

RESOLUTION 2017-97 REVISED

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEEDLES APPROVING A
CONDITIONAL USE PERMIT FOR A MEDICAL MARIJUANA CULTIVATION FACILITY
SITUATED WITHIN BUILDING 3B AND LOCATED AT 320 BALBOA PLACE, ALSO KNOWN AS
APN 0660-081-15.**

WHEREAS, on January 10, 2017 City Council Ordinance No. 588 was approved allowing medical marijuana cultivation facilities in zones C1, C2, C3, M1 and M2, with a Conditional Use Permit and Regulatory Permit; and

WHEREAS, Applicant, Deer Park Development Corp., recently filed an application requesting a Conditional Use Permit for a medical marijuana cultivation facility, proposed to be located at 320 Balboa Place, also known as APN 0660-081-15; and

WHEREAS, the parcel being considered for medical marijuana cultivation is currently zoned C-3 "Highway Commercial" for APN 0660-081-15; and

WHEREAS, Section 96.01 of the Needles City Code allows these types of projects to occur in the General Commercial (C-2) zone, subject to the approval of a Conditional Use Permit; and

WHEREAS, a public hearing notice for the Needles Planning Commission meeting was published in the Needles Desert Star on November 29, 2017, at least 10 days prior to said meeting, and notices were sent to property owners within a 300-foot radius of the subject property specifying the date, time and location of the public hearing; and

WHEREAS, on December 13, 2017, the Needles Planning Commission held a duly noticed and advertised public hearing to receive oral and written testimony relative to RESOLUTION 12-13-2017-4 PC; and

WHEREAS, on December 13, 2017, the Needles Planning Commission approved RESOLUTION 12-13-2017-4 PC recommending City Council approval of a Conditional Use Permit; and,

WHEREAS, a public hearing notice for the Needles City Council meeting was published in the Needles Desert Star on November 29, 2017, 10 days prior to said meeting, and notices were sent to property owners within a 300-foot radius of the subject property specifying the date, time and location of the public hearing for a Conditional Use Permit; and

WHEREAS, the matter was scheduled for a public hearing on December 19, 2017 City Council meeting; and

WHEREAS, on December 19, 2017, the Needles City Council held a duly noticed and advertised public hearing to receive oral and written testimony for a Conditional Use Permit; and,

WHEREAS, Section 94.07(d) of the Needles City Code describes the findings required to approve a Conditional Use Permit; and

WHEREAS, the Needles City Council has sufficiently considered all testimony and any documentary evidence presented to them in order to make the following determination.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Needles as follows:

SECTION 1. The City Council HEREBY FINDS AND DETERMINES that this project is categorically exempt under the California Environmental Quality Act, CEQA Guidelines, Section 15301(a), (Existing Facilities, interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances). The Proposed Use will involve tenant improvements to existing metal storage buildings, an extension of an onsite driveway and onsite parking improvements.

SECTION 2 The City Council HEREBY FINDS AND DETERMINES, with reports and findings, that facts do exist to approve a Conditional Use Permit, according to the criteria specified in Section 94.07(d) of the Needles City Code:

A. That the requested permit is within its jurisdiction according to the table of permissible uses.

FINDING: The project site is zoned Highway Commercial (C-3) and medical marijuana cultivation is permitted in the C-3 zone with a Conditional Use Permit (CUP) and a Regulatory Permit in accordance with Ordinance No. 588 AC.

B. The Application is Complete.

FINDING: The applicant has submitted a complete application and has provided the required Site, Floor, Elevation and Landscape Plans to be situated within the existing 16,500 square foot building for the purpose of medical marijuana cultivation.

C. The development is in general conformity with the Needles General Plan.

FINDING: The proposed project, cultivation of medical marijuana, is consistent with uses identified in the General Plan Commercial Highway (CH) designation through the adoption of Ordinance No. 588 AC, which allows for cultivation facilities to operate within the Highway Commercial (C-3) designated zone, thereby providing consistency with the General Plan.

D. The development is in harmony with the area in which it is located.

FINDING: The project site is located in a developed portion of the City and situated on an approximate 7.2 acres comprised of six parcels (APN 0660-081-10, 0660-081-11, 0660-081-12, 0660-081-13, 0660-081-14, and 0660-081-15). The project will involve tenant improvements to an existing 16,500 square foot building (Building 3B) for the purpose of medical marijuana cultivation. The conditions of approval require that only cultivation may be performed inside Building 3B. No manufacturing of products or sales will be permitted to occur on-site. Traffic from employee, manager, security staff and deliveries is expected to generate 20 trips per day. In addition, there are no sensitive receptors (assisted in-care facilities, hospitals, schools) located nearby. Therefore, this type of project is consistent with the uses occurring in the vicinity of the project site.

E. The development will not materially endanger the public health or safety.

FINDING: The project site is located in a moderately developed area of the City. Conditions of approval have been placed on the project to ensure appropriate lighting, security systems, and ventilation systems are in place for health and safety purposes.

F. *The development will not substantially injure the value of adjoining or abutting properties.*

FINDING: The project site is zoned Highway Commercial (C-3). The area to the north is zoned Commercial Residential Resort (CRR), to the south and east are also zoned Commercial Residential Resort (CRR), and to the west is zoned Highway Commercial (C-3). As shown in Attachment F, the project will provide landscaping in front of perimeter fencing fronting Balboa Place and within the central portion of the project site between Buildings to consist of river rock bouldering and palm trees. Landscaping will be conditioned to be installed and maintained. Lastly, the project will be conditioned for all building mounted lighting to be shielded in order to contain light and glare from spilling onto adjacent properties, thereby further maintaining the value to adjoining and surrounding properties.

Therefore, the project will not have a negative aesthetic appearance to adjoining or surrounding properties.

G. *That the project overall is consistent with the preceding findings*

FINDING: The project, with findings as discussed in regard to proposed project detail and with conditions of approval applied to the project in order to satisfy finding criteria, therefore places the overall project in consistency with the preceding findings.

SECTION 3. The City Council HEREBY FINDS AND DETERMINES that facts do exist to approve **RESOLUTION 2017-96.** 97

SECTION 4. The City Council HEREBY APPROVES Resolution **2017-96**, approving a Conditional Use Permit for a Medical Marijuana Cultivation Facility located within the parcel known as APN 0660-081-15, with the following conditions:

1. Conditional Use Permit ("CUP") No. 12-13-2017-4 PC conditionally authorizes one Marijuana Cultivation Facility to operate within an existing 16,500 square foot building (Building 3B) located at 320 Balboa Place, also known as APN 0660-081-15. This CUP does not authorize the use of a Cooperative/Collective, Manufacturing, or Testing Laboratory within the building. These Conditions of Approval shall apply to the cultivation of marijuana and the establishment of the Cultivation Facility only, whether it is classified as medical or, in the event it is legalized or otherwise provided immunity from prosecution within the State or by the Federal Government, recreational.
2. The Applicant/Owner/Operator, and his/her/its successor(s) in interest ("Applicant") shall comply with all conditions of this CUP, including the Needles Municipal Code ("Municipal Code") and Chapter 12A thereof, the City Zoning Code, including Article IV and Section 94 thereof, and all applicable laws, policies, rules and regulations of the City, County, and State; and shall comply with any requirements associated with this approval or with the issuance of any Cultivation Facility License as required by Chapter 12A of the Municipal Code.
3. This CUP is issued in accordance with the provisions of the Municipal Code, and all development subject to the CUP shall occur strictly in accordance with the CUP plans and applications approved by the City. Failure to implement and maintain all provisions of these conditions of CUP approval shall be deemed grounds for revocation.

4. The CUP is issued contingent upon the Applicant's compliance with the provisions of Municipal Code Chapter 12A, and the issuance of all applicable permits and licenses in connection therewith, including, without limitation, a Marijuana Cultivation License, prior to the issuance of a Certificate of Occupancy pursuant to this CUP.
5. The approval for CUP No. 12-13-2017-4 PC is subject to the six (6) month expiration provisions of Section 94.13(a) of the City's Zoning Code, and will expire on **06-27-18**.
6. The permit issuing authority may extend for a period of up to six (6) months, the date when the permit would otherwise expire pursuant to 94.13(a) if it concludes that: (1) the permit has not yet expired; (2) the permit recipient has proceeded with due diligence and in good faith; and (3) conditions have not changed so substantially as to warrant a new application.
7. The Applicant shall indemnify, protect, hold harmless and defend, with counsel selected by the City, the City and any agency or instrumentality thereof, and/or any of its officers, employees and agents from any and all claims, actions, or proceedings against the City to attack, set aside, void, annul and/or seek monetary damages resulting from an approval of the City; or any agency or instrumentality thereof, advisory commission; appeal board or legislative body including actions approved by the voters of the City, concerning Applicant's project. The City shall promptly notify the Applicant of any claim, action; or proceeding to which this condition is applicable and shall reasonably cooperate in the defense of the action. The City reserves its right to take any and all action the City deems to be in the best interest of the City and its citizens in regard to such defense. As a condition of this approval, the Applicant or its authorized representative shall:
 - (a) Execute an agreement to defend (with legal counsel of the City's choice), indemnify and hold the City harmless from any and all claims, damages, legal or enforcement actions, including, but not limited to, any actions or claims associated with violation(s) of federal law associated with the permitting, licensing, approval, and/or operation of the Cultivation Facility; and
 - (b) Maintain insurance in the minimum amount of \$1 million per claim and \$2 million in the aggregate; and
 - (c) Name the City as an additional insured on all City required insurance policies; and
 - (d) Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of the Cultivation Facility.
8. All development on the project site shall be in compliance with all applicable provisions of the City's Municipal Code and all applicable provisions of the adopted and applicable Building, Construction and Fire Codes, the Americans with Disabilities Act, and all City building, zoning, business, and health regulations. All new construction shall obtain appropriate building permits and comply with the requirements of the Planning, Building, and Fire Departments.
9. With the exception for amendments and/or modifications that are consistent with Section 94.15 of the City's Zoning Code, anything not shown on the CUP application or the Site Plan, or which is not specifically approved herein, or which is not in compliance with the CUP, is not approved. Any application and/or plans which are defective as to, but not limited to, omissions, dimensions, scale, use, colors, materials, encroachments, easements, etc., shall render any entitlements granted hereunder null and void. Construction (if any) shall cease until all requirements of this CUP are complied with, and development entitlements may be withheld until any Code violations are abated.

10. No Certificate of Occupancy shall be granted until all Conditions of Approval have been completed and approved by the City and Fire Department unless otherwise identified herein, and all offsite improvements have been completed and accepted by the City.
11. Within fifteen (15) days of final approval by the City Council, the Applicant shall submit a notarized affidavit acknowledging acceptance of the conditions of this CUP. This authorization shall become void, and any privilege, permit, or other authorization granted under these entitlements shall be deemed to have lapsed if compliance with this condition has not been undertaken within the specified time limits.
12. A scanned copy of the signed Conditions of Approval shall be included in the Building Construction Plans submitted for plan check.
13. The Applicant shall pay all established service, permit, impact, environmental, and other applicable fees required by the City as a condition of this CUP.
14. The Applicant shall at all times comply with any applicable State law, including but not limited to: the Compassionate Use Act (Proposition 215), the Medical Marijuana Program Act (Senate Bill 420), the Medical Marijuana Regulation and Safety Act (collectively Assembly Bill 266, Assembly Bill 243, and Senate Bill 643, signed into law by Governor Brown on October 9, 2015, as may be amended from time to time), and any other State or California Constitutional provision, whether now or later adopted, including any location restrictions.
15. The Applicant shall apply for and obtain a Marijuana Cultivation License prior to operating the Cultivation Facility conditionally authorized by this CUP, and shall at all times comply with the provisions of such license and applicable City Codes and regulations. The revocation or suspension of any required regulatory license shall operate to suspend all operations.
16. The Applicant must comply with the recommendations and conditions of the City Manager or his/her designee prior to issuance of any building permits. All development pursuant to this CUP must be kept in full compliance with the County Fire Code to the satisfaction of the County Fire Department.
17. A Management, Operations, and Security Plan including the measures set forth in Municipal Code Chapter 12A-7(F) shall be reviewed, and approved by the City Manager (or Designee) and City Building Official prior to Building Permit Issuance. Installation of security measures, including those listed below (See Condition 41a-e) must be completed, inspected, and approved by the City Manager (or Designee) and City Building Official prior to issuance of a Certificate of Occupancy.
18. The Applicant shall provide adequate lighting above all entrances and exits to the proposed buildings, as well as all parking areas and walkways that are under the control of the Applicant.
19. All required lighting shall be of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons within lighted areas during operating hours and shall be designed so as to direct light and glare onto the premises only. Said lighting and glare shall be shielded to deflect lighting away from all adjoining properties.
20. Prior to the issuance of a Conditional Use Permit, the Applicant shall obtain an electric "Will-Serve" letter, as well as a "Will-Serve" letter for Domestic Water and Sanitary Sewer Service from the Needles Public Utility Authority ("NPUA").

21. During construction of tenant improvement activities for the building, the Applicant shall, at all times, maintain the project site free of weeds, debris, trash or any other offensive, unhealthful and dangerous material. If after five (5) days' notice by certified mail, the Applicant does not comply with a notice of violation issued during construction, the City may either cancel building permits and/or implement nuisance abatement proceedings, including placing a lien on the property for costs of abatement.
22. The proposed project includes the extension of the existing driveway from Balboa Place on the north side of the property that will be extended easterly around the east end of buildings 3A and 3B then westerly back to Balboa Place southerly of buildings 3B and 4B, per the Fire Department requirement. In addition, the applicant is proposing to develop a storm drain system on the east side of the site between the extended driveway and the property boundary. The extreme easterly portion of the project site contains vegetation that has the potential to provide habitat for avian species. Therefore, if proposed grading is scheduled to occur between March 1st and August 31st, a nesting bird survey is required to determine presence/absence of nesting birds in accordance with the Migratory Bird Treaty Act (MBTA). If nesting birds are observed, grading cannot occur in the area surrounding the nest(s) within a radius to be determined by the project biologist (based on the species observed). In addition, if proposed grading is scheduled to occur between September 1st and February 28th, then a preconstruction survey shall be required prior to commencement of disturbance to determine presence/absence of avian species. Finally, the limits of grading shall be clearly marked (plastic orange netting/fencing or similar material) in order that grading equipment does not exit the area of disturbance as shown on the project grading plan. The maximum grading limit shall be shown on the grading plan fencing shall be installed prior to commencement of grading to the satisfaction of the building official.
23. During grading and trenching activities and in the event of an accidental discovery or recognition of any human remains during project construction activities, Public Resources Code (PRC) Section 5097.98 must be followed. In this instance, once project-related earthmoving begins and if there is accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps shall be taken:
- There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the County Coroner is contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, then the coroner shall contact the NAHC within 24 hours, and the NAHC shall identify the person or persons it believes to be the "most likely descendant" of the deceased Native American. The most likely descendant may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98, or
 - Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the most likely descendant or on the property in a location not subject to further subsurface disturbance:
 - The NAHC is unable to identify a most likely descendant or the most likely descendant failed to make a recommendation within 24 hours after being notified by the commission;
 - The descendant identified fails to make a recommendation; or
 - The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the NAHC.

24. Applicant shall locate outside trash bin(s) or trash cans in a secured, enclosed area; not to be seen by public view and shall be locked at all times.
25. The outdoor cultivation and/or sale of marijuana and/or marijuana products are prohibited on the project site. No activity including, but not limited to, seeding, growing, or processing shall be conducted outside of the enclosed Cultivation Facility. The only time in which the product of any type is allowed to be outside of the 16,500 square foot building (Building 3B) is for loading and/or transportation/logistic and/or disposal purposes, consistent with the approved Site Plan. Indoor Cultivation is allowed only within a fully enclosed and secure structure of the building which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, is secured against unauthorized entry, provides complete visual screening, is only accessible through doors, and is inaccessible to minors. Other types of activities or special events are prohibited on the project site unless the applicant has received an approved Temporary Use Permit subject to the provisions of the City Municipal Code.
26. All structures, building walls open to public view shall remain free of graffiti or other extraneous markings, drawing, or signage that was not approved by the City, unless directly related to the business being operated on the premises or otherwise providing pertinent information about said premises. In the event graffiti or other extraneous markings occur, the Applicant shall remove or cover said markings, drawings, or signage within 24 hours of notification of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surface.
27. Prior to occupancy, the Applicant shall prepare and file with the County Fire Department and Sheriff's Department a detailed evacuation plan in the event of an emergency that details how the building will be secured and how first responders will gain access to the project site and to the building.
28. Prior to construction of the proposed building, the Applicant shall fill out the City's Industrial Wastewater Discharge checklist and provide the City with a detailed description of the project's proposed treatment for wastewater discharge associated with cultivation.

This shall involve and require the Applicant to construct a sampling manhole to connect to the onsite septic tank, and shall be constructed large enough in diameter for test tubes to be fitted down for water capture and testing. Said manhole shall be located on top of the Septic Tank with access for City Staff; and a composite sampling device to be installed in the manhole with a remote controller. The depth of the manhole will depend on the depth of the septic tank.

The Applicant shall also describe if:

- a) Reverse osmosis will be utilized, and if so, shall provide documentation to the City of how concentrated levels of Total Dissolved Solids (TDS) and brine solutions will be disposed and of the licensed entity that will be appointed in receiving TDS waste; or
- b) If Hydroponic Grow Methods will be utilized, the applicant shall notify the City prior to initial discharge of hydroponic water media. Testing shall be performed at the time of discharge by a licensed wastewater testing firm. If testing reveals an exceedance in the maximum allowable threshold for dissolved solids, the facility shall halt any further discharge until appropriate filtering methods have been replaced/installed and re-tested by the wastewater testing firm until discharge levels of dissolved solids fall below the maximum allowable threshold. Failure to notify the City or detection of an unapproved discharge shall be considered "non-compliant" and is subject to sanctions up to and including discontinuance of service in accordance with Sections 9.5 and 10.7 of the City Code.

29. No nuisance water shall escape the Project Site onto public streets or adjacent properties.
30. If hazardous substances are used and/or stored in connection with the project, that exceed 55 gallons, 500 pounds, or 200 cubic feet (compressed gas) at any one time in the course of a year, a Business Emergency/Contingency Plan shall be prepared prior to issuance of Certificate of Occupancy and shall be in compliance with California Health & Safety Code (CHSC), Division 20, Chapter 6.95, Sections 25500 – 25520, California Code of Regulations (CCR), Title 19, Division 2, Chapter 4, Article 4, Sections 2729 - 2732, Title 40, Code of Federal Regulations (CFR), and EPA (SARA, Title III). A technical opinion and report may be required, identifying and developing methods of protection from the hazards presented by the hazardous materials. This report shall be prepared by a qualified and properly licensed person, firm, or corporation and submitted to the Fire Department. This report shall also explain the proposed Facility's intended methods of operation and list all of the proposed materials, their quantities, classifications, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.
31. Indoor Cultivation shall not exceed 16,500 square feet of interior floor space as contained within the proposed building and as authorized pursuant to the CUP. In the event that State law further restricts or limits these requirements, the Cultivation Facility shall comply with all building size requirements for such facilities imposed by State law and consistent with any State issued permit or license. A decrease in Indoor Cultivation below that which is authorized shall not require a new or amended CUP.
32. Indoor Cultivation shall not adversely affect the health or safety of the nearby residents, businesses or properties by creating offensive odors, dust, glare, heat, noise, smoke, traffic, vibration, or other impacts that are disturbing to people of normal sensitivity residing or present on adjacent or nearby properties or areas open to the public, and shall not be hazardous due to use or storage of materials, processes, products or wastes. The building shall incorporate, operate and maintain sufficient odor absorbing ventilation through the use of charcoal lined filtration and exhaust systems.
33. The Cultivation Facility shall comply fully with all applicable restrictions and mandates set forth in State law, including without limitation, the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued by the California Attorney General in August 2008, as may be amended from time to time. The Cultivation Facility shall not engage in any activities not allowed at Cultivation Facilities pursuant to State law and Chapter 12A of the Municipal Code. The Cultivation Facility shall comply with all horticultural, labeling, processing, and other standards required by State law and Chapter 12A of the Municipal Code.
34. All marijuana and marijuana products shall be stored in a secured manner within the Cultivation Facility during business and non-business hours.
35. On-site smoking, ingestion, or consumption of marijuana or alcohol shall be prohibited on the premises of the Cultivation Facility. The term "premises" includes the actual buildings, as well as parking areas. The building entrance to the Cultivation Facility shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming marijuana on the premises or in the vicinity of the Facility is prohibited.
36. Alcoholic beverages shall not be sold, stored, distributed, or consumed on the premises. A Cultivation Facility shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the Cultivation Facility.

37. With the exception of Emergency Medical Care provided in the event of an accident or injury, Physician services shall not be provided on the premises.
38. No physical change, alteration, or modification of the premises of the Cultivation Facility is allowed that materially or substantially alters the permitted use or the approved site plans. Material changes include, but are not limited to, an increase or decrease in the total square footage of the Cultivation Facility, or the addition, sealing of, or relocation of a wall, common entryway, doorway, or other means of ingress and/or egress to the Facility.
39. The Cultivation facility shall not distribute, sell, dispense, or administer marijuana out of its Facility to the public. A Cultivation facility shall not be operated as a Cooperative/Collective.
40. The Applicant shall identify the on-site manager(s) of the Facility to whom notice of operational issues may be provided. The Cultivation Facility shall make every good faith effort to encourage residents, businesses, or members of the public to call this Facility Manager as a first step to resolving operating problems, if any, before calls or complaints are lodged with the Sheriff's or Planning Department.
41. A security plan shall be clearly detailed on the Site Plan and installed at the Facility, including the following measures:
- (a) Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the City Manager or his/her designee. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, cultivation areas, all doors and corners of the building, and any other areas as determined by the City Manager or his/her designee. These records shall be maintained for seven (7) years from the date created or longer if required by State or Federal law. Recordings shall be made available to the City Manager or his/her designee upon 24 hours' notice;
 - (b) The Facility shall be alarmed with an alarm system that is operated and monitored by a properly licensed security company. Any security personnel, whether armed or unarmed, employed by the Cultivation Facility shall have and possess on their person a valid, State issued, licenses (commonly known as a "Guard Card");
 - (c) Entrance to the cultivation area and any storage areas shall be locked at all times, and under the control of staff of the Cultivation Facility;
 - (d) The entrance(s) shall be illuminated during evening hours. The Applicant shall comply with the City's lighting standards regarding fixture type, wattage, illumination levels, shielding, etc., and secure the necessary approvals and permits as needed.
 - (e) Entry doors to the building shall be appropriately secured and all marijuana securely stored, and a reliable, commercial alarm system shall be installed and maintained.
42. The Applicant shall enter into an agreement with the City that fully reimburses the City for all costs incurred by the City, resulting from the existence of the Facility, and provides the City with any applicable impact or other fees, imposed now or hereafter, to offset the potential impacts of the Cultivation Facility within the City.

43. The City Manager, or the City Manager's designee, shall have the right to enter the Cultivation Facility from time to time upon 24 hours' notice for the purpose of making reasonable inspections to observe and enforce compliance with these conditions of approval and all laws of the City and State of California.
44. If the Applicant utilizes an average of 125 percent or more of the permitted electricity or water amount based on the electric and water Will-Serve letters, in any one (1) year without prior written approval by the NPUA, all operations must cease immediately and the same shall be grounds for revocation of the CUP. Average electricity and water usage will be monitored on a quarterly basis by NPUA and City of Needles.
45. Operation of the Cultivation Facility in violation of any condition(s) of this CUP approval or requirements of Chapter 12A of the Municipal Code or other City regulation or ordinance shall constitute a violation of the CUP and shall be enforced pursuant to the provisions of thereof.
46. If any condition of approval of this CUP is held or declared to be invalid by a court of competent jurisdiction, the entire Project and CUP may be reviewed and substitute and/or additional conditions may be imposed.
47. Any violation of these conditions of approval shall constitute grounds for revocation of the CUP. The CUP may be revoked by the permit-issuing authority only in accordance with the requirements of Section 118.04 of the City's Zoning Code. Any such decision is appealable by the Applicant in accordance with Section 118.05 of the City's Zoning Code.
48. The Applicant must use asphalt or concrete for driving and parking surfaces per City standards.
49. The project is required to be handicap accessible, with Americans with Disabilities Act (ADA) compliant restrooms for both buildings. Prior to release of building permits.
50. Any exposed metal surfaces to the building shall be painted over with an exterior paint color that blends-in and matches with the building's existing exterior paint color. The primary exterior paint color will be of a muted color palette, excluding the use of green, with trim color complimenting the primary exterior color, except themed buildings.
51. Prior to issuance of Certificate of Occupancy, the Applicant shall have the proposed landscaping to be planted with drought tolerant plant species and installed per the approved Site Plans.
52. Prior to installation of the landscaping, a Landscape Maintenance Plan shall be submitted to the City describing how landscaping will be manually watered and maintained.
53. The landowner shall be responsible for maintaining the vigor and life of planted landscape species and shall replace landscaping that shows signs of severe stress through the life of the project.
54. Prior to issuance of Certificate of Occupancy, an electric meter and a main disconnect switch shall be installed on exterior of the building.
55. The Applicant must comply with the recommendations of the San Bernardino County Fire Department prior to issuance of any building permits. All development pursuant to this permit must be kept in full compliance with the County Fire Code to the satisfaction of the County Fire Department.

56. Elevation Plans shall be revised and resubmitted to the City for review by showing removal of proposed murals, and to be replaced with architectural enhancements per City adopted standards, and shall be applied to the south and west facing sides of Buildings 1, 4B and 3B. Said enhancements shall be of a 25 percent enhancement to building faces to include but not be limited to stucco treatment, banding along roof eaves, pop-out trimming for doorways and roll-up doors, a rock or faux rock installation, or similar product, or parapets. The design objective is to break up a long featureless building surface.
57. Proposed planting of Palm Trees shall have a minimum height of ten (10) feet.
58. Prior to issuance of a Certificate of Occupancy, a four (4) foot concrete sidewalk with curb and gutter shall be constructed along the entire west boundary of the properties (APN 0660-081-10, 0660-081-13, 0660-081-14 and 0660-081-15) fronting Balboa Place.
59. A revised wall and fence plan shall be submitted to the City for review and approval by providing the following specifications:
- a. An eight (8) foot tall combination split face block wall with wrought iron fencing to be constructed along the western boundary abutting Balboa Place. Said combination wall shall be constructed flush in front so as not to allow the capability to climb over the walls.
 - b. An (8) foot tall wrought iron with pilasters shall extend along the entire southern edge of proposed driveway and parking, or along the southern property line of APN 0660-081-15.
 - c. An eight (8) foot tall wrought iron with pilasters shall extend easterly from the northwestern corner of APN 0660-081-13 and connect with the northwest corner of Suite 1A of Building 1.
 - d. Spacing of pilasters shall be reviewed, discussed and finalized between the City and Applicant.

The above prescribed locations for fencing shall be constructed and completed prior issuance of certificate of occupancy for the first tenant within the project, and shall remain in place until commencement of Phase 2 Development for properties located directly to the north (APN 0660-081-08, 0660-081-09) and to the south (APN 0660-081-28) of the existing project site. If Phase 2 development does not commence within three (3) years of the approval date for this Conditional Use Permit (CUP), the property owner(s) under this CUP shall be responsible for the removal of the above prescribed locations of fencing and replace with a combination block wall with wrought iron fencing to match in design, height and color with the approved fencing plans (combination block wall with wrought iron fencing) for the west boundary abutting Balboa Place.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Needles, California, held on the 19 day of December, 2017, by the following roll call vote:

AYES: Councilmembers Evans, Hazlewood, Williams, Belt and
NOES: Councilmember Gudmundson Richardson
ABSENT: None
ABSTAIN: None

Approved as to form: (Seal)

City Attorney

Attest:

Mayor

City Clerk

Due to the size of the document
additional attachments to this
agenda item are on file with the
City Clerk and
available upon request
ndlsclerk@citlink.net