

## REPORT TO THE PLANNING COMMISSION



**DATE:** May 8, 2018

**TITLE:** Amendment to Conditional Use Permit No. 01-17 to increase the size of the originally approved Cannabis Cultivation Facility from 20,664 SF to 21,697 SF, in addition to rotating the building, and other site changes, the project is located on a 1.26-acre site on the north side of 15th Avenue in the Light Industrial (I-L) Zone. APN: 665-070-004.

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**Reviewed by:** Daniel Porras, Community Development Director

### RECOMMENDATION

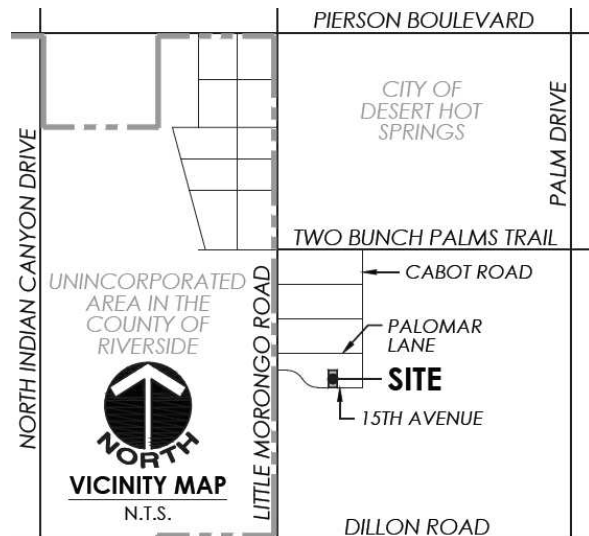
- 1) Staff Report;
- 2) Entertain Questions of Staff from Planning Commission;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Opportunity for Applicant Rebuttal;
- 7) Close the Public Hearing;
- 8) Planning Commission discussion and questions to Staff; and
- 9) Consider a motion that the Planning Commission approve an amendment to Conditional Use Permit No. 01-17 to minimally increase the size and rotate the previously approved structure, in addition to other changes. APN 665-070-004.

### PRIOR ACTIONS

On September 5, 2017, the original Applicant D-9 Farms (now Maraparm DHS California), received approval of the project under Conditional Use Permit No. 01-17 to construct a Cannabis Cultivation Facility totaling 20,664 SF.

### PROJECT SUMMARY

On April 9, 2018, the Applicant, Maraparm DHS California, LLC, filed an application for an amendment to their previously approved Conditional Use Permit (CUP 01-17) for the Maraparm DHS California Cannabis Cultivation Project (formerly D-9 Farms) to increase the size of the originally approved Cannabis Cultivation Facility from 20,664 SF to 21,697 SF, in addition to rotating the building to take advantage of the sunlight, and other site/floor plan changes.



The project site is located on the north side of 15<sup>th</sup> Avenue, approximately 1,400 feet east of Little Morongo Road. It is a single parcel that is rectangular, generally flat, and has a gross area of approximately 1.26 acres. Its total width and street frontage along 15<sup>th</sup> Avenue (unimproved) is approximately 164 feet, and it has a depth of approximately 333 feet. Following dedication of right-of-way, the site will have a net area of approximately 1.14 acres. The site is currently vacant and is within the Light Industrial (I-L) Zone. Construction is proposed in one (1) phase.

Surrounding properties consist of:

	<b>Jurisdiction</b>	<b>Zoning &amp; General Plan Designations</b>	<b>Current Land Use</b>
<b>North</b>	City	I-L (Light Industrial) District	Vacant Land
<b>West</b>	City	I-L (Light Industrial) District	Vacant Land
<b>South</b>	City	I-L (Light Industrial) District	Vacant Land
<b>East</b>	City	I-L (Light Industrial) District	Vacant Land

Access to the site will be provided from two driveways providing ingress and egress from 15<sup>th</sup> Avenue.

### **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 1.26 gross acres (54,886 square feet) in size. Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total of the proposed building lot coverage (Ground Floor Area) is 17,697 square feet or approximately 32% of the 1.26-acre project site, placing the project within the maximum allowed coverage.

**Building Height:** The highest point on the project will be the building metal mechanical screen at approximately 33 feet in height. 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 meets all required minimum setbacks standards.

**Circulation and Parking:** Ingress and egress to the site will be provided from two driveways at the southwest and southeast corners of the site on 15<sup>th</sup> Avenue.

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 19 total parking spaces. The proposed site improvements will only provide 20 parking spaces, the proposed project provides sufficient parking for the uses proposed. Below is the parking calculation breaking up each of the uses within the Cannabis Cultivation Facility:

### **Parking Calculation**

<b>Use</b>	<b>Area (Sq. Ft.)</b>	<b>Ratio</b>	<b>Number of Spaces</b>
Office	1,219	1 per 250 square feet	4.88
Cultivation	14,192	1 per 2,500 square feet	5.68
Processing	2,506	1 per 750 square feet	3.34

Ancillary Industrial	3,780	1 per 750 square feet	5.04
<b>Total Spaces Required</b>			<b>19</b>
<b>Total Spaces Provided</b>			<b>20</b>

**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. Staff have added a condition of approval requiring additional architectural features on the buildings south elevation and the headhouse portions of the west and east elevations, subject to Planning Department approval.

**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 Desert Willow and European Fan Palm, 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 two conditions of approval to require the addition of three (3) 24" box trees to the southern portion of the project fronting 15<sup>th</sup> Avenue, subject to Planning Department approval. The other is to require that the proposed ground covers (Purple Trailing Lantana & Gold Mound Lantana) and accent (Bougainvillea) plants be increased in size from 1 gallon to 5 gallon.

**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. Staff have added a condition of approval requiring additional lighting to satisfy the minimum 1-foot candlelight requirements.

**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. 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 September 5, 2017, it was approved with Development Agreement No. 15-17, which contemplated cultivation, manufacturing, distribution, and testing uses. The proposed Conditional Use Permit Amendment is in conformance with the approved development agreement.

### **ENVIRONMENTAL ANALYSIS**

On September 5, 2017, the City Council approved the Maraparm DHS California (formerly D-9 Farms) 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 original facility projected to employ 8 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 (14,360 SF) once it opens (**75,000 + 143,600 = \$218,600**).

### **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. 01-17 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 20,664 SF to 21,697 SF, in addition to rotating the building to take advantage of the sunlight. 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 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 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 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 with an attached one-story greenhouse totaling 21,697 SF. 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, 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 33 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. 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, April 27, 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 May 1, 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 type 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 building exterior, site landscaping, fencing and other improvements are designed 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 April 9, 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 protection 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:**

- 1 – Draft Conditions of Approval
- 2 – Site Photographs
- 3 – Existing Site Plan
- 4 – Original Approved Site Plan
- 5 – Proposed Site Plan
- 6 – Building Elevations
- 7 – Floor Plans
- 8 – Landscape Plan
- 9 – Lighting Plan