

REPORT TO THE PLANNING COMMISSION



DATE: June 12, 2018

TITLE: Amendment to Conditional Use Permit No. CUP 11-16 to allow for cannabis distribution uses within the previously approved We Care DHS Cultivation Facility located on the south side of Two Bunch Palms Trail, approximately 1,300 feet east of Little Morongo Road in the I-L (Light Industrial) Zone. APN 665-030-062, Applicant: We Care DHS, Inc.

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Reviewed by: Scott Taschner, Senior Planner
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) A recommendation from staff for approval of the Amendment to Conditional Use Permit No. 11-16 to allow for cannabis distribution, for the project located on the south side of Two Bunch Palms Trail, east of Little Morongo Road in the I-L (Light Industrial) District. APN: 665-030-062

PRIOR ACTIONS

On August 16, 2016 the Desert Hot Springs City Council approved the original project, Conditional Use Permit No. 11-16.

BACKGROUND

Sections 5.50 and 17.180 of the Desert Hot Springs Municipal Code (DHSMC), allows Cannabis Cultivation Facilities and Ancillary Activities in Industrial Districts subject to a Conditional Use Permit (CUP) approved by the Planning Commission. The project site already has an approved CUP. The applicant, We Care DHS, has filed an application to amend CUP 11-16 to allow for cannabis distribution uses.

CUP AMENDMENT ANALYSIS

General Plan and Zoning Consistency: The amendment proposes to add distribution uses within the previously approved cultivation facility. Section 17.180 of the DHSZC specifically allows for distribution activities within an already approved cultivation facility, provided the applicant amends their CUP and complies with all State and local laws. The applicant proposes no changes to the exterior of the building or the site layout as part of this amendment. There are no additional impacts that require a reassessment of the intensity of the project and/or the parking requirements.

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.

ENVIRONMENTAL DETERMINATION

On August 16, 2016, the City Council approved the We Care DHS 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 to add distribution uses is consistent with the original MND, and no further analysis is required. No significant changes to the building footprint or site layout are proposed as a part of the proposed Amendment.

RECOMMENDATION

Staff recommends that the Planning Commission approves the amendment to Conditional Use Permit No. 11-16, to allow for the addition of distributions uses, subject to the Conditions of Approval and including the following findings:

1. *That the proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Zoning Ordinance.*

The application is for an amendment of the previously approved We Care DHS Cannabis Cultivation Facility, to add distribution uses which are identified in Section 17.180 of the City of Desert Hot Springs Zoning Ordinance as permitted within any industrial zone which includes the I-L (Light Industrial) zone), subject to approval of a Conditional Use Permit. The project is proposed to be compliant with applicable provisions of the Zoning Ordinance. Conditions of approval have been prepared and are recommended to assure the proposed use will comply with applicable Zoning Ordinance provisions. Staff recommends this finding.

2. *That the proposed use would not impair the integrity and character of the land use district in which it is to be located.*

Section 17.16.010.B.1 of the Desert Hot Springs Zoning Ordinance identifies the underlying I-L (Light Industrial) zoning district as, "...*intended to retain, enhance, and intensify existing and provide for the new development of lighter industrial uses along major transportation routes serving the City.*" The proposed amendment to the previously approved Cannabis Cultivation Facility only changes a small fraction of the interior uses of the building and will have no impact on the adjacent properties or the land use district.

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

The site is being developed as a light industrial site with parking, landscape and other features and amenities appropriate to the development. The proposed amendment of the previously approved Cannabis Cultivation Facility only changes the interior uses of the building and will have no impact on the adjacent properties or the land use district. Consequently, the site is physically suitable for the type and intensity of the proposed interior change. Staff recommends this finding.

4. *That the proposed use is compatible with the land uses presently on the subject property.*

The proposed amendment of the previously approved Cannabis Cultivation Facility only changes some of the interior uses of the building. The proposed distribution activities will be ancillary to the main use of the building and will complement the business

activities taking place within the building. Therefore, staff has concluded that the proposed amendment is compatible with the land uses approved for the site. Staff recommends this finding.

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

The proposed amendment of the previously approved Cannabis Cultivation Facility only changes some of the interior uses of the building to include distribution activities. The distribution activities will be ancillary to the main use of the building and will complement the business activities taking place within the building. The area in which this project is located is almost entirely zoned for light industrial development, most of which is being utilized for cannabis cultivation facilities and ancillary uses. The proposed development and current amendment are consistent with those uses around the project site and in the general area. Therefore, staff has concluded that the proposed amendment is compatible with the land uses approved for the site and uses in the general vicinity of the project site. 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 amendment to the previously approved Cannabis Cultivation Facility only changes some of the interior uses of the building. The distribution activities will be ancillary to the main use of the building and will complement the business activities taking place within the building. The cannabis cultivation project with its ancillary uses and the proposed amendment to add distribution activities is compatible with land uses approved for the site and in the general vicinity of the project site. The scale, mass, coverage, density and intensity of the proposed project is consistent with the height, setback, lot coverage and other requirements of the City's Zoning Code and with the neighboring developments that are under construction and/or already developed. The project, including the amendment, will be consistent with light industrial activities in the area; 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 is being developed as a light industrial use with all public services and utilities installed prior to occupancy. The proposed change in use 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 change in use is only to the interior of a partially constructed Cannabis Cultivation Facility. The proposed change in use will not create any additional demand for access than will be provided by the associated parking and drive aisle. Staff recommends this finding.

9. *That there will not be an adverse effect upon desirable neighborhood characteristics.*

Desirable neighborhood characteristics include long-range views from existing properties and business of surrounding mountains, and the current/future development of light industry on the site and surrounding area. The project site is partially developed and the proposed amendment is only for a change in use within one of the buildings to add

distribution uses. Thus, the proposed amendment will not create any adverse effect upon the desirable neighborhood characteristics. Staff recommends this finding.

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

The proposed amendment to the previously approved cultivation facility only changes the interior uses of the project. This is necessary and essential to the operation and success of the business and therefore to the community to the extent that it is supported by wholesale customers that cause it to succeed as a local light industrial business. Further, the proposed use must also operate under City regulations and conditions of approval so that only the necessary and essential elements of the business – as determined by the City – are expressed over the life of the business. Staff recommends this finding.

11. That the proposed use is consistent with applicable goals and policies of the General Plan.

Staff has identified the following General Plan goals and policies applicable to the application and provides responses to each.

Administration

Goal: Comprehensive and integrated administration and implementation of all elements of the Desert Hot Springs General Plan through consistent and effective policies and programs.

The City has adopted a zoning ordinance to implement the General Plan and provide for review and approval of individual development projects. The proposed amendment to the previously approved Cannabis Cultivation Facility will be subject to all requirements of the Conditional Use Permit, as prescribed by the Zoning ordinance and the adopted Conditions of Approval.

Policy 8: City shall provide opportunities for review and comment on development proposals through public hearing notices sent to owners of property located at least within 300 feet of development proposal sites.

Prior to Planning Commission review of the project application, a public hearing notice of the proposed Conditional Use Permit Amendment to add distribution uses to a previously approved cannabis cultivation facility was mailed to property owners within a 300-foot radius of the project site on Thursday, May 31, 2018. A notice of the public hearing was also published on Friday June 1, 2018 in the Desert Star Weekly. No persons have submitted written comments or expressed concerns for the proposed project, as of this writing on Tuesday, June 5, 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 amendment to the previously approved 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 an existing building 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.

Economic Development:

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

The proposed amendment of the Cannabis Cultivation Facility will provide opportunities for new 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 facility's needs.

The proposed change in use to include distribution will provide ancillary support to the approved Cultivation Facility. This will help to 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 as 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 was approved. The application was received on May 10, 2018 and the Planning Commission will hear the item on June 12, 2018.

Hazardous and Toxic Materials

Goal: The assured safety of City of Desert Hot Springs residents and visitors through the regulation of the manufacture, transport, use and disposal of toxic and hazardous materials.

Any hazardous or toxic materials associated with the proposed operation shall be regulated by the provisions of all applicable law, including the Desert Hot Springs Municipal Code, including Section 5.50 (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 change in use to include distribution in the previously approved Cannabis Cultivation Facility will include security measures, including door locking systems, exterior lighting, camera monitoring and other systems to minimize the impact on police protections services. Fire suppression systems will also be incorporated into the operation to minimize the impact on fire protection service. Consequently, the proposed marijuana cultivation facility is not expected to demand a high level of police and fire protection services.

Policy 1: All new and improved developments shall be reviewed for their impact on safety and the provision of police and fire protection services.

The proposed application and associated regulatory permit will include requirements for review of the proposed operation by City police and fire services. Any identified impacts on safety will be addressed by conditions of approval or regulatory requirements.

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 state building regulations.

Staff recommends this finding.

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

The proposed amendment is requesting a modification of one interior space from a storage/inventory room to a space for distribution activities and is completely contained within the previously approved facility, which has an adopted mitigated negative declaration which previously assessed and mitigated all environmental impacts of the project. Further, the cultivation facility will operate in accordance with the City's regulations and conditions of approval. Based on the draft environmental document, no significant adverse or harmful effects on the environment or on any natural resources are anticipated, subject to the implementation of specific mitigation measures and conditions of approval. Staff recommends this finding.

EXHIBITS:

- 1) Draft Conditions of Approval
- 2) Revised Floor Plan