

Planning Commission

MEETING DATE: 6/6/2018

CASE NO. Conditional Use Permit No. 17-029, Conditional Use Permit No. 17-029-2 and Tentative Parcel Map No. 37355

APPLICANT: Mountain Edge Collective II, Inc./Ecoplex Park II, Alex Gonzales

LOCATION: Terminus of Margot Murphy Way, a private street between Perez Road and Canyon Plaza (APN: 687-510-049)

REQUEST: Consider Conditional Use Permit (CUP) and Tentative Parcel Map (TPM) applications for the development of a cannabis cultivation facility within two buildings with a total of 50,213 square feet of floor area on a 3.07-acre site. The project site is located within the PCC (Planned Community Commercial) and OS (Open Space) Zoning Districts and is within Specific Plan No. 89-39.

STAFF PLANNER:

Robert Rodriguez, Planning Manager

RECOMMENDATION:

APPROVE the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MMRP) for the project.

APPROVE Conditional Use Permit Nos. 17-029 and 17-029-2 subject to the attached Conditions of Approval and based on the findings contained in the staff report.

APPROVE Tentative Parcel Map No. 37355 subject to the attached Conditions of Approval and based on the findings contained in the staff report.

FINDINGS:

APPROVAL OF THE MITIGATED NEGATIVE DECLARATION based on the following findings:

1. The record as a whole, including the initial study and any comments received, demonstrates that there is no substantial evidence that the project will have a significant effect on the environment with the implementation of the mitigation measures;
2. The Mitigated Negative Declaration reflects the Lead Agency's independent judgment and analysis;

3. In accordance with Section 15074, Chapter 3, Title 14, of the California Code of Regulations (State CEQA Guidelines), the Mitigation Monitoring and Reporting Program (MMRP) contained in Chapter 4 of the Draft Initial Study and Mitigated Negative Declaration, dated April 19, 2018, shall serve as the City's reporting program for monitoring the mitigation measures specified in the Mitigated Negative Declaration; and
4. The Cathedral City Planning Department is the custodian of the documents or other material that constitute the record of proceedings upon which this decision is based.

APPROVAL OF CONDITIONAL USE PERMIT NO. 17-029 AND 17-029-2, subject to the attached conditions of approval, and based on the following findings:

1. The cannabis businesses, which are to be located at the terminus of Margot Murphy Way, a private street on the south side of East Palm Canyon Drive between Canyon Plaza and Perez Road and within the Planned Community Commercial (PCC) and the Open Space (OS) zoning districts, are authorized as a conditional use permit pursuant to Chapters 9.30, 9.42 and 9.108 of the City of Cathedral City Zoning Ordinance;
2. The cannabis businesses, as well as all operations conducted therein, fully comply with all applicable building, electrical, zoning, and fire codes, accessibility requirement of the Americans with Disabilities Act (ADA) and all relevant City and State Law. Staff has reviewed the site and floor plans submitted and determined that, as conditioned herein, the cannabis businesses will comply with all relevant building codes, zoning, and the ADA;
3. The cannabis businesses fully comply with and meets all operating criteria required pursuant to State Laws, Chapter 5.88 of the City Municipal Code (CCMC), any other provisions of the CCMC, and any specific, additional operating procedures and measures as may be imposed as conditions of approval in this conditional use permit. The applicant has been granted two local licenses (MCL Nos. 17-018 and 17-021) in accordance with Chapter 5.88 of the CCMC, and in granting the local licenses the City Manager determined that the cannabis businesses followed all applicable laws regarding the operation of the business;
4. The cannabis businesses are necessary or desirable for the development of the community, are in harmony with the various elements or objectives of the General Plan, and are not detrimental to existing uses or to uses specifically permitted in the PCC and OS Districts. By allowing cannabis businesses in certain zones, the City Council has determined that cannabis businesses are necessary and desirable for the development of the community, is consistent with the general plan, and will not be detrimental to other uses in the zones;
5. The site for the cannabis businesses is adequate in size and shape to accommodate such use and any and all of the yards, setbacks, walls or fences, landscaping and other features required in order to adjust such uses to those existing or permitted future uses on land in the neighborhood. The cannabis business meets all site development standards;

6. The site for the cannabis business relates properly to streets and highways which are designed and improved to carry the type and quantity of traffic generated by the proposed use. The cannabis businesses primary collector street is East Palm Canyon Drive, which has adequate capacity to serve the traffic that will be generated by the use. The City Engineer has reviewed the proposed project and determined that there will be no negative impact to the existing traffic and streets with the implementation of the mitigation measures and conditions of approval; and
7. The applicant agrees to comply with any and all of the conditions imposed by the Planning Commission or be subject to a revocation hearing.

APPROVAL OF TENTATIVE PARCEL MAP NO. 37355, subject to the attached conditions of approval, and based on the following findings:

1. That the proposed land division is consistent with the General Plan and Specific Plan 89-39;
2. The site of the proposed land division is physically suitable for the development;
3. The design of the proposed land division and required improvements have been mitigated to the extent that they will have a less than significant impact on the environment;
4. The design of the proposed land division and required improvements will not conflict with easements acquired by the public at large for access through, or use of, property within the proposed land division; and
5. In arriving at its decision, the Planning Commission has considered all testimony, written and oral, submitted in relation to this proposal.

BACKGROUND/PROJECT SUMMARY:

The applicant (Alex Gonzales representing Mountain Edge Collective, Inc.) submitted applications for a Conditional Use Permit (CUP) and Tentative Parcel Map (TPM) on July 11, 2017 for the development of a 50,213 square-foot cannabis cultivation facility within the PCC (Planned Community Commercial) and (OS) Zoning Districts. The proposed project consists of the subdivision of a 3.07-acre site into two lots and the construction of two buildings. A single story, 17,702 square-foot building will be constructed on Parcel 1, which will be 1.03 acres in size. A two-story, 32,511 square-foot building will be constructed on Parcel 2, which will be 2.04 acres in size. Although a portion of the site is within the OS (Open Space) District, only the PCC portion is proposed to be developed with the proposed project.

The project site is located at the cul-de-sac in the southern end of Margot Murphy Way, which is a private street on the south side of East Palm Canyon Drive between Canyon Plaza and Perez Road. The site is currently vacant but was previously developed with a mobile home park (Desert Hills) which was demoed in 2005-2006. The site has a moderate west to east slope across the majority of the site. Apart from a small portion at the southern end, the site has recently been disturbed by

grading activities related to the Eagle Canyon Dam project. The southern portion is approximately one-fifth of the site and is characterized by rocky outcroppings and a steep slope due to its location along the foothills of the San Jacinto Mountains. This portion of the site is not proposed to be developed and will remain in its current state.

The irregularly-shaped parcel is surrounded by development to the east, along the extension of Perez Road, west (Southwest Boulder & Stone and the Canyon Plaza Center), and north, and undeveloped land to the immediate east, which has recently been approved for Phase 1 of the Ecoplex Park project, a 43,444-square-foot cannabis cultivation facility. An easement for the Eagle Canyon Dam drainage pipeline runs east to west dividing the southern one-fifth of the lot from the remainder of the site. The storm drain easement is also the approximate location of the boundary between the northern PCC-zoned portion of the site and the southern OS-zoned portion.

The project is consistent with the surrounding existing and future land uses. The areas to the east and southeast are located within the PCC and CBP-2 (Commercial Business Park) Zoning Districts and developed with auto repair and related uses. The area to the north is located within the PCC District and developed with a Volkswagen dealership. The area to the immediate east has been approved for a cannabis cultivation facility (Phase 1) and located within the PCC District. The proposed project would also be consistent with the OS District to the south since it provides a buffer between the foothills of the San Jacinto Mountains and the developed area of the site.

Site Plan, Architecture and Landscaping

A single driveway will provide street access for the two parcels to Margot Murphy Way. The site will be improved with a parking lot that will contain 48 spaces and three loading zones. The parking area and driveway will be shared by both buildings under a mutual parking and access agreement. The proposed subdivision will result in a new property line that will run east to west along the center of the parking area. A reciprocal access agreement will be required for the project that will provide Parcel 2 legal access to Margot Murphy Way.

The buildings will be similar in architectural style, textures and exterior colors with Phase 1 of the Ecoplex Park project. The contemporary architectural style blends with the surrounding environment. Exterior walls are to be clad in decorative block contrasting with smooth plaster walls at the entry areas of the building. The walls will have decorative metal screen panels and spandrel glass windows to break up the long facades. The shades of brown chosen for the exterior walls help the building blend with the hillside to the south.

The project site will have approximately 24,445 square feet of landscaping located around the buildings and within the parking areas. The portion of the site south of the easement will remain undeveloped and will not be landscaped. The front setback area will have enhanced landscaping to enhance the street view of the site. There will be a gated entry located behind the front setback area.

Architectural Review Committee

The Architectural Review Committee (ARC) reviewed the project on January 17, 2018, and citing the architectural and landscape consistency with Phase 1 of the Ecoplex Park project, approved the project to move forward to Planning Commission.

ANALYSIS:

General Plan Consistency

The majority of the project site is located within the CG (General Commercial) District. A small portion of the project site is located within the OS (Open Space) District. The project is consistent with the CG (General Commercial) land use designation since it will provide commercial services to the community and the region in that the project will provide increased economic activity that will benefit the City. The project is also consistent with the OS designation. The OS portion of the property is located south of the storm drain easement and will not be developed and will serve as a buffer between the developed portion of the site and the San Jacinto Mountains.

Economic and Fiscal Element

Goal: A balanced, broadly based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection.

The project will provide additional job opportunities, and add to the economic diversity of the City by providing additional commercial development. The project has been reviewed for impacts to the environment and with implementation of mitigation measures and conditions of approval provide protection for the environment.

Open Space and Conservation Element

Goal: Preservation, conservation, and management of open space, which provides for the protection of threatened species and environmental resources, enhanced scenic qualities and protection against environmental hazards.

Program No. 8.A: Develop Specific Plans or special studies concurrent with initial development plans and tentative subdivision maps to plan continuous open space network.

The proposed subdivision and development preserves the rear portion of the site as open space. No development will occur within this area due to its adjacency to the San Jacinto Mountains and location within the OS District. The portion of the site to be developed is located within the PCC District. The existing drainage pipeline from the Eagle Canyon Dam and fencing and blocks walls will separate the proposed development from the OS-zoned area.

Water, Sewer and Utilities Element

Policy No. 2: Sewer connection shall be required at the time an individual or infill lot is developed.

The project will be required to connect to the sewer and water lines, and extend utilities to the site as conditions of approval.

Zoning Consistency

City ordinances allow for the establishment of cannabis businesses (dispensaries, cultivation, distribution/transportation, and manufacturing sites) within certain zoning districts of the City, subject to a Conditional Use Permit (CUP). The ordinances regulating cannabis businesses are codified at CCMC Chapter 5.88 and 9.108 (the “Ordinance”).

Under the ordinance, cannabis businesses are required to obtain both a cannabis license (local license) and CUP. For the local license, applicants are required to submit various documents such as the ownership structure of the cannabis business, a general description of the products and services to be provided and security and delivery plans. In addition, all owners, directors, officers and persons who are managing or otherwise responsible for the activities of a proposed cannabis business must submit to a background check. The City Manager, or his designee, shall decide whether to approve or deny a local license application.

The Local License applications were submitted on July 20, 2017 and August 2, 2017 and Conditional Use Permit applications submitted on July 11, 2017. The Local License applications were reviewed by staff including the Police Department, the background check completed and the licenses were granted on May 8, 2018 (see Attachment 9 & 10).

The following table provides a summary of the PCC development standards, parking requirements and project consistency. The project is consistent with the relevant PCC development standards. A parking analysis is provided below.

Table 1: PCC Development Standards and Parking Code Requirements

Standard	Requirement	Proposed	Consistency
Maximum building height	36 feet	36 feet	Yes
Minimum lot size	8,000 square feet (PCC)	Parcel 1: 1.03 acres Parcel 2: 2.04 acres	Yes
Minimum space between buildings	10 feet	82 feet	Yes
Parking	Use is not specifically listed in Off-Street Parking (Section 9.58.020).	51 spaces (shared parking by both lots) 1/1000 sf	Yes, see parking analysis.

Parking Analysis

Section 9.58.040 of the CCMC allows the Planning Commission to establish parking requirements for

uses not specifically mentioned in the code. The parking requirements for cannabis cultivation are not listed in the parking code. The closest use listed in the parking code is for warehouse, which requires one space per 1,000 square feet of floor area. In addition, recent CUP approvals for cannabis have based parking requirements for cultivation using a ratio of one space per 1,000 square feet of floor area.

Based on one space for every 1,000 square feet, a total of 51 spaces would be required for the project. The site plan shows 51 spaces, which includes four ADA compliant and van accessible spaces. Three of the spaces towards the rear of the buildings are longer in depth and will serve as loading zones when needed. Therefore, the parking is consistent.

Specific Plan Consistency

The project is located within the boundaries of Specific Plan No. 89-39, which covers the area south of East Palm Canyon Drive, east of Canyon Plaza Drive, north of the City limits, and generally west of Perez Road. The Specific Plan was adopted in 1990 to facilitate the comprehensive development of the plan area, to assure the development of a public road system that primarily involved the extension of Perez Road, street improvements, connection to sewer, and legal access to a public or private road. Since the adoption of the Specific Plan, Perez Road has been extended south of East Palm Canyon Drive. However, the configuration of the road does not match the original design in the Specific Plan, and the Specific Plan will be formally revised to reflect the current design.

Many of the remaining requirements involve installation of public utilities and access to a public or private road. The project has proposed, and will be conditioned, to provide the required right-of-way dedications and public improvements such as streets, curbs, gutter, sidewalk and drainage facilities. Also, the site will be required to connect to the public sewer system. Therefore, the site is consistent with the Specific Plan.

ENVIRONMENTAL ANALYSIS:

An Initial Study and Mitigated Negative Declaration (IS/MND) were prepared for the project by City Staff. Special studies for the Initial Study included air quality and greenhouse gas analysis, habitat assessment, traffic impact analysis, cultural resources assessment, Phase I Environmental Site Assessment, and geotechnical investigation were prepared by outside consultants. The IS/MND includes mitigation measures that address the following areas:

- Biological resources
- Cultural resources
- Geology
- Hazards and hazardous materials
- Traffic
- Tribal cultural resources

The mitigation measures are as follows:

AQ-1. Before issuance of grading permits, the developer/applicant shall provide plans, or equivalent proof, that the project will be equipped with an odor absorbing ventilation and exhaust system acceptable to the City Engineer, in compliance with CCMC section 9.108.080 A.1. The odor infiltration system shall be reviewed and approved by the City before issuance of building permits.

BIO-1. Before issuance of any building permit for the project, a pre-construction survey using the proper USFWS and CDFW protocols shall be conducted for the burrowing owl no more than five days before any ground-disturbing activities. The survey shall be conducted as close to the actual construction initiation date as possible. The survey shall include inspection of all on-site rodent burrows by an experienced burrowing owl biologist, paid for by the project applicant, and confirmed as not having any owls in them. If evidence of the burrowing owl is found on the site, then the developer shall follow the recommendations of an experienced burrowing owl biologist, hired by the City at the developer's expense, on the find before restarting the ground-disturbing activities. Evidence of the completed surveys shall be submitted to the City Planner before grading permit issuance.

BIO-2. If construction is to occur during the MBTA nesting cycle (February 1-September 30), a nesting bird survey shall be conducted by a qualified biologist, contracted by the applicant or City and paid for by the applicant, not more than 14 days before start of ground-disturbing activities. Disturbances that cause nest abandonment and/or loss of reproductive effort (e.g. killing or abandonment of eggs or young) may be considered take and is potentially punishable by fines or imprisonment. Active bird nests shall be mapped utilizing a hand-held global positioning system (GPS) and a 300' buffer shall be flagged around the nest (500' buffer for raptor nests). Construction shall not be permitted within the buffer areas while the nest continues to be active (eggs, chicks, etc.). Results of the survey shall be submitted to the City Planner before issuance of building permits.

CR-1. If during excavation, grading or construction, artifacts or other archaeological resources are discovered, all work in the immediate area of the find shall be halted and the applicant shall immediately notify the City Planner. A qualified archaeologist, meeting the Secretary of the Interior's professional qualifications standards for archaeology, shall be called to the site by, and at the expense of, the applicant to identify the find and propose mitigation if the resource is culturally significant. Work shall resume after consultation with the City of Cathedral City and implementation of the recommendations of the archaeologist. If archaeological resources are discovered, the archaeologist will be required to provide copies of any studies or reports to the Eastern Information Center for the State of California located at the University of California Riverside and the Agua Caliente Tribal Historic Preservation Office (THPO) for permanent inclusion in the Agua Caliente Cultural Register.

CR-2. If any cultural resources are uncovered during site disturbing activities, a tribal representative

shall also be contacted and consulted regarding the find. If the resource is found to be significant, the archeologist in consultation with the appropriate tribal representative and City representative shall confer with regard to mitigation.

GEO-1. Before issuance of building permits, the project applicant shall submit plans to the City Engineer for review and approval demonstrating project compliance with the most recent California Building Code seismic requirements and the recommendations of the geotechnical report for the project. All soils engineering recommendations and structural foundations shall be designed by a licensed professional engineer. The approved plans shall be incorporated into the proposed project. All on-site engineering activities shall be conducted under the supervision of a licensed geotechnical engineer.

GEO-2. Before issuance of building permits, the project applicant shall provide revised plans showing a rock protection barrier along the south side of the Eagle Canyon Dam storm drain easement consisting of the Geobugg TXI-010 or equivalent. The City Engineer shall review and approve the barrier before issuance of building permits.

HAZ-1. Any outdoor lighting installed shall be hooded or shielded to prevent either spillage of lumens or reflection into the sky. Outdoor lighting shall be downward facing.

HAZ-2. The following uses shall be prohibited:

- a. Any use that would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational light or visual approach slop indicator.
- b. Any use that would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.
- c. Any use that would generate smoke or water vapor or that would attract large concentrations of birds, or that may otherwise affect safe air navigation within the area. (Such uses include landscaping utilizing water features, aquaculture, production of cereal grains, sun flower, and row crops, artificial marshes, trash transfer stations that are open on one or more sides, recycling centers containing putrescible wastes, and construction and demolition debris facilities.)
- d. Any use that would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

HAZ-3. A "Notice of Airport in Vicinity" shall be provided to all potential purchases of the property and tenants of the buildings.

HAZ-4. Any new retention or detention basins on the site shall be designed so as to provide for a 36-

hour detention/infiltration period following the conclusion of the storm event for the design storm (may be less, but not more) and to remain totally dry between rainfalls. Vegetation in and around the detention basins that would provide food or cover for bird species that would be incompatible with airport operations shall not be utilized in project landscaping.

HD-1. All water used in the cultivation process that cannot be recycled shall not be released into the storm drain system but shall be stored on site in a separate storage tank and picked up by a licensed hazardous waste hauler.

HD-2. Before start of operation of the cannabis cultivation facility and issuance of a Certificate of Occupancy the applicant will be required to show the City proof of contract with a licensed hazardous waste hauler that will be responsible for removing all hazardous wastewater and solid waste generated at the project site.

T-1. The project applicant shall pay a fair-share portion of the cost of installation of a traffic signal at the intersection of Margot Murphy Way and East Palm Canyon Drive. Payment of the fair share cost shall be submitted to the City of Cathedral City before issuance of any permits for the project and/or per the project's conditions of approval.

T-2. Before issuance of any permits, the project applicant shall submit plans to the City of Cathedral City showing consistency with the following recommendations contained in the TIA for on-site roadway improvements:

- Site-specific circulation and access recommendations shown in Figure 68 of the TIA report;
- Provision of sufficient parking spaces consistent with the City of Cathedral City parking code requirements in order to service on-site parking demand;
- On-site traffic signing/stripping should be implemented in conjunction with detailed construction plans for the project site;
- Sight distance at the project access shall comply with standard California Department of Transportation and City of Cathedral City sight distance standards. The final grading, landscaping, and street improvement plans shall demonstrate that sight distance standards are met. Such plans must be reviewed by the City and approved as consistent with this measure before issuance of grading permits.

TCR-1. An approved Native American Cultural Resource Monitor shall be present during any ground-disturbing activities (including archaeological testing and surveys). Should buried tribal cultural resource deposits be encountered, the monitor may request that construction be halted, and the monitor shall notify a qualified archaeologist, meeting the Secretary of the Interior's Standards for Professional Qualifications in archaeology, to investigate and, if the find is significant, prepare a mitigation plan for submission to the State Historic Preservation Officer (SHPO) and the Agua Caliente THPO.

NOTE: The City of Cathedral City Planning Department is the custodian of the documents, or other material, which constitute the record of proceedings upon which this decision is based.

PUBLIC NOTIFICATION:

This project and the environmental determination were noticed in accordance with the City Municipal Code and CEQA.

ATTACHMENTS:

- Attachment 1: Conditions of Approval
- Attachment 2: Site Plan
- Attachment 3: Floor Plan - Building A
- Attachment 4: Floor Plan - Building B
- Attachment 5: Color Elevation - Building A
- Attachment 6: Color Elevation - Building B
- Attachment 7: Landscape Plan
- Attachment 8: Public Hearing Notice
- Attachment 9: Mitigated Negative Declaration
- Attachment 10: Local License Cultivation - Building A
- Attachment 11: Local License Cultivation - Building B
- Attachment 12: Airport Land Use Commission (ALUC) Review Letter