

## REPORT TO THE PLANNING COMMISSION

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**DATE:** April 10, 2018

**TITLE:** Amendment to Conditional Use Permit (CUP 03-16) to allow for changes to interior uses within the previously approved Cannabis Cultivation Facility located on the southeast corner of Cabot Road and Two Bunch Palms Trail. APN: 665-030-059, Applicant: Med for America Inc.

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**Reviewed by:** Scott Taschner, Senior Planner  
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### **RECOMMENDATION**

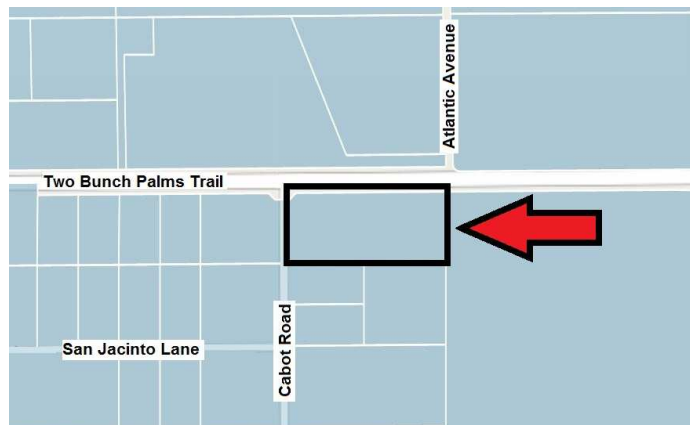
- 1) Staff Report;
- 2) Entertain Questions of Staff from Planning Commission;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Opportunity for Applicant Rebuttal;
- 7) Close the Public Hearing;
- 8) Planning Commission discussion and questions to Staff; and
- 9) A recommendation from staff for approval of the Amendment to Conditional Use Permit (CUP 03-16) to allow for a change in interior uses within the Med for America cannabis cultivation building, located at the southeast corner of Cabot Road and Two Bunch Palms Trail in the I-L (Light Industrial) District. APN: 665-030-059.

### **PRIOR ACTIONS**

On April 12, 2016 the Planning Commission of Desert Hot Springs approved the original project, Conditional Use Permit No. 03-16.

### **BACKGROUND**

Sections 5.50 and 17.180 of the Desert Hot Springs Municipal Code (DHSMC), allow Cannabis Cultivation Facilities and Ancillary Activities in Industrial Districts subject to a Conditional Use Permit (CUP) approved by the Planning Commission. The applicant, Med for America, has filed an application to amend CUP 03-16 to allow for a change in the interior uses of the building, namely to add distribution and to change two cultivation rooms to manufacturing.



### **DISCUSSION**

The proposed amendment changes some of the uses within of the building, 1) to change a quarantine room to a distribution area in order to meet with State requirements for obtaining a “distributors” license and to complete the business model for the on-site operations of the facility, and 2) to change a flower room and a mother room to manufacturing/extraction areas. There are no exterior changes to the building or site plan are being proposed. The landscaping,

parking, building placement, building height, lighting plan, etc. all remain the same as approved in April of 2016.

### **FISCAL IMPACT**

The change in use of two of the rooms from cultivation to manufacturing will reduce the expected tax revenues as per recent actions by the City Council (loss of approximately 1350 square feet of taxable area – a \$33,750 loss of yearly revenue).

### **ENVIRONMENTAL DETERMINATION**

On April 12, 2016, The Planning Commission approved the permanent cultivation project (CUP 03-16) 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.

### **RECOMMENDATION**

Staff recommends that the Planning Commission approves the amendment to Conditional Use Permit No. 03-16, 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 Cannabis 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 Cannabis 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. 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 amendment is consistent with the uses permitted in the zoning district and is physically suitable with the development of the site. and will not intensify the projects overall impacts on the site. 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 Cannabis Cultivation Facility only changes some of the interior uses of the building. The distribution activities and expansion of manufacturing 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 Cannabis Cultivation Facility only changes some of the interior uses of the building. Distribution activities will be ancillary to the main use of the building and will complement the business activities taking place within the building and in the general area. Light-industrial cannabis activities are allowed in the light industrial land use district (general area) subject to approval of a Conditional Use Permit. Much of the area has been entitled and/or is being developed for the cannabis cultivation industry and related ancillary uses, including distribution activities. Therefore, staff has concluded that the proposed amendment is compatible with the land uses approved for the site and for the 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.*

Much of the adjacent area has been entitled and/or is being developed for the cannabis cultivation facilities and related ancillary uses, including distribution and manufacturing activities. The proposed amendment of the previously approved Cannabis Cultivation Facility only changes some of the interior uses of the building. There are no changes to the footprint, massing, scale of the building and no changes are proposed that would increase the intensity or the density of the project and associated uses. Much of the area has similar architecture, massing and building heights. And, each project has the same set of standards for maximum height and building lot coverage. Therefore, staff has concluded that the proposed amendment is compatible with the adjacent land uses in that 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.

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 light industrial use with all public services and utilities installed prior to occupancy. The proposed change in use of a portion of the existing building 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 proposed changes in use are only to the interior of an existing Cannabis Cultivation Facility. The proposed changes in use 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 building is an existing structure and the proposed amendment is only for a change in use within the building. Thus, the proposed amendment will not create any adverse effects upon the desirable neighborhood characteristics. Staff recommends this finding.

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

The proposed amendment to the previously approved cultivation facility only changes the interior uses 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.

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 amendment to the previously approved Cannabis 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 mailed to all property owners within 300 feet of the proposed site. A notice of the public hearing was also published in the Friday March 30, 2018 Desert Star Weekly. The application has been available for review in the Planning Department at City Hall. At the writing of this report, 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 Cannabis Cultivation Facility is anticipated to be a non-polluting and clean industrial use that will generate additional jobs and revenue for the community, thereby broadening the economic and employment base of the city. The operations will be located within an existing building in a partially-developed industrial area in the I-L (Light Industrial) zone, and will be developed with all ancillary site improvements (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 Cannabis Cultivation Facility will provide opportunities for new business opportunities, new employment opportunities, and will help to diversify the Desert Hot Springs cannabis industry and provide for ancillary support services to other businesses/models within the city and may help to provide a greater degree of success to local business and local economy.

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

The proposed change in use to include distribution will provide ancillary support to the approved Cultivation Facility. The proposed amendment of the Cannabis Cultivation Facility will provide opportunities for new business opportunities, new employment opportunities, and will help to diversify the Desert Hot Springs cannabis industry and provide for ancillary support services to other businesses/models within the city and may help to provide a greater degree of success to local business and local economy which will, in turn, help to provide additional revenues to the City to support present and future public facilities and needs for additional services.

*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 is required to help assure compatibility with surrounding land uses and to develop project-specific conditions to assure successful operations of the business and to ensure that the City's development goals are achieved. That said, staff has processed this application in a timely manner while following all of the City & State's requirements. The application was received on February 28, 2018 and the Planning Commission will hear the item on April 10, 2018.

*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 change in use to include distribution in the previously approved Cannabis Cultivation Facility will include security measures, including door locking systems, exterior lighting, camera monitoring and other systems to minimize the impact on police protections 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 and a Final Inspection will be conducted to insure compliance with all conditions and reequipments prior to occupancy of the building. Staff recommends this finding.

### *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 amendment to allow for distribution use and the expansion of manufacturing is within an existing facility 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 and no significant change is proposed that would create additional impacts or require additional mitigation measures. A final inspection, by City staff, will be conducted to insure compliance with all conditions and requirements prior to occupancy of the building. Staff recommends this finding.

### **EXHIBITS:**

- 1) Draft Conditions of Approval
- 2) Existing Floor Plan
- 3) Proposed Floor Plan