

REPORT TO THE CITY COUNCIL



DATE: February 7, 2017

TITLE: Conditional Use Permit (CUP No. 25-16) and Development Agreement (DA 16-16) to Establish an Approximate 29,000 Square Foot Medical Marijuana Cultivation Facility on a 1.23 Acre Site Located on the Northeast Corner of Little Morongo Road and 15th Avenue

Applicant: AGreenCulture DHS, Inc. (Contact: Dmitry Margusov)

Prepared by: Scott Taschner, Associate Planner

Reviewed by: Charles Rangel, Interim Community Development Director

RECOMMENDATION

- 1) Staff Report;
- 2) Questions of Staff;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Opportunity for Applicant Rebuttal;
- 7) Close the Public Hearing;
- 8) City Council discussion; and
- 9) Approve: 1) Adoption a Mitigated Negative Declaration for the AGreenCulture Medical Marijuana Cultivation project, 2) a Conditional Use Permit (CUP 25-16) for the construction of a 29,193 square foot cultivation building; and 3) an Ordinance approving a Development Agreement (DA 16-16) for the project located on the northeast corner of Little Morongo Road and 15th Avenue in the I-L (Light Industrial) District. APN's: 665-050-021, 027, & 030.

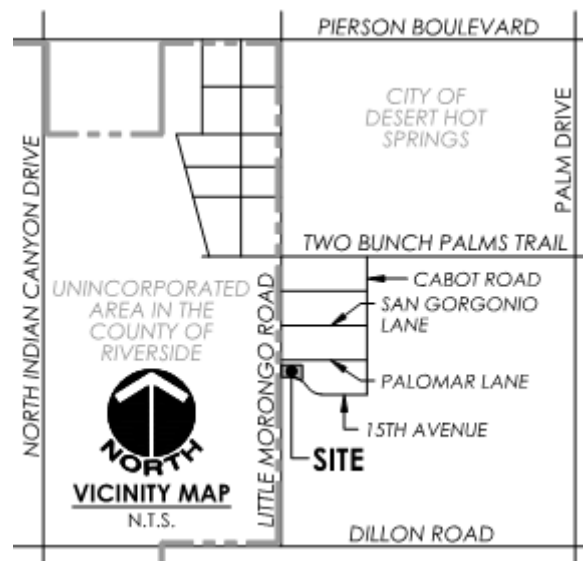
BACKGROUND

Prior Actions:

On January 10, 2017 the Planning Commission made a recommendation to the City Council for approval of the project. No additional conditions or revisions were made as part of the recommendation.

Use Conformance:

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) and Development Agreement approved by the City Council and a Regulatory Permit approved by the City Manager. The applicant, A Green Culture DHS Inc. (Contact: Dmitry Margusov), has filed an application to construct a facility for the indoor cultivation of medical marijuana.



Site Analysis:

The site is located on the northeast corner of Little Morongo Road and 15th Ave. Its gross size is 53,579 square feet (1.23 acres); a twenty five-foot dedication for public rights of way along Little Morongo Road and a thirty (30) foot dedication along 15th Ave are required and yields a net area of 49,223 square feet, or 1.13 acres. Topographically, the site slopes to the southeast. The site does not appear to have been developed in the past and is presently covered with scrub brush, cobbles and debris. The site is zoned Light Industrial (I-L) District where the proposed use may be developed, subject to approval of a conditional use permit. Public street improvements on Little Morongo Road and 15th Ave will be required. Draft conditions of approval and a draft Negative Declaration with Mitigation Measures have been prepared and are attached to this report.

Surrounding properties consist of:

	<u>Jurisdiction</u>	<u>Zoning & General Plan Designations</u>	<u>Current Land Use</u>
North	City	IL (Light Industrial) District	Vacant Land
West	City	OS/FW Floodway (County Jurisdiction)	Vacant Land
South	City	IL (Light Industrial) District	Vacant Land
East	City	IL (Light Industrial) District	Vacant Land

PROJECT SUMMARY

The applicant, AGreenCulture DHS, Inc / Dmitry Margusov, has filed a Conditional Use Permit (CUP) application to construct a new building for the indoor cultivation of medical marijuana located on Assessor Parcel Numbers (APN) 665-050-021, -027, and -030. The 1.23 acre site is presently vacant, flat and generally undisturbed.

The proposed hybrid tilt-up/greenhouse two-story building will have a total floor area of 29,193 square feet (Ground Floor Area is 15,729 sf). Uses within the building will consist of approximately 22,479 square feet of cultivation area, about 2,335 square feet for office / staff support space, and 4,379 sf dedicated for processing and manufacturing.

On-site vehicular circulation is proposed via a paved two-way drive aisle on three sides of the building (east, north and west). Parking for twenty six (26) vehicles, including 2 for disabled access, is located along the east and north side drive aisles. Access to public streets is provided with 2 two-way driveway aprons, one on Little Morongo Road and the other on 15th Ave. An underground retention basin is proposed beneath the parking stalls along the easterly boundary of the site, and a trash enclosure and underground propane tanks are proposed along the north boundary. Tube steel fencing and Concrete Masonry Unit Pilasters are proposed around the site's perimeter with controlled gates at the driveways. Landscaping is proposed around the entire perimeter of the site; no phasing is proposed.

Landscaping around the perimeter of the site will include a variety of low- and moderate-water use plants, including Mexican Fan Palms, Mulgas, and Desert Museum Palo Verdes

CUP ANALYSIS

General Plan and Zoning Consistency: The project proposes to establish a Medical Marijuana 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 1.23 gross acres (53,579 square feet) in size, which will be reduced by right-of-way dedications to 1.13 net acres (49,223 square feet). Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total of the proposed building lot coverage (Ground Floor Area) is 15,729 square feet or approximately 34% of the 1.13 acre project site, placing the project within the maximum allowed coverage.

Building Height: The highest point on the proposed building will be no more than 38 feet above adjacent grade. 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. Proposed setbacks are 34 feet in the front (off Little Morongo Road), 10 feet and 63 feet on the sides, and 64 feet in the rear (east). Therefore, the proposed building meets minimum setback requirements.

Circulation and Parking: Ingress and egress to the site will be provided from two driveways, one accessing Little Morongo Road on the west side and the other on 15th Ave to the south of the property. Both entries will have controlled gates and be monitored by onsite security personal.

Off-Street parking standards for Medical Marijuana Cultivation 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) and plant nurseries (1 space per 2,500 square feet), resulting in a requirement of 20 total parking spaces. The proposed site improvements will provide 26 parking stalls, 6 more than the required amount.

<u>Parking Calculation</u>			
<u>Use</u>	<u>Area (Sq. Ft.)</u>	<u>Ratio</u>	<u>Number of Spaces</u>
Office	2,335	1 per 250 square feet	10
Cultivation Activities	22,479	1 per 2,500 square feet	<u>9</u>
Processing/Manufacturing	4,379	1 per 2,500 square feet	<u>2</u>
Total Spaces Required			21
Total Spaces Provided			26

The project includes a 9 ft. wide and 12 ft high roll-up door and interior loading bay for box sized trucks. The plan also shows an area for temporary parking of larger semi-trailer trucks.

Architecture:

The proposed facility will be a hybrid tilt up/greenhouse structure. The first floor of the structure will consist of tilt up construction with plaster finish. The 2nd floor will consist of pre-engineered greenhouse structures fitted with translucent roof panels to allow ample light for cultivation purposes. Building facades and design will contain rich 3 dimensional forms and architectural elements in the style of contemporary desert architecture. Contrasting accent colors will bring out and visually enhance the architectural features and elements. The overall architectural character will be that of an attractive, well-maintained industrial building. Exhibit 5, Architectural Floor Plan shows the typical interior layout of the proposed buildings while Exhibit 4, Building Elevations depicts the exterior architectural treatments to be used. Site perimeter will be enclosed with wrought-iron or tubular steel fencing to enhance visuals and secure perimeter.



View from Little Morongo Ave (Looking south east)

Landscaping: Landscaping is proposed around the entire perimeter of the site, which includes substantial plantings along the street frontage and the parking area. Landscaping has been designed to balance aesthetic, water use and security objectives. Along Little Morongo Road and 15th Ave, landscaping will consist of Mexican Fan Palms, Mulgas, and Desert Museum Palo Verdes along with low level plantings and tubular steel/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.



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 (Exhibit No. 7). 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.

Phasing: The applicant proposes to construct the project in a single phase.

Security: Security measures have been considered and incorporated into the facility. 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.

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 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 ANALYSIS

The City is requiring all Medical Marijuana Cultivation to process a Development Agreement 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 Desert Hot Springs Municipal Code (17.84 Development Agreements) and State law provide that the City and a developer may enter into a development agreement for the purpose of providing the developer with assurances that their development entitlements will not be subject to revocation, termination or modification because of future changes in the City's zoning, planning and land use regulations. In exchange, the City receives certain benefits in the form of revenue, improvements, etc. that the City could not otherwise legally impose on the particular project for a variety of reasons. Such reasons include, but are not limited to, (a) the lack of a nexus between a certain condition of approval and the scope of the project's impacts on the environment or surrounding neighborhood or (b) the legal exclusion of a certain use from the imposition of certain fees or taxes. Development agreement authority is essentially one of the only exceptions to the general principle that prohibits cities from contracting away their future police powers. Moreover, development agreement authority has served as an effective means for cities to encourage economic development, which has become increasingly important to some cities in the absence of redevelopment authority.

ENVIRONMENTAL ANALYSIS

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), 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 (MND) is proposed and contains certain mitigation measures for Cultural and Biological Resources. The draft Mitigated Negative Declaration is being circulated for comments (comment period ending January 4th, 2017) and no comments have been received as of January 30th, 2017. The MND is attached for consideration by the Commission, and the City Council will consider certification of a Mitigated Negative Declaration prior to final action on the project.

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.

FINDINGS:

Staff has reviewed the project against the required findings in the zoning code and against the applicable general plan policies and has made 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 a Medical marijuana cultivation facility which is identified in Section 17.180.070 of the City of Desert Hot Springs Zoning Ordinance as permitted within any industrial zone which includes the I-L (Light Industrial) zone), subject to approval of a Conditional Use Permit. The project is proposed to be compliant with applicable provisions of the Zoning Ordinance. Conditions of approval have been prepared and are recommended to assure the proposed use will comply with applicable Zoning Ordinance provisions. Staff recommends this finding.

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

Section 17.16.010.B.1 of the Desert Hot Springs Zoning Ordinance identifies the underlying I-L (Light Industrial) zoning district as, "...intended to retain, enhance, and intensify existing and provide for the new development of lighter industrial uses along major transportation routes serving the City." The proposed medical marijuana cultivation facility qualifies as a "lighter industrial operation" in that no heavy manufacturing operations will be conducted on the site.

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 building is developed to accommodate the proposed use and appears to be able to accommodate a wide variety of industrial uses, if needed. 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 medical marijuana 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 surround lands are zoned for light industrial development. The site will be a self-contained development with all vehicle circulation needs accommodated on site. The proposed building is 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. All activities will be contained within the existing building 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 be located within a new 29,193 square foot two-story building 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 project site consists of one lot totaling 1.23 gross acres (53,579 square feet) in size, which will be reduced by right-of-way dedications to 1.13 net acres (49,223 square feet). Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total of the proposed building lot coverage (Ground Floor Area) is 15,729 square feet, or 32% of the 1.13 acre project site, placing the project, within the maximum allowed coverage. 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 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, both from public rights-of-way 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 (less than 38 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 proposed project and has provided 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 Planning Commission review of the project application, notice of the proposed medical marijuana cultivation facility conditional use permit hearing was provided to property owners within 300 feet of the proposed site. A notice of the public hearing was also published in the Saturday December 24, 2016 Desert Sun 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.

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 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 new building with new associated site improvements, including parking, vehicle circulation, landscaping and trash enclosures. 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 building with new associated site improvements, including parking, vehicle circulation, landscaping and trash enclosures. 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.

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 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 medical marijuana 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 medical marijuana 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 medical marijuana 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 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 in 6 October 2016 and the Planning Commission and City Council hearings are set for Early 2017. 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 (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 protections services. Fire suppression systems will also be incorporated into the operation to minimize the impact on fire protection service. Consequently, the proposed medical marijuana cultivation facility is not expected to demand a high level of police and fire protection services.

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

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

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 medical marijuana cultivation facility will be sited 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 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.

- 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 light industrial use in a new building 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 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.

DEVELOPMENT AGREEMENT NO. 16-16

- 1. That the property proposed to be subject to the agreement is not less than 1 acre in size*

The site has a total gross area of 1.23 acres (approximately 53,579 square feet), prior to right-of-way dedications. The net lot area is 1.13 acres.

- 2. That the application is made on forms approved, and contains all information required, by the Director;*

The applicant has submitted a draft development agreement on the City's template for review.

3. *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; 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.

RECOMMENDATION

Staff recommends that the City Council make a motion (based on the positive recommendation from the Planning Commission) to approve; 1) Adoption of the Mitigated Negative Declaration for the project, 2) Conditional Use Permit No 26-16, and 3) Development Agreement 16-16, subject to the attached conditions of approval, the mitigation measures outlined in the projects MND and the findings outlined in this report.

EXHIBITS:

- 1) Draft Conditions of Approval
- 2) Draft Negative Declaration with Mitigation Monitoring Program
- 3) Proposed Site Plan
- 4) Colored Rendering
- 5) Building Elevation (West & South)
- 6) Building Elevations (East & North)
- 7) Greenhouse Elevations
- 8) Floor Plan, First Story
- 9) Floor Plan, Second Story
- 10) Materials Board
- 11) Landscape Plan
- 12) Lighting Plan
- 13) Ordinance
- 14) Draft Development Agreement
- 15) Legal Description (Exhibit A to Development Agreement)
- 16) Aerial Photograph (Exhibit B to Development Agreement)