are either in place or will be constructed prior to occupancy. 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.

The project was noticed to neighboring owners within 300 feet of the project site (on November 20, 2017) and in the Desert Star on Wednesday November 22, 2017 per state noticing requirements. The Planning Commission will open the public hearing and take public comments and/or testimony on the dais and prior to any action or recommendation.

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 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.

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 proposed use will be in new permanent building with new associated site improvements, including parking, vehicle circulation, landscaping and trash enclosures. These improvements have been reviewed for adherence to applicable development standards and guidelines. The proposed architecture and landscape architecture, as conditioned, will result in esthetically acceptable development.

Community Design

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

The proposed use will be in new permanent building with new associated site improvements, including parking, vehicle circulation, landscaping and trash enclosures. These improvements have been reviewed for adherence to applicable development standards and guidelines. The building exterior, site landscaping, fencing and other improvements will be designed with appropriate materials, colors, plant types and other design elements 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 project site is presently vacant, but will be developed and used for light industrial use. The proposed building exterior (including height), site landscaping, fencing and other improvements are will be designed with appropriate materials, colors, plant types and other design elements that protect scenic view sheds, provide community cohesion and enhance the image of the City.

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.

All exterior signs shall be subject to approval under the Desert Hot Springs Zoning Code. The City sign regulations do not permit signs to exceed the height of building eave lines which will result in no impacts on scenic viewsheds.

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.

All exterior lighting shall comply with Section 17.40.170 (Outdoor Lighting Standards) 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 cultivation facility 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 provide opportunities for 22 new full-time employment opportunities 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 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 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 Operation and 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 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.

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

The proposed medical marijuana cultivation facility will be located 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 Mitigated Negative Declaration, 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.

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

The proposed project 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.

- 13. 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 project 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.

EXHIBIT(S)

- Exhibit No. 1 – Draft Conditions of Approval
- Exhibit No. 2 – Site Photographs
- Exhibit No. 3 – Proposed Site Plan
- Exhibit No. 4 – Perspectives, Elevations, and Floor Plans
- Exhibit No. 5 – Landscape Plan
- Exhibit No. 6 – Photometric Plan
- Exhibit No. 7 – Draft Negative Declaration with Mitigation Monitoring Program