

RESOLUTION NO. PC-2021-27

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COACHELLA, CALIFORNIA APPROVING CONDITIONAL USE PERMIT 345 TO ALLOW INTERIM OUTDOOR CANNABIS CULTIVATION ON 79.39 ACRES SITE LOCATED AT 50501 FILLMORE STREET, COACHELLA, CA 92236 (APN 763-070-012 & 760-070-010); APPLICANT: COACHELLA VALLEY GROWERS LLC, WYATT NELSON.

WHEREAS, Wyatt Nelson filed an application for Conditional Use Permit No. 345 (CUP 345) to allow interim outdoor cannabis cultivation for 169 hoop houses on a vacant 79.39 acre site located at the southeast corner of Fillmore Street and Avenue 50, 50501 Fillmore Street; Assessor's Parcel No. 763-070-012 & 763-070-010 ("Project"); and,

WHEREAS, the Planning Commission conducted a duly noticed public hearing on CUP No. 345 on January 5, 2022 and January 19, 2022 at the Coachella Permit Center, 53990 Enterprise Way, Coachella, California regarding the proposed project; and

WHEREAS, at the Planning Commission hearing, the Applicant and members of the public were present and were afforded an opportunity to testify regarding the Project; and,

WHEREAS, the Project is permitted pursuant to Chapter 17.74 of the Coachella Municipal Code.

WHEREAS, the proposed use is not detrimental to the existing uses or the uses specifically permitted in the zone in which the proposed use is to be located; and,

WHEREAS, the proposed site is adequate in size and shape to accommodate the proposed interim outdoor cannabis cultivation farm; and,

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends that the planning Commission determine that the proposed project is exempt from the CEQA pursuant to State CEQA Guidelines Section 15301. This is recommended because the project entails the operation, maintenance, leasing, and licensing of an existing private agricultural farming facility involving negligible expansion of use beyond that existing at the time of the lead agency's determination; and,

WHEREAS, the conditions as stipulated by the City are necessary to protect the public health, safety and welfare of the community.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Coachella, California does resolve as follows:

Section 1. Incorporation of Recitals.

The Planning Commission hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Planning Commission as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Planning Commission, and the facts outlined below, the Planning Commission hereby finds and determines that the proposed project is exempt under the Guidelines to the California Environmental Quality Act (CEQA), Class 1 - State CEQA Guidelines Section 15301, because the project entails the operation, maintenance, leasing, and licensing of an existing private agricultural farming facility involving negligible expansion of use beyond that existing at the time of the lead agency's determination. The subject site was previously graded and has been used for farming operations and has existing irrigation water infrastructure. The farming operation would use agricultural hoop houses consistent with hoop house operations normally permitted for any farming operation within the City that would not require a discretionary permit or subject to an environmental determination by the City of Coachella.

Section 3. Conditional Use Permit Findings – CUP 345

With respect to Conditional Use Permit (CUP) 345, the Planning Commission finds as follows for the proposed interim outdoor cultivation use:

1. The proposed use will not be in conflict with, but will be in harmony with and in accordance with the objectives of the general plan because the proposed use would continue agricultural uses that is consistent with Land Use Policy 4.1 for agricultural land preservation recognizing agricultural land as a major industry for Coachella. The use is a method of preserving land in sizes that are viable economic units for continuing agricultural activities. The proposed use also supports Land Use Policy 11.4 for a diversified economy by transforming the Coachella economy into a mature mix of economic activity and job opportunities. The proposed use expands and diversifies local agricultural activity as it allows for outdoor cannabis cultivation, which has not been a part of the City's agricultural tradition.
2. The proposed use will be located, designed, constructed, operated and maintained so as to be compatible with the existing character of the general vicinity and shall not change the essential character of the same area because the proposed use proposed agricultural uses which is generally an existing use that occurs in the vicinity. The proposed use complies with Municipal Code standards with respect to size, location, screening, and buffering of outdoor cannabis cultivation. The conditional use permit can be revoked if any of the conditions of approval are violated.
3. Consideration has been given to harmony in scale, bulk, coverage and density, to the availability of public facilities and utilities, to harmful effect, if any, upon desirable

neighborhood character, to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of development, because the interim outdoor cannabis cultivation use continues agricultural production on a site which farming has occurred and continue to utilize available facilities for agricultural activities. The buffer between perimeter property line and hoop houses of 40'-50' help to screen and reduce the perceived bulk of the hoops houses.

4. Where the proposed use may be potentially hazardous or disturbing to existing or reasonably expected neighboring uses, it must be justified by the common public interest as a benefit to the community as a whole. As conditioned, the proposed use will provide for the outdoor agricultural production and is required to comply with specific operational standards of the Coachella Municipal Code, which include providing a security plan and odor control measures. As such, there will be no hazardous or disturbing effects to the existing and neighboring uses.
5. The proposed use provides unimproved vehicular approaches to the property designed for reasonable minimal interference with traffic on surrounding public streets or roads and appropriate for agricultural activities.
6. The City of Coachella has determined that the proposed project is categorically exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act Guidelines Section 15301. This is recommended because the project entails the operation, maintenance, leasing, and licensing of an existing private agricultural farming facility involving negligible expansion of use beyond that existing at the time of the lead agency's determination.

Section 4. Planning Commission Approval.

Based on the foregoing recitals and findings above, and the written and oral comments, facts, and evidence presented, the City of Coachella Planning Commission approves Conditional Use Permit (CUP) 345, subject to the Conditions of Approval set forth in Exhibit A.

PASSED APPROVED and ADOPTED this 19th day of January 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Gabriel Perez
Planning Commission Secretary

APPROVED AS TO FORM:

Carlos Campos
City Attorney

I HEREBY CERTIFY that the foregoing Resolution No. PC-2021-27, was duly adopted at a regular meeting of the Planning Commission of the City of Coachella, California, held on the 19th day of January 2022, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gabriel Perez
Planning Secretary

**CONDITIONS OF APPROVAL FOR CUP 345
COACHELLA VALLEY GROWERS, LLC INTERIM CANNABIS CULTIVATION
FARM**

General Conditions:

1. This Conditional Use Permit 345 shall be valid for 24 months from the effective date of the Planning Commission approvals for an interim agricultural use and temporary outdoor cannabis cultivation farm unless the applicant requests an extension of time and granted by the Planning Commission. The outdoor cannabis cultivation at the subject site shall not exceed 48 months from the approval date of Conditional Use Permit 345.
2. All temporary structures shall be removed upon completion of the interim use, and all cannabis cultivation uses shall terminate after the expiration date of 48 months from Conditional Use Permit 345 approval unless a new conditional use permit, or comparable land use entitlement, is obtained from the City of Coachella.
3. The applicant shall comply with all applicable current and future provisions of the Coachella Municipal Code, adopted ordinances, and state laws.
4. The applicant shall defend, indemnify and hold harmless the City of Coachella, its officials, officers, employees, and agents from and against any claim, action, or proceeding against the City, its officials, officers, employees or agents to attack, set aside, void or annul any project approval or condition of approval of the city concerning this project, including but not limited to any approval or condition of approval or mitigation measure imposed by the City Council or Planning Commission. The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officials, officers, employees and agents in the defense of the City Attorney, within five days of the effective date of this approval.
5. The applicant shall comply with the provisions of Chapter 17.85 Commercial Cannabis Activity, including setbacks, fencing materials, and maximum canopy size. The applicant shall comply with Ordinance 1177 and 1188.
6. The applicant shall comply with operating standards of interim outdoor cultivation in Chapter 5.68 Commercial Cannabis Activity Regulatory Permit including security, water management plan, and odor control provisions.

7. The applicant shall provide a minimum twenty-foot (20 ft.) setback on all sides with an opaque fencing material, subject to review and approval by the Development Services Director, to screen the outdoor grow areas from view to public streets.
8. The applicant shall procure the services of a certified private security guard system to provide security guards on the premises on a 24-hour basis. The security guards shall monitor the public streets in the vicinity during the evenings.
9. Adequate security lighting shall be provided on the premises during evening hours, to allow public safety personnel to patrol the site along all public streets.
10. The applicant or successor in interest shall obtain a plumbing permit from the City of Coachella to connect to City potable water for the temporary cannabis drip irrigation system, and shall pay applicable water connection impact fees.
11. The applicant shall obtain a City Cannabis Regulatory Permit, City business license, and any State of California required approvals for the proposed cannabis cultivation farm.
12. The applicant shall provide a certified report. "Certified report" shall mean a detailed document prepared by Developers on a form acceptable to the City's Director of Finance to report to the City of the cultivation, processing, production, distribution and sales by Tenants, as defined herein, in the Project during Operational Quarter, as defined herein. Each Certified Report shall be certified as true and correct by a duly-authorized officer of Owner. City may also require certification by Tenants.
13. From time to time, the City has the right to inspect the Facility for the purpose of monitoring operations, checking quantities and verifying volumes of project during operating hours or any time deemed appropriate to insure accurate reporting. The applicant shall allow for on-site inspections by the City Manager or designee within 24-hour notification to ensure compliance with the Municipal Code and Conditional Use Permit 345.
14. Within thirty (30) calendar days following the end of each calendar quarter, the City may conduct an audit or arrange for a third-party independent audit, at Developers'/Applicants' expense, of Developers'/Applicants' records regarding Certified Reports and Production and Distribution Fees. The City's Finance Director shall provide at least seven (7) business days written notice of the commencement of such audit to Developers/Applicants, and shall reasonably attempt to schedule the audit so as to reduce the impact on Developers'/Applicants' operations as much as is feasible. Developers/Applicants shall cooperate with the City in completing the audit.
15. The applicant shall timely file quarterly cannabis tax returns and remit required cannabis tax payments.
16. The applicant shall meet and confer with the Riverside County Fire Marshal's office for review of the proposed interim agricultural and temporary cannabis farming uses.

17. The applicant shall comply with all requirements of Riverside County Fire Department.
18. The applicant shall conduct a site inspection with the City of Coachella Development Services Director, Cannabis Liaison, and Code Enforcement Manager prior to commencement of cultivation activities to ensure compliance with CUP 345 conditions of approval and the Coachella Municipal Code.
19. If the applicant installs a low intensity outdoor lighting in the canopy area used for photosynthesis, mixed-light processes, other purposes intended to manipulate cannabis plant growth, it can only occur during the months of November through February for two hours before sunrise and two hours before sunset. The applicant shall shield structures in a manner acceptable to the Code Enforcement Manager if there is observed excessive glare by Code Enforcement staff that are determined to cause a public nuisance.

BUILDING AND SAFETY:

20. The applicant is required to obtain a building permit for any permanent structure.
21. The applicant shall provide Fire access (knox box) to the property.
22. An odor mitigation plan is required per Municipal Code 17.85.

ENGINEERING DIVISION:

PRIOR TO APPROVAL OF ENGINEERING PLANS or ISSUANCE OF ENGINEERING PERMITS:

STREET IMPROVEMENTS:

23. Applicant shall construct and dedicate the following street and street improvements.
 - A. Fillmore Street- Public Roadway as shown on the RAC and per these comments shall include the following:
 - i. Dedication of land along northbound lane within project limits is required. This street is classified as Collector with Bicycle lanes with 90 feet of right-of-way as per City of Coachella General Plan.
 - ii. Street measured at Center line to Westerly edge of pavement shall have a width of 17-foot
 - iii. Applicant shall coordinate installation and/or relocation of fire hydrants, water meters, storm drain, wells, street lights and all other appurtenances as required to the satisfaction of the City Engineer.

- iv. Applicant shall be responsible for improving one half of the paved road surface along the entire frontage. Proposed improved road widths for this road, at this time are 34 feet in width resulting in a 17-foot half width. Asphalt improvements shall include the removal of all existing asphalt and replacement with 4 inches of asphalt over compacted base. Applicant has chosen to pay for fair share contribution to the future street repairs in lieu of improvements at a rate of five dollars (\$5) per square foot ($\$5 \times 17 = \85 per linear foot of frontage). The Applicant shall pay cost of the fair share contribution shall be $\$85 \times 1,984$ Lf for a total of **one hundred sixty-eight thousand six hundred forty dollars (\$168,640) to be paid to the city in two payments; 1st payment of \$50,592 (30% of the total amount) within 30 days of CUP approval and 2nd payment of \$118,048 (70% of the total amount) within 12 months of CUP approval.** The City will contribute 100% of this fair share contribution towards future full street improvements on Fillmore Street.
- v. Additional street improvements, including widening of the road to ultimate street width, installation of curb gutter and sidewalk, landscaping, lighting, etc. may still be conditioned on future conditional use permits located at the subject properties should those permits significantly expand upon or alter the proposed current permitted use.

***At this time a Building Permit is not required, if a building permit for the future project is needed then the following conditions will apply.**

PRIOR TO ISSUANCE OF BUILDING PERMITS:

24. A focused Traffic Analysis (TA) shall be prepared for the project by an appropriately licensed professional engineer. Prior to the preparation of the TA, the engineer shall submit a scoping letter for the TA for the City Engineer's approval. The TA shall include but not limited to identification of trip generation, traffic distribution and impact on existing transportation facilities and at time of General Plan build-out, all relevant, ingress and egress movements, lines of sight, queuing analysis, and alignment studies (preliminary signing and striping plan). Applicant shall obtain approval of site access and circulation from the Fire Marshall.
25. A preliminary soils report shall be prepared for the project by an appropriately licensed professional engineer. At a minimum, the soils report shall provide specific analyses and recommendations for grading, pavement structural sections, and infiltration.
26. A comprehensive drainage report, prepared by California Registered Civil Engineer, shall be submitted for review and approval by the City Engineer prior to issuance of any permits. The report shall contain pre- and post-development hydrology maps showing on-site and off-site tributary drainage areas and shall be prepared in accordance with the requirements of the Riverside County Flood Control District. Adequate provisions shall be made to accept and conduct the existing tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. If the design of the project includes a retention basin, it shall be sized to contain the runoff resulting from a 10-year storm event and the runoff from a 100-year storm event shall be contained within

basin with shallow ponding (3.5' max.). The basin shall be designed to evacuate a 10-year storm event within 72 hours. The size of the retention basin(s) shall be determined by the hydrology report and be approved by the City Engineer. Retention basin shall be provided with a minimum of 2.00 feet sandy soil if determined to contain silt or clay materials. Maximum allowable percolation rate for design shall be 10 gal./s.f./day unless otherwise approved by the City Engineer. A percolation test for this site is required to be submitted. A combination drywell vertical drain field shall be constructed at all points where runoff enters the retention basin. Drywell & vertical drain field design shall be based on soils borings made at the proposed drywell locations after the retention basins have been rough graded. Minimum depth shall be 45-feet. A log that includes sieve analysis for each strata of the borings shall be submitted to the City Engineer for confirmation of depth of the vertical drain fields. Underground retention under the proposed parking area will be considered as an alternative to surface retention subject to the approval of the City Engineer.

27. Prepare and record necessary drainage easements to implement the project in accordance with drainage law.
28. A storm water quality management plan shall be prepared for the project by California Registered Civil Engineer in compliance with NPDES and State Water Quality Control Board regulations. The project shall be designed to specify preferential use of Low Impact Development Best Management Practices that reduce pollutants and runoff volume.
29. Applicant shall comply with the valley wide NPDES permit requirements including but not limited to submittal of a WQMP for plan review accompanied by a \$3,000 plan check deposit for approval including executed maintenance agreement. All unused plan check fees will be refunded to the applicant upon approval of the Final WQMP.
30. The developer shall submit a Fugitive Dust Control and Erosion Control plan in accordance with Guidelines set forth by CMC and SCAQMD to maintain wind and drainage erosion and dust control for all areas disturbed by grading. Exact method(s) of such control shall be subject to review and approval by the City Engineer. No sediment is to leave the site. Additional securities, in bond form, in amount of \$2,000.00 per acre of gross area, and a one-time cash deposit of \$2,000.00 are required to insure compliance with this requirement. No work may be started on or off site unless the PM-10 plan has been approved, the original plans, and executed dust control agreement, are filed in the engineering department at the City of Coachella.
31. Applicant shall submit for review and approval by the City Engineer all documents related to any existing and proposed on-site and off-site easements that may affect the development of the site. All easements shall be identified on the engineering plans.
32. Site access improvements shall be in conformance with the requirements of Title 24 of the California Administrative Code. This shall include access ramps for off-site and on-site streets as required.

STREET IMPROVEMENTS:

33. Street improvement plans prepared by a California Registered Civil Engineer shall be submitted for review and approval by the City Engineer. All street improvements including street lights shall be designed and constructed in conformance with City Municipal Code, General Plan, and Standards and Specifications. Street flow line grade shall have a minimum slope of 0.35 %.
34. Applicant shall construct all off-site and on-site improvements including street pavement, curb, gutter, sidewalk, street trees, perimeter walls, perimeter landscaping and irrigation, storm drain, street lights, and any other incidental works necessary to complete the improvements. Driveways shall conform to City of Coachella standards for commercial driveways with a minimum width of 24.00 feet and curbed radius entrances.
35. Applicant shall obtain approval of site access and circulation from Fire Marshall.
36. The applicant shall provide necessary utility easements for IID and underground overhead distribution lines within the project boundaries. Applicant shall submit to the City a letter from IID that satisfies this requirement.
37. The applicant shall pay all necessary plan check, permit and inspection fees. Fees will be determined when plans are submitted to the City Engineering Department for plan check.

ROUGH GRADING:

38. Prepare and submit rough grading and erosion control plans for the project.
39. The project's soils engineer shall certify to the adequacy of the grading plan.
40. All projects developing one (1) acre or more of total land area, or which are part of a larger phased development that will disturb one acre of land, are required to obtain coverage under the State Water Resources Control Board's (SWRCB) General Permit for storm water discharges associated with construction activity. Proof of filing a Notice of Intent (NOI) with the SWRCB for coverage under this permit is required. The Waste Discharger's Identification Number (WDID), issued by the SWRCB, must be shown on the grading plans. The project's Storm Water Pollution Prevention Plan shall be submitted for the City's review and approval.

PRECISE GRADING:

41. A precise grading/improvement plan, prepared by a California Registered Civil Engineer, showing building footprints, pad elevations, finished grades, drainage routes, retaining walls, erosion control, slope easements, and all other pertinent information shall be submitted for review and approval by the City Engineer.
42. Rough grading shall be certified by the project soils engineer prior to issuance of a permit for precise grading or building construction.

43. Provide and record a reciprocal use and maintenance agreement to assure common ingress and egress and joint maintenance of all common access, parking areas and drives.
44. If applicant is planning to build a wall, separate permits shall be required for wall construction. The maximum height of any wall shall be limited to six (6) feet as measured from an average of the ground elevations on either side.

SEWER and WATER IMPROVEMENTS:

45. Sewer & Water Improvement Plans prepared by a California Registered Civil Engineer shall be submitted for engineering plan check and City Engineer approval.
46. Applicant shall construct all off-site and on-site water improvements and any other incidental works necessary to complete the improvements. Size and location of sewer and water improvements shall be approved by the City Engineer.
47. A final soils report, compaction report and rough grading certificate shall be submitted and approved prior to issuance of any building permits.
48. Provide a set of proposed Covenants, Conditions and Restrictions (CC&R) for review and approval. The proposed CC&Rs shall contain the Association's/Owner's maintenance obligations with respect to various facilities including, but not limited to, right-of-way and private landscaping, private streets, sidewalks, utilities, street lights, and Water Quality Management Plan (WQMP) features. This document must be submitted to and approved by the City before it is submitted to any other governmental entity.
49. Prior to issuance of building permits, all required public improvements, including landscaping and lighting of the retention basins, and landscaped areas along the exterior streets, shall be completed or secured with appropriate sureties to the satisfaction of the City Engineer. An engineering final inspection is required. "As-built" plans shall be submitted to and approved by the City Engineer. Prior to acceptance of the improvements by the City, such plans, once approved, shall be given to the city on compact disk in AutoCad format. All off-site and on-site improvements shall be completed to the satisfaction of the City Engineer prior to acceptance of improvements for maintenance by the City.
50. The applicant's Civil Engineer shall field verify and certify that all BMPs are designed, constructed, and functional in accordance with the approved WQMP.

PRIOR TO RELEASE OF OCCUPANCY PERMITS/ACCEPTANCE OF PUBLIC IMPROVEMENTS:

51. Prior to issuance of certificate of occupancy, all public improvements, including landscaping and lighting of the retention basins, and landscaped areas along the exterior streets, shall be completed to the satisfaction of the City Engineer. An engineering final inspection is required. "As-built" plans shall be submitted to and approved by the City

Engineer. Prior to acceptance of the improvements by the City, such plans, once approved, shall be given to the city on compact disk in AutoCad format. All off-site and on-site improvements shall be completed to the satisfaction of the City Engineer prior to acceptance of improvements for maintenance by the City.