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AGENDA ITEM NO.: 6 (Action Item – Public Hearing)

PLANNING COMMISSION MEETING DATE: March 24, 2021

SUBJECT: Conditional Use Permit (CUP) 2020-11/Desert Greens Cultivation

EXECUTIVE SUMMARY

The applicant has applied for a CUP for the cultivation of cannabis on an approximate 2.5-acre parcel located at 206 E. Hall Lane in the community of Charleston View, in southeast Inyo County. The project will develop 43,560 ft² (just under 1 acre) of outdoor cultivation, with a canvas protectant, and includes a 2,500 ft² warehouse building for the harvesting, drying, curing, and storing of cannabis plants. The applicant has been approved by the Board of Supervisors for a Cannabis Retail Business License.

PROJECT INFORMATION.

Supervisory District: 5

Project Applicant: Desert Greens LLC – 485 Morro Bay Blvd, Suite 102, Morro Bay CA 93442

Property Owner: Spencer McNeal & Jonathan Faltz – 3230 Winmoor Dr., Ljamsville MD 21754

Site Address: 206 E. Hall Ln, Charleston View, CA 92389

Community: Charleston View

A.P.N.: 048-391-10

General Plan: Rural Residential Medium Density (RRM)

Zoning: Rural Residential (RR)

Size of Parcel: Approximately 2.5-acres

Surrounding Land Use:

Location	Use	General Plan Designation	Zone
Site	vacant	(RRM) Residential Medium Density	(RR) Rural Residential
North	vacant	Resort Recreational (REC)	(C2) Highway Services & Tourist Commercial
East	vacant	Rural Residential Medium Density (RRM)	(RR) Rural Residential
South	Single family home	Rural Residential Medium Density (RRM)	(RR) Rural Residential
West	vacant	Rural Residential Medium Density (RRM)	(RR) Rural Residential

Staff Recommended Action:

1.) Approve the Conditional Use Permit (CUP) 2020-11/Desert Greens Cultivation and find the project is exempt under CEQA.

Alternatives:

- 1.) Deny the CUP.
- 2.) Approve the CUP with additional Conditions of Approval.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

Project Planner:

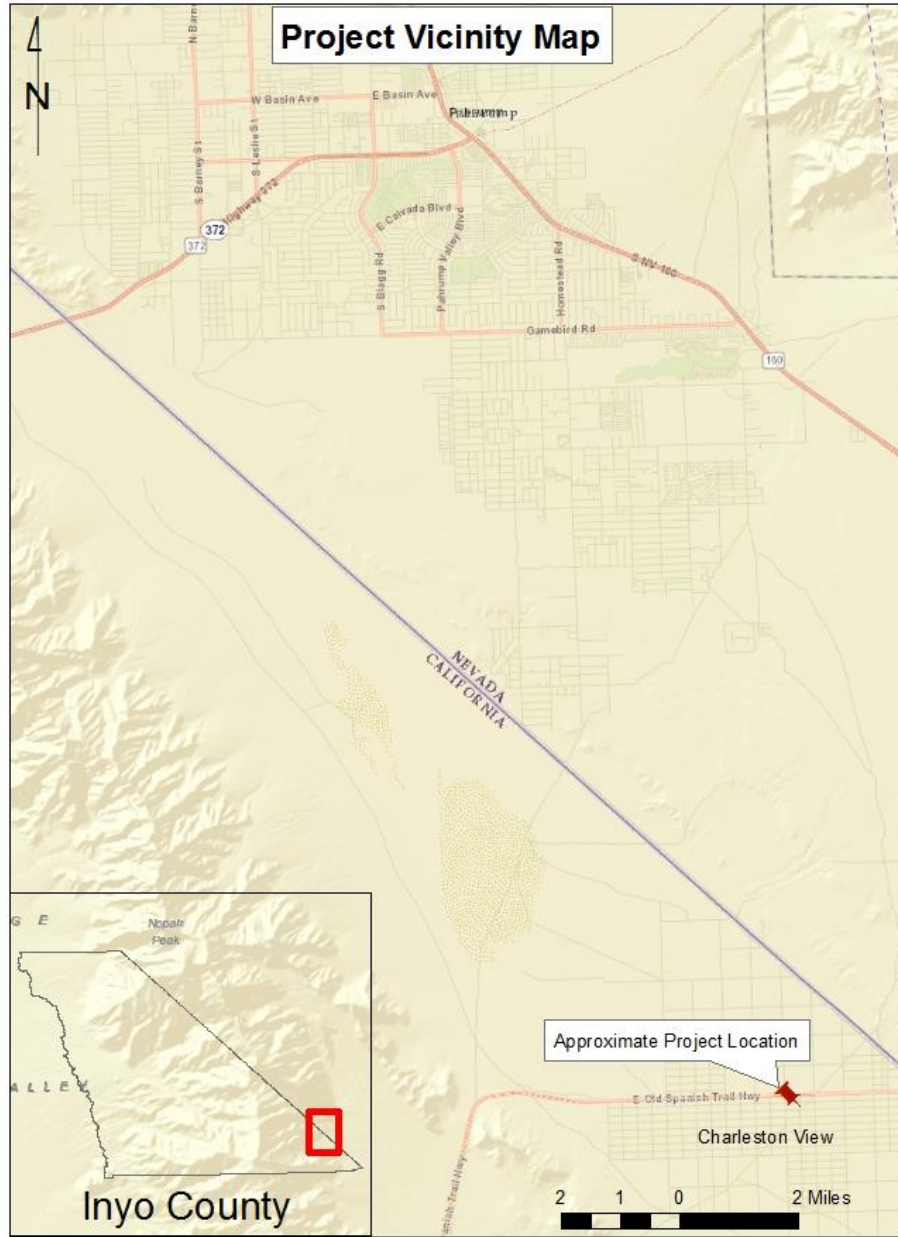
Steve Karamitros

STAFF ANALYSIS

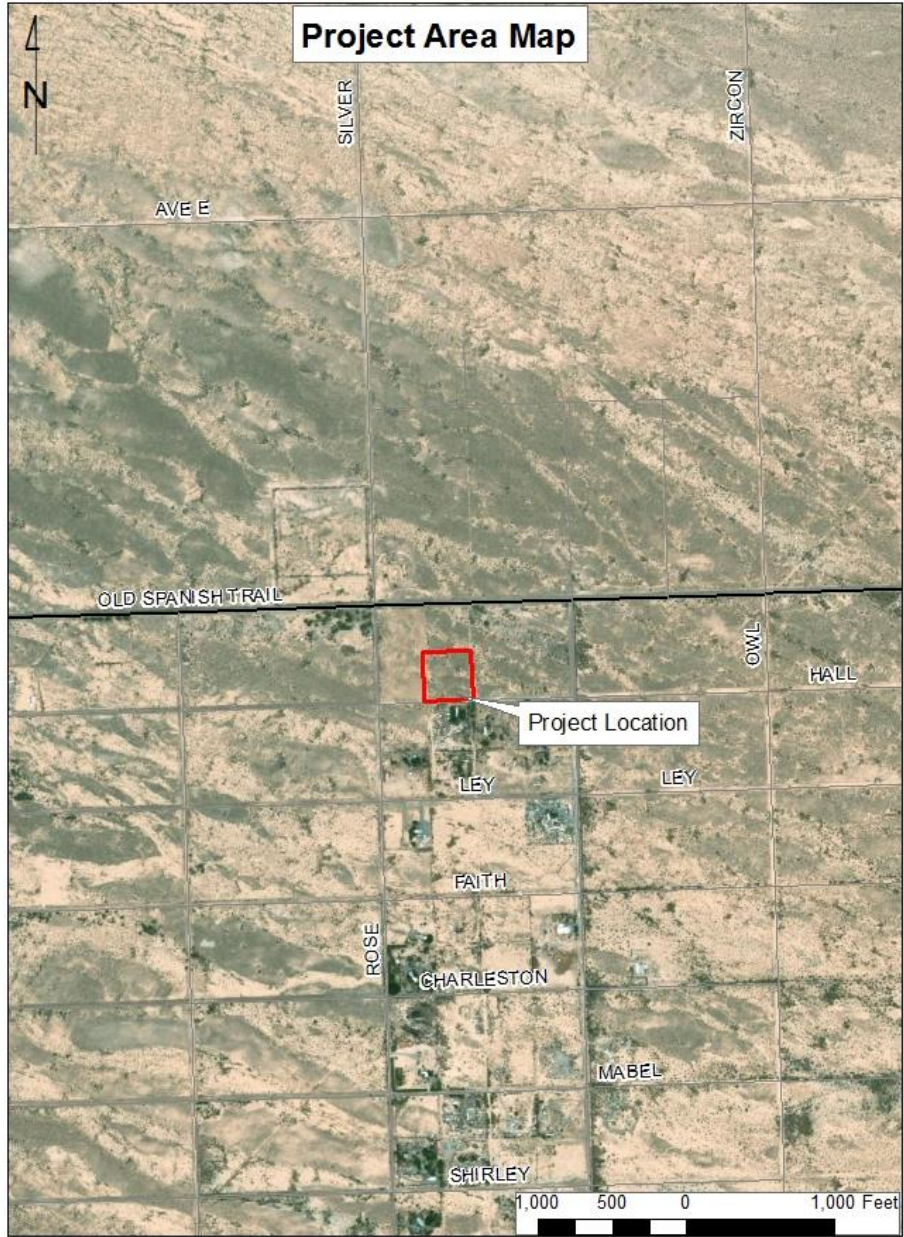
Background and Overview

The applicant has applied for a CUP to operate a commercial cannabis cultivation operation located on the 206 E. Hall Lane, in the community of Charleston View. This operation proposes to grow, harvest, dry and cure cannabis plants over approximately one acre (43,560 ft²) of outdoor space at the project site (Site Plan attached). The property is zoned Rural Residential, which allows for cannabis cultivation on parcels 2.5-acres and above in Charleston View, with a CUP. This is a remote area of the County that primarily has open, vacant, land with some scattered residential development. The proposed location is not within 600-feet of a school, daycare, park or library; and therefore, is not prohibited by state or county cannabis exclusion regulations.

Approximate Location



Project location



General Plan Consistency

The goal of this project is to allow for a cannabis cultivation operation in a remote part of the County with minimal development. The project is consistent with the General Plan designation of RRM as it provides for the continuation of the rural characteristics of an area by allowing for a mix of large lot residential, public quasi-public and similar compatible uses. This project is for a type of agriculture that does promote the rural nature of Charleston View as the overall development is minimal. It will employ about 3-15 people and will not create a significant increase in population. The RRM General Plan designation is compatible with the existing RR zoning designation, which allows for cannabis cultivation in Charleston View. It is also compatible with the General Plan's Conservation and Open Space Element's Goal Agriculture (AG) 1.0: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis. This activity is consistent with Goal AG 1.0, as it provides for a more diverse agriculture industry than currently exists in the County.

Zoning Ordinance Consistency

The proposed project is a CUP to allow for the commercial cultivation of cannabis. The RR zone allows for commercial cannabis cultivation on parcels 2.5-acres and above in Charleston View, with a CUP. The Rural Residential zone, within its purpose statement, states: single family rural residential and estate type uses where certain agricultural activities can be successfully maintained in conjunction with residential uses on relatively large parcels. This project is agricultural in nature and is on the periphery of residential use activities. The actual growing will take place outdoors, in 3' x 3' planter boxes, configured at the northeastern side of the property to mitigate noise and odor and maximize the distance from local residents. The closest residence is located across the road, on the south side of the property, at 127 E. Hall Lane. For this reason, the cultivation setback from E. Hall Ln is approximately 82 ft. The setback from the western lot line (technically the rear yard of the project) is 12 ft., since this property is privately owned, but currently vacant. The parcels to the north and east are both owned by the applicant, so an effort was made to situate the project close to the northeast section of the property. Cannabis cultivation projects on RR parcels in Charleston View that are 2.5-acres and greater do not have specific setback requirements and it is at the discretion of the Planning Commission to apply more or less in the way of setbacks as they see fit for the particulars of specific projects.

ENVIRONMENTAL REVIEW

Conditional Use Permit 2020-11/Desert Greens Cultivation is a Negative Declaration under CEQA. The applicant has incorporated design measures (listed below) as conditions of approval for the issuance of the conditional use permit, to ensure any future impacts are avoided.

TRIBAL CONSULTATION

In compliance with AB 52, SB 18, and Public Resource Code Section 21080.3.1(b), tribes identified as being local to Inyo County, were notified via a certified letter on January 15, 2020 about the project and the opportunity for consultation. The tribes that were notified are: Big Pine Tribe of Owens Valley, Bishop Paiute Tribe, Fort Independence Indian

Community of Paiutes, Lone Pine Paiute-Shoshone Tribe, Timbisha Shoshone tribe, Twenty-Nine Palms Band of Mission Indians, Cabazon Band of Mission Indians and the Torrez Martinez Desert Cahuilla Indians.

Staff received no comments from the public. Since the Tribe did not provide comments or schedule a formal consultation meeting within this 30-day period, the County, per Public Resources Code 21082.3 (d)(2), has considered the consultation process complete and is asking the Planning Commission to certify the Negative Declaration of Environmental Impact. No other Tribes have requested consultation on the project.

NOTICING & REVIEW

The application for CUP 2020-11/Desert Greens Cultivation has been reviewed by the appropriate county departments and no issues were reported.

Since no comments were provided and no formal consultation meeting date requested, staff submitted the Negative Declaration of impacts under CEQA. A Notice of Availability of the Negative Declaration was advertised in the *Inyo Register* on February 16, 2021, initiating a 21-day public review. The document was posted on the County's Planning Department webpage. No public comments were received.

The public hearing for CUP 2020-11/Desert Greens Cultivation was noticed on March 9, 2021 in the *Inyo Register* and mailed to property owners within 1,500-feet of the project location as required by 18.78.360(F).

RECOMMENDATION

Planning Department staff recommends the approval of Conditional Use Permit No. 2020-11/Desert Greens Cultivation, with the following Findings and Conditions of Approval:

FINDINGS

1. The proposed Conditional Use Permit is a Negative Declaration under CEQA and the provisions of the California Environmental Quality Act have been satisfied.
[Evidence: An Initial Study and Draft Negative Declaration of Environmental Impact were prepared and circulated for public review and comment pursuant to the provisions of the California Environmental Quality Act. The 21-day public comment period ended on March 8, 2021. No additional potentially significant environmental impacts from the construction and operation of the cannabis cultivation project were identified in the course of that circulation, nor were any comments received.]
2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Rural Residential Medium Density (RRM).
[Evidence: The goal of this project is to allow for a cannabis cultivation operation in a remote part of the County with minimal development. The project is consistent with the General Plan designation of RRM as it provides for the continuation of the rural characteristics of an area by allowing for a mix of large

lot residential, public quasi-public and similar compatible uses. This project is for a type of agriculture that does promote the rural nature of Charleston View as the overall development is minimal. It will employ about 5-7 people and will not create a significant increase in population. The RRM General Plan designation is compatible with the existing RR zoning designation, which allows for cannabis cultivation in Charleston View. It is also compatible with the General Plan's Conservation and Open Space Element's Goal Agriculture (AG) 1.0: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis. This activity is consistent with Goal AG 1.0, as it provides for a more diverse agriculture industry than currently exists in the County.]

3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits cannabis cultivation activities, as a conditional use, in the Rural Residential zone on parcels 2.5-acres or greater in Charleston View.
[Evidence: The proposed project is a CUP to allow for the commercial cultivation of cannabis. The RR zone allows for commercial cannabis cultivation on parcels 2.5-acres and above in Charleston View, with a CUP. The Rural Residential zone, within its purpose statement, states: single family rural residential and estate type uses where certain agricultural activities can be successfully maintained in conjunction with residential uses on relatively large parcels. This project is agriculture in nature and is on the periphery of residential use activities. The actual growing will take place outdoors, in 3' x 3' planter boxes, configured at the center of the parcel to mitigate noise and odor. The applicant has set the project's side yard setback (on the southern lot line) to 82 feet, in order to reduce effects from potential fugitive dust and odors for the only residence near the project, located at 127 E. Hall Lane. The front (east side) and other side yard (north) setbacks have been reduced as much as possible, given that the applicant owns those properties. The western setback has been extended as much as possible, while still allowing for the space needed for the project (harvesters working in margins of 3 ft. between the windrows). Cannabis cultivation projects on RR parcels in Charleston View that are 2.5-acres and greater do not have specific setback requirements and it is at the discretion of the Planning Commission to apply more or less in the way of setbacks as they see fit for the particulars of specific projects.]
4. The proposed Conditional Use Permit is necessary or desirable.
[Evidence: The General Plan's Economic Development Element states: 'Inyo County's wealth is...highly dependent on a number of activities that occur throughout the County...including grazing, mining, water transportation, and the growing of crops. These activities are expected to continue in the long term, and are expected to remain stable throughout the time horizon of this General Plan.' The applicant has stated that Desert Greens expects to produce cannabis plants that will serve County businesses and consumers, as well as, other markets in the State making this a desirable project with regard to the County's economy.]

5. The proposed Conditional Use Permit is properly related to other uses and transportation and service facilities in the vicinity.
[Evidence: The proposed conditional use permit is for a commercial cannabis cultivation establishment to operate in a remote, rural, area. It is related to the current and historic rural, agriculture and open space nature of the area and will not cause impacts on transportation or service facilities in the vicinity as the project does not create a significant amount of additional people or vehicles in the area. There is no set requirement for the number of parking spaces for this commercial use; however, the applicant has designed the project to accommodate over 15 vehicles, corresponding to the maximum number of personnel on site, when the project is fully developed. Parking areas will be located on the project parcel and road facilities are already established in the area and provide access to the property.]

6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.
[Evidence: The proposed conditional use permit is to allow for cannabis cultivation. This agricultural use will not change or increase the current level or general type of allowed uses in the Charleston View area. The proposed security plan for Desert Greens – cannabis cultivation was reviewed by the Sheriff's Department as a business license requirement and the project was evaluated by the Southern Inyo Fire District. Neither had any comments of concern; therefore, it has been determined that the project will not create impacts on the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.]

7. Operating requirements necessitate the Conditional Use Permit for the site.
[Evidence: Commercial cannabis cultivation requires a conditional use permit per Inyo County Code Section 18.21.040(I) and is therefore necessary for the operation of Desert Greens.]

CONDITIONS OF APPROVAL

1. Hold Harmless

The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Conditional Use Permit No. CUP 2020-11/Desert Greens Cultivation. The County reserves the right to prepare its own defense.

2. Compliance with County Code

The applicant/developer shall conform to all applicable provisions of Inyo County Code and State regulations. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

3. The applicant shall consult with the County Environmental Health Department and follow any regulations provided for by them regarding well and septic development.
4. Biological - The applicant shall conduct pre-construction botanical and wildlife surveys to ensure the absence of sensitive plant or animal species on the project site.
5. Wastewater - The applicant shall provide evidence that a proper wastewater plan for the project is in place prior to obtaining a building permit, approved by the County Environmental Health Department. Per the Lahontan Waterboard, the plan shall show that either:
 - a. Wastewater will be collected in a sealed container and hauled for disposal at a permitted facility; or,
 - b. Separate regulatory authorization is obtained for onsite disposal of the cannabis wastewater by enrollment under the Small Industrial General Order. Disposal to land is prohibited unless this authorization is obtained.
6. Visual Resources - The applicant shall adhere to Inyo County's General Plan Visual Resources requirement (VIS-1.6-Control of Light & Glare), which requires all outdoor light fixtures including street lighting, externally illuminated signs, advertising displays, and billboards use low-energy, shielded light fixtures which direct light downward (i.e., lighting shall not emit higher than a horizontal level) and are fully shielded.