

Staff Report Agenda Item No. D-1

To: City of Imperial Planning Commission

From: Othon Mora, Community Development Director

Date: August 19, 2021

Subject: Amendment of Conditional Use Permit Request #18-07

Medical and Adult Use Cannabis Cultivation Facility

2433 Marshall Avenue, Imperial, CA 92251

Summary:

Applicant: March and Ash

Project Location: 2433 Marshall Avenue; Imperial, CA 92251

Zoning: C-2 Commercial General

General Plan: Commercial

Environmental: Categorically Exempt under Section 15301

Recommendation: Approve Amendment of Conditional Use Permit #18-07

Background

March and Ash is proposing to amend Conditional Use Permit 18-07 to allow the cultivation of adult-use and medicinal cannabis in a currently vacant 7,721 square foot suite located at 2433 Marshall Avenue. The project proposes to include 2,688 square feet of canopy space, which includes three "flower rooms" and one "mothers' room". The remaining area of the facility will be segmented into rooms specified for the unique operational functions associated with the cultivation business, which include a "Dry Room", "Fertigation Room", "Blow-Off Room", "Trim Room", and "Cure Room", as well as a secure check-in area and storage/receiving room.

The Mother Room is a dedicated area of the facility for cannabis plant "mothers". These mother plants are used to produce all new clones and seedlings. Daily tasks will consist of monitoring climate levels and maintaining the overall health of the plants, including the mothers, clones and seedlings. This includes

transplanting clones and seedlings to larger pots, deleafing or thining plants as well as maintaining the overall operational upkeep of the room. Dedicated employees shall maintain a clean/disinfected room and will be tasked with monitoring lighting fixtures, fan positions and overall upkeep of the equipment in the mother Room to ensure proper function.

The Flower Room(s) house all plants that are about to flower or are currently flowering. All plants in these specific rooms will be verified female cannabis plants and will be producing cannabis flowers for harvest. Daily tasks in the Flower Room consist of monitoring the environment and maintaining the overall health of the flowering plants. Employees will maintain the overall health of the plants by deleafing and trimming excess material, repositioning branches and removing any "duds" from the Flower Rooms to ensure the overall health of the plants in the room is maintained. Dedicated employees will be tasked with ensuring these rooms are properly sanitized and that all equipment is functioning properly.

The Dry Room will be used monthly once plants from a Flower Room are harvested. The Dry Room will be climate controlled and monitored by management. A moving rack system will be deployed in the Dry Room that will be used to hang plants for drying. When the Dry Room is in-use, tasks will include checking on plants daily, monitoring the environment in the room, adjusting racks to be evenly spaced throughout the room, adjusting fans to achieve proper air movement, and bringing plants in from the Flower room and out to Trim Room. After the harvested flowers have been adequately dried in the Dry Room, flowers will be taken to the Trim Room where dedicated employees begin the process of manicuring the flowers and placing them in food grade storage for the curing process.

The Fertigation Room will house all the reservoirs, pumps and controllers that will assist in feeding all the rooms that hold plants. All equipment shall be monitored to ensure proper function. Daily tasks include switching out containers of base nutrients, cleaning out reservoirs weekly to avoid any build up, and monitoring water filters and quality of water produced.

The cure room will house the finished flowers after they have been trimmed and will be stored in food grade containers for the duration of the curing process. The cure room will be climate controlled and maintained for cleanliness and organization. The Cure Room will be accessed during the post-harvest phase, trimming time and post trimming.

At least two employees will be on-site every day during business hours, in addition to the security personnel that will remain on-site at all times. At certain times, particularly during harvesting, up to 10 employees may be on-site during business hours. Anticipated employee breakdown assumes 10-12 total employees, including (1) Head Cultivator, (2) Managers, (2) full-time employees, and (5) part-time employees to be utilized during harvesting.

In its first year of operations, March and Ash anticipates that it will cultivate approximately 500 pounds of cured cannabis flower. In its second year and moving forward, assuming a full year of operation, March and Ash anticipates cultivating approximately 1200 pounds of cured cannabis flower yearly. Anticipated amount of cannabis flower to be produced per harvest will vary, however it is projected that 80-120 pounds of cured cannabis flower per Flower Room will be produced every 4-5 weeks.

Project Location



Discussion/Analysis

The subject site at 2433 Marshall Avenue is currently zoned C-2 Commercial General. This Zoning designation is intended as an area for the location of highway-oriented retail service and wholesale commercial activities such as; restaurant, theatre, health clubs, and for neighborhood shopping centers which provide retail business service and office facilities for the convenience of residents of the neighborhood. Section 24.05.120.B.35 of the Imperial Zoning Ordinance lists Medical and Adult Cannabis Use as a use subject to a Conditional Use Permit.

Evaluation

The Zoning Ordinance provides flexibility in the regulation of uses to ensure that unusual characteristics of certain uses are properly addressed in furtherance of the Imperial Zoning Ordinance. Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a CUP. The required findings are listed below in **bold italics**, followed by an evaluation.

1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.

The subject site is located within C-2 Commercial General. Marsh and Ash will not interfere or conflict with the purposes of the zone.

2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with

consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.

The proposed amendment is ideal for the facility. To the west of the project site there is the Imperial Airport, and to the north, east and south there are commercial facilities. The project will be compatible with the adjacent land uses and will not adversely affect any single-family residents.

3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

The project is very limited in nature, and as such, will not be detrimental to the public health, safety, or welfare. The proposed project is required to mitigate traffic and any odors.

4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.

The proposed Cultivation Facility will comply with all provisions of the Zoning Ordinance.

Environmental Compliance

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301 of the Guidelines.

Recommendation

Staff recommends the Planning Commission conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, Staff recommends approval of Resolution No. PC2021-11 approving an amendment of Conditional Use Permit to allow for a Medical Cannabis Cultivation Facility at 2433 Marshall Road subject to the following conditions on Exhibit A Conditions of Approval.

Respectfully Submitted

Othon Mora, MCM, CBO Community Development Director

Attachments: Resolution No. PC2021-11 with Conditions of Approval

Project Site Plan Building Plans

Resolution No. PC 2018-20 with Conditions of Approval

EXHIBIT A

CONDITIONS OF APPROVAL

AMENDMENT OF CONDITIONAL USE PERMIT 18-07 FOR THE OPERATION OF A MEDICAL AND ADULT USE CANNABIS CULTIVATION FACILITY

- 1. This Amendment of Conditional Use Permit 18-07 is granted for a Medical and Adult Use Cannabis Cultivation Facility located at 2433 Marshall Road; Imperial, CA 92251 and shall only be valid so long as the California State issued Medical Cannabis Cultivation License is valid.
- 2. Enclosed cannabis cultivation occupancy classification will differ from the cannabis mercantile use. Imperial County Fire Department is requiring that either a license C-16 contractor and/or a license fire protection engineer evaluate the current fire sprinkler system for its availability to provide adequate protection. A report shall be provided to Imperial County Fire Department for review and approval.
- 3. Automatic smoke removal systems shall be required for each cultivation area. Smoke removal shall be designed and installed as per California Fire Code and NFPA. Plans shall be submitted to Imperial County Fire Department for approval.
- 4. Automatic fire alarm system will be required to be integrated with the existing fire alarm system and shall be installed and as per California Fire Code and NFPA
- 5. Egress plan shall be submitted to Imperial County Fire Department for review and approval
- 6. Gas systems will need to be monitor and installed as per California Fire Code and NFPA. Plans shall be submitted for review and approval before install.
- 7. March and Ash shall allow the Community Development, Imperial Police and Imperial County Fire Departments access for inspections, training, and facility familiarization of the facility at any given time.
- 8. 24-hour fixed-camera video surveillance shall be required at the cultivation facility and digital storage in the cloud or other off-site method of recordings shall be available for 90 days after recording. Further, that recording is of a sufficient quality to provide identification of any individual being recorded; that the surveillance covers every interior area and room and adjacent perimeter areas within a minimum of 50 feet; and that the City of Imperial Police Department or other City authorized department shall have 24-hour remote access to the surveillance system.
- 9. A Security Plan shall be provided, reviewed and approved by the Imperial Police Department and Community Development Department prior to installation.

RESOLUTION PC2018-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MEDICAL CANNABIS DISPENSARY FACILITY AT 2433 MARSHAL ROAD; IMPERIAL, CA 92251

(MARCH AND ASH-BLAKE MARCHAND)

WHEREAS, Blake Marchand submitted a Conditional Use Permit application to allow for a Medical Cannabis Dispensary Facility at 2433 Marshall Road; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on December 12, 2018; and

WHEREAS, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written comment received, the Planning Commission considered all facts relating to the request for a Conditional Use Permit.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act; and
- C) There are no sensitive resources located within the area of the project or adjacent to the area of the project so as to be significantly impacted by the project; and
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is Categorically Exempt under Section 15301 of the California Environmental Quality Act; and
- E) That the Medical Cannabis Dispensary is consistent with those uses allowed in the C-2 (Commercial General) Zone.
- F) That based on the evidence presented at the public hearing, the Planning Commission hereby <u>APPROVES</u> the Conditional Use Permit #18-07 (CUP 18-07) to allow for the operation of a Medical Cannabis Dispensary Facility, subject to the conditions of approval outlined in COAs (18-07) and based on the following findings:

- 1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.
- 2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.
- 3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- 4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for an approved Variance.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 12th day of December 2018.

Geoff Holbrook, Vice-Chairman

ATTEST:

Debra Jackson.

City Clerk/Planning Secretary

STATE OF CALIFORNIA) COUNTY OF IMPERIAL)ss CITY OF IMPERIAL)

I, Debra Jackson, the undersigned, City Clerk/Secretary of the City of Imperial Planning Commission, DO HEREBY CERTIFY that the foregoing Resolution No. PC 2018-20 was duly and regularly adopted at a Regular meeting of the City of Imperial Planning Commission held on the 12th day of December 2018, by the following vote:

AYES:

GUILLEN, HAUGH, HOLBROOK, MCDADE, AND LUCAS

NAYES:

NONE

ABSTAIN:

NONE

ABSENT:

NONE

MOTION CARRIED 5-0

DEBRA JACKSON, CITY CLERK/SECRETARY CITY OF IMPERIAL PLANNING COMISSION

STATE OF CALIFORNIA) COUNTY OF IMPERIAL)ss CITY OF IMPERIAL)

I, Debra Jackson, the undersigned, City Clerk/Secretary of the City of Imperial Planning Commission, DO HEREBY CERTIFY that the foregoing Resolution No. PC 2018-20 was duly and regularly adopted at a Regular meeting of the City of Imperial Planning Commission held on the 12th day of December 2018, by the following vote:

AYES:

GUILLEN, HAUGH, HOLBROOK, MCDADE, AND LUCAS

NAYES:

NONE

ABSTAIN:

NONE

ABSENT:

NONE

MOTION CARRIED 5-0

DEBRAJACKSON, CITY CLERK/SECRETARY CITY OF IMPERIAL PLANNING COMISSION

CUP (18-07) 2433 Marshall Road; Imperial, CA 92251 APN#: 044-701-013

- 1. This Conditional Use Permit is granted for a Medical Cannabis Dispensary Facility located at 2433 Marshall Road; Imperial CA 92251. This Conditional Use Permit shall only be valid so long as the California State issued Medical Cannabis Dispensary License is valid.
- 2. The Public Services Department would like to reserve the right, to require additional traffic mitigation measures and/or studies as needed for 18 months (counting from the first day of business).
- 3. The provisions of this Conditional Use Permit are to run with the business named "Marsh and Ash", owned by "Blake Marchand", and is only valid so long as the project operates at 2433 Marshall Road, Imperial, CA 92251. If any of these conditions change, the Conditional Use Permit will not be valid.
- 4. "March and Ash" Company is to incorporate a type of "Community Outreach" plan that could help educate the citizens of the City of Imperial and that may give a better understanding of the medicinal products your company will be offering, Beginning from the date of operation. Potentially have a booth at the City of Imperials' designated "Market Day" events.
- 5. No cannabis or cannabis odors shall be detectable by sight or smell outside of a permitted facility. If Odor Control Plan is not effective, business must take steps to mitigate the problem-if need be. Noncompliance of such operating standards shall constitute a breach of the permit issued hereunder and may render such permit suspended or revoked based upon the City Manager's determination.
- 6. Permitted facilities must install security cameras capable of documenting activity inside and outside the facility, as determined by the Imperial Police Department. Permitted facilities must implement a tract and trace program that records the movement of medical cannabis and medical cannabis products in their custody and make these records available to the City Manager upon request. Noncompliance of such operating standards shall constitute a breach of the permit issued hereunder and may render such permit suspended or revoked based upon City Manager's determination. All security systems must be inspected by the Police Department prior to operation.
- 7. All commercial medical marijuana facilities shall secure a State license within 6 months of the State issuance. Revocation of a permittee's State license shall result in immediate revocation of the permittee's City of Imperial Conditional Use permit.
- 8. All commercial medical marijuana facilities shall maintain a minimum of 600 feet radius separation from sensitive zones as defined and in compliance with the City of Imperial's Ordinance 795.

- 9. Lighting at commercial medical marijuana facilities shall remain illuminated at all times between sunset and sunrise with sufficient intensity to illuminate every portion of the premises including but not limited to parking, any accessory uses and adjoining sidewalks.
- 10. 24-hour fixed camera video surveillance shall be required at all commercial marijuana facilities and digital storage in the cloud or other off-site method of recordings shall be available for 90 days after recording. Further, that recording is of a sufficient quality to provide identification of any individual being recorded; that the surveillance covers every interior area and room and adjacent perimeter areas within a minimum of 50 feet; and that the City of Imperial Police Department or other City authorized department shall have 24-hour remote access to the surveillance system.
- 11. No consumption of any cannabis product shall be allowed on any of the facility's premises-except for research purposes that are certified/acknowledged by the FDA and registered in the "ClinicalTrials.gov" data base.
- 12. All information regarding the research and clinical trials must be submitted to the Community Development Department before commencing trials.
- 13. All products shall be tracked, tested, sealed and labeled at a minimum by State Medical Cannabis Regulation Act and as it may be amended.
- 14. All cannabis products that can be ingested by eating or drinking shall have a warning label or sign advising them of the potential hazard associated with over-consumption.
- 15. A licensee shall keep accurate records of commercial medical cannabis activity.
- 16. All records related to commercial medical cannabis activity shall be maintained for a minimum of seven years.
- 17. The City or its designee may examine the records of licensees and inspect the premises of a licensee as the licensing authority as may be authorized by law at any time and furthermore, the establishment will be subject to quarterly inspections by the Community Development Department and will be subject to regulatory inspection fees.
- 18. The City or its designee shall have access to any licensed medical marijuana facility for inspection of the facility, the employees and records (HIPPA compliance rules apply) during any normal business hours or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.
- 19. A commercial medical marijuana licensee shall have a reasonable period of time, which shall not exceed 14 calendar days to correct an adverse impact or to cure a legitimate complaint or possible non-compliance as defined in this section, before being subject to revocation, suspension, or other discipline unless the impact, complaint or non-

- compliance would result in an immediate danger to the public and shall then be cured immediately as determined by local law enforcement or other appropriate authority.
- 20. Disposal of any unused or unwanted medical marijuana shall undergo a special process and shall not be disposed of as or with routine garbage disposal procedures. Please submit disposal procedures for review during building permit process.
- 21. Applicant shall comply with all local and State laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
- 22. The conditional approval of the Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
- 23. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
- 24. Permittee shall not be permitted to maintain a "nuisance", which is anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the approved project.
- 25. Applicant must meet all aspects as depicted and outlined within their Medical Cannabis Retail Facility Permit Application.
- 26. Assessment of site security by a qualified licensed security consultant.
- 27. Permit application require the submittal of security and fire prevention plans.
- 28. Security measures to include, but not limited to installation of 24-hour, live-feed security High Definition cameras accessible by the Police Department remotely on demand; alarm systems; and 24-hour onsite security personnel authorized by the Police Chief.
- 29. City Manager, Planning Director, Police Chief or designee may enter the business at any time during hours of operation without notice to inspect location, request recordings and records, or obtain samples of the cannabis to test for public safety purposes.
- 30. Camera systems, will surveillance footage be made available to law enforcement at any time of day should an incident occurred in or around your facility.

- 31. Who will be tasked and gave access to "Guardian Angel" software. Should an incident arise where access to such program be necessary for investigation, will the program be available to officer/investigators.
- 32. Placement of a backup power system in case of a power outage in order to maintain security systems running for an extended period of time.
- 33. 3% of Medical Cannabis Facility gross profits goes to youth programs and education for the City of Imperial.
- 34.5% of Medical Cannabis Facility gross profits goes to public safety for the City of Imperial.
- 35. All cannabis facilities shall have an approved automatic fire suppression system. All fire suppression systems will be installed and maintained to the current adapted fire code and regulations.
- 36. All cannabis facilities shall have an approved automatic fire detection system. All fire detection systems will be installed and maintained too the current adapted fire code and regulations.
- 37. All cannabis facilities shall have an approved automatic smoke removal system with approved filtration, for cannabis operations.
- 38. Gates and fire department access will be in accordance with the current adapted fire code and the facility will maintain a Knox Box for access on site.
- 39. Further requirement shall be required for cultivation and manufacturing process.
- 40. Compliance with all required sections of the fire code.
- 41. Page 57 of provided package submitted will need be have the following changes made. Keys will be kept in an approved KNOX Box purchased by the applicant. Information will be provided by Imperial County Fire Department on type and location of Knox Box.
- 42. Page 89 of provided package submitted shows the proposed floorplan. Egress access is of concern with minimal exits provided. Only 1 public exit is shown on the plans which will limit the occupant load capacity. Other exits are in restricted locations which may be locked and restricted from public access.
- 43. Imperial County Fire Department reserves the right to comment at a later time as we feel necessary. Further requirements may be required as the California Fire Code are being revised and/or amendments being added for cannabis operations.



CITY COUNCIL Geoff Dale - Mayor Betty Sampson - Mayor Pro Fem Robert Amparano - Councilmember Darrell Pechtl - Councilmember James Tucker - Councilmember

> CLEY CLERK Debra Jackson

CITY TREASURER Stacy Cox

CITY ATTORNEY Dennis Morita

CITY MANAGER Stefan T_Chatwin

CONDITIONAL USE PERMIT

Permit Number: CUP 18-07

Issue Date:

January 3, 2018

Location:

2433 Marshall Road; Imperial, CA 92251 Business Name: March & Ash Medical Cannabis Facility

Date Effective: December 26, 2018

Community Development Department

City of Imperial

CONDITIONS OF APPROVAL

For

CUP (18-07) 2433 Marshall Road; Imperial, CA 92251 APN#: 044-701-013

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- All records related to commercial medical cannabis activity shall be maintained for a minimum of seven years.
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- 18. The City or its designee shall have access to any licensed medical marijuana facility for inspection of the facility, the employees and records (HIPPA compliance rules apply) during any normal business hours or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.
- 19. A commercial medical marijuana licensee shall have a reasonable period of time, which shall not exceed 14 calendar days to correct an adverse impact or to cure a legitimate complaint or possible non-compliance as defined in this section, before being subject to revocation, suspension, or other discipline unless the impact, complaint or non-compliance would result in an immediate danger to the public and shall then be cured immediately as determined by local law enforcement or other appropriate authority.
- 20. Disposal of any unused or unwanted medical marijuana shall undergo a special process and shall not be disposed of as or with routine garbage disposal procedures. Please submit disposal procedures for review during building permit process.
- 21. Applicant shall comply with all local and State laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
- 22. The conditional approval of the Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
- 23. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
- 24. Permittee shall not be permitted to maintain a "nuisance", which is anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the approved project.
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- 34. 5% of Medical Cannabis Facility gross profits goes to public safety for the City of Imperial.
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43. Imperial County Fire Department reserves the right to comment at a later time as we feel necessary. Further requirements may be required as the California Fire Code are being revised and/or amendments being added for cannabis operations.

The undersigned hereby declare and certify that under penalty of perjury that I accept all conditions imposed by the Planning Commission in their approval as outlined above. As the project applicant, I agree to comply with these conditions and all other applicable laws and regulations at all times.

Si....

1-3-2019

Date

Blaler Marchand

Printed Name















