

REPORT TO THE PLANNING COMMISSION



DATE: August 13, 2019

TITLE: Amendment to Conditional Use Permit No. 10-14. A request to expand the business operation into an adjacent tenant space and ultimately into the rear portion of the building at the Desert Finest cannabis retail storefront located at 12106 Palm Drive.

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Reviewed by: Rebecca Deming, 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) Staff recommends that the Planning Commission approve the following 1) An exemption to CEQA based on the finding that the project qualifies as a Class 3 Categorical Exemption 15311 Existing Facilities and 2) Amendment to Conditional Use Permit No. 10-14 for the expansion of the building in two (2) phases.

PRIOR ACTIONS

On April 12th 2016, the Planning Commission approved the application for a Conditional Use permit to allow a cannabis retail storefront to operate in an existing commercial/residential building at 12106 Palm Drive.

EXECUTIVE SUMMARY

The applicant (Samion Shtockmaqter) is proposing to expand the existing cannabis retail storefront operation in two phases to other portions of the building. The first phase will include the expansion for additional office space and a packaging area. The second phase will consist of the expansion of the rear portion of the building (first floor only) to expand the business operations for light manufacturing activities for the business located at 12106 Palm Drive.



SITE ANALYSIS

The project site is an existing commercial building with a two-story mixed-use development along the rear portion, including retail commercial space on the first floor and five residential apartments (currently vacant and not occupied) on the second floor. The applicant is not currently proposing to expand into the second (2nd) story. Therefore, staff has added a condition that any future expansion of the second story will require additional review and approval by the Planning Department (specifically for use clearance, and parking evaluation).

GENERAL PLAN AND ZONING CONSISTENCY

The site is located within the C-G (General Commercial) land use designation of the City General Plan and Zoning map. Cannabis retail store front with ancillary limited cultivation are conditionally permitted within this land use designation. The Zoning and General Plan Land Use designations, and the current land uses for surrounding properties are as follows:



	Zoning & General Plan	Current Land Use
North	C-G (Commercial General)	Retail
East	R-L (Residential Low Density)	Residential – Single Family
South	C-G (Commercial General)	Vacant
West	C-G (Commercial General)	Retail

The occupancy of the existing building needs to conform to zoning standards, such as setbacks, heights, number of parking spaces, etc. The existing building does not conform to front or street side setbacks (minimum 10 feet required; less than two feet provided). Staff has concluded that the building likely precedes the adoption of the current zoning standards and may be considered legal non-conforming. The building conforms to interior side and rear setbacks, building height and lot coverage (27% lot coverage actual; maximum 35% allowed).

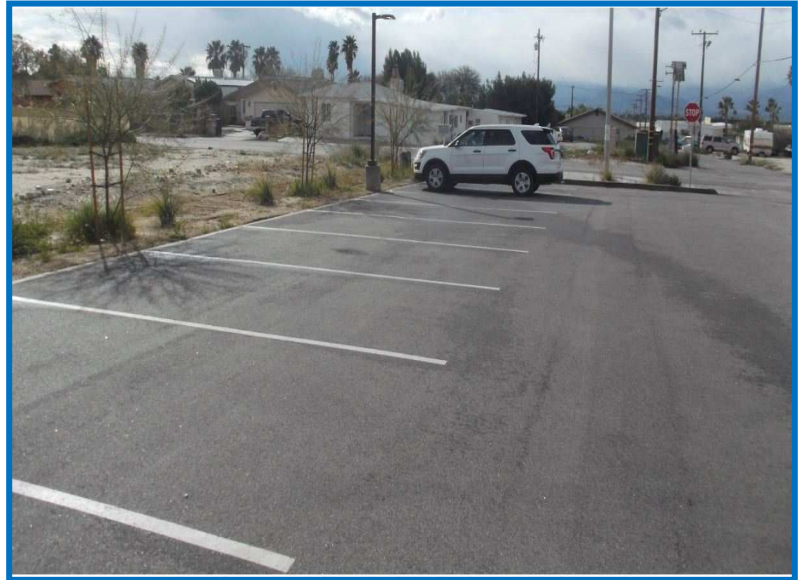
Site Circulation/Off-Street Parking

The parking along Acoma Road has been replaced with new curb, gutter and sidewalk. The site plan shows six (6) vehicle parking spaces and a one-way drive aisle along the south side of the building. Entry into the drive aisle is taken from the alley east of the site and exiting on to Palm Drive via right turn only. The proposed use is considered a retail use and the zoning standards applied to the building's area yield a requirement for five (5) parking spaces; however, six (6) parking spaces are proposed.

Parking Calculation			
Proposed Use	Zoning Requirements	Number of Spaces Required	Number of Spaces Provided
Total Retail Space: 2097	1 spaces/ 250 sf	8.38	
Ancillary Uses: 1884	1 space / 750 sf	2.51	
Cultivation Area: 0	1 space / 2500 sf	0	
		10.84	
TOTAL 3,981		10.89 (11 required)	15 (2 ADA) Total 17

Phasing Plan

The development currently has a total floor area (currently operational) of approximately 2,076 square feet. The applicant proposes the project to be done in two (2) phases. The expansion of phase one (1) will consist of the expansion of the sales floor and into an approximate 561 square foot area on the north side of the building which will include an office space, packaging room, and storage areas. Phase two (2) will consist of the expansion of the rear portion of the first floor of approximately 1,340 square feet which will include a light manufacturing area, restrooms, packaging room, and storage rooms. The second floor of the building is not a part of this current request, any additional expansion/remodel will require review and approval.



Zoning Consistency Finding

Following the review and analysis of the application materials and plans, staff has determined that the proposed project conforms to the development standards of the C-G (General Commercial) Zoning District.

OPERATIONAL ISSUES

Staff has reviewed and summarized several operational issues below. All aspects of the operation will be subject to the conditions of this Conditional Use Permit as well as the associated Regulatory Permit.

Security

Security cameras with 360-degree exterior views, as well as interior monitoring will be provided, including digital storage as required by the City. Audible alarms will be provided at all entry points and exterior windows. Security guards will be on-site during operational hours. All security measures will be subject to review and approval by the City as required. Staff is recommending a condition prior to issuance of the building permit for the phase two (2) expansion to submit a security plan for review and approval by the Planning Department and Police Department (Condition #7)

CONDITIONAL USE PERMIT FINDINGS

Conditional Use Permits are regulated under Section 17.76 of the Desert Hot Springs Municipal Code and require that certain findings be made by the Planning Commission before granting a CUP request. Staff has developed recommendations for each finding, as follows:

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 cannabis store front retail, with limited cultivation, and light manufacturing which is identified in Section 17.180.060 of the City of Desert Hot Springs Zoning Ordinance as permitted within any commercial zone which includes the C-G (General Commercial zone), subject to approval of a Conditional Use Permit. The project is proposed to be located within an existing commercial building that generally complies 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 17.12.010.B.2 of the Desert Hot Springs Zoning Ordinance identifies the underlying C-G (General Commercial) zoning district to, *"include a wide variety of smaller commercial centers at nodes with development such as small scale convenience commercial centers that provide a limited range of convenience commercial services, smaller grocery and convenience stores, service stations, and other limited retail operations; and also along major commercial corridors, with shops including specialty retail shops, a broad range of clothing and apparel, jewelry stores and a variety of personal service businesses."* The proposed cannabis retail store front qualifies as both a "limited retail operation" and a "personal service business", and will occupy an existing commercial building similar to other retail buildings in the area. The operation will serve customers in a manner similar to other retail operations and will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. Staff recommends this finding.

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

The site is developed as mixed-use commercial-residential building with parking, landscape and other features and amenities appropriate to the development. The proposed cannabis retail store front is physically organized similar to other retail establishments and the site and adjacent property will 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 retail storefront. Staff recommends this finding.

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

The site is presently developed with both commercial retail and residential uses. A major portion of the existing building's first floor is presently vacant. The proposed cannabis retail store front is a retail use with ancillary uses and light manufacturing activities, and can be considered similar to other retail establishments allowed in the

C-G (General Commercial) zone, such as personal services (e.g., dry cleaners), grocery stores, food products or nurseries with on-site plant sales. The existing commercial building was developed to accommodate a wide variety of retail / office commercial uses. The proposed cannabis retail store front with limited cultivation does not appear to be outside the range of activities typical for a commercial building.

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

Existing and future land uses within the general area of the proposed cannabis retail store front / commercial. Lands to the northeast and east are developed with single and multiple family residential, respectively (to the northeast, up to eight (8) units per acres; to the east, up to 14 units per acre.) Lands to the north, south and west are either developed with existing retail commercial businesses or are vacant and designated for future retail commercial use. The building is a free-standing, self-contained development with all vehicle and pedestrian circulation needs accommodated on site. All activities will be contained within the existing building and the operation will appear as a retail use consistent with the intent of the C-G General Commercial Zone. Consequently, the proposed cannabis retail store front is expected to be compatible with existing and future development in the surrounding general 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 cannabis retail store front will be an expansion within an existing commercial building. The one-story building is of conventional construction with adequate parking will be provided, including parking off-site. No new construction is proposed. The scale, mass, coverage, density and intensity of the proposed use will be consistent with general commercial and residential activities and its location and orientation toward a primary street intersection will cause it to be compatible with adjacent residential 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 fully developed as a commercial / residential building and the adjacent lot is developed for parking, with all public services and utilities installed are available. The proposed cannabis retail store front retail with limited cultivation not to exceed 99 mature flowering plants 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 is fully improved with vehicular and pedestrian access, with access from public rights-of-way as well as within and throughout the site. The location of off-site parking on the adjacent vacant parcel will provide additional vehicle access to the business. The proposed retail store front retail will not create any additional demand for access than provided on the site of the existing commercial building and on the adjacent parking lot. Staff recommends this finding.

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

Desirable neighborhood characteristics include the medium- and high-density visitor-serving and residential neighborhoods to the northeast and east, long-range views from existing homes and business of surrounding mountains, and the future availability of local goods and services in the downtown commercial core. While the proposed cannabis store front retail will nearly completely occupy a building along Palm Drive, there appear to be substantial additional available square footage for other businesses along this commercial corridor. The proposal's location and orientation toward Palm Drive and Acoma Road as well as the limitations on the operation (hours, age restrictions, etc.) is expected to result in no adverse effect on the residential neighborhoods; the building's height of less than 25 feet is anticipated to have no effect on long-range views from surrounding areas. Staff recommends this finding.

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

The proposed cannabis retail store front can be considered necessary and essential to the community to the extent that it is supported by customers that cause it to succeed as a local retail business. Further, the proposed use must also operate under City regulations and conditions of approval so that only the necessary and essential elements of the business – as determined by the City – are expressed over the life of the business. Staff recommends this finding.

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

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

Administration

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

The City has adopted a zoning ordinance to implement the General Plan and provide for review and approval of individual development projects. The proposed cannabis retail store front 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 cannabis retail store front will be located within an existing commercial building in the C-G (General Commercial) zone of the City and all public improvements are in place. The proposed off-site parking shall be developed in accordance with the Specific Plan design guidelines.

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 cannabis retail store front conditional use permit hearing was provided to property owners within 300 feet of the proposed site.

Commercial Land Use

Goal: A responsive range of commercial land uses conveniently and appropriately distributed throughout the City, meeting the community's needs and taking full advantage of emerging development and economic opportunities.

The proposed cannabis retail store front will be located in an existing commercial building located at an intersection of a Major Collector (Palm Drive) and a Local Street (Acoma Road). This site is a convenient location for retail commercial uses generally. The proposed use will provide cannabis to qualified customers, which is an emerging economic opportunity.

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 within an existing commercial building and no structural changes to the exterior are proposed. Exterior changes will be new paint colors, the possible replacement of doors for additional security, outdoor security lighting, subject to the zoning code. All exterior changes will be reviewed by staff 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 an existing commercial building and no structural expansion is proposed. Therefore, the proposed cannabis retail store front 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.

All exterior signs shall 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.

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) to assure that only the minimum level of lighting necessary to provide the needed security is installed. All proposed exterior lighting shall be reviewed by staff for conformance to the applicable standards. Therefore, the proposed cannabis retail store front is taking reasonable steps to preserve the night skies.

Economic Development:

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

The proposed cannabis retail store front will expand the type of commercial services available to residents and visitors, provide opportunities for new employment and business support services.

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

The establishment of a cannabis retail store front 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.

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.

Fire and Police Protection

Goal: A high level of police and fire protection and service.

The proposed cannabis retail store front 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 cannabis retail store front 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.

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 cannabis retail storefront with limited cultivation will occupy an existing commercial building, located within an established retail commercial area, and operated in accordance with the City's regulations and conditions of approval. Consequently, no significant adverse or harmful effects on the environment nor 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 cannabis retail storefront with limited cultivation will be operated as a retail commercial use within an existing commercial building. 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; consequently, no mitigation measures are required.

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 cannabis retail storefront with limited cultivation 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 Planning Commission can make these findings and therefore grant the requested Permit.

ENVIRONMENTAL ANALYSIS

The Applicant proposes to occupy and improve an existing commercial building; only interior and cosmetic exterior improvements are proposed and these will result in no significant environmental impacts.

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 *et seq*, and the CEQA Guidelines, Title 14, Chapter 3 of California Code of Regulations, the project is found to be Categorically Exempt from further environmental review as a Class 1 (Existing Facility) Categorical Exemption of Section 15301 of CEQA.

FISCAL IMPACT

Improvements to the existing building will generate one-time revenues to the City in the form of building permit fees to defray plan check and inspection costs. In addition, the City will receive on-going revenue from cannabis taxes.

RECOMMENDATION

Staff finds that the proposed project is substantially consistent with the General Plan and meets the development standards of the C-G (General Commercial) zoning district. Staff recommends that the Planning Commission approve Amendment to Conditional Use Permit No. 10-14 subject to the Conditions of Approval

APPROVAL OF AN EXEMPTION TO CEQA based on the finding that the project qualifies as Categorically Exempt under Section 15301 Class 1 (Existing Facility). The Desert Hot Springs Planning Department is custodian of the documents or other material which constitute the record of proceedings upon which this decision is based.

APPROVAL OF AMENDMENT TO CONDITIONAL USE PERMIT NO. 10-14 to allow the expansion of the operation of a cannabis retail storefront with limited cultivation of up to 99 mature flowering plants within an existing retail commercial building, located at 12106 Palm Drive at the northeast corner of Palm Drive and Acoma Avenue in the C-G (General Commercial) District, based on the findings contained within this report and subject to the attached Conditions of Approval.

EXHIBIT(S)

- 1) Draft Conditions of Approval
- 2) Existing Site Plan
- 3) Original Approval
- 4) Phase 1
- 5) Phase 2