

REPORT TO THE PLANNING COMMISSION



DATE: October 8, 2019

TITLE: Request for a one-year Time Extension for Conditional Use Permit No. 13-17 and Tentative Parcel Map 37322 for the Innovative Investment Company, LLC Marijuana Facility Project located on the northeast corner of Little Morongo Road and San Gorgonio Lane (unimproved).

Prepared by: Judy Deertrack, Assistant Planner

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 the Planning Commission approve a one-year extension of time for Conditional Use Permit No. 13-17 and Tentative Parcel Map 37322, based on the findings stipulated and subject to the originally approved Conditions of Approval.

PRIOR ACTIONS

On August 8, 2017, the Planning Commission conducted a public hearing and adopted a motion to recommend to the City Council approval of Conditional Use Permit (CUP 13-17) and associated Development Agreement.

On September 12, 2017, the Planning Commission conducted a public hearing and recommended approval of Tentative Tract Map 37322 for condominium purposes in conjunction with recommended approval of Development Agreement 11-17 to the City Council.

On September 19, 2017, the City Council conducted a second reading and adopted an Ordinance Amending DHS Municipal Code 17.180 (Medical Marijuana Facilities Operation and Location) to Eliminate the Requirement for Developers to Enter into Development Agreements in Certain Circumstances.

On September 25, 2017, the Planning Commission conducted a public hearing and special meeting and adopted a motion to approve Conditional Use Permit (CUP 13-17) for a Marijuana Facility with Tentative Tract Map (TPM 37322) for merger of two lots and re-subdivision for condominium purposes and associated Initial Study and Mitigated Negative Declaration. Applicant requested withdrawal of the pending Development Agreement tentatively set for the October 3, 2017 City Council Meeting.

DISCUSSION

The applicant, Innovative Investment Company, LLC, is requesting a one-year (1) extension of time for Conditional Use Permit No. 13-17 and Tentative Parcel Map 37322, from September 25, 2019, to September 25, 2020.

Pursuant to DHSMC Section 17.76.090 Time Extension, *"The Commission may, upon an*

application being filed 30 days prior to expiration and for good cause, grant a time extension not to exceed 12 months. Upon granting of an extension, the Commission shall ensure that the Conditional Use Permit complies with all current Zoning Ordinance provisions.”

The applicant filed for the time extensions for the Conditional Use Permit and Tentative Parcel Map on July 18, 2019, and accordingly meets the requirements of DHSMC Section 17.76.090 that the application be filed 30 days prior to expiration. Applicant has submitted a letter of good cause for consideration, based upon a potential investor who needs verification of the extension of time prior to financial commitment, attached as an Exhibit to this Staff Report.

BACKGROUND

The Conditional Use Permit (CUP 13-17) for a Marijuana Facility and Tentative Parcel Map (TPM 37322) for commercial condominium purposes was approved by the Planning Commission on September 25, 2017, with associated environmental, to construct four (4) attached buildings totaling 68,400 square feet of floor area (each building having a floor area of 17,100 square feet) on a 3.56-acre site in the Light Industrial (I-L) Zone. The buildings are proposed of steel frame and panel construction, with an office/administration area, and attached greenhouse. The greenhouses directly front San Gorgonio Lane. All buildings are single-story with overall buildings' heights at approximately 21 feet. The project includes parking for 55 vehicles and approximately 28,500 square feet (2/3 acre) of landscaping. Public street dedications and improvements on Little Morongo Road and San Gorgonio Lane will be required.

Applicant is requesting the time extension with no proposed changes to the approved Conditional Use Permit or Tentative Parcel Map, with their respective Conditions of Approval. Applicant was approved for the indoor cultivation of medical marijuana, including processing and manufacturing, expanded to adult-use marijuana when such use became legalized in the State of California. Applicant has no proposed changes to the range of permitted uses under Conditional Use Permit (CUP 13-17).

FINDINGS

To approve this time extension for Tentative Tract Map 37322, the City needs to adopt the following findings:

- 1. That the tentative map, as approved or conditionally approved, together with the provisions for its design and improvements, are consistent with the General Plan and applicable Specific Plan, and all applicable provisions of the municipal code;*

The proposed subdivision, as approved, conforms to the development objectives of the General Plan. The proposed tentative map merges two lots and re-subdivides for condominium purposes to allow for development of an indoor marijuana facility, which is allowed in the underlying I-L (Light Industrial) zone. The conclusions of the findings for the associated Conditional Use Permit 13-17 regarding General Plan consistency may also apply to the proposed tentative map. There are no specific plans adopted for this site.

- 2. The applicant has satisfied all aspects of Section 16.24.170 (Time Extensions for Subdivisions) of the City of Desert Hot Springs Municipal Code;*

The applicant submitted the application and fees on July 18, 2019, which is consistent with 16.24.170(A) which states that the application and fees shall be filed not less than 30 days before the map is set to expire. The two-year limitation for the tentative tract map expires on September 25, 2017.

- 3. There have been no substantial changes to the project since it was initially approved;*

The request for an extension of time for Tentative Tract Map No. 37322 is not proposing any changes from the original approval and no new circumstances have been presented which would require further review.

4. The owner/applicant has presented good cause for requesting the extension of time;

The applicant has filed a letter of good cause stating that the time extension is required from the attempts to obtain financing, which have recently resulted in a potential investor and developer. One of the conditions for reaching a binding agreement is the extension of the Conditional Use Permit and Tentative Tract Map.

5. There is no change to environmental circumstances.

The request for an extension of time for Tentative Tract Map No. 37322 is not proposing any changes from the original approval and no new circumstances or impacts which have been presented that would require further review.

NOTICING REQUIREMENT

The project was noticed to neighboring owners within a 300-foot radius of the project site on September 25, 2019 and was advertised in the Desert Star Weekly on September 27, 2019 per state noticing requirements. No public comments have been received as of this writing.

FISCAL IMPACTS

The proposed cultivation facility will contribute \$25.50 per square foot for the first 3,000 square feet, and then \$10.20 per square foot for the remaining space once it opens.

ENVIRONMENTAL ANALYSIS

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), an Initial Study was prepared and determined that development of the proposed marijuana cultivation facility with processing and manufacturing, and associated tentative parcel map for commercial condominium purposes, would not have a significant impact on the environment, with the implementation of mitigation measures. A Mitigated Negative Declaration (MND) was adopted and contains mitigation measures for Cultural and Biological Resources.

On September 25, 2017, the Planning Commission approved the Innovative Investment Company, LLC, Marijuana Facility Project (CUP 13-17) with associated Tentative Parcel Map (TPM 37322), and in doing so certified the Mitigated Negative Declaration 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 One-Year Time Extension is consistent with the original MND, and no further analysis is required. No significant changes are proposed as a part of the extension of time.

RECOMMENDATION

Staff recommends that the Planning Commission grant a one (1) year extension from September 25, 2019 to September 25, 2020 for Conditional Use Permit No. 13-17 and Tentative Parcel Map 37322, subject to the originally approved Conditions of Approval.

EXHIBITS

- 1) EXHIBIT 1 - Final COA's - (25-Sept-2019 PC)
- 2) EXHIBIT 2 – Approved Site Plan – (25-Sept-2019 PC)
- 3) EXHIBIT 3 – Approved Floor Plan – (25-Sept-2019 PC)
- 4) EXHIBIT 4 – Landscape Plan

- 5) EXHIBIT 5 – Approved TPM 37322 – (25-Sept-2019 PC)
- 6) EXHIBIT 6 – Applicant's Good Cause Letter