

REPORT TO THE PLANNING COMMISSION



DATE: October 11, 2016

TITLE: Consideration of Conditional Use Permit No. 13-16; modification to a previously approved metal warehouse building with a total area of approximately 6,600 square feet on a 1.07 acre parcel being repurposed for the indoor cultivation of medical marijuana located at 65145 Two Bunch Palms Trail in a light Industrial (I-L) Zone. Applicant: Ocean Springs Tech (Contact: Armando Rodriguez).

Prepared by: Nathan Bouvet - 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) Close the Public Hearing;
- 7) Opportunity for Applicant Rebuttal;
- 8) Planning Commission discussion and questions to Staff; and
- 9) Consider a motion that the Planning Commission approve Conditional Use Permit No. 13-16; for modification to a previously approved metal warehouse building with a total area of 6,600 square feet being repurposed for the cultivation of medical marijuana located at 65145 Two Bunch Palms Trail in a light Industrial (I-L) Zone.

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 a Regulatory Permit approved by the City Manager. The applicant, Ocean Springs Tech, Inc. (Armando Rodriguez), has filed an application to repurpose an existing 6,600 sq ft metal warehouse building for the indoor cultivation of medical marijuana.

The site is located at 65145 Two Bunch Palms Trail between Little Morongo Road and Cabot Road. The Planning Commission has authority to review and approve Conditional

Use Permits subject to Section 17.76 and 17.180 of the Desert Hot Springs Municipal Code. As an existing facility on an in-fill site, the project qualifies for an exemption under Sections 15301 and 15332 of the CEQA Guidelines.

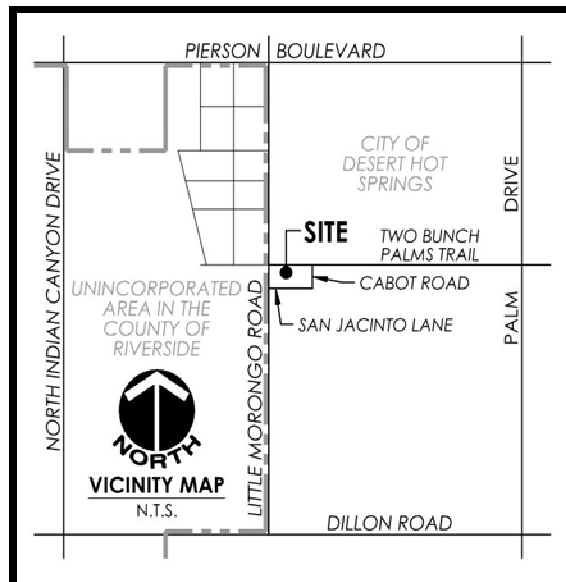
The proposed project is located on a qualifying site, zoned Light Industrial (I-L). Chapter 17.16 of the Desert Hot Springs Municipal Code directs development in Industrial Districts. The proposed project is consistent with chapter 17.16, in that the design meets all necessary design standards, building heights, parking, and lot coverage.

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	IL (Light Industrial) District	Vacant Land
South	City	IL (Light Industrial) District	Vacant Land
East	City	IL (Light Industrial) District	Proposed Cultivation Facility

PROJECT SUMMARY

The applicant, Ocean Springs Tech (Armando Rodriguez), has filed a Conditional Use Permit (CUP) application to repurpose an existing metal warehouse building (Ocean Springs Pool and Spa) for the indoor cultivation of medical marijuana located at 65145 Two Bunch Palms Trail (APN 665-030-053). The 1.07 acre site contains an existing metal warehouse building, site improvements, dedicated on-site parking, and perimeter block wall. The existing building structure contains approximately 6,600 square feet (sf) of interior space and has a ground floor area (GFA) of 5570 sf. Uses within the building will include 1,443 sf for office, 639 sf for processing, and 4,527 sf for cultivation.



Existing paved vehicular circulation, turnaround, and parking areas are located east and south adjacent to the building. In total, the project site provides for 17 off-street parking spaces. Proposed landscaping will consist of drought tolerant plants and will complement the existing desertscape mural over the building's façade. Site improvements include the construction of curb and gutter, five (5) foot sidewalk, and a modified 30 foot access driveway.

The existing facility was originally approved in 2001 under a Conditional Use Permit. As part of its original approval, the project provided a 50 foot right-of-way dedication along Two Bunch Palms Trail in accordance with the General Plan. For this project Staff has determined that a 55 foot right-of-way dedication be required along the project frontage on Two Bunch Palms Trail. As a result, the project will dedicate an additional five (5) feet to the ultimate right-of-way and the front setback to the existing structure will be reduced to 15 feet.

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 1.07 gross acres (1.05 net acres) in size. Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total ground floor area of the existing permitted building is 5,570 square feet, or 12% of the entire 1.05 net acre project site, placing the project within the maximum allowed coverage.

Building Height: The highest point on the existing building is approximately 20 feet. 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 side. The existing and permitted building maintains a minimum setback of approximately 15 feet from the front right-of-way line, 10 feet from the west side property line, 95 feet from the east side property line and 164 feet from the rear property line.

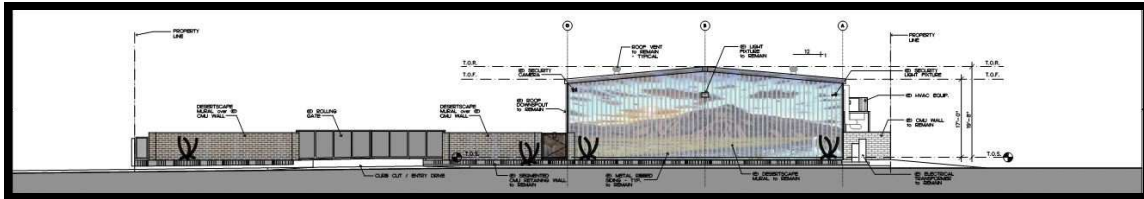
Circulation and Parking: Ingress and egress to the site will be provided from Two Bunch Palms Trail, a two (2) lane paved road. A gated access point is located off Two Bunch Palms Trail and will be monitored by onsite security personnel.

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 nine (9) total parking spaces. The existing site improvements currently provide 17 parking stalls, eight (8) more than the required amount.

Parking Calculation

<u>Use</u>	<u>Ratio</u>	<u>Number of Spaces</u>
Office - 1,443 (sf)	1 per 250 square feet	6
Cultivation - 4,527 (sf)	1 per 2,500 square feet	<u>2</u>
Processing - 639 (sf)	1 per 2,500 square feet	<u>1</u>
Total Spaces Required		9
Total Spaces Provided		17

Elevations, Colors and Materials: The existing building is similar to other industrial buildings in the area. There will be no changes to the elevations, colors, or materials of the existing structure. The existing desertcape mural over the building's façade/south elevation and concrete block wall will remain. The overall architectural character of the proposed project will be that of an attractive, well-maintained industrial building. Existing and permitted perimeter block wall will remain. Exhibit No. 5, *Building Elevations* depicts the exterior architectural features and existing mural.



Ocean Springs Tech Facility, Facade/South Elevation

Landscaping: As on other cultivation projects, Staff is primarily concerned with achieving an enhanced appearance from the public street. Landscaping has been designed to balance aesthetic, water use and security objectives. Along Two Bunch Palms Trail, landscaping will consist of low level plantings and Ocotillos which will complement the existing desertcape mural, creating a unified, cohesive appearance for the entire project frontage. Plant irrigation will use drip or micro-spray applicators to avoid overwatering and promote water efficiency. Project landscaping is shown in Exhibit No. 6, *Conceptual Landscape Plan*.

Lighting:

Exterior lighting will be provided at all exterior doors and for the parking area, subject to review by the Police and Planning Departments (Exhibit Nos. 7 and 8). 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 and if additional freestanding lighting within the site is required by the Police

Department it shall be reviewed and approved by the Community Development Director prior to permit issuance.

Security: Security measures have been considered and incorporated into the facility. The site is currently enclosed within an existing and permitted, perimeter block wall. The existing gated entry will control vehicular access to and from the property. Security cameras would be 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.

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 be open 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 will 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.

Staffing: When fully staffed, it is estimated that operations will include 8 - 12 full time positions. These roles will be responsible for oversight, compliance reporting, security, general cultivation, and processing. All staff will be subject to thorough background checks as per City regulations.

Deliveries: All finished product will be packaged and loaded onto delivery trucks within a secure, discreet, and enclosed garage area within the facility. Deliveries will occur as-needed between the hours of 8:00 am and 10:00 pm.

CONDITIONAL USE PERMIT FINDINGS

Conditional Use Permit Findings 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:

- A. *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 district, subject to approval of a Conditional Use Permit. The project proposes to repurpose an existing facility for the indoor cultivation of medical marijuana that 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.

- B. 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 I-L (Light Industrial) zone as intended for, "...*business parks and the development of any and all industrial uses operating entirely in enclosed buildings, and those requiring limited and screenable outdoor storage. Examples include clean manufacturing operations, warehousing and distribution facilities, mini-warehouse storage, and a variety of light manufacturing businesses.*" The proposed medical marijuana cultivation facility qualifies as "industrial uses operating entirely in enclosed buildings" and as "clean manufacturing operations, warehousing and distribution facilities", and will occupy existing commercial/industrial buildings similar to other industrial buildings in the area. The proposed use will produce goods and products in a manner similar to other industrial uses 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.

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

The existing site had been 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.

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

The site is developed with one (1) building and ancillary paved areas. The proposed medical marijuana cultivation facility is an industrial use and can be considered similar to other industrial establishments allowed in the I-L (Light Industrial) zone, such as plant nurseries, food products, distribution, light manufacturing and wholesaling. The existing commercial/industrial building was developed to accommodate a wide variety of commercial/industrial uses. The proposed cultivation facility does not appear to be outside the range of activities typical for a commercial/industrial building, and is proposed to entirely occupy the existing building. Staff recommends this finding.

- E. 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 (and one religious institution, to be relocated); 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 and shall be reviewed and approved under a separate permit. 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.

- F. 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 an existing 6,600 square foot building with existing supporting parking, landscaping and other amenities. Adjacent land uses are light industrial, subject to a maximum building height limit of two (2) stories or 50 feet and lot coverage of 75%. The existing building does not exceed 20 feet in height, contains a total of 6,609 square floor area, and has a lot coverage of 5,570 square feet, about 12% of 45,738 sq. ft. 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.

- G. 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 has been developed as a light industrial use with all public services and utilities installed prior to occupancy. The project proposes to repurpose an existing, onsite metal warehouse building for the indoor cultivation of medical marijuana. The proposed medical marijuana cultivation facility will not create such a demand for water, sanitation or other public utilities and services so as to be detrimental to public health and safety. The project's demand for and consumption of public utility services as well as the capacity of existing and/or upgraded system facilities are thoroughly evaluated by each service provider and agency before building permits and a certificate of occupancy will be issued. Staff recommends this finding.

- H. That there will be adequate provisions for public access to serve 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. The subject site has sufficient parking – seventeen (17) spaces provided, nine (9) spaces required. The Public Works Department is recommending conditions to assure that street driveway access meets current design standards. Staff recommends this finding.

- I. 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 20 feet) and relatively small building coverage (12%) does not impede long-range views from any residential area. Surrounding lands available for other businesses will not be limited in their future development by the proposed use. Staff recommends this finding.

- J. 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.

- K. 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 repurpose an existing metal warehouse building and will be located on a developed property within a

partially-developed industrial area, located in the I-L (Light Industrial) zone district. 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.

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 in an existing warehouse building, located in the I-L (Light Industrial) zone district 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 an existing building with minor proposed 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 an existing building with associated site improvements. These improvements have been reviewed for adherence to applicable development standards and guidelines. The building exterior, site landscaping, fencing and other improvements are designed with appropriate materials, colors, plant types and other design elements to assure compatibility with the City's desert setting and surrounding development.

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 currently developed and has an existing metal warehouse building onsite. The existing warehouse building will be repurposed and used for light industrial use. The building exterior (including height), site landscaping, and other improvements have been 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 project is taking reasonable steps to create a secure and well-lit development in accordance with Police Department protocols for this type of facility.

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. 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.

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 protection services. Fire suppression systems will also be incorporated into the operation to minimize the impact on fire protection services. 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 Staff recommends this finding.

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

The project will repurpose an existing metal warehouse building for the indoor cultivation of medical marijuana on a property that is currently zoned for light industry. Further, the cultivation facility will operate in accordance with the City's regulations and conditions of approval. In addition, Staff finds the project exempt

from the California Environmental Quality Act (CEQA) per Section No. 15301, Class 1 (Existing Facilities) Staff recommends this finding.

M. 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 Planning Commission can make these findings.

ENVIRONMENTAL ANALYSIS

The applicant proposes to occupy and improve one (1) existing commercial/industrial 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.

ARCHITECTURAL AND LANDSCAPE REVIEW COMMITTEE (ALRC)

No significant exterior changes are proposed and no ALRC review was conducted.

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 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.

RECOMMENDATION

Staff finds that the proposed project is substantially consistent with the General Plan and meets the development standards of the I-L (Light Industrial) zone district. Staff recommends that the Planning Commission approve Conditional Use Permit No. 13-16, subject to the Conditions of Approval and the following findings:

APPROVAL OF AN EXEMPTION TO CEQA based on the finding that the project qualifies as a 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 CONDITIONAL USE PERMIT NO. 13-16 to allow a medical

marijuana cultivation facility based on findings contained within this report and subject to the attached Conditions of Approval.

EXHIBITS:

Exhibit No. 1 – Draft Conditions of Approval

Exhibit No. 2 - Site Plan

Exhibit No. 3 and 4 – Floor Plans

Exhibit No. 5 – Elevations

Exhibit No. 6 – Landscape Plan

Exhibit No. 7 – Lighting Plan

Exhibit No. 8 – Photometric Plan

Exhibit No. 9 – Roof Plan