

REPORT TO THE CITY COUNCIL



DATE: June 7, 2016

TITLE: Conditional Use Permit No. 09-16 and Development Agreement No. 05-16. City Council consideration of a Conditional Use Permit (CUP 09-16) and Development Agreement (DA 05-16) to construct a 102,000 square foot medical marijuana cultivation facility with an interim cultivation component on a vacant 7.02 acre lot located on Little Morongo Road, between Dillon Road and 18th Ave, in the LI (Light Industrial) District. Applicant: Cristina Gonzalez, (GFarmaLabs).

Prepared by: Nathan Bouvet, MPA, 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) Close the Public Hearing;
- 7) Opportunity for Applicant Rebuttal;
- 8) City Council discussion and questions to Staff; and
- 9) Consider a motion that the City Council approve the following: (1) of a Mitigated Negative Declaration for Conditional Use Permit No. and 09-16 Development Agreement No. 05-16; (2) Conditional Use Permit No. 09-16; (3) Ordinance for Development Agreement No. 05-16; for a medical marijuana cultivation facility to be constructed on Little Morongo Road, between Dillon Road and 18th Ave, in the I-L (Light Industrial) District.

BACKGROUND

Sections 5.50 and 17.180 of the Desert Hot Springs Municipal Code (DHSMC), allow medical marijuana cultivation facilities in Industrial Districts subject to a Conditional Use Permit (CUP) approved by the Planning Commission and/or City Council and a Regulatory Permit approved by the City Manager. The applicant, Christina Gonzalez (GFarmaLabs), has filed an application to establish a facility for the indoor cultivation of medical marijuana with an interim cultivation component.

The site is located east of Little Morongo Road, between Dillon Road and 18th Avenue. The project site consists of 7.02 acres of undisturbed vacant desert land. It is a rectangular and relatively flat parcel having a gentle downward slope from north to south. The site is zoned I-L (Light Industrial) District and the proposed use may be developed, subject to approval of a CUP.

Immediately surrounding properties are developed as follows:

Zoning & General Plan Designations

Current Land Use

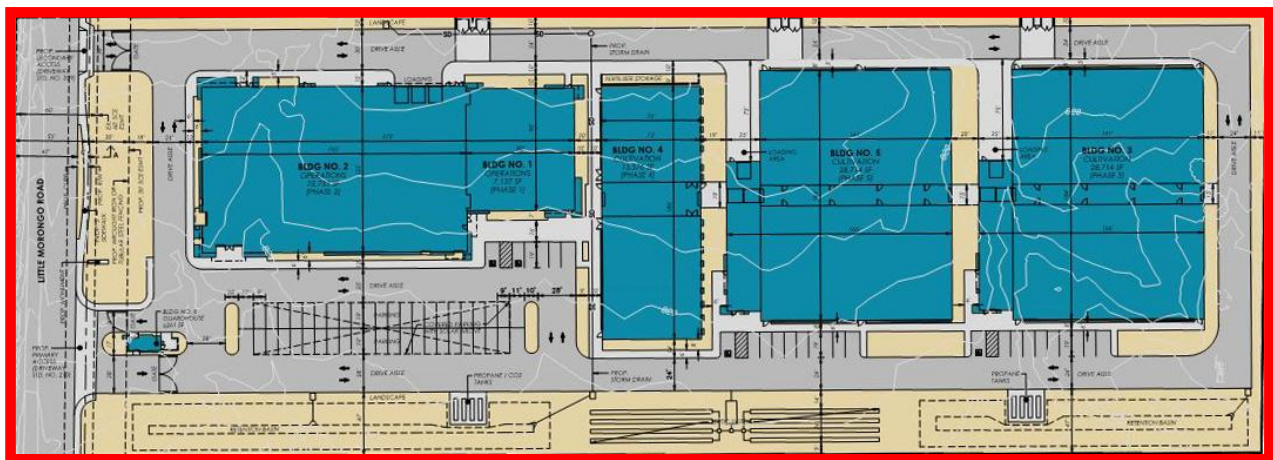
North	IL (Light Industrial) District	Vacant
West	IL (Light Industrial) District	Vacant
South	IL (Light Industrial) District	Vacant
East	OS-W (Open Space Water)	Vacant

PROJECT SUMMARY

The applicant, Cristina Gonzalez / GFarmaLabs, has filed a CUP application to construct an indoor medical marijuana cultivation facility consisting of five (5) buildings located on Assessor Parcel Number (APN) 665-190-017. The 7.02 acre site is vacant, relatively flat, and generally undisturbed. The proposed facility will have a total area of 102,000 square feet of building space. Uses within the facility will consist of approximately 4,500 square feet of office space, 26,500 square feet for processing, and 71,000 square feet of cultivation area. An interim cultivation component is also proposed, which would temporarily allow up to 80,000 square feet of cultivation space inside high quality pre-fabricated greenhouse structures until construction of permanent buildings is completed. Per Condition No. 145 (Exhibit 1) of project approval, the temporary use shall be limited to a term not to exceed eighteen months with no extensions from the date of project approval.

The Site Plan (Exhibit 2) contains paved vehicular circulation that surrounds the perimeter of the project site with parking for 72 vehicles, including two (2) for disabled access. The southerly (rear) 50 feet of the property will be reserved for the septic system retention basins, and CO2/propane tanks for use in the permanent facilities. Three (3) trash enclosures are proposed on the northerly part of the property.

The site has street access off Little Morongo Road, a dirt road, with +/-325 feet of frontage along the west property line boundary. Since no dedication exists, a 55 foot wide right-of-way is required to be dedicated along the west property line. Little Morongo Road would require completion of half street improvements including paving for additional lanes, curb, and gutter along the property frontage.



The Landscape Plan (Exhibit 3) contains landscaping around the perimeter of the site which will include a variety of low and moderate water use plants including; Palo Verde trees, Mexican palm trees (hybrid), ocotillo, lantana, desert bloom and indigo bush. The plantings are distributed around the site, with the largest plantings along the street frontage and southern property line. The entire site will be secured with six (6) foot high wrought Iron or tubular steel fencing as shown in the Proposed Site Plan. As proposed, six (6) foot high gated entryways will provide controlled access to the site, building entry, and secured parking/loading areas.

SITE FEATURES

Guardhouse: A 260 square foot central guardhouse is proposed at the main project entry. Vehicles will be cleared before entering and exiting the site from this building. The guardhouse will have a front setback of 30' from the ultimate right-of-way which will be dedicated 55' from the centerline of Little Morongo Road.

Greenhouses: Three (3) permanent greenhouse buildings totaling approximately 71,000 square feet are proposed. Natural light will be used throughout the greenhouses supplemented by artificial light sources (high pressure sodium or halide lighting) during specific periods of the growing cycle. Industry standard high pressure sodium and halide light bulbs are proposed because they best emulate natural light for optimal growing. Currently, these light sources are most cost effective and have a proven and tested ability to yield a maximum amount of high-quality product. LED lighting technologies will continue to improve and may become a viable alternative in time.

In addition, each permanent greenhouse interior will be divided into solar exposure zones to optimize plant growth and promote flowering at the appropriate stage of development. An automated blackout shading system would also be incorporated inside the building to control lighting for plant growth including periods of complete darkness. Plant irrigation inside the greenhouse structure will incorporate a climate controller with moisture sensors using drip or micro-spray applicators for efficient water use. The greenhouses would have peaked roofs with a maximum height of 23-feet tapering to 14-feet at the gutter. It is expected that these greenhouses will have a permanent foundation and a solid floor inside the facility. Dirt or gravel floor will be prohibited as a Condition of Approval No. 158, though this restriction would not apply to the proposed interim greenhouses (as discussed below) if approved.

Headhouse/loading zones: Headhouses with built-in loading zones are situated adjacent to each cultivation building allowing vehicles to move in and out for loading and unloading. This will effectively "screen" loading operations from public view (i.e., as viewed from Little Morongo) and accommodate these activities in a well-controlled, secure location.

Operations and Processing Building: A 23,700 square foot building is proposed to house the plant processing, which includes trimming, refining, and packaging. The proposed building will also include a kitchen and a chocolate room for the processing of medical marijuana goods and edibles. Other uses will include extracting oils and butters from the Cannabis plants using Fire Department approved CO2 equipment, processing these raw products into various edible forms (chocolate, carbonated drinks, etc.), then packaging and preparing them for shipment. Commercial kitchens are allowed in the I-L zone as an ancillary use to cultivation (primary use). As such, they are permitted within cultivation facilities in accordance with applicable health and safety standards. In addition, each applicant shall apply for and obtain a Manufacturer's License for such a use if and when the State implements licensing procedures in accordance with the California Medical Marijuana Regulation and Safety Act (MMRSA). Any uses other than Cultivation as defined by State and Local law are currently prohibited. Staff has provided Condition of Approval Number 159 that will restrict the site from being used for anything other than cultivation. Other such uses may be allowed once the City adopts an Ordinance that allows uses in addition to cultivation.

Interim Cultivation: The project proposes to operate an interim, natural light, cultivation facility while designing and constructing its permanent processing and greenhouse buildings. It should

be emphasized that these are proposed as a financing tool to fund permanent buildings and accelerate City taxation, nothing more.

The interim facility (Exhibit 4) will allow limited operation of up to 80,000 square feet of cultivation space inside high quality, pre-fabricated, polycarbonate greenhouse structures. These would be fully secured within a temporary eight (8) foot chain link fence and visually screened by translucent greenhouse panels to obscure views from outside the structure. Interim cultivation will comply with City standards, conditions, and ordinances. In addition, natural light greenhouses will use minimal electric power (approximately 0-10% of a permanent greenhouse that uses supplemental lighting to extend daylight hours during winter months), thus allowing cultivation to occur while electrical infrastructure is being upgraded in the City's cultivation zone. Additionally, a small modular security building (similar to a construction trailer), six (6) 8' x 20' locking storage bins and portable toilets would be situated adjacent to the greenhouses inside the security fence. Overall, the appearance would be one of a clean, well maintained rural nursery operation.

The interim facility will rely on temporary power until permanent power is available from Southern California Edison (Edison). Temporary power will be provided using two methods. Initially, a portable generator housed on the back of an 18 wheeler flatbed truck will power the site. This will remain in place during Edison's 8-week temporary power delivery period. During this time, a 3-phase transformer will be installed on one of the power poles located adjacent to property on Little Morongo Road at which time the generator will be trucked off site. This 2-step approach is needed to allow the interim facility to become operational in time to take maximum advantage of the 2016 growing season that lasts from June to October.

Water for dust control and plant irrigation will be provided by a well. Well water will be drawn from one (1) of two (2) wells located north of the property (if permission is granted by the Owner of the Felix Ho property) or through the drilling of a new on site well. Construction water for well development will come from fire hydrants located north of the site. Drinking water will be supplied via regularly delivery from a commercial bottled water supplier and stored in the security office.

Port-a-potties will provide sanitary restroom facilities for workers (similar to a construction site) during interim operations. These will be the durable type with a washing station often seen at sporting or entertainment venues.

Interim vehicular access will consist of 2-inches of AC pavement on compacted native material to eliminate the need for dust control. Two (2) potential access routes are proposed, one along Little Morongo Road with an alternative along Ben Mar Road. Prior to construction, the applicant will prepare and submit an access plan to the City demonstrating access rights for temporary use.

Interim greenhouses would be replaced by permanent processing buildings and cultivation greenhouses as they are constructed. The interim greenhouses would be limited to a term not to exceed 18 months with no extensions. This has been added as Condition of Approval Number 145. Following this, interim structures would be retired, dismantled and transported offsite. The most westerly permanent buildings would be owned and operated by the applicant while the two (2) easterly permanent greenhouses would be sold as condominium air space units. It is the applicant's intent to find a buyer/cultivator who will be able to supply product for the project's proposed processing operations.

CUP ANALYSIS

General Plan and Zoning Consistency: The project proposes to establish a Medical Marijuana Cultivation Facility in accordance with Section 17.180 (Medical Marijuana Facilities Location) of the DHSMC, which allows this use with approval of a CUP and Regulatory Permit.

Site Coverage: The project site consists of one (1) lot totaling 7.02 gross acres (approximately 305,790 square feet) in size. Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total square footage on the proposed permanent site is 102,000 square feet or 33% of the site. The project conforms to this standard.

Building Height: The highest point on all proposed buildings will be about 26 feet from adjacent grade. This is below the maximum height of 50 feet allowed in the I-L District and therefore meets DHSMC.

Building Setbacks: The minimum setbacks in the City's Light Industrial (I-L) Zone are 20 feet in front, 10 feet in the rear, and 10 feet on the side. All buildings will have minimum setbacks of at least 46' from the rear property line, 39' from the sides, and 30' from the front property line. The interim greenhouses are setback at least 365 feet from any property line. Therefore, the project meets minimum setback standards. The interim facility will also meet all minimum setback requirements as previously discussed, including the temporary office, guard shack, greenhouses and portable restroom facilities.

Circulation and Parking: Circulation and Parking (permanent and interim) shall be consistent with City parking standards as determined by City Staff. In total, the project provides 72 permanent parking spaces. The site has street access off Little Morongo Road, a dirt road, with +/-325 feet of frontage along the west property line boundary. The site has been designed with two (2) gated entries off Little Morongo Road and a private access drive around the project perimeter within the security fence. Parking stalls are proposed adjacent to the office portion of each headhouse during each phase of the project. Covered parking stalls with solar panels are also proposed. These parking stalls will be located adjacent to the guardhouse on the southeasterly part of the property.

Based on the proposed floor plan and a parking standard of one (1) space for every 2,500 square feet of cultivation / storage areas and one (1) space for 250 feet of office and administrative uses (site section), staff provides the following parking calculation:

Parking Calculation			
Proposed Uses	Zoning Requirements	Number of Spaces Required	Number of Spaces Provided
Total Cultivation / Storage: +/- 96,963 square feet	1 spaces/ 2500 square feet	39	72 (including two for disabled access)
Total Administration: +/- 4,500 square feet	1 spaces/ 250 square feet	<u>18</u>	

Based on the above analysis, the project would require 57 spaces and 72 are proposed. Thus the project provides sufficient parking for the proposed uses and meets DHSMC.

Additionally, there has been some recent discussion that “trim rooms” may be more employee intensive than previously thought. This is still being explored. However, this project is sufficiently over parked (with 15 additional spaces) to meet its parking needs even with some added employees.

Interim vehicular access will consist of 2-inches of AC pavement on compacted native material to eliminate the need for dust control. Two (2) potential access routes are proposed, one along Little Morongo Road and an alternative along Ben Mar Road. Parking will be provided on-site. Interim employees would range from a low of 4-6 to a high of 30 during the 2-3 month harvest season. The interim access road will accommodate thirty (30) 90-degree parking spaces accessed directly off the driveway or more if tandem parking were utilized.

Elevations, Colors and Materials: The project consists of a series of tilt-up concrete and plaster processing buildings intermixed with greenhouse buildings as shown in Exhibit 5. The architecture is in a desert contemporary style with rich three (3) dimensional forms and deep recessed windows. These low slung buildings include a color palette of desert shades along with accents of green. This variety of hue further enhances the composition of forms and architectural features. The strong horizontal edge of the covered parking element and the sculpted guard house add even more layers to the desert contemporary motif. The greenhouse structures (interim and permanent) will consist of a translucent, polycarbonate material, which are designed to withstand the harsh heat and wind conditions of the desert environment. This material is visually pleasing and allows light penetration while also obscuring direct views of the interior spaces. Automated blackout shades will allow light control into the greenhouse during daylight hours and out of the greenhouse at night. The overall architectural character will be that of attractive, well-maintained industrial buildings and greenhouse structures.



Landscaping: Landscaping has been designed to balance aesthetic, water use and security objectives. Along Little Morongo Road, landscaping will consist of 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. The balance of the cultivation facility will be landscaped with drought-tolerant ground covering plantings. Landscaping will also include large drought-tolerant flowering trees and shrubs typically found in the region. Plant irrigation will use drip or micro-spray applicators to avoid overwatering and promote water efficiency. The entire site will be secured within a six (6) foot high wrought-iron or tubular steel perimeter fence.

Lighting: Proposed exterior lighting is provided; however, staff has included Condition of Approval No. 49 that states prior to issuance of building permits, the applicant shall demonstrate that the photometric lighting plan submitted for the site meets the standards of the Municipal

Code. The plan shall also be reviewed by the Community Development Director and Chief of Police and implemented in accordance with Condition of Approval 49i and the provisions of the Municipal Code. Lighting shall also conform to the security plan that will be submitted as part of the required Regulatory Permit.

Phasing: Interim greenhouses will be the first facilities erected on site. They will be constructed immediately upon project approval in an attempt to be operational during the 2016 growing season (June – October). Following this, beginning in 2017, permanent structures will be developed in five (five) phases as illustrated in the Conceptual Phase Plan (Exhibit 6) and described below:

- Phase 1 of the project will see the construction of the first processing building (7,000 square feet) along with the development of full security fencing, site grading, and retention basin for all phases.
- Phase 2 proposes the construction of the first permanent greenhouse structure totaling 13,000 square feet of cultivation space.
- Phases 3 and 4 propose to construct the remaining permanent greenhouse structures totaling approximately 57,400 square feet in grow space.
- Phase 5 of the project will include the main administration and processing building which will contain a kitchen, packaging space, a chocolate room, storage area, and office space. Proposed solar covered parking stalls, entry gate guard house, and any remaining site developments will also be part of the final phase.

Security: Security measures have been thoroughly incorporated into the project (interim and permanent). The site is entirely enclosed within perimeter security fencing. Gated entry/exit drives will control vehicular access onto and off the property. Security cameras are mounted on all exterior doors, perimeter fencing and entry gates. A more 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. The use of barbed wire fencing is prohibited and has been added as Condition of Approval No. 160.

Odor Control: The project will implement best 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 a part of the evaporative cooling system.

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 (7) days per week. This facility is developed for the cultivation of marijuana and may require staff and security services to be present on premises 24 hours per day.

Staffing: The project will operate with 25-30 full time employees at any given time, during all phases of permanent operations, with business hours of Monday through Friday, 7-4 P.M in compliance with Deserts Hot Springs Municipal Code. Interim facilities will operate with 8-10 employees at any given time, with a maximum of 30 staff personal during harvesting. Armed Security personnel will be onsite 24 hours a day, seven days a week. All staff will be subject to thorough background checks as per City regulations.

ARCHITECTURAL AND LANDSCAPE REVIEW COMMITTEE (ALRC)

The ALRC reviewed the project on May 19, 2016 and added the Condition of Approval No. 36 that requires the following:

- a. Use Sonoran Palo Verde with the Blue Palo Verde;

- b. Fifty percent of the Palo Verde trees shall be 36-inch box and the remaining fifty percent be 48-inch box;
- c. The Lantana used on site should be both purple and yellow varieties;
- d. The crushed rock shall be brimstone or dark brown; and
- e. Placement of additional shrubs and mounding along Little Morongo Drive.

PLANNING COMMISSION

The Planning Commission reviewed the project on May 24, 2016 at a Special Meeting and recommended that the City Council approve the project with a vote of 3-1.

The Planning Commission changed the recommended time period for the Interim Use from 6 months with one (1) six month extension to be approved by the Community Development Director to an 18-month period starting from the date of project approval. The other changes required by the Planning Commission had to do with lighting, a guard shack during the interim use, and the development of a construction schedule to be approved by the applicant and the Community Development Director.

ENVIRONMENTAL ANALYSIS

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), an Initial Study has been prepared and which has determined that development of the proposed medical marijuana cultivation facility would not have a significant impact on the environment, with the implementation of mitigation measures. A draft Mitigated Negative Declaration (See Exhibit 7) is proposed and contains certain measures for Cultural Resources and Biological Resources. The draft Mitigated Negative Declaration is attached for consideration by the Commission during the statutory public comment period (ending June 7, 2016). The City Council will consider certification of a Mitigated Negative Declaration prior to final action on the project.

DEVELOPMENT AGREEMENT ANALYSIS

The City is requiring all Medical Marijuana Cultivation to process a Development Agreement (Exhibit 8) that incorporates indemnification provisions in favor of the City. The Development Agreement format was prepared by the City Attorney and will be reviewed and approved in final form prior to its presentation to the City Council for approval. The applicant has not requested that any additional provisions be included in the draft Development Agreement. 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 a redevelopment authority.

FISCAL IMPACT

The proposed cultivation facility has paid all required fees for processing and will contribute \$25 per square foot for the first 3,000 square feet, and then \$10 per square foot for the remaining Space once it opens. This parcel of land is in the I-10 Annexation Area and therefore the Multi-Species Habitat Fee will be collected since it was adopted by the County prior to the City

annexing the property. The Multi-Species Habitat Fee is not collected outside this area since the City has not been formally made part of the Multi Species Habitat Plan.

RECOMMENDATION

Staff recommends that the City Council approve the following: (1) adoption of the Mitigated Negative Declaration for Conditional Use Permit No. 09-16; (2) approval of Conditional Use Permit No. 09-16; and (3) approval of Development Agreement No. 05-16 subject to the Conditions of Approval and 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 the construction of a medical marijuana cultivation facility which is identified in Section 17.180.070 (Medical Marijuana Cultivation Facilities – Permitted Locations) 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 constructed on a 7.02 vacant acre lot on Little Morongo Road within the Light Industrial (I-L) Zone in compliance 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 (Purpose) of the Desert Hot Springs Zoning Ordinance identifies the underlying I-L (Light Industrial) zoning district as, "...intended to retain, enhance, and intensify existing and provide for the new development of lighter industrial uses along major transportation routes serving the City."*

The proposed medical marijuana cultivation facility (including interim cultivation) qualifies as a "lighter industrial operation" in that no heavy manufacturing operations will be conducted on the site. Further, the use will occupy a site with access to Little Morongo Road, which is designated as a Major Arterial in the Circulation Element of the 2000 Desert Hot Springs General Plan.

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

The site is proposed to be developed as a light industrial site with parking, landscape and other features and amenities appropriate to the development. The proposed medical marijuana cultivation facility is physically organized to provide adequate parking, loading and pedestrian circulation for the proposed use. 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 medical marijuana cultivation facility is a light industrial use with ancillary processing and administration activities, and can be considered similar to other industrial establishments allowed in the I-L (Light Industrial) zone, such as plant nurseries without on-site sales and light manufacturing operations. The proposed facility will be constructed on a vacant 7.02 acre undeveloped lot. 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.

5. *That the proposed use would be compatible with existing and future land uses within the general area in which the proposed use is to be located.*

Existing and future land uses within the general area of the proposed medical marijuana cultivation facility are light industrial land uses. Lands immediately surrounding the property to the north, east, south and west are vacant, but zoned for light industrial development. The site will be a self-contained development with all vehicle circulation needs accommodated on site. The proposed facility will be located in the center of the subject property and the proposed use is not directly accessed from surrounding land uses. The height and general configuration of the proposed structure is similar to other industrial buildings in the area. Any signage will comply with the Desert Hot Springs Zoning Code and requires separate review and approval by the Community Development Department. All activities will be contained within the proposed facility and the operation will appear as a light industrial use consistent with the intent of the zone. Consequently, the proposed cultivation facility is expected to be compatible with existing and future industrial development in the surrounding area. 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 medical marijuana cultivation facility will total approximately 102,000 square feet in building area and, with supporting parking, landscaping and other amenities, will occupy the entire site. The site is presently vacant. Adjacent land uses are light industrial, subject to a maximum building height limit of two stories or 50 feet and lot coverage of 75%. The subject 7.02 acre site will be developed with a five (5) building cultivation facility that would not exceed 26 feet in height and contain an approximate floor space of 102,000 square feet of floor area (lot coverage of 33% of net lot area). 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 medical marijuana cultivation facility cultivation 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, including physical and legal access rights to public roads as well as within and throughout the site. The proposed medical marijuana 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 building's low height (26 feet) will not impede long-range views. While the proposed medical marijuana cultivation facility will fully occupy the subject site, surrounding lands available for other businesses will not be limited in their future development by the proposed use. Staff recommends this finding.

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

The proposed medical marijuana 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 medical marijuana cultivation facility will be subject to all requirements of this Conditional Use Permit, as prescribed by the Zoning ordinance and the adopted conditions of approval.

Policy 7: The City shall encourage in-fill development within already urbanized areas of the corporate boundaries of the City, and expansion of new development shall be logically phased and, as appropriate, guided by the development of existing and new Specific Plans.

The proposed medical marijuana 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 the City Council review of the project application, notice of the proposed medical marijuana cultivation facility Conditional Use Permit and Development Agreement hearing was provided to property owners within 300 feet of the proposed site.

Industrial Land Use

Goal: Lands that provide for the development of non-polluting, energy-related and other clean industrial development that broadens the economic and employment base of the City, and assures compatible integration with other, non-industrial land uses.

The proposed medical marijuana cultivation facility will be a clean industrial development and will expand the economic and employment base of the community by the products it will offer dispensaries within the State of California and the new employees that will be hired. The proposed cultivation facility will operate with armed security and environmental measures that will assure its compatibility with all surrounding uses.

Policy 2: Industrial lands shall be located in areas that maximize all available and planned infrastructures, including but not limited to water and sewer service, electric and natural gas service, and major transportation corridors, and should minimize the impact on public health and safety.

The proposed site has the ability to be served by Southern California Edison and the Coachella Valley Water District and review of the project indicates that no significant impact on public health and safety will occur.

Policy 4: The City of Desert Hot Springs shall seek to attract appropriate industrial users for which the area is particularly suited and encourage those industries to take advantage of the local labor force and markets with which the City has a comparative advantage.

The City has adopted policies and standards to encourage the development of a medical marijuana cultivation industry. The applicant has proposed a cultivation facility in conformance with these policies and standards, and is expected to take advantage of the local labor force and markets.

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 project has been reviewed against applicable local development standards and guidelines. The proposal has been determined to meet these standards and guidelines or conditions have been imposed to assure that the project conforms.

Community Design

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

The project will be located on the extension of Little Morongo Road. The project consists of a series of tilt-up concrete and plaster processing buildings intermixed with greenhouse buildings. The architecture is in a desert contemporary style and the overall character will be that of attractive, well-maintained industrial buildings and greenhouse structures. The design will provide compatibility with existing structures and land-uses in the surrounding area while also adding variety and uniqueness to the surrounding environment.

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 highest point of any structure of the proposed facility will not exceed 26' in height. This is below the maximum allowable height of 50' as mandated in DHSMC for development in the light-industrial (I-L) district. The relative low height of the building, along with discreet location, will make the development low-key and unobtrusive in nature. Therefore, the proposed medical marijuana cultivation facility will not affect the community's scenic viewsheds.

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.

No signs are approved as part of this Conditional Use Permit. All exterior signs shall be reviewed under a separate application and be subject to approval under the Desert Hot Springs Zoning Code, including limitations on size, scale and number. The code does not permit signs to exceed the height of existing construction which will result in no impacts on scenic viewsheds. No exposed neon shall be used for signs or window graphics.

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.

Any exterior lighting shall comply with Section 17.40.170 (Outdoor Lighting Standards) to assure that only the minimum level of lighting necessary to provide the needed security is installed. All proposed exterior lighting shall be reviewed by staff for conformance to the applicable standards. Therefore, the proposed medical marijuana dispensary is taking reasonable steps to preserve the night skies.

Economic Development:

Goal 1: A broadly based, healthy and balanced economy that provides a full range of economic and employment opportunities.

The proposed medical marijuana cultivation facility will expand the type of commercial/industrial services available in the community and provide opportunities for new employment and business support services. The project proposes to staff 75 employees, with 25-30 employees on site at any given time during all phases of development. The proposed project will bring more jobs to the City's labor force, while diversifying employment opportunities and bolster economic activity in the City.

Goal 2: Continued growth, which assures the maintenance of a revenue base adequate to support present and future public services and facilities needs.

The establishment of a medical marijuana cultivation facility will provide additional revenues to the City to support present and future public needs. Pursuant to Ordinance No. 552, all cultivating entities shall pay to the City for the space utilized in connection with the cultivation of medical marijuana an annual tax of \$25 per square foot for the first 3,000 square feet, and then \$10 per square foot for the remaining space. In addition to increased tax revenues, the project also has the potential to bring jobs, a diversified labor force, and unique industry to the City, which can further bolster growth, economic

activity, and tax revenue. These potential sources of revenue can be used by the City to address future public service and facility needs.

Policy 11: Make every effort to expedite the processing of development proposals, which address the economic development goals of the community and take the initiative to incubate new programs and projects.

The application for a Conditional Use Permit is required by the Desert Hot Springs zoning code to assure compatibility with surrounding land uses and to develop project-specific conditions to assure successful operation in concert with the City's development goals.

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 interim and permanent operations 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 medical marijuana cultivation facility will include security measures, including door locking systems, exterior lighting, camera monitoring and other systems to minimize the impact on police protection services. Fire suppression systems will also be incorporated into the operation to minimize the impact on fire protection service. Consequently, the proposed medical marijuana dispensary 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 permits 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 building plans will be subject to review and enforcement under fire codes and regulations.

The project appears to be consistent with the applicable goals and policies of the General Plan. Staff recommends this finding.

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

The proposed medical marijuana cultivation facility (both permanent and interim operations) will be located within a designated light industrial area, and operated in accordance with the City's regulations and conditions of approval. Consequently, no significant adverse or harmful effects on the environment or on any natural resources are anticipated. 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 medical marijuana cultivation facility will be operated as a commercial/industrial use. 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.

14. *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 medical marijuana 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. In reviewing this application, plans, documents and other supporting information, staff has determined that the Council can make these findings.

MITIGATED NEGATIVE DECLARATION

1. The record as a whole, including the initial study and any comments received, demonstrates that no substantial evidence exists that the project will not have a significant effect on the environment;
2. The Mitigated Negative Declaration reflects the City of Desert Hot Spring's independent judgment and analysis;
3. In accordance with Section 15074, Chapter 3, Title 14, of the California Code, of Regulations, the Mitigation Monitoring Program contained in Chapter 4 of the Draft Initial Study and Mitigated Negative Declaration, dated May 16, 2016 shall serve as the City's reporting program for monitoring the mitigation measures specified in the Mitigated Negative Declaration; and
4. The Desert Hot Springs Planning Department is the custodian of the documents or other material that constitute the record of proceedings upon which this decision is based.

DEVELOPMENT AGREEMENT NO. 05-16

1. That the property proposed to be subject to the agreement is not less than one (1) acre in size;
2. The site has a total gross area of 7.02 acres (approximately 305,791 square feet);
3. That the application is made on forms approved, and contains all information required by the Community Development Director;

4. The applicant has submitted a draft development agreement on the City's template for review; and
5. That the Development Agreement contains provisions that: specify the duration of the agreement; specified the permitted uses of the property; specified the density or intensity of use(s); set forth the maximum height and size of the proposed structure(s); set forth provision, if any for reservation or dedication of land for public purpose; provision not permitting protection from a future increase in development fees; provisions for a tiered amendment review procedure; and provisions for a health and safety exception such as "compelling public necessity" All required provisions are incorporated into the draft agreement.

EXHIBITS:

Exhibit No. 1 – Conditions of Approval
Exhibit No. 2 – Site Plan
Exhibit No. 3 – Landscape Plan
Exhibit No. 4 – Interim Site Plan
Exhibit No. 5 – Elevations and Material Board
Exhibit No. 6 – Conceptual Phasing Plan
Exhibit No. 7 – Mitigated Negative Declaration
Exhibit No. 8 – Development Agreement