

REPORT TO THE PLANNING COMMISSION



DATE: March 13, 2018

TITLE: Amendment to Conditional Use Permit No. 10-16 to increase the size from 62,994 SF to 70,118 SF, and rotating the building of the originally approved Cultivation Facility, the project is located on a 2.31-acre site approximately 350 feet east of Little Morongo Road and 1,000 feet north of Two Bunch Palms Trail in the Light Industrial (I-L) Zone. APN: 663-280-002.

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Reviewed by: Daniel Porras, Community Development Director

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 approve an amendment to Conditional Use Permit No. 10-16 to increase the size and rotate the previously approved structure, in addition to other changes. APN 663-280-002

PRIOR ACTIONS

On November 1, 2016, the original Applicant AB Wellness (now Green Bond), received approval of the project under Conditional Use Permit No. 10-16 to construct a Cannabis Cultivation Facility totaling 62,994 SF.

PROJECT SUMMARY

On January 11, 2018, the Applicant, Green Bond, LLC, filed an application for an amendment to their previously approved Conditional Use Permit (CUP 10-16) for the Green Bond Cultivation Project (formerly AB Wellness) to increase the size of the originally approved Cannabis Cultivation Facility from 62,994 SF to 70,118 SF, and to rotate the building to take advantage of the sunlight orientation, and other site/floor plan changes.



The vacant 2.31-acre project site is located approximately 350 feet east of Little Morongo Road and 1,000 feet north of Two Bunch Palms Trail in the Light Industrial (I-L) Zone. APN: 663-280-002. Topographically, the site is relatively flat. The project site is currently undeveloped, natural open space. The site is zoned Light Industrial (I-L) District where the proposed use may be developed. Construction is proposed in one (1) phase.

Surrounding properties consist of:

	Jurisdiction	Zoning & General Plan Designations	Current Land Use
North	City	IL (Light Industrial) District	Vacant Land
West	City	IL (Light Industrial) District	Fence Company
South	City	IL (Light Industrial) District	Vacant Land/Future Cultivation Facility
East	City	IL (Light Industrial) District	Vacant Land

Access to the site will be provided from Little Morongo Road through a road easement that accesses the property.

CUP AMENDMENT ANALYSIS

General Plan and Zoning Consistency: The project proposes to establish a Cannabis 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 one lot totaling 2.54 gross acres (110,701 square feet) in size. Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. Although the proposed amendment increased the building area from the original approvals, the proposed building lot coverage (Ground Floor Area) is 57,221 square feet or approximately 52% of the 2.54-acre project site, placing the project within the maximum allowed coverage.

Building Height: The highest point on the project will be the building parapets at approximately 30 feet. This is below the maximum height of 50 feet allowed in the IL District.

Building Setbacks: The minimum setbacks in the City's Industrial Zoning Districts are 20 feet in front, 10 feet in the rear, and 10 feet on the sides. The proposed amendment does not meet the minimum front setback requirements, the site plan shows a front setback of 8 feet which is below the 20 feet minimum. Staff has added a Condition of Approval requiring compliance with the minimum setbacks and/or the applicant may choose to request a reduction to the required front yard setback via a Minor Exception or Variance application. A Minor Exception can grant up to a 10% reduction. Anything more than 10% would require a Variance, which would also be subject to Planning Commission approval.

From the Zoning Code a Front Setback starts at the end of the future public or private thoroughfare. The future public/private thoroughfare and setbacks were shown correctly on the original CUP 10-16 that was approved by Planning Commission and City Council in November 2016 (See Exhibit 3).

The following are definitions of Front Setback and Street from our Zoning Code for reference:

Yard, Front. "Front yard" means an area extending across the full width of the lot between the front lot line or the existing or future street right-of-way and a structural setback line parallel thereto. On corner lots, the shortest street frontage shall be the front yard in residential land use districts, while the longest street frontage shall be the front yard in commercial/industrial land use districts.

"Street" means any public or private thoroughfare, which affords a primary means of access to abutting property.

The applicant has stated that the proposed Propane/Future Cogeneration and Cooling Tower area located on the north-east corner of the Proposed Site Plan (See Exhibit 4) are for future improvements and are intended as a placeholder. If these uses are considered structures they could potentially encroach into the rear and side setbacks, Staff has added a condition of approval requiring that these uses be subject to Planning, Building, and Fire Department approval, once there is a final design to review.

Circulation and Parking: Access to the site will be provided through a road easement that connects to Little Morongo Road. A total of two driveways are proposed to provide ingress and egress through the road easement on the south side of the property.

Off-Street parking standards for Cannabis Cultivation Facility 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), plant nurseries (1 space per 2,500 square feet), and industrial (1 per 750 square feet). This results in a requirement of 46 total parking spaces. The proposed site improvements will only provide 40 parking spaces, the proposed project does not provide sufficient parking for the uses proposed. The applicant can apply for a Minor Exception, which can provide up to a 10 % (4 parking spaces) relief in the number of required parking spaces. Staff has added a Condition of Approval requiring the project to comply with the parking standards.

Parking Calculation

Use	Area (Sq. Ft.)	Ratio	Number of Spaces
Office	1,520	1 per 250 square feet	6.08
Cultivation	55,521	1 per 2,500 square feet	22.21
Processing/ Manufacturing	4,380	1 per 750 square feet	5.84
Ancillary Industrial	8,697	1 per 750 square feet	11.60
Total Spaces Required			46
Total Spaces Provided			40

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 is proposed around most of the project site, which includes plantings along the street frontage and the parking area. 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 California Fan Palm, Texas Ebony, 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. Staff have added a Condition of Approval to require additional landscape variety on the south portion of the property, since only two plant species are currently proposed.

Lighting: Exterior lighting will be provided at all exterior doors and for the parking area, subject to review and approval by the Police and Planning Departments. 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.

Security: Security measures have been considered and incorporated into the facility with the recommended conditions of approval. The site will be enclosed within perimeter fencing. Gated entry/exit drives will control vehicular access to and from the property. 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: The project will implement best management practices to reduce the effects of plant odors during flowering which include the use of odor masking agents and neutralizers. Carbon filters will also be installed as part of the air conditioning and cooling system. Should odors emanate from the property in the future, staff will be provided an opportunity to re-evaluate and require additional mitigation measures.

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.

DEVELOPMENT AGREEMENT

When the project was originally approved in late 2016, it was approved with Development Agreement No. 10-16, which only contemplated cultivation uses. The current amendment proposes additional uses like manufacturing and distribution, which are currently not allowed per the Development Agreement. Staff has added a Condition of Approval requiring that the uses proposed on the floor plan must comply with the Development Agreement. Or until such time that the City Council approves an ordinance expanding approved uses in previously approved cultivation projects.

ENVIRONMENTAL ANALYSIS

On October 18, 2016, the City Council approved the Green Bond (formerly AB Wellness) Cannabis Cultivation Facility Project and in doing so certified the Mitigated Negative Declaration (MND) 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 a Conditional Use Permit Amendment is consistent with the original MND, and no further analysis is required. No significant changes are proposed as a part of the proposed Amendment.

PROJECTED EMPLOYMENT

The facility will employ 32 employees.

FISCAL IMPACT

The proposed Cannabis Cultivation Facility will contribute \$25 per square foot for the first 3,000 square feet, and then \$10 per square foot for the remaining space (55,509 SF) once it opens (**75,000 + 555,090 = \$630,090**).

RECOMMENDATION

Staff finds that the proposed amendment 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 approve the Amendment to Conditional Use Permit No. 10-16 subject to the Conditions of Approval, the mitigation measures outlined in the project Mitigated Negative Declaration, 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 to previously approved Conditional Use Permit to increase the size of the originally approved Cannabis Cultivation Facility from 62,994 SF to 70,118 SF, in addition to rotating the building to take advantage of the sunlight to the south and west. Cannabis Cultivation Facilities are 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 has been conditioned 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 Cannabis Cultivation Facility qualifies as a "lighter industrial operation" in that no heavy manufacturing operations will be conducted on the site, only the cultivation, distribution, and manufacturing of cannabis. Staff recommends this finding.

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

The project site is proposed to be developed as a light industrial site with parking and other features and amenities appropriate to the development. The proposed Cannabis Cultivation Facility is physically organized to provide adequate parking, loading and pedestrian circulation for the proposed use, with the Conditions of Approval. 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 Cannabis Cultivation Facility is a light industrial use with ancillary 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. The proposed interim facilities are developed to accommodate the proposed cultivation use. The proposed cultivation 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 Cannabis Cultivation Facility are light industrial land uses. Lands to the north, east, south and west are either vacant or developed with light industrial uses. 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 height and general configuration of the proposed structure is similar to other approved Cannabis Cultivation Facilities proposed in the area. Any signage will comply with the Desert Hot Springs Zoning Code. All activities will be contained within the proposed Cannabis Cultivation Facility and the operation will appear as a light industrial use consistent with the intent of the zone. Consequently, the proposed amendment to a previously approved Cannabis Cultivation Facility is expected to be compatible with existing and future industrial development in the surrounding area, with the Conditions of Approval. 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 Cannabis Cultivation Facility will consist of one (1) two story building totaling 70,118 SF. Although the project is currently not meeting the required minimum 20-foot front setback requirements, with the recommended Conditions of Approval the scale, mass, coverage, density and intensity of the proposed use will be consistent with light industrial activities. The projects location within an existing light industrial setting will allow it to be compatible with adjacent industrial uses, with the Conditions of Approval. 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 will be developed as a Cannabis Cultivation Facility. 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.

8. *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. The proposed Cannabis 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.

9. *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 Cannabis Cultivation Facility (approximately 30 feet in height) will not impede long-range views. While the proposed facility will occupy a portion of the subject site, surrounding lands available for other businesses will not be limited in their future development by the proposed use. In addition, as part of Staff's recommended Conditions of Approval, the project will be required to comply with the minimum parking requirements, add additional landscape variety on the south (street side) portion of the property, and comply with the minimum front setback requirements. Staff recommends this finding.

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

The proposed Cannabis Cultivation Facility 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.

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 Cannabis Cultivation Facility will be subject to all requirements of this Conditional Use Permit Amendment, 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 Cannabis Cultivation Facility 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.

Prior to Planning Commission review of the project application, notice of the proposed amendment to a previously approved Conditional Use Permit to increase the building size and rotate the structure, in addition to other changes was provided to property owners within 300 feet of the proposed site. A notice of the public hearing was also published in the Friday, March 2, 2018 Desert Star newspaper. 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 (as of March 7, 2018).

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 Cannabis 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 located in a structure with new associated site improvements, including parking, vehicle circulation, and other improvements. 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 located in a new greenhouse structure with an attached concrete head house. New associated site improvements, including parking, vehicle circulation and other improvements are also proposed. These improvements have been reviewed for adherence to applicable development standards and guidelines. The building exterior, site landscaping, fencing and other improvements have been designed and/or conditioned with appropriate materials, colors, plant types and other design elements to assure compatibility with the City's desert setting and surrounding development. Staff have added Conditions of Approval to ensure that this goal is met.

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, 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 viewsheds, 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) 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 Cannabis 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 Cannabis 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 Cannabis 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 Amendment 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 January 11, 2018 and 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 (Marijuana Facilities Regulatory Permit), Section 17.40 (Property Development Standards) and Section 17.180 (Marijuana Facilities Operation and Location).

Fire and Police Protection

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

The proposed Cannabis Cultivation Facility will be conditioned to include security measures, including door locking systems, exterior lighting, camera monitoring and other systems to minimize the impact on police protections services. Consequently, the proposed Cannabis 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.

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

The proposed Cannabis 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 project's 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.

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

The proposed Cannabis Cultivation Facility will be operated as a light industrial use in a greenhouse and other structures 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 Cannabis 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.

EXHIBITS:

- Exhibit No. 1 – Draft Conditions of Approval
- Exhibit No. 2 – Site Photographs
- Exhibit No. 3 – Original Site Plan
- Exhibit No. 4 – Proposed Site Plan
- Exhibit No. 5 – Building Elevations
- Exhibit No. 6 – First Floor Plan
- Exhibit No. 7 – Second Floor Plan
- Exhibit No. 8 – Landscape Plan
- Exhibit No. 9 – Lighting Plan