

**RESOLUTION NO. 18-**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING CONDITIONAL USE PERMIT 18-23 FOR A CANNABIS DISTRIBUTION FACILITY AT 1000 SOUTH LESLIE STREET, MAKING THE APPROPRIATE FINDINGS, AS PER THE APPROVED PLANS AND SUBJECT TO CONDITIONS.

The Planning Commission of the City of La Habra does hereby resolve as follows:

Section 1. The Planning Commission does hereby find and determine that:

- a. Anthony DeSimone filed an application requesting approval of Conditional Use Permit 18-23 for a cannabis distribution facility at 1000 South Leslie Street.
- b. This project was reviewed pursuant to the guidelines of the California Environmental Quality Act (CEQA) and determined to be Categorically Exempt pursuant to 14 CCR 15060(c)(2) and 15061(b)(3) because it can be seen with certainty that there is no possibility that the project will have a significant impact on the environment.
- c. The Applicant's proposal has been reviewed pursuant to the requirements of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, the Local Implementation Plan (LIP), and the Model Water Quality Management Plan (WQMP), Section 7.2. Since no disturbance of soil will occur, this project is exempted by the Water Quality Ordinance from the preparation of a WQMP.
- d. The Planning Commission held a duly noticed public hearing on January 14, 2019 to consider the Applicant's request of Conditional Use Permit 18-23. The Planning Commission, after considering all the written and oral evidence offered including the staff report and all attachments, approves the request.

Section 2. The Planning Commission further finds and determines that:

- a. The Applicant met the pre-application requirements contained within Chapter 18.22 "Commercial Cannabis Activity" of the La Habra Municipal Code.
- b. The Applicant has completed negotiations on a Development Agreement as required by Chapter 18.22 "Commercial Cannabis Activity" of the La Habra Municipal Code.
- c. The Applicant has been successful in meeting their burden of providing evidence in order to support the granting of the Conditional

Use Permit application under Chapter 18.66 of the La Habra Municipal Code.

d. The Planning Commission hereby makes the following required findings of the Conditional Use Permit application:

1. The granting of such Conditional Use Permit will not be detrimental to the public welfare and will not unreasonably interfere with the use, possession, and or enjoyment of surrounding and adjacent properties and will not impair the character of the zone in which it is to be located.

On April 2, 2018, the City Council of La Habra adopted Chapter 18.22 “Commercial Cannabis Activity” with regulations that permit cannabis distribution facilities subject to a Conditional Use Permit within the M-1, M-1 PUD, and PCI zones. Conditions of approval are placed on the project that comply with the requirements of Chapter 18.22 to include the installation and maintenance of a high-quality security system, implementation of specified security measures, implementation of adequate inventory control, the use of an odor-controlling ventilation system, and the prohibition of consumption of cannabis products on-site. Therefore, the approval of the use will not be detrimental to the public welfare.

2. The subject site is physically suitable for the type of land use being proposed.

The proposal will not physically affect the site. The use itself is comparable to a wholesale and warehouse operation and will not generate any traffic above what is expected for these type of business operations. Therefore, the site is physically suitable for the type of land use proposed.

3. The use is conditionally permitted within the subject zone and complies with the intent of all applicable provisions of this title.

Chapter 18.22 of the La Habra Municipal Code allows for cannabis distribution facilities within the M-1 Zone with the approval of a Conditional Use Permit, granted by the Planning Commission.

4. The granting of this Conditional Use Permit will not adversely affect the Comprehensive General Plan.

The projects implement Policies LU 11.1 (Diversity of Uses) and ED 2.1 (Business Attraction) of the General Plan 2035.

Section 4. This action is subject to the following conditions:

General conditions:

Standard Condition 1.1            CODE COMPLIANCE (Modified)

The business operator shall comply with all applicable City of La Habra Municipal Codes and Ordinances including all provisions of Chapter 18.22 "Commercial Cannabis Activities".

Standard Condition 1.5            MINOR MODIFICATIONS

The Director of Community and Economic Development or designee may approve minor modifications through the Administrative Adjustment process to the conditions of approval so long as the intent of the Planning Commission or City Council is maintained.

Standard Condition 1.6            PLANS

This approval is for those plans date stamped November 13, 2018 and are those plans reviewed and approved by the City of La Habra Planning Commission at its meeting of January 14, 2019. A copy of said plans shall be maintained in the files of the City of La Habra Planning Division. The project shall be developed and maintained in substantial conformance with said plans, except as otherwise specified in these conditions of approval.

Standard Condition 1.7            COMPLIANCE (Modified)

The failure to comply with any of these conditions of approval by the business operator shall be grounds for rehearing and consideration by the Planning Commission for possible revocation of Conditional Use Permit 18-23.

Standard Condition 1.8            VIOLATION

In the event that the business operator violates or fails to comply with any of the conditions of approval of this permit, the City may take measures to cure such violations, including but not limited to, administrative citation and full reimbursement of the City for its costs and expenses, including but not limited to, attorney's fees, in undertaking such corrective action. Reimbursement of enforcement costs shall constitute a civil debt and may be collected by any means permitted by law. In the event that violations of this permit occur, the City shall refrain from issuing further permits, licenses or other approvals until such violations have been fully remedied.

Standard Condition 1.14           RESOLUTION ON HAND

The business operator shall at all times maintain a copy of the approved resolution containing all the conditions of approval on site. Said resolution shall be provided for review upon request by any law enforcement officer or community preservation inspector.

Standard Condition 4.24      SECURITY AND CAMERA PLANS  
(Modified)

The business operator shall submit a final security camera system design plan to the Chief of Police and Director of Community and Economic Development or designee for approval prior to the issuance of any building permits. Requirements for the camera system include the following at a minimum:

- The cameras shall be in use twenty-four hours per day, seven days per week.
- The operator shall maintain at least ninety days of concurrent hours of digitally recorded documentation.
- Any disruption in security camera images shall be cured expeditiously within twenty-four hours.
- Cameras must cover, at minimum:
  - o All inside and outside doors from both sides
  - o Any on-site vault where cash is stored
  - o Any secured room where cannabis or cannabis products are stored
  - o Any front counter or other space accessible by customers or the public
  - o Any locations where transactions or sales take place

The Applicant shall comply with the security plan at all times.

Standard Condition 7.6      LICENSING REQUIREMENTS  
(Modified)

The business operator shall obtain a Type 11 Distribution License that permits both medicinal and adult use business operations within six months of the building permit becoming final and prior to business operations, consistent with Project Specific Condition 19 and shall comply with all the licensing requirements of the State of California for a cannabis distribution facility.

Standard Condition 7.14      ON-SITE MANAGER

The business operator shall ensure that a designated manager be on the premises at all times during the hours of operation or any time employees or customers are present. The name and contact information for any and all managers must be provided to the City in

advance, and all such persons must pass a LiveScan background check, consistent with Project Specific Condition 16. The manager shall ensure compliance with the terms of the Conditional Use Permit. The business owner shall remain responsible for any violations of the terms of this Conditional Use Permit.

Project specific conditions:

1. The approval of Conditional Use Permit 18-23 is specifically granted to Anthony DeSimone (Canna America, LLC) for the property at 1000 South Leslie Street and cannot be transferred to another party or entity and cannot exceed the 6,225 square feet business floor plan for the operation unless first approved by the Planning Commission. For the purpose of this resolution, "The Applicant" or "Business Operator" is Anthony DeSimone.
2. The approval of Conditional Use Permit 18-23 is contingent upon the approval of and continued compliance with Development Agreement (DA) 18-02. Should DA 18-02 not be approved by the City Council, not initiated by either party, cancelled, nullified or the Applicant not implement all provisions of the Development Agreement, the approval for Conditional Use Permit 18-23 is thereby null and void.
3. The business operator shall not allow minors on the premises unless permitted by California State Law.
4. The business operator shall utilize a licensed armed security guard at all times that cannabis products are present on-site, to the satisfaction of the Chief of Police and the Director of Community and Economic Development or designee.
5. The business operator shall submit a final employee safety plan as required by La Habra Municipal Code Chapter 18.22 "Commercial Cannabis Activity" and described within the Cannabis Application package to the Chief of Police and Director of Community and Economic Development for approval prior to the issuance of building permits. The business operator shall comply with the employee safety plan at all times.
6. The business operator shall post and not permit the consumption of cannabis or cannabis products on site at any time.
7. The business operator shall ensure that the facility does not adversely affect the health or safety of the nearby property owner/business operators by preventing the creation of odors, dust, glare, heat, noise, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products, or wastes as

required by La Habra Municipal Code Chapter 18.22 “Commercial Cannabis Activity” and described within the Cannabis Application package.

8. The business operator shall be permitted to operate 24 hours per day, seven days per week.
9. The business operator shall prepare and submit an odor ventilation plan that provides sufficient odor absorbing ventilation and exhaust systems so that odor outside the premises is not detected on any adjacent property, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building or premises as the cannabis distribution business. The plan shall be reviewed and approved by the Chief Building Official prior to issuance of building permits.
10. The business operator shall utilize product and inventory tracking software and accounting software that is in-line with state law and as approved by the Director of Finance, the Chief of Police and Director of Community and Economic Development prior to issuance of building permits.
11. The business operator shall keep complete, accurate and appropriate books and records of all receipts from operations in accordance with generally acceptable accounting principles. The city shall have the right to audit and examine such books, records and documents and other relevant items in the possession of the operator, as per Chapter 18.22 of the LHMC.
12. The business operator shall limit business signage to the City’s sign code and any restrictions placed on the facility within the Development Agreement. The Applicant shall not utilize any logos that would identify the facility as a cannabis operation.
13. The business operator shall provide the Chief of Police with the name, cell phone number(s), facsimile number, and email address of the on-site representative of the distribution facility whom the City and the public can provide notice if there are any operational problems associated with the facility prior to business operation and updated as personnel change.
14. The business operator shall ensure that the cannabis facility has the capacity to remain secure and operational during a power outage through the use of an emergency generator or other means approved by the Chief of Police and shall ensure that all access doors are not

solely controlled by an electronic access panel to ensure that locks are not released during a power outage. The system shall be in place and operational prior to building occupancy. The system shall be maintained and operational for the life of the business.

15. The business operator shall submit to the Chief of Police or designee for review and approval, a final transportation plan describing the procedures for safety and security for the transporting of cannabis and cannabis products, drivers and currency prior to the issuance of building permits.
16. The business operator shall have any person who is an employee or who otherwise works or volunteers within the business obtain a work permit from the Chief of Police or designee. No person under the age of twenty-one may be employed by or act as a responsible person on behalf of the business. A work permit shall be valid for a twelve-month period and must be renewed on an annual basis. Applications for work permits shall be submitted under oath and shall contain a statement of the past criminal record, if any, of the Applicant and such information as may be deemed necessary by the Chief of Police or designee to determine whether the Applicant should be issued a work permit. The applicant for a work permit will be required to submit to LiveScan fingerprinting and a photograph for the purpose of the City performing a background investigation and will only be issued a work permit upon the successful completion of that process.
17. The business operator shall maintain on-site a register of all the employees currently employed by the commercial cannabis business and shall produce such register to the Chief of Police or designee or any other City of La Habra official authorized to enforce the La Habra Municipal Code for purposes of determining compliance with LHMC Chapter 18.22 "Commercial Cannabis Activity". A copy of the employee's work permit shall also be contained in the register.
18. The business operator shall notify the Chief of Police or designee immediately upon discovering that the security system required by this chapter has become inoperative or is malfunctioning. In addition, notification to the Chief of Police must be made within twenty-four hours after discovering any of the following:
  - Significant discrepancies identified in a commercial cannabis business' inventory. The level of significance shall be determined by the Chief of Police or designee prior to issuance of building permits.

- Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
- The loss of unauthorized alteration of records related to cannabis, or employees or agents of the commercial cannabis business.
- Any other breach of security.

19. The business operator shall obtain and maintain a Type 11 Distribution state license that is either an A-License or M-License or both A-License and M-License, within six months of the building permit becoming final and prior to business operation. The distribution facility is limited to only those activities permitted by the State for a Type 11 Distribution state license. Failure to obtain the required state license, will result in the automatic expiration of the Conditional Use Permit.

20. The business operator shall obtain a commercial cannabis business license, to be renewed annually, twelve months after the date of its issuance. Failure to obtain and maintain an active cannabis business license will result in the Conditional Use Permit expiring.

21. The business operator shall only be permitted to submit building improvement plans upon the successful completion of the LiveScan background investigation.

Section 5. Based upon the foregoing, the Planning Commission of the City of La Habra approves Conditional Use Permit 18-23. The Planning Commission Secretary shall certify the adoption of this resolution and transmit a copy thereof to the Applicant.

Said motion CARRIED by the following roll call vote:

AYES:            COMMISSIONERS:  
NOES:            COMMISSIONERS:  
ABSTAIN:        COMMISSIONERS:  
ABSENT:         COMMISSIONERS:

Dated:            January 14, 2019

ATTEST: \_\_\_\_\_ APPROVED: \_\_\_\_\_  
Carmen G. Henderson, Secretary            Chairman, Jerry Powell