

REPORT TO THE CITY COUNCIL



DATE: April 17, 2018

TITLE: Applications for Entitlement of the Desert Land Ventures Mixed Use Development Project Located North of the I-10 Freeway, West of Palm Drive, and South of Varner Road, in the Light Industrial (L-I) and Rural Desert (R-D) General Plan and Zoning Land Use Districts (SP 01-16, GPA 01-16, ZMA / ZTA 01-16, Vesting TTM 37185, and Development Agreement 01-18) (Applicant: Ted Frattone, Hunsaker & Associates)

Prepared by: Scott Taschner, Senior Planner

Reviewed by: Daniel Porras, Community Development Director

RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from City Council;
- 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) City Council discussion and questions to Staff; and
- 9) Consider a recommendation from the Planning Commission to the City Council for certification of the Environmental Impact Report and Mitigation Monitoring Program and to adopt findings of fact recommending approval of:

A. Specific Plan 01-16, General Plan Amendment 01-16, and Zoning Ordinance Amendment 01-16 to establish development regulations and guidelines for the subject site;

B. Vesting Tentative Tract Map No. 37185 to divide the properties into thirteen lots plus streets; and

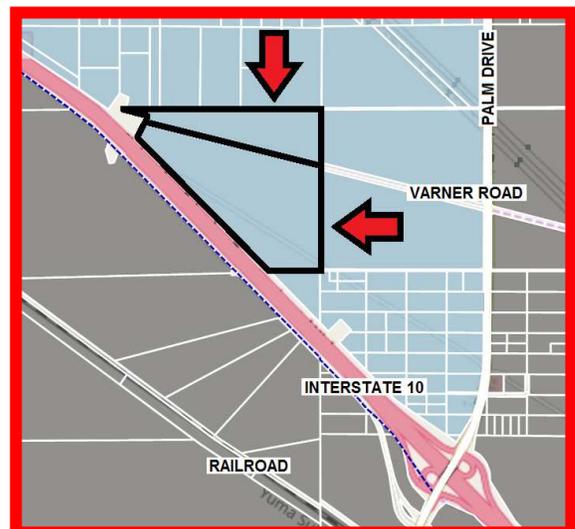
C. Development Agreement No. DA 01-18;

to allow up to 1.9 million square feet of commercial and industrial development on a vacant 123.4 acre property located along the north side of Interstate 10, along both sides of Varner Road, and approximately one-half mile west of Palm Drive (APN: 669-150-001 and -002) in the R-D (Rural Desert) and L-I (Light Industrial) zones.

PRIOR ACTIONS

On February 13, 2018 the Planning Commission held a public hearing and made a recommendation to the City Council for approval of the project, subject to the following revisions/conditions:

- 1) That the applicant/developer work with City staff to revise the permitted uses table (to eliminate uses that will not be compatible with future uses (e.g. some of the heavy manufacturing uses)



- 2) That the applicant/developer work with City staff to create a “freeway frontage overlay” zone, in which cannabis cultivation and heavy manufacturing uses will be prohibited.

- 3) That the applicant/developer work with City staff to find a reasonable short-term and long-term solution for the ultimate right of way of Varner Road.

BACKGROUND

The Desert Hot Springs Municipal Code (“DHSMC”) provides for the adoption of Specific Plans and related actions, as follows:

- Chapter 17.128 provides for the approval of Specific Plans;
- Chapter 17.100 provides for the adoption of General Plan Amendments; and
- Chapter 17.88 provides for the adoption of Zoning Ordinance Amendments.

In addition, Title 16 (Subdivisions) of the Desert Hot Springs Municipal Code (DHSMC), allows the division of properties, subject to compliance with the California Subdivision Map Act (California Government Code Section 66410 et seq.) and approval of a tentative map by the Planning Commission. Finally, Chapter 17.84 of the DHSMC allows for the approval of development agreements by the City Council. The applicant, Ted Frattone / Desert Land Ventures III, LLC has filed applications for a Specific Plan, General Plan Amendment, Zoning Ordinance Amendment to establish development regulations and guidelines for the site, a Vesting Tentative Tract Map to subdivide the site, and a draft Development Agreement.

The site is located along the north side of Interstate 10, along both sides of Varner Road, and approximately one-half mile west of Palm Drive (APN: 669-150-001 and -002) in the R-D (Rural Desert) and L-I (Light Industrial) zones. The property is made up of two parcels with a combined gross area of approximately 123.4 acres. It has street frontage on both sides of Varner Road, and proposes additional public streets within the project. A substantial portion of the site is proposed to be dedicated for permanent open space. Following dedication of street rights-of-way and open space, the site will have a net buildable area of approximately 48.7 acres.

Immediately surrounding properties are developed as follows:

	Zoning & General Plan Designations	Current Land Use
North and East	Rural Desert (RD)	Conservation Area and Open Space
Southeast	Rural Residential (RR) and Light Industrial (L-I)	Residential and Vacant Land
Southwest	Interstate 10	Freeway

PROJECT SUMMARY

The project is described in the proposed Desert Land Ventures Specific Plan as “a sustainable, innovative, and high-quality, master-planned industrial and technology business park that accommodates a mix of industrial warehouses and businesses, as well as accommodating freeway-oriented commercial and hospitality uses.” Chapter Three of the proposed Specific Plan establishes the planning areas, labeled PA-1 and PA-2 (Figure 3.3) and the circulation scheme. Since the General Plan Land Use and Zoning Map presently designates the properties Rural Desert (R-D) and Light Industrial (L-I), amendments to the General Plan and Zoning Ordinance are necessary to incorporate these new planning areas into the City’s land use map,

as well as establish appropriate zoning regulations and guidelines to fulfill the objectives of the Specific Plan.

The Specific Plan anticipates that the Planning Area 1 (PA-1) will be developed with uses generally conforming to those permitted in the General Commercial (C-G) and Light Industrial (L-I) zones. PA-1 would be eligible for up to about 1.9 million square feet of mix commercial-industrial building area, while PA-2 will be undeveloped and restricted to open space / conservation uses. Marijuana cultivation and processing are expected to be a significant part of future development; however, no specific proposal has been submitted for review at this time. The Specific Plan establishes the following limits on marijuana cultivation and other specific uses:

Project Type	Maximum Building Area
Marijuana Cultivation	1,154,068 sq. ft.
Marijuana Dispensaries	115,407 sq. ft.
Hotel	150 rooms
Energy Facilities in Conservation Area	10% (approx. 3.9 acres)

A two-stage phasing plan is proposed for Planning Area 1 (Figure 3-2):

- Phase 1 takes in about 20 acres in the north-central part of PA-1, plus the 1.6 acre water facility at the western edge of PA-1. Land use limitations in Phase 1 are 712,206 square feet of industrial uses and 166,181 square feet of commercial activity.
- Phase 2 takes in the remaining 24 acres along the east and south edges of PA-1, plus the wastewater facility site at less than one acre at the southeast corner of PA-1. Development limits Phase 2 are 826,551 square feet of industrial activity and 192,861 of commercial uses. (It is also anticipated that the WECS / solar field in Planning Area 2 would develop during Phase 2.)
- The plan allows for the transfer between phases of both commercial and industrial square footage as long as the overall total limit is maintained.

Streets and other support infrastructure will be installed in each phase sufficient to provide adequate access and public services. In order to provide for orderly development of the project, a Vesting Tentative Tract Map has been submitted to subdivide the entire site into thirteen lots (eight numbered for development in PA-1 and five lettered lots for open spaces in PA-2) plus street rights-of-way.

Development of Planning Area 1, as proposed, will yield the following building totals (square feet):

Table 3-1 Land Use Development Summary

Planning Area	Land Use District	Acres (Gross)	Maximum FAR	Maximum Gross Square Feet			Maximum Hotel Rooms/Keys
				Phase 1 ^{1,2}	Phase 2 ^{1,2}	Project Total	
1	Mixed Use (Industrial)	63	1.5	712,206 ³	826,551 ³	1,538,757 ³	150 ^{5,6}
	Mixed Use (Commercial)			166,181 ^{4,5}	192,861 ^{4,5}	359,042 ^{4,5}	

Table 3-1 Land Use Development Summary

	l)						
2	Open Space/ Conservation ⁷	38.7	—		—		—
Backbone Infrastructure ^{2,8}	—	21.7	—		—		—
Total	—	123.4	—	See above	See above	See above	150

¹ Refer to Section 3.3, *Phasing Plan*, for a discussion of the Specific Plan’s phasing plan.

² Land use intensity transfers between phases are permitted so long as the maximum gross square footage does not exceed the project total. Additionally, surplus land (if available) from the proposed water and wastewater facility sites (portion of backbone infrastructure) may be used for development in Planning Area 1 so long as the maximum gross square footage does not exceed the project total. Refer to the *Planning Area 1* description and Section 3.2, below, for a discussion of allowable intensity transfers between phases and Planning Areas.

³ A maximum of 1,154,068 gross square feet may consist of marijuana cultivation area (Phase 1 maximum: 534,155 gross square feet, Phase 2 maximum: 619,913 gross square feet). Marijuana cultivation is prohibited in the Freeway Frontage Overlay Zone (see Figure 3-1, *Specific Plan Land Use Plan*, and Table 5-1, *Permitted Land Uses*).

⁴ A maximum of 115,407 gross square feet may consist of marijuana dispensary retail space (Phase 1 maximum: 53,416 gross square feet, Phase 2 maximum: 61,991 gross square feet).

⁵ The maximum commercial square footage allowed in Planning Area 1 includes development of a hotel (or hotels) that could accommodate up to 150 rooms/keys. The square footage of the hotel(s) developed shall be accounted for in and deducted from the maximum commercial square footage allowed.

⁶ The total number of hotel rooms/keys that can be developed in Planning Area 1 shall not exceed 150. The number of rooms/keys can be split between proposed hotel developments, but may not exceed 150.

⁷ Up to a maximum of 10% of the Open Space/Conservation area (approximately 3.9 acres) may be developed with sustainable energy facilities (wind energy conversion systems and solar farms/fields), electrical substation facilities, and water/sanitary sewer facilities. Refer to the *Planning Area 2* description below for a discussion of the permitted uses within the Open Space/Conservation area.

⁸ Backbone infrastructure includes public roads and water, wastewater, and drainage infrastructure.

Cannabis Related Operations

As noted, marijuana cultivation and dispensaries can be expected to occupy a significant role in the project. That said, the current policy of the City Council does not allow for licensing of any additional dispensaries unless the applicant/developer partners with a pre-screened and previously approved applicant/licensee, or until such time that the City Council changes its policy on new dispensaries. Staff has added a condition of approval (No 4.) to reflect this requirement. The City Council has conveyed to staff concerns over additional cultivation facilities being permitted next to the I-10 Freeway corridor at the southern and eastern portion of the city near the Palm Drive corridor as reflected in last year’s moratorium on cultivation facilities in the 207-acre area adjacent to this project. Staff indicated this to the Planning Commission and the Planning Commission added a condition that cannabis cultivation and certain heavy manufacturing uses be prohibited on the 2 lots next to the 1-10 Freeway. Since then, the applicant has worked with staff in creating a “Freeway Frontage Overlay” to reflect those requirements.

Hotels

The maximum number of hotel keys may be contained in a single hotel or in two or more, and may be in either phase of Planning Area 1 so long as the cumulative total does not exceed 150. In addition, the square footage of hotels counts as part of the total square footage allowed in the phase / Planning Area.

Access

Vehicular access to the project is presently provided by Varner Road, a dedicated 60-foot wide public right-of-way that runs in a slight west-northwest direction from Palm Drive to the site’s eastern boundary. Varner Road has been paved but is not maintained and is currently in

dilapidated condition. No other public vehicular access is available. An undedicated and unimproved dirt road – Mihalyo Road – exits the site’s southeast corner and connects to Palm Drive, about 1500 feet north of Interstate 10. Also, an unimproved service road providing access to Edison power lines runs along the site’s southwest edge, next to the Interstate 10 right-of-way. Three off-site, unimproved public street rights-of-way about the project:

- Half of 21st Avenue touches the site’s northeast corner and runs due east to Palm Drive,
- Half of Thornton Road touches the site’s southeast corner and runs due east to Palm Drive, and
- Half of West Drive runs along the site’s eastern boundary from 21st Avenue to Thornton Road.

Vehicular circulation to and within the project area is provided with dedicated public streets. Access into the site from Palm Drive is proposed by a fully improved Varner Road. No other public access to the site is proposed. Within the site, the Varner Road right-of-way is currently dedicated at a width of 40 feet, but will be expanded and improved to a dedicated width of 110 feet. (No other public rights-of-way currently exist within the project area.) To the south and nearly parallel to Varner Road, Mihalyo Road will be dedicated at a width of 128 feet (including a 40-foot gas transmission line easement) and improved. Four north-south public streets (with right-of-way widths ranging from 60 to 80 feet) will connect Varner and Mihalyo Roads, including West Drive along the eastern site boundary. In summary, the main circulation pattern within the project area will be a loop (Varner Road, West Drive, Mihalyo Road and “A” Street) with two north-south streets (“B” and “C” Streets) providing internal access. In addition, along a portion of the site’s southern boundary a small section of Thornton Road will be dedicated at a width of 60 feet and improved.

Additional circulation features include:

- Multi-purpose trail (10-foot width) for pedestrians and bicyclists along the south side of Varner Road.
- Sidewalks (6-foot width) on portions of “A” Street, Mihalyo Road, West Drive and Thornton Road, and on both sides of “B” and “C” Streets.
- No driveway access from Varner Road directly into future development projects within Planning Area 1 to preserve the 10-foot wide multi-purpose trail as well as maintain the flood control plan.
- Landscaping along portions of the right-of-way fronting the conservation areas of Planning Area 2 (west side of “A” Street and north side of Varner Road) to establish a buffer against pedestrian access.
- Upgrades to Varner Road east of the site (to Palm Drive) limited to a 32-foot wide two-lane road; no sidewalk or other improvements are proposed.

Utilities

Chapter Four discusses the provisions for utilities and public services, including water, drainage, electricity, natural gas, waste disposal, fire protection / emergency medical services and police protection. Future wastewater (sewer) line options are mapped from the proposed Mission Springs Water District Regional Wastewater Treatment Plant. In the meantime, wastewater is proposed to be stored on-site in underground tanks and trucked off-site for proper disposal. For drainage, the plan notes that the entire site is within the 100-year flood plain. Drainage is proposed to be managed through swales and infiltration basins constructed along the site’s interior streets. Energy needs will be met through upgrades to existing utility infrastructure, and

limits on development above the natural gas easement located along the south side of Mihalyo Road (future) are described.

Development Standards

Chapter Five contains the development regulations (zoning standards) for the site, including allowed and conditional uses, setbacks, lot coverage, heights and other criteria. The list of permitted and conditionally-permitted uses in Planning Areas 1 and 2 are contained in Table 5-1. The list of uses which may be allowed in the Planning Area 1 is derived from the City's General Commercial (C-G) and Light Industrial (L-I) zones, with certain variations. As previously noted, the number of allowed square feet for marijuana cultivation and marijuana manufacturing / processing indicates that this is the primary activity intended for the site. However, a wide variety of retail, general office and industrial activities are also permitted.

Chapter Six details the Specific Plan's design guidelines and establish the intensions for site design, building architecture and site landscaping within Planning Area 1, with three overall goals:

“...establishment of a distinctive gateway into Desert Hot Springs, establishing the quality design threshold for future development in other areas of the City, and modelling of the application of sustainable development practices.”

Guidelines in this chapter address all elements of physical development: Site design, architecture, lighting signage, common areas, public art, landscaping, sustainability and greenhouse design.

Lastly, Chapter Seven provides policies for administration / implementation of the Plan and an analysis of the Specific Plan's consistency with the Desert Hot Springs General Plan is contained in Appendix A.

SPECIFIC PLAN ANALYSIS

General Plan Amendment: The Desert Land Ventures Specific Plan's "Land Use Plan" (Chapter Three) proposes to amend the Desert Hot Springs General Plan Land Use and Zoning Map to replace the Rural Desert (R-D) and Light Industrial (L-I) land use designations (see Exhibit No. 8) with the Planning Area designations – PA-1, and PA-2 – as indicated on the Specific Plan's Land Use Plan, Figure 3-1 (Exhibit 10). (Accompanying this revision will be an amendment to the Zoning Ordinance to establish the development regulations for each planning area; see next section).

The Land Use Plan described in Section 3.1 also provides direction on site's overall development, including policies related to transfers of land use intensities within Planning Area 1, and the protection of open space is Planning Area 2. Staff notes that Planning Area 2 generally conforms to the boundaries of the Coachella Valley Multi-Species Habitat Conservation Plan (see Exhibit 9). A phasing plan is described in Section 3.2 (Figure 3-2, Exhibit 11) and a mobility plan in Section 3.3, which support long-term development of the site and its transportation access.

Adoption of the Specific Plan will establish these Master Plan policies as the basis for reviewing future improvement plans, including grading, construction, circulation and landscaping. Staff has reviewed these policies and finds no conflicts with the City's General Plan policies, and has no concerns with the proposed phasing schedule, which is identified as dependent on market demand. Section 17.100 of the Municipal Code requires that certain findings be made by the City Council prior to amending the General Plan. An analysis of the Specific Plan in light of these required findings, as well as findings for the other requests, is provided later in this report.

Specific Plan Adoption: In addition to providing amendment language for the General Plan and Zoning Ordinance, the Specific Plan will establish certain implementation regulations which include “Design Guidelines” (Chapter Six) and “Plan Administration” (Chapter Seven). Development of the site will be reviewed under the provisions of these chapters, some of which will be incorporated into the new zoning designation (see below). Based on comments received from the Mission Springs Water District (MSWD), staff recommends additional language in Chapter Seven of the Plan to assure that the project annexes into MSWD’s jurisdiction and also that a Water Supply Assessment and Water Supply Verification are prepared prior to development (see Condition No. 2). In general, all future development will be subject to review against the Specific Plan Design Guidelines, typically through the Design Review approval. The Plan also establishes the Planning Commission as the reviewing authority for Design Review. Staff believes that this is an appropriate review process as it will assure that future construction will fulfill the goals, objectives and guidelines of the Specific Plan.

Zoning Ordinance Amendment: The proposed Specific Plan “Development Standards and Regulations” (Chapter Five) establishes use limitations and development standards for both planning areas, and these regulations constitute an amendment to the Zoning Ordinance. In summary, PA-1 is a commercial and industrial development area with allowed uses typical of the C-G (General Commercial) and L-I (Light Industrial) zones. PA-2 is an open space area with development restricted to a limited amount of energy-related uses. Each planning area has unique sets of standards which are described below; however, it should be noted that, at a minimum, the Specific Plan calls for Design Review approval by Planning Commission for all development in the Planning Areas.

Land Uses in PA-1 and PA-2. As the development-oriented planning area, PA-1 proposes a wide variety of commercial and industrial uses which would be allowed subject to only Design Review by the City, or subject to discretionary permits (CUP’s, Regulatory Permits, etc.) PA-2 is primarily limited to open space and some energy-related activities. The list of uses for both planning areas is compared with how these same uses are treated in the C-G (General Commercial) and L-I (Light Industrial) zones. Please note the following: “DR” means a Design Review Permit is required, “CUP” means a Conditional Use Permit is required, “RP” means a Regulatory Permit is required, and “NP” means the use is not permitted.

Table 5-1 Permitted Land Uses

Land Use	Planning Area (PA) and Land Use District		
	PA 1 Mixed Use	PA 1 Freeway Frontage Overlay Zone	PA 2 Open Space/Conservation
INDUSTRIAL			
Agricultural and Resource			
Commercial gardening (indoor/enclosed only)	DR	NP	NP
Crop production (indoor/enclosed only)	DR	NP	NP
Plant nursery, with onsite sales (indoor/enclosed only)	DR	DR	NP
Plant nursery, without onsite sales	DR	DR	NP
Manufacturing and Processing			
Food products	DR	DR	NP
Laundry and dry-cleaning plant	DR	NP	NP
Light manufacturing facility	DR	NP	NP
Medium manufacturing facility	DR	NP	NP
Marijuana facility, including greenhouses ¹	CUP & RP	NP	NP
Mixed use office/industrial	DR	DR	NP

Table 5-1 Permitted Land Uses

Land Use	Planning Area (PA) and Land Use District		
	PA 1 Mixed Use	PA 1 Freeway Frontage Overlay Zone	PA 2 Open Space/Conservation
Printing/publishing	DR	NP	NP
Recycling–Reverse Vending Machine	DR	DR	NP
Warehouse and distribution	DR	NP	NP
Wholesale	DR	DR	NP
COMMERCIAL			
Recreation, Education, and Public Assembly			
Adult day care facility	CUP	NP	NP
Art gallery and museum	DR	DR	NP
Commercial recreation and entertainment facility: including health/sports club, or interior uses such as martial arts, personal training, bowling, arcade, skating rink, bounce house, billiards, and other similar uses	DR	DR	NP
Convention center and facility	DR	DR	NP
Library	CUP	CUP	NP
Organization office or facility	DR	DR	NP
Outdoor commercial recreation	CUP	DR	NP
Recreational vehicle storage	CUP	NP	NP
Sports facility and outdoor public assembly	CUP	CUP	NP
Studio for dance, art, music, photography, etc.	DR	DR	NP
Theatre and meeting hall	CUP	CUP	NP
Retail			
Accessory retail use	DR	DR	NP
Auto, mobile home, motor vehicle sales, used or new	CUP	CUP	NP
Automobile parts and supply stores	DR	DR	NP
Bars and drinking establishments	CUP	CUP	NP
Bakery, coffee, ice cream, and other similar uses, with or without drive-thru	DR	DR	NP
Book stores	DR	DR	NP
Building material/home improvement stores	DR	DR	NP
Certified farmers' market	CUP	CUP	NP
Commercial retail uses such as clothing, food, gifts, services, and other similar uses	DR	DR	NP
Convenience stores	DR	DR	NP
Drive-in and drive-through sales	DR	DR	NP
Drug stores	DR	DR	NP
Factory outlet centers	DR	DR	NP
Farm and ranch supply stores	DR	DR	NP
Furniture, furnishings, home equipment stores	DR	DR	NP
Fuel and ice dealers	DR	DR	NP
Hardware/lumber and building material stores (indoor/enclosed only)	DR	DR	NP
Liquor stores (offsite consumption)	CUP	CUP	NP
Marijuana dispensary facility ²	CUP & RP	CUP & RP	NP
Outdoor retail merchandise display and activities	CUP	CUP	NP
Outdoor retail sales, temporary	CUP	CUP	NP

Table 5-1 Permitted Land Uses

Land Use	Planning Area (PA) and Land Use District		
	PA 1 Mixed Use	PA 1 Freeway Frontage Overlay Zone	PA 2 Open Space/Conservation
Restaurant, without alcoholic beverage service	DR	DR	NP
Restaurant, with alcoholic beverage service	CUP	CUP	NP
Restaurant, drive-in, takeout, fast food	CUP	CUP	NP
Retail store, general merchandise	DR	DR	NP
Second/hand thrift stores	CUP	CUP	NP
Shopping centers, 12,000 square feet or more	DR	DR	NP
Video rental stores	CUP	CUP	NP
Warehouse or club stores (big-box stores)	DR	DR	NP

Table 5-1 Permitted Land Uses

Land Use	Planning Area (PA) and Land Use District		
	PA 1 Mixed Use	PA 1 Freeway Frontage Overlay Zone	PA 2 Open Space/Conservation
Financial, Professional, or Personal Services			
Automatic teller machine (ATM), stand-alone (only when proposed inside of a building/business)	DR	DR	NP
Banks and financial institutions, with or without drive-through	DR	DR	NP
Basic personal and professional service, non-medical: including barber/beauty shop, catering (without trucks), pet grooming (without boarding), dry cleaner, locksmith, mail box rental, nail/manicure shop, repair shop for small appliances or electronics, bicycle sales/repair/rental, tailor, shoe repair, tanning salon, travel agent, accounting, advertising, architecture, artist studio, bookkeeping, business headquarters, check cashing and loans, computer programming, consulting, contracting, engineering, insurance, law, marketing, photography, real estate, or tax preparation.	DR	DR	NP
Basic professional services, medical: including chiropractors, dentistry, diet/nutrition center, medicine, medical laboratory, professional care providers, psychiatry, psychology	DR	DR	NP
Bed and breakfast	CUP	CUP	NP
Body piercing and tattoo establishments	CUP	CUP	NP
Business-supportive services: including copy, fax, mail box rental, supplies; business equipment rental, sales, and repairs	DR	DR	NP
Car wash	CUP	NP	NP
Commercial parking and motor vehicle storage	CUP	NP	NP
Drive-in and drive-through services	CUP	CUP	NP
Hotel and motel, with or without spa	DR	DR	NP
Medical labs and research facilities	DR	DR	NP
Office, general, administrative, professional, or medical	DR	DR	NP
Office, temporary	CUP	CUP	NP
Repair and maintenance of consumer products	DR	DR	NP
Repair and maintenance of motor vehicles (indoor/enclosed only)	CUP	NP	NP
Research and development facilities	DR	DR	NP
Self-storage, mini-warehouse, etc.	DR	NP	NP
Veterinary clinics and animal hospitals (no boarding)	CUP	CUP	NP
Vocation and business trade schools	DR	DR	NP

Table 5-1 Permitted Land Uses

Land Use	Planning Area (PA) and Land Use District		
	PA 1 Mixed Use	PA 1 Freeway Frontage Overlay Zone	PA 2 Open Space/Conservation
UTILITIES, ENERGY FACILITIES, AND SERVICE SYSTEMS			
Electrical substation ³	NP	NP	CUP & JPR
Pipelines and utility lines, underground	DR	DR	JPR
Public utility and safety facilities	DR	DR	CUP & JPR
Sustainable energy facilities, large scale (e.g., wind energy conversion systems, solar farms/fields) ³	CUP ⁴	NP	CUP & JPR
Sustainable energy facilities, small scale (e.g., solar panels on building/carport roofs, building- or ground-mounted windmills or wind turbines)	DR	DR	NP
Telecommunications facilities, major (cell towers, etc.)	CUP	CUP	CUP & JPR
Telecommunications facilities, minor (antennae for building rooftops, or small intra-project communication uses)	DR	DR	NP
Transit stations and terminals	CUP	CUP	NP
Transit stop shelters	CUP	CUP	NP
Water/wastewater facilities and infrastructure (e.g., pipelines, pressure-reducing station, reservoir, lift station, storage tank, water well, booster pump station and treatment building) ³	DR	DR	DR & JPR

Source: Section 17.12.020 (Development Permitted and Conditionally Permitted Uses) of the City’s Zoning Ordinance.

Notes: DR = Design Review; CUP = Conditional Use Permit; JPR = Joint Project Review (review undertaken by and between City of Desert Hot Springs and Coachella Valley Conservation Commission); RP = Regulatory Permit. Uses designated as DR are permitted uses and require zoning and specific plan consistency review, as well as Design Review; uses designated as CUP are uses that require approval of a Conditional Use Permit; and uses designated as RP require the approval of a Regulatory Permit. All land uses within Planning Area 1 shall be subject to the provisions of Chapter 17.80 (Design Review) of the City’s Zoning Ordinance—land uses subject to the approval of a Conditional Use Permit shall be pursuant to the provisions of Chapter 17.76 (Conditional Use Permits) of the City’s Zoning Ordinance.

- ¹ Marijuana facility collectively means any marijuana cultivation, distribution, testing or manufacturing facility, as those terms are defined in Chapter 17.180 (Marijuana Facilities Operation and Location) of the City’s Zoning Ordinance and California Proposition 64 (2016 Marijuana Legalization Initiative). Marijuana facilities, including any proposed greenhouse, shall be developed and operated in accordance with the provisions of Sections 5.4.2, *Marijuana Facilities Standards and Regulations*, and Section 6.11, *Marijuana-Related Greenhouse Design*, of this Specific Plan.
- ² Marijuana dispensary facility means any such facility that is licensed as a dispensary pursuant to the California Business and Professions Code, as this term is defined in Chapter 17.180 (Marijuana Facilities Operation and Location) of the City’s Zoning Ordinance and California Proposition 64 (2016 Marijuana Legalization Initiative). Marijuana dispensary facilities shall be developed and operated in accordance with the provisions of Section 5.4.2, *Marijuana Facilities Standards and Regulations*, of this Specific Plan.
- ³ The provisions outlined under Section 5.4.3, *Large-Scale Energy and Water/Wastewater Facilities and Infrastructure*, of this Specific Plan are applicable to large-scale sustainable energy facilities, electrical substations, and water/wastewater facilities and infrastructure that are proposed in Planning Area’s 1 and 2.
- ⁴ Large-scale sustainable energy facilities in Planning Area 1 shall only be permitted through approval of a CUP and when proposed in conjunction with (and in support of) the submittal of a formal development application for a primary land use, such as a warehouse or distribution facility. Large-scale sustainable energy facilities shall not be permitted in Planning Area 1 as stand-alone development features or improvements. Large-scale sustainable energy facilities shall also not be permitted in Freeway Frontage Overlay Zone.

Staff notes that the list of uses is quite permissive compared to the C-G and L-I zones. Generally, any use permitted by right in either of these two zones is permitted by right in Planning Area 1. All new construction is subject to Design Review approval by the Planning Commission. Lastly, marijuana dispensaries are shown as permitted subject to a Conditional Use Permit, with up to 115,407 square feet allowed with.

These tables have been revised since the Planning Commission hearing to reflect the prohibition of Cannabis Cultivation in the Freeway Frontage Overlay. In addition, staff has added a condition to reflect the City Council's current policy on new dispensaries, as stated earlier in this report, and in Condition of Approval No. 4 (see attached conditions).

Development Standards for PA-1 and PA-2. The proposed development standards (setbacks, height limits, etc.) are contained in the attached table and compared with the equivalent standards in the General Commercial (C-G) and Light Industrial (L-I) zones:

Table 5-2 Development Standards and Regulations

Standard/Regulation	Planning Area (PA) and Land Use District		
	PA 1 Mixed Use	PA 1 Freeway Frontage Overlay Zone	PA 2 Open Space/Conservation
Gross lot area (minimum)	20,000 square feet	20,000 square feet	–
Lot coverage (maximum)	75%	75%	–
Distance between buildings (minimum)	20 feet	20 feet	–
Street setback (minimum)	10 feet	10 feet	10 feet ¹
Interior property line setback (minimum)	0 feet	0 feet	–
Building height (maximum) ^{2, 3}			
Commercial/Industrial	50 feet/2 stories	50 feet/2 stories	–
Hotel	75 feet/7 stories	75 feet/7 stories	–
Parking spaces required (minimum)			
Commercial/Industrial	See footnote ⁴	See footnote ⁴	–
Marijuana cultivation facility	1 per 2,500 square feet for cultivation space 1 per 250 square feet for administrative/office space	1 per 2,500 square feet for cultivation space 1 per 250 square feet for administrative/office space	–
Floor area ratio (maximum) ⁵	1.5	1.5	–

Source: Chapter 17.48 (Off-Street Parking Standards), Section 17.12.030 (Land Use District Development Standards) of Chapter 17.12 (Commercial Districts), and Section 17.16.030 (Land Use District Development Standards) of Chapter 17.16 (Industrial Districts) of the City's Zoning Ordinance.

¹ For planning purposes, the minimum street setback noted here is 10 feet; however, the final street setback will be determined during the Joint Project Review undertaken by and between City of Desert Hot Springs and Coachella Valley Conservation Commission.

² Building height determinations shall be in accordance with the provisions of Section 17.40.160 (Height Determination) of the City's Zoning Ordinance.

³ The maximum building heights are as shown in this table; however, architectural features/elements (e.g., tower, arch, relief) may exceed the allowed building height by a maximum of 15 feet, subject to review and approval by the Director of Community Development or his/her designee.

⁴ Unless otherwise specified in this table, parking requirements for commercial and industrial uses shall be per those outlined in Chapter 17.48 (Off-Street Parking Standards) of the City's Zoning Ordinance. Parking areas shall be designed in accordance with the standards outlined in Section 17.48.060 (Design Standards) of the City's Zoning Ordinance.

⁵ Maximum floor area ratio noted here is per that outlined in Table 3-1, *Land Use Development Summary*, of this Specific Plan.

The development standards for PA-1 generally follows those of the city's Light Industrial (L-I) zone, although the hotel is allowed a higher height limit (75 feet). Also, the parking standards for marijuana cultivation codifies the city's current policy for cultivation and administration, but excludes a standard for processing. Staff recommends that the parking standard be tied to the city's policy for marijuana cultivation and processing to assure that adequate parking is provided (see Condition No. 1).

VESTING TENTATIVE PARCEL MAP ANALYSIS

The current lot configuration is comprised of two large parcels totaling approximately 123.4 acres. The proposed map creates thirteen lots, plus streets:

Lot	Land Use	Gross Acres	Net Acres ¹
1	Mixed Use (Industrial & Commercial)	9.5	7.7
2	Mixed Use (Industrial & Commercial)	15.5	12.0
3	Mixed Use (Industrial & Commercial)	22.1	15.2
4	Mixed Use (Industrial & Commercial)	7.0	3.7
5	Mixed Use (Industrial & Commercial)	8.8	5.3
6	Domestic Water Facility Site / Mixed Use (Ind'l & Comm'l)	1.6	1.6
7	Wastewater Facility Site / Mixed Use (Ind'l & Comm'l)	1.0	0.7
8	WECS, Solar and SCE Facilities	3.9	2.5
A	Open Space / Conservation	31.7	-
B	Open Space / Conservation	3.1	-
C	Open Space / Infiltration Basin	0.2	-
D	Open Space / Infiltration Basin	0.5	-
E	Open Space / Infiltration Basin / Gas Easement	0.7	-
-	Streets	17.8	-
TOTAL		123.4	48.7

¹. Net area for building sites / development areas only, does not include any streets or open space.

The lots designated for commercial and industrial development (Lots 1 through 5) are of sufficient size and shape to support development. These lots may also be further subdivided for condominium purposes under the proposed map. The smaller lots (6 and 7) are also reasonably sized and shaped for the proposed water / wastewater uses. The remaining lots are adequately sized and shaped for their intended purposes, as indicated.

The applicant proposes a “vesting” map, and vesting is allowed by state law and pursuant to Chapter 16.28 of the DHSMC. When a vesting tentative tract map is approved by the city, certain rights are granted to the developer that go beyond a regular tentative tract map, which rights are outlined in Chapter 16.28. Specifically, the vesting map locks in all development regulations at the time the map is approved. Any changes to those regulations in the future – with certain exceptions – would not apply to development on a vesting map.

According to Section 16.28.130 of the DHSMC, the application for a vesting tentative map must also include all elements of the proposed development including building plans, floor plans, elevations, colors and materials, landscape plans and other materials. Most of these items are not part of the present application; however, the development standards and guidelines of the specific plan may be deemed sufficient information to satisfy the requirements of Section 16.28.130. The city is not required to approve the map as a vesting map, and may accept or delete the word ‘vesting’ on the map, doing so with proper findings.

DEVELOPMENT AGREEMENT

The applicant has proposed a Development Agreement (Exhibit 13) to support long-term site development and a draft agreement is under review by the City Attorney. The Desert Hot

Springs Municipal Code (17.84 Development Agreements) and State law provide that the City and a developer may enter into a development agreement for the purpose of providing the developer with assurances that their development entitlements will not be subject to revocation, termination or modification because of future changes in the City's zoning, planning and land use regulations.

In exchange, the City receives certain benefits in the form of revenue, improvements, etc. that the City could not otherwise legally impose on the particular project for a variety of reasons. Such reasons include, but are not limited to, (a) the lack of a nexus between a certain condition of approval and the scope of the project's impacts on the environment or surrounding neighborhood or (b) the legal exclusion of a certain use from the imposition of certain fees or taxes. Development agreement authority is essentially one of the only exceptions to the general principle that prohibits cities from contracting away their future police powers. Moreover, development agreement authority has served as an effective means for cities to encourage economic development, which has become increasingly important to some cities in the absence of redevelopment authority.

ENVIRONMENTAL ANALYSIS

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), a Final Environmental Impact Report (EIR) has been prepared, circulated and made available to the public. Comments on the Draft EIR were reviewed and incorporated into the Final EIR and a posting of the Final EIR and notification was advertised in two publications of general circulation (The Desert Sun & Desert Star Weekly) and was sent out to property owners within 300 feet, consulting tribes, and others who have expressed interest in the project, 10 days prior to the City Council hearing. The Final EIR and supporting documents have determined that development under the proposed Specific Plan, associated General Plan and Zoning Ordinance amendments, Vesting Tentative Tract Map and Development Agreement will have three significant impacts on the environment, that cannot be mitigated to a level of "less than significant". Those are greenhouse gas emissions, air quality and cultural resources. The proposed mitigation measures and explanations are contained within the EIR's findings. Staff has evaluated the projects impacts in regard to greenhouse gases & air quality and cultural resources and determined that the mitigation measures are appropriate and no other reasonable measures can be taken to mitigate the impacts further. Therefore, a Statement of Overriding Consideration has been prepared and will be presented to the City Council on April 17, 2018.

The City Council, at that public hearing or during deliberations, may approve, deny, or propose changes to the project or to the environmental determination. The Final EIR is provided to the City Council under separate copy (Exhibit 14, <http://www.cityofdhs.org/DLV>); the City Council must adopt and certify the EIR prior to final action on the project.

FISCAL IMPACT

Development of this project will generate revenues to the City in the form of building permit fees to defray plan check and inspection costs, for each project phase. In addition, the City will receive on-going revenue from marijuana taxes. Based on maximum allowed cultivation and processing space of 1,154,068 square feet, total annual marijuana tax revenue is estimated to be **\$11,585,680** (\$75,000 + \$ 11,510,680.)

RECOMMENDATION

The Planning Commission finds that the proposed project meets all required findings for the requested actions:

- Specific Plan 01-16, General Plan Amendment 01-16, and Zoning Ordinance Amendment 01-16 to establish development regulations and guidelines for the subject site;

- Vesting Tentative Tract Map No. 37185 to divide the properties into thirteen lots plus streets, and
- Development Agreement No. DA 01-18

The Planning Commission recommends:

1. Certification of the Environmental Impact Report and Mitigation Monitoring Program, and
2. Adoption of a Statement of Overriding Consideration
3. Adoption of the findings of fact (Exhibit 1) in support of a recommendation to approve:
 - a. General Plan Amendment 01-16
 - b. Specific Plan 01-16
 - c. Zone Text Amendment 01-16
 - d. Vesting Tentative Tract Map 37185
 - e. Development Agreement DA 01-18, subject to the Conditions of Approval (Exhibit 2).

EXHIBIT(S)

- 1) Recommended Findings of Fact
- 2) Recommended Conditions of Approval (Specific Plan and Vesting Tentative Tract Map)
- 3) Desert Land Ventures Specific Plan (draft)
- 4) General Plan Amendment (draft resolution)
- 5) Zone Text Amendment (draft ordinance)
- 6) Vesting Tentative Tract Map 37185
- 7) Site Photographs
- 8) Existing General Plan Land Use / Zoning Map (excerpt)
- 9) Coachella Valley Multi-Species Habitat Conservation Plan Map (excerpt)
- 10) Proposed Specific Plan Land Use Plan (Specific Plan Figure 3.1)
- 11) Proposed Site Phasing Plan (Specific Plan Figure 3.2)
- 12) Draft Development Agreement
- 13) Ordinance Approving Development Agreement No 01-18
- 14) Final Environmental Impact Report, Draft Environmental Impact Report and Mitigation Monitoring Program available at City Hall, or: <http://www.cityofdhs.org/DLV>
- 15) Revisions to Draft EIR
- 16) Table of Mitigation Measures and Regulatory Requirements.
- 17) Response to Comments
- 18) Summary of Findings for the Final EIR
- 19) Statement of Overriding Considerations
- 20) Resolution Adopting Statement of Overriding Consideration and Certifying the EIR