

REPORT TO THE PLANNING COMMISSION



DATE: March 10, 2020

TITLE: Conditional Use Permit No. 20-16 and Tentative Tract Map No. 37129 for the Development of a 116,760 Square Foot Medical Marijuana Cultivation Building Complex on a 26.97-Acre Vacant Lot Located on the North Side of 18th Avenue Approximately 2,700 Feet East of Indian Avenue in the Light-Industrial (I-L) Zoning District (APN 666-310-009)

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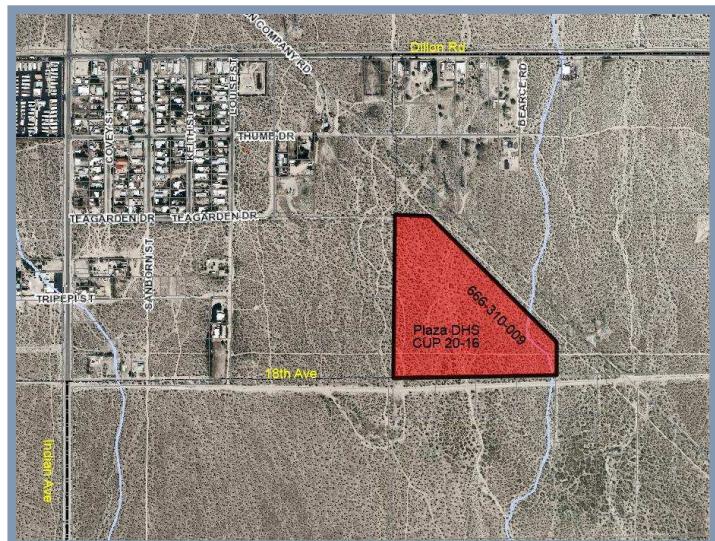
RECOMMENDATION

- 1) Staff Report;
- 2) Entertain questions of Staff from the Planning Commission;
- 3) Open Public Hearing;
- 4) Take testimony from the Applicant;
- 5) Take public testimony from those favor;
- 6) Take public testimony from those opposed;
- 7) Take public testimony from those in a neutral position;
- 8) Opportunity for Applicant rebuttal;
- 9) Close the Public Hearing;
- 10) Planning Commission discussion and questions to Staff; and
- 11) Approve Conditional Use Permit No. 19-15, subject to the proposed Conditions of Approval and subject to the Finding Stipulated.

BACKGROUND/PROJECT SUMMARY

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 a Regulatory Permit approved by the City Manager. The applicant, Plaza DHS, has filed an application to construct a building complex for the indoor cultivation and manufacturing of medical marijuana. This application was previously approved on December 12, 2017, expired, and has been resubmitted by the applicant.

The site is located on the north side of 18th Avenue, approximately 2,700 feet east of Indian Avenue. The gross size of the project is approximately 27 acres. Only a portion of the site (3.83 acres) is being utilized for this Conditional Use Permit – Lot 2 is the only lot that the applicant is proposing construction of cultivation facilities at this time. The proposal also includes a Tentative Tract Map to subdivide the one existing parcel into 19 smaller parcels. All resulting parcels will be in conformance to minimum lot size requirements of the Desert Hot Springs Municipal/ Zoning Code for the Light Industrial zone.



The project site is currently undeveloped and moderately flat, with a high density of gravel and cobbles with a few larger boulders. Existing vegetation consists mostly of creosote, salt brush, cholla, and mixed scrub.

Surrounding properties consist of:

<u>Direction</u>	<u>Jurisdiction</u>	<u>Zoning & General Plan Designations</u>	<u>Current Land Use</u>
North	City	RD (Rural Desert) & I-L (Light Industrial) Zone	Vacant Land & SCE Transmission Lines
West	County	R-L (Residential Low) & I-L (Light Industrial) Zone	Vacant Land
South	City	I-L (Light Industrial) Zone	Vacant Land
East	City	I-L (Light Industrial) Zone	Vacant Land & SCE Transmission Lines

PHASING

The project will be implemented in three (3) phases. Phase 1 would include grading of the entire site; completing on and off-site improvements; and the development of Lot 2 with the proposed 116,760 SF development. Phase 2 would consist of the development of lots 3 to 8 and phase 3 would consist of the development of lots 9 through 19. Currently there are no development plans for any other lot except lot 2.

The applicant is proposing an optional interim phase for the development of lot 2, which consists of six (6) container units and an administrative trailer. If the applicant decides to utilize the interim phase option, additional materials will be required for review and Conditions of Approval requiring this have been added.

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 CUP project site consists of one lot (Lot 2 of the TTM) totaling 3.83 gross acres in size. Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total of the proposed building lot coverage (Ground Floor Area) is 68,380 square feet, or approximately 41% of the 3.83-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 35 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 project meets all required setbacks.

Circulation and Parking: Ingress and egress to the site will be provided from two driveways both located on the east side of lot 2. Semi-trucks will be able to safely maneuver the project site and there will be temporary truck parking provided.

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), plant nurseries (1 space per 2,500 square feet), and ancillary industrial/manufacturing (1 space per 750 square feet) resulting in a requirement of 113 total parking spaces. The proposed site improvements will provide 89 parking stalls, resulting in a deficit of 24 parking spaces. Staff have added a condition of approval requiring the applicant to meet the City's parking requirements prior to the issuance of a building permit. To meet the parking requirement the applicant can reduce the building size, change the floor plan to decrease parking intensive uses, and apply for a Minor Modification which can grant a relief from the parking standards up to 10 percent. The following is the parking calculation for the facility:

Parking Calculation

<u>Use</u>	<u>Area (Sq. Ft.)</u>	<u>Ratio</u>	<u>Number of Spaces</u>
Office	4,509	1 per 250 square feet	18
Cultivation Activities	58,221	1 per 2,500 square feet	23
Ancillary Industrial/ Processing/Manufacturing	54,030	1 per 750 square feet	<u>72</u>
Total Spaces Required			113
Total Spaces Provided			89

Architecture:

Similar to previously approved cultivation facilities in the area, the permanent building façade would consist of 3 dimensional forms and architectural elements in the style of desert contemporary architecture. Contrasting accent colors will enhance the architectural features and elements of the proposed structure. The overall architectural character will be that of an attractive, well-maintained industrial building. The project site perimeter will be enclosed with wrought-iron or tubular steel fencing to enhance visuals and secure the perimeter. Staff has added a Condition of Approval requiring that the proposed Green Bold Accent color be changed to a color that is more complementary to the proposed light and medium grey colors proposed.

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. Landscaping will consist of Palo Verde, Oak, and other trees along with low level plantings.

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. 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.

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: Operations involved with the proposed project can generate natural odors associated with plant blossoms. As mandated by Municipal Code Chapter 5.50 and 17.180, all medical marijuana cultivation activities are only allowed in the interior of enclosed structures, facilities, and buildings. To comply with the CUP requirements, the structure must provide the necessary odor control, ventilation and filtration systems for the cultivation and office areas of the structures sufficient to ensure that City requirements for odor control are met. Thus, the project is expected to result in minimal exterior plant odors.

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.

AGENCY & PUBLIC REVIEW

Public Agency Review

The proposed project was routed to all relevant public agencies and departments for review.

AB 52 Review

The proposed project is subject to review by local Native American Tribal organizations, under Assembly Bill 52 (AB 52) requirements. Per AB 52 requirements, the Community Development Department sent notice to the potentially affected Native American Tribes, requesting their response within 30-days for formal consultation. The request for consultation period began on January 19, 2017 and ended on February 19, 2017.

Public Hearing Notice

The project was noticed to neighboring owners within a 300-foot radius of the project site (on November 29, 2017) and was advertised in the Desert Star on Friday, December 1, 2017 per state noticing requirements. No public comments have been received as of this writing.

ENVIRONMENTAL ANALYSIS

In accordance with the provisions of the Pursuant to Section 15162(a) of the CEQA regulations, once a Mitigated Negative Declaration (MND) has been adopted for a project (December 12, 2017), 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 proposed development is consistent with the original MND and that no further analysis is required. The City has determined that the proposed project is consistent with the approved MND.

RECOMMENDATION

Staff recommends that the Planning Commission approve Conditional Use Permit No. 20-16, subject to the Conditions of Approval and including 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. 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 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 an approximately 117,000 square foot development 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 CUP project site is located on Parcel 2 of the proposed Tentative Tract Map and is a 3.83-acre site that will be developed with a two-story building that would not exceed 35 feet in height, contain a total of 116,760 square floor area, and have a lot coverage of about 41%. 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.

8. *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 cultivation 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.

9. *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.

10. *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 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.

11. *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.

12. *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 be located on a vacant property within a largely undeveloped portion of the I-L (Light Industrial) Zoning and General Plan land use district. All public improvements, as conditioned for the project, will have to 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. Notice of the public hearings have been published in December 2016, March 2017, and July 2017, November 2017, and most recently on December 1, 2017 in the Desert Star Weekly. 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 October 6, 2016. The project has been modified several times over the last year and was recently redesigned in October 2017. There are still some issues what will have to be resolved prior to building permit, but staff is attempting to keep this project moving forward in an expeditious manner.

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.

13. 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.

14. 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.

EXHIBITS:

- 1) Draft Conditions of Approval
- 2) Phase 1 Site Plan
- 3) Phase 2 Site Plan
- 4) Elevations
- 5) Landscape Plans
- 6) Lighting Plans
- 7) Adopted Mitigated Negative Declaration