



REPORT TO CITY COUNCIL

To: Honorable Mayor and Members of the City Council

From: Grant Yates, City Manager

Prepared by: Justin Kirk, Assistant Community Development Director

Date: December 11, 2018

Subject: Cannabis Facilities within the East Lake District of the General Plan – A request to establish four (4) Cannabis related land use facilities within the East Lake District of the General Plan.

Applicants: David Hargett (PA 2018-33)/Jim Sullivan (PA 2018-36)/Josh Grant (PA 2018-37)/Jarret Hale (PA 2018-40)

Recommendation

By motion, adopt;

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, APPROVING DEVELOPMENT AGREEMENT NO. 2018-01 FOR AN APPROXIMATELY 1,550 SQUARE FOOT CANNABIS FACILITY WITHIN AN EXISTING BUILDING LOCATED AT 31885 CORYDON AVE (APN: 370-031-018); and,

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 2018-05 TO ESTABLISH A 1,550 SQUARE FOOT CANNABIS FACILITY WITHIN AN EXISTING BUILDING LOCATED AT 31885 CORYDON AVE (APN: 370-031-018); and,

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, APPROVING DEVELOPMENT AGREEMENT NO. 2018-04 FOR AN APPROXIMATELY 7,868 SQUARE FOOT CANNABIS FACILITY WITHIN AN EXISTING BUILDING LOCATED AT 31875 CORYDON (APN: 370-051-032); and,

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 2018-08 TO ESTABLISH A 7,868 SQUARE FOOT CANNABIS FACILITY WITHIN AN EXISTING BUILDING LOCATED AT 31875 CORYDON (APN: 377-051-032); and,

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, APPROVING DEVELOPMENT AGREEMENT NO. 2018-05 FOR AN APPROXIMATELY 2,074 SQUARE FOOT CANNABIS FACILITY WITHIN AN EXISTING BUILDING LOCATED AT 31877 CORYDON (APN: 370-051-016); and,

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 2018-09 TO ESTABLISH A 2,074 SQUARE

FOOT CANNABIS FACILITY WITHIN AN EXISTING BUILDING LOCATED AT 31877 CORYDON (APN: 377-051-016); and,

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, APPROVING DEVELOPMENT AGREEMENT NO. 2018-12 FOR AN APPROXIMATELY 9,000 SQUARE FOOT CANNABIS FACILITY WITHIN AN EXISTING BUILDING LOCATED AT 31887 CORYDON UNITS #150 AND 160 (APN: 370-031-012 AND 013); AND,

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 2018-08 TO ESTABLISH A 9,000 SQUARE FOOT CANNABIS FACILITY WITHIN AN EXISTING BUILDING LOCATED AT 31887 CORYDON UNITS #150 AND 160 (APN: 370-031-012 AND 013).

Background

The Planning Commission on November 11, 2018, took unanimous action to recommend approval Planning Applications 2018-33, 2018-36, and 2018-37.

The Planning Commission on December 4, 2018, took unanimous action to recommend approval of Planning Application 2018-40.

Discussion

Overview

The East Lake District, named after the East Lake Specific Plan, covers an approximately 3,240-acre area at the southeastern end of Lake Elsinore. It is generally bordered by the Historic and Riverview Districts to the north, the Ballpark District to the northeast, Corydon Street and Mission Trail to the southeast, the Lakeland Village District Sphere to the southwest, and the lake to the northwest (Figure EL-1). The East Lake District lies at the southwestern corner of both the City limits and Sphere of Influence (SOI) boundary.

In the East Lake district, four (4) Cannabis Facilities are currently under consideration, with three (3) totaling approximately 20,500 square feet being considered and discussed at this time. Table 1 details the locations and sizes of the proposed cannabis facilities. Detailed project description are on file with the Planning Division and are available for review upon request.

Table 1		
Project	Location	Size (SF)
PA 2018-33	31885 Corydon (APN: 370-031-018)	1,550
PA 2018-36	31875 Corydon (APN: 370-051-032)	7,868
PA 2018-37	31877 Corydon (APN: 370-051-016)	2,074
PA 2018-40	31877 Corydon Units #150 & 160 (APNs: 370-301-012 and 013)	9,000
Total Building Area		20,492

Description/Locations of Projects

Planning Application 2018-33 (IE Licensing): A request by David Hargett to establish a 1,550 SF Cannabis Facility within an existing building. The facility will consist of 812 SF of manufacturing

space and 738 SF of warehouse and ancillary uses. The Project is generally located at the northeast corner of the intersection Cereal St. and Corydon and more specifically referred to as 31885 Corydon (APN: 370-031-018).

Planning Application 2018-36 (Veterans Organic Solutions, LLC): A request by Jim Sullivan to establish a 7,868 SF Cannabis Facility within an existing two-story building located. The facility will consist of 3,863 SF of manufacturing space, an 840 SF dispensary, and 3,165 SF of office and storage uses. The Project is generally located at the northwest corner of the intersection Mission Trail and Corydon and more specifically referred to as 31875 Corydon (APN: 370-051-032).

Planning Application 2018-37 (The Modern Leaf): A request by Joshua Grant to establish a 2,074 SF Cannabis Facility within an existing building located. The facility will consist of 1,528 SF of cultivation space and 546 SF of support and ancillary uses. The Project is generally located at the northwest corner of the intersection Mission Trail and Corydon and more specifically referred to as 31877 Corydon (APN: 370-051-008).

Planning Application 2018-40 (Brighter Systems): A request by Jarrett Hale to establish an approximately 9,000 SF Cannabis Facility within an existing building. The facility will consist of a 1,709.8 SF dispensary, 5,157.6 SF of cultivation space, 559.3 SF of manufacturing space and ancillary uses. The Project is located northwest corner of the intersection Mission Trail and Corydon and more specifically referred 31887 Corydon Units #150 and 160.

Analysis

General Plan Consistency

The Project sites have a General Plan land use designation of Limited Industrial (LI) and are located within the East Lake District of the General Plan. The primary land uses are within the East Lake Specific Plan (ELSP), which comprises 89% of the acreage in the East Lake District. Within the ELSP, 35.15% of its area is devoted to residential uses of various densities, and 40% of its area is designated for active and passive open space. The District also contains 98.7 acres within the floodway and 22.2 acres of Limited Industrial. The primary goal of the East Lake is:

- Integrate the future residential and commercial development with the recreational and open space land use framework to create a cohesive master planned community.

The LI designation provides for industrial parks, warehouses, manufacturing, research and development, public and quasi-public uses, and similar and compatible uses. The proposed Cannabis Facilities are a hybrid of manufacturing, cultivation and retail commercial uses (i.e. dispensaries and distribution facilities). These uses are compatible with existing uses within the LI designation such as Ceramic products manufacture using only previously pulverized clay, and kilns fired by electricity or gas, manufacturing, assembling, compounding, packaging, and processing of cosmetics, drugs, and pharmaceuticals, wholesale distribution facilities, and animal, food, or beverage processing. The retail components of these facilities are limited to accessory uses, which comprise less than 25% of the total area of the facility and less than 50% of gross revenue. This limitation is intended to engender consistency with the intent of the LI designation and to reduce related impacts to the existing surrounding land uses. The proposed facilities are wholly located within existing buildings and do not propose or are allowed to have exterior operations. The proposed cannabis facilities help to further the goals of the East Lake district by reinforcing the viability of the existing industrial hubs without impacting the master planned

residential communities and help to create vibrant industrial hubs by introducing additional business in existing developments that would create high paying jobs, reduced vacancy rates, and increased investment in the existing industrial parks.

One of the primary concerns of any intensification of land uses within the East Lake District has been that of increased traffic loads. The street system within the East Lake District currently consists of limited access to recreational facilities and Corydon Street in part due to the limited amount of development within the East Lake District. The roadways, which form or are in close proximity to the northeastern and southeastern areas of the East Lake District, include Malaga Road, Mission Trail and Corydon Street. Grand Avenue is the major roadway to the south and southwest, but is located within the Lakeland Village Sphere District. The future roadway network is planned to be an efficient system that will improve traffic flow throughout the area. The East Lake Specific Plan calls for the future development of a system of local streets and collectors, connecting to the surrounding circulation network. Internal circulation will include a number of local streets in no specific east west or north-south organization that are as yet, unidentified by name. Two (2) larger roadways will be the westerly extension of Malaga Street, which will flow in an east-west direction through the northern portion of the East Lake District, and the westerly extension of Bundy Canyon Road to align with the southern extension of Diamond Drive. In order to ensure that the traffic related impacts are minimized, focused traffic studies have been prepared. The individual facilities have increased traffic impacts as follows:

Project	AM	PM	Daily
PA 2018-33	8	9	15
PA 2018-36	11	22	403
PA 2018-37	3	3	9
PA 2018-40	18	35	395
Total	40	69	822

The City's adopted Traffic Impact Analysis guidelines assert that Level 1 projects (100-200 peak hour trips) in areas where a comprehensive traffic analysis have been performed and road improvement infrastructure funding mechanisms are in place are exempt from further review. Development of the existing buildings were subject to the California Environmental Quality Act and have had corollary environmental analysis, inclusive of a comprehensive traffic impact analysis previously prepared and approved and are exempt from further traffic impact related studies. Furthermore, the City's Transportation Infrastructure Fee (TIF) has been established to further reduce traffic related impacts by funding traffic related improvements and the individual projects are required to pay applicable fees inclusive of TIF. Because the individual projects and the cumulative projects do not create peak trip generation in excess of 200 trips, there have been comprehensive traffic analysis prepared previously and there is a funding mechanism to traffic improvements, the subject projects are exempt from the requirements of the preparation project specific traffic impact analysis, no further traffic related analysis are required. In addition, either individually or cumulatively, the proposed projects do not create new trips that would create unmitigated significant impacts to the existing road network. To ensure that these impacts are not created in the future, adequate safeguards in the form of Conditions of Approval have been imposed.

Overall, the proposed cannabis facilities introduce new land uses to an existing mix of industrial and quasi-commercial uses. The proposed facilities have been previously identified as furthering

the goals of the Business District and not creating new unmitigated significant impacts, because of this they are found to be consistent with the General Plan.

Municipal Code Consistency

The subject projects have a base zoning designation M-1 Limited Manufacturing District. The proposed cannabis facilities are located wholly within existing industrial parks, which have been previously analyzed for consistency with the base district development standards and other criteria and were found to be consistent with the applicable base zoning designations. A review of the current operational characteristics did not find any code violations and the building are in compliance with the base district regulations as well. With respect to Cannabis, related land uses, Chapter 17.156 Cannabis Uses, of the Lake Elsinore Municipal Code, specifically regulate these uses. Chapter 17.156 asserts specific operational requirements including the following:

- Site Security
- Limitation to indoor locations only
- Restricted access, including specific spaces accessible to the public and those spaces restricted
- Signage
- Proximity to schools and religious institutions
- Prohibition on the consumption of cannabis onsite
- Prohibition on the possession, sales and consumption of alcoholic beverages
- Prohibition of juveniles to be onsite or work in a cannabis facility
- Hours of Operation – 7:00 am to 9:00 pm
- Annual financial reporting
- Compliance with Building, Fire Code and other permitting requirements.
- Limitation on certain equipment, methods, solvents, gases and mediums when creating cannabis extracts.
 - Manufacturing facilities with a state license of a Type 6 (nonvolatile) or a Type 7 (volatile) classification may be allowed to operate under this chapter.
 - Manufacturers shall not use any Class I or Class II solvents, as those terms are defined in Federal Drug Administration Guidance, Table I, published in the Federal Register on December 24, 1997 (62 FR 67377), for extraction.
 - Manufacturers shall use butanes, ethanol, carbon dioxide, propane, heptane or other solvents exhibiting low to minimal potential human health-related toxicity for extraction, or other methods approved by the State of California
 - Manufacturers may use heat, screens, presses, steam distillation, ice water, and other methods of extraction without employing solvents or gases to create kief, hashish, bubble hash, or vegetable oils or fats derived from natural sources, and other extracts.
- Specific requirements on the supervision of the design, installation and operation of the facility's systems and manufacturing processes
- Compliance with state regulations

The proposed cannabis facilities have been analyzed for the consistency with these operational requirements and the proposed facilities have been found to meet these requirements. In addition to the aforementioned code requirements, additional detail information were specified in the application materials these include the following:

- Fire protection plan

- Closure plan, i.e., a plan to fully restore the occupied space to the condition that existed before the establishment of a cannabis related facility and the posting of a bond so that the City could authorize the work without incurring financial liability
- Information related to project proponents
- Project specific details as to the operational characteristics identifying the number of employees, production quantities and values, and other pertinent information.
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These additional details were required to ensure that the proposed facilities operated in a safe manner and would not create unintended impacts during the construction, operation and closure of these facilities. Staff has reviewed these additional details and have found that the materials submitted demonstrate that the proposed cannabis facilities would operate in a manner that would not adversely impact the adjacent business in operation.

Because the proposed cannabis facilities meet the minimum code requirements and do not propose any adverse impacts on adjacent businesses, they have been found consistent with the Municipal Code.

Implementation

The proposed cannabis facilities are currently in the first phase of the establishment of the use. This first phase will culminate in an action on the appropriateness of the proposed land use and the corollary environmental review.

The next phase will involve the plan checking, permitting and inspection of the perspective cannabis land uses. Specifically, during the plan check process the internal tenant improvements will be vetted against the applicable building and fire codes and other state requirements for these facilities. After permit issuance, typical inspections would occur to ensure that compliance with the approved building plans. During the construction-permitting process, the proposed cannabis facilities would be able to proceed with obtaining requisite state licenses that would mirror some of the City process of the cannabis business permit. These mirrored processes would include review of the proposed security plans, fire protection plans, and other operational characteristics. Culmination of these processes would occur with the issuance of certificate of occupancy, which has been conditioned to be dependent on the issuance of a State license and a City cannabis business permit.

Once operational, the proposed cannabis facilities have been conditioned to have quarterly life safety inspections to ensure the operations are in compliance with the relevant permits and that they are operating in a safe manner. Furthermore, an annual inspection with the potential responding fire crews will help to facilitate a safer emergency response by ensuring those responding have inspected the facility and have a familiarity with the operation. The proposed cannabis facilities have also been required to retain specific financial information, changes in owners and/or operators and an inventory control system to ensure that there is a transparency in the operation.

Development Agreement

The proposed Development Agreements, attached as Exhibits O-R, provide a uniform approach to safeguard the City from certain known and unknown impacts related the establishment of cannabis related land uses. The proposed agreements were prepared in a manner consistent with Chapter 19.12 of the LEMC. The proposed Development Agreements are associated with projects that have been asserted as being consistent with the General Plan and the land use

district that they are located in. The proposed cannabis facilities are in conformance with good land use practices and have designed or conditioned to minimize adverse impacts to health, safety and the general welfare of people or existing land uses. Furthermore, they have been drafted in manner that is consistent with the provisions of Government Code Sections 65864 through 65869.5.

Summary

The proposed cannabis facilities have been vetted against all applicable standards and have been found consistent with those standards. Appropriate Conditions of Approval have been included that would mitigate any potential issues associated with the future development and establishment of the use. Building and Safety and Fire divisions will conduct occupancy inspection to ensure the space is adequate for the proposed use.

Policy Discussion on Cannabis Related Land Uses

During the processing of the initial applications, there has been areas of the adopted ordinance that have been identified as potentially needing further consideration. Staff is seeking at this time preliminary direction on potential future code amendments that would better perfect the City's regulatory framework as it pertains to Cannabis related land uses.

The first area of consideration is the limitation on the gross sales. As currently constituted, the Municipal Code asserts, "Cannabis dispensaries shall be permitted as an accessory use to either a cannabis cultivation facility or cannabis manufacturing facility. In no case shall either the gross floor area of the dispensary exceed 25 percent of the total area of the business or 50 percent of gross proceeds of the business." These limitations were similarly applied to the distribution component of the facilities as well. The limitation on sales was originally contemplated as a measure to safeguard against the development and establishment of Cannabis Facilities that were largely geared towards dispensaries or distribution facility that would negatively impact the industrial areas by introducing retail sales to industrial areas. While well intending, the practical application of the limitation has raised the issue of revenue limitation on these facilities that adversely effects the City. This revenue limitation is largely due to the wholesale price of cannabis products compared to the retail price. The City is allowing the cultivation and manufacturing of Cannabis without limitation, however the City is limiting the dispensary component. This limitation when coupled with the price differential reduces the City's sales tax revenue. Further, the cultivation and manufacturing, which creates the product, has to then be sold at wholesale prices without being subject to sales tax and an increase in shipping the product to other outlets to be sold. The intention of reducing and limiting the potential impacts of the commercial aspects of the cannabis facility is largely achieved through the limitation on the area of the business allocated to the retail sales and the limitation of the proceeds does not have the same or a complimentary effect. Therefore, it is recommended that the limitation of the limitation on the gross proceeds be removed as part of a future Code Amendment.

The second area of consideration is the limitation on the number of Cannabis Facilities in specific land use designations of the Municipal Code. Currently the Municipal Code restricts the number of Cannabis Business Permits to five (5) in each in the M1 and M2 zone districts, with a provision that could allow more. The intent on the restriction was to not inundate the existing industrial parks with cannabis related uses and to not price out existing industrial uses as seen in other communities. There is a provision that allows for an increase in the number of permits, subject to further justification. The practical application of this provision has not engender the limitation or allocation of these uses as intended. Further, the market has largely regulated and limited the

increase number of these uses without the need for additional regulation and the City has not been made aware of contacted by existing business owners as to being priced out of the community. Based upon the observations in the initial applications in process, it is recommended that the limitation on the number facilities be removed as part of a future Code Amendment. As other application are received the City will process them in accordance with City Municipal Code regulations and City policies.

Fiscal Impact

The time and costs related to processing this Project have been covered by the Developer Deposit paid for by the applicant. No General Fund budgets have been allocated or used in the processing of this application. The approval of the Projects are anticipated to positively influence the City's General Fund due to increase sales tax revenue generated from the sales and services performed on site and the annual fee of \$18.00 per square included in the Development Agreement. Measures to protect the City fiscally have also been included in the Conditions of Approval.

Environmental Determination

The proposed projects are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1: Existing Facilities). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The proposed projects will be located in existing buildings. The site is fully developed and only minor interior alterations are planned in association with the proposed use. Further, the proposed projects have been adequately conditioned to minimize potential adverse environmental impacts and have been required to obtain all applicable regulatory permits.

Exhibits

- A – Vicinity Map
- B – Aerial Map
- C – PA 2018-33 CUP Resolution
- D – PA 2018-33 Conditions of Approval
- E – PA 2018-33 DA Resolution
- F – PA 2018-33 Proposed Development Agreement
- G – PA 2018-33 Project Plans
- H – PA 2018-36 CUP Resolution
- I – PA 2018-36 Conditions of Approval
- J – PA 2018-36 DA Resolution
- K – PA 2018-36 Proposed Development Agreement
- L – PA 2018-36 Project Plans
- M – PA 2018-37 CUP Resolution
- N – PA 2018-37 Conditions of Approval
- O – PA 2018-37 DA Resolution
- P – PA 2018-37 Proposed Development Agreement
- Q – PA 2018-37 Project Plans
- R – PA 2018-40 CUP Resolution
- S – PA 2018-40 Conditions of Approval
- T – PA 2018-40 DA Ordinance
- U – PA 2018-40 Proposed Development Agreement
- V – PA 2018-40 Project Plans