

REPORT TO THE PLANNING COMMISSION



DATE: February 13, 2018

TITLE: Conditional Use Permit No. 38-17. A recommendation to the Planning Commission regarding a Conditional Use Permit to develop of one two-story building, totaling approximately 33,200 square feet, as well as associated parking, vehicular access, trash enclosure, landscaping and related improvements; and operate a cannabis cultivation operation on a 1.26 gross acre vacant lot (APN: 665-030-025). The project is located on the east side of Cabot Road, approximately 300 feet south of Two Bunch Palms Trail and within the General Plan Light Industrial (I-L) Zone. Applicant: Andrey Shmykov / Cabot Road Cultivation.

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Reviewed by: Daniel Porras, Community Development Director

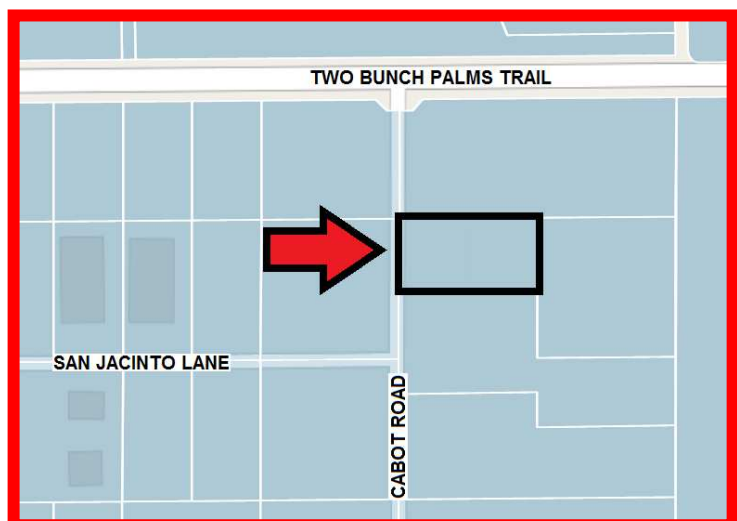
RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from Planning Commission;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Opportunity for Applicant Rebuttal
- 7) Close the Public Hearing;
- 8) Planning Commission discussion and questions to Staff; and
- 9) Consider a motion that the Planning Commission approve Conditional Use Permit No. 38-17; to develop one two-story building, totaling approximately 33,200 square feet, as well as associated parking, vehicular access, trash enclosure, landscaping and related improvements; and operate a cannabis cultivation facility on a 1.26 acre vacant lot (APN: 665-030-025) on the east side of Cabot Road, approximately 300 feet south of Two Bunch Palms Trail and within the General Plan Light Industrial (I-L) Zone.

DISCUSSION

BACKGROUND

Sections 5.50 and 17.180 of the Desert Hot Springs Municipal Code (DHSMC), allow cannabis 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, Andrey Shmykov / San Jacinto II, has filed application to establish a facility for the indoor cultivation of cannabis.



The site is located on the east side of Cabot Road, approximately 300 feet south of Two Bunch Palms Trail. The property is a single parcel, rectangular in shape, and has a gross area of

approximately 1.26 gross acres. It is generally flat, with a total width and street frontage along the Cabot Road right-of-way (unimproved) of approximately 165 feet. The property is about 333 feet deep. Following dedication of street right-of-way for Cabot Road, the site will have a net area of approximately 1.14 acres. The site is currently vacant.

The proposed project includes one free-standing two-story building with about 33,214 square feet of floor area. The floor plan of this building shows a single interior unit with each floor having an area of under 16,400 square feet; the overall building height does not exceed approximately 37 feet. The building is of steel frame and panel construction. Accessory improvements include parking for twenty-eight vehicles and approximately 5,000 square feet of landscaping. No temporary cultivation facilities to precede the main construction project are proposed.

The site is zoned Light Industrial (I-L) District. Public street dedications and improvements on Cabot Road will be required.

Immediately surrounding properties are developed as follows:

	<u>Zoning & General Plan Designations</u>	<u>Current Land Use</u>
North, South and West	IL (Light Industrial)	Vacant and Developed Industrial Lands
East	OS/FW (Open Space - Floodways)	Little Morongo Wash

PROJECT SUMMARY

The applicant, Andrey Shmykov, has filed a Conditional Use Permit (CUP) application to develop the site for indoor cultivation of cannabis on a 1.26 gross acre property (APN: 665-030-025). New construction of a metal frame and panel two-story building (total gross floor area of 33,214 square feet) and ancillary facilities is proposed on the vacant site.

The applicant has provided a floor plan indicating possible future interior improvements with the following allocation of floor area:

Interior Building Area	Total SF
Office / Admin / Misc.	1,867
Processing	486
Cultivation	30,360
Total Sq Ft.	32,713

It should be noted that actual uses within the building may change and will be determined by future interior improvement plans, subject to the Permit's limits and conditions.

Vehicular access is provided at two locations on Cabot Road, at the northwest and southwest corners of the site. The interior vehicle circulation plan is a loop drive with a single loading door provided along the north elevation of the building. Parking spaces are provided for twenty-eight vehicles, including two disability-accessible stalls.

The Fire Department has a requirement (Condition No 168) that any structure over 30 feet in will be required to have a 30-foot drive aisle/ fire access lane. The current design of this project

does not meet this requirement. Therefore, staff has added a condition (Condition No 1.) that the applicant/developer will be required to modify the building and/or drive aisle to meet this requirement. Staff is recommending that these modifications only be subject to staff review and approval and has conditioned the project as such.

The proposed buildings' exterior colors are a mix of purple, light grey and dark grey. The building's walls are clad in light grey; a series of dark grey, square arch pilasters are located on the sides and corners of the building. The southeast corner entry is enclosed by an enlarged square arch in a purple, and includes a square design element above the entry. A metal roof equipment screen is painted dark grey. Landscaping and fencing are provided around the building and around the site's perimeter, as described below. The project is proposed to be constructed in a single phase.

CUP ANALYSIS

General Plan and Zoning Consistency: The project proposes to establish a Cannabis Cultivation Facility within the Light Industrial (I-L) zone and in accordance with Section 17.180 of the DHSMC, which allows this use with approval of a CUP and Regulatory Permit. The facility is analyzed in the following sections.

Site Coverage: The project site consists of one lot totaling 1.26 gross acres. After dedication of public right-of-way for Cabot Road, the net lot size will be approximately 1.14 acres (about 49,833 square feet). Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total square footage of the proposed buildings' "footprint" on site is 16,325 square feet which represent 32.8% site coverage. The project conforms to the lot coverage standard.

Building Height: The highest point on the proposed two-story building is the top of the mechanical equipment screen, and will not exceed about 37 feet from adjacent grade. This is below the maximum height of 50 feet allowed in the I-L District.

Building Setbacks: The minimum setbacks in the City's Light Industrial (I-L) Zone are 20 feet in front, 10 feet in the rear, and 10 feet on the sides (both interior and street sides). The proposed building is approximately 50 feet from the front property line, about 39 feet from the rear and no less than 28 feet from side property lines. Therefore, the project meets minimum setback standards.

Circulation and Parking: Access to the site will be provided from two driveways on Cabot Road (northwest and southwest corners of the site). As noted above, parking for twenty-eight vehicles is provided. A roll-up door for deliveries is provided on the building's north elevation and temporary parking / staging for delivery trucks is available nearby. Staff provides the following parking calculation, based on the proposed floor plan and City parking standards:

Parking Calculation			
Proposed Uses	Zoning Requirements	Number of Spaces Required	Number of Spaces Provided
Office / Admin 1,867	1 spaces/ 250 sf	7.47	28 (including 2 for disabled access)
Processing: 486	1 space / 750 sf	0.65	
Cultivation: 30,360	1 spaces/ 2500 sf	<u>12.14</u>	
Total: 32,713		20.26 or 21 (see discussion below)	

While the project as described provides sufficient parking, staff notes that the applicant proposes to use 93% of the floor area for cultivation and about 7% for office / administration and manufacturing. If more of the building is used for processing or administrative uses, the project would generate a higher parking demand. Since seven additional parking spaces are provided, the site can accommodate more intense uses. Nevertheless, to avoid excess parking demand, staff recommends limiting future uses so that parking demand does not exceed twenty-eight spaces.

Elevations, Colors and Materials: The proposed two-story structure is similar to other industrial / manufacturing developments in the area. The exteriors are finished in stucco panels in a palette of purple and light and dark greys. The roof equipment screen color matches the dark grey pilasters. The overall architecture is appropriate for the building use and the color scheme blends well with desert colors.

Landscaping: The landscape plan shows planted areas around the perimeter of the site and the building. All plant species are low- or moderate-water use trees (Palo Verde, Live Oak, Mexican Fan Palm) and shrubs, including Leucophyllum, Pyrachantha, Lantana, Desert Spoon, Rosemary Red Yucca, Indigo Bush, and others. The overall planting plan is appropriate in scale and plant selection.

A security perimeter fence and security gates are shown on the plans; however, no fence height is specified. A condition to require a minimum 6-foot tall tube-steel or similar construction perimeter fence is included in the set of recommended conditions of approval.

Lighting: An exterior lighting is provided, and indicates one foot-candle minimum lighting would be provided throughout the vehicle circulation and parking area, with an average two foot-candles provided at entrances and loading doors. The plan must meet the requirements of Section 17.16.260.e for lighting in the industrial zone:

One foot-candle evenly distributed across a parking lot is the required minimum. At entrances, loading docks and other limited areas, up to 2 foot-candles may be appropriate.

Staff has included a requirement in the recommended conditions of approval that the photometric study be updated for the revised site plan and conform to the above lighting standard.

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

Security: No specific security plan has been submitted; however, a detailed, comprehensive security plan will be reviewed by the City Manager during the Regulatory Permit phase for the facilities. This plan 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. The city has added two standard conditions to bring the security plans under the aegis of the conditional use permit.

Odor Control: No specific odor control is indicated. At such time as tenant improvements are submitted, odor control will be required, subject to review and approval by the Fire Department.

Hours of Operation: Hours will be consistent with chapter 5.50.100 of the DHSMC. Cannabis Cultivation Facilities may operate between the hours of 8:00 am and 10:00 pm up to seven days per week. This facility is developed for the cultivation of marijuana and may require staff and security services to be present on premises 24 hours per day.

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

cannabis 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 9 February 2018) and no comments have been received as of 8 February 2018. 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 application processing and the facility will annually contribute \$25 per square foot for the first 3,000 square feet, plus \$10 per square foot for the remaining cultivation / processing space once it opens. The exact amount of cultivation / processing space cannot be known at this time. **The facility plans show an estimated total cultivation area of 30,360 square feet, which would yield \$348,600 annually (\$75,000 + \$273,600).**

CONDITIONAL USE PERMIT FINDINGS

Conditional Use Permits are regulated under Chapter 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 (Section 17.76.050). Staff has developed responses to each required finding, which are attached to this report (Exhibit 1), and staff recommends that they be adopted as the Commission's own findings of fact.

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) zoning district. Staff recommends that the Planning Commission certify the draft Initial Study and Mitigation Monitoring Program, adopt the recommended Findings of Fact (Exhibit 1), and approve Conditional Use Permit No. 38-17, subject to the Conditions of Approval (Exhibit 2).

EXHIBITS

- No. 1 Recommended Findings of Fact
- No. 2 Recommended Conditions of Approval
- No. 3 Site Plan
- No. 4 Building 1st Floor Plans
- No. 5 Building 2nd Floor Plans
- No. 6 Building Elevations
- No. 7 Sections
- No. 8 Roof Plans
- No. 9 Landscape Plan
- No. 10 Lighting Plan
- No. 11 Photographs
- No. 12 Draft Initial Study and Mitigated Negative Declaration