

TOWN OF PARACHUTE, COLORADO
RESOLUTION NO. 2019-09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARACHUTE, COLORADO APPROVING WITH CONDITIONS A SPECIAL USE PERMIT AND SITE-SPECIFIC DEVELOPMENT PLAN FOR LOTS 1-3, BLOCK 2 AND LOTS 8, 14, AND 15, BLOCK 3 OF THE PARACHUTE PARK PUD IN THE TOWN OF PARACHUTE FOR A RETAIL MARIJUANA CULTIVATION FACILITY AND MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION OPERATION.

WHEREAS, pursuant to the Parachute Municipal Code (“PMC” or “Code”), Emergent Investment Partners, LLC (the “Applicant”) submitted an application for a special use permit and site specific development plan for a retail marijuana cultivation facility and medical marijuana optional premises cultivation operation (the “Application”) related to property described as Lots 1-3, Block 2 and Lots 8, 14, and 15, Block 3 of the Parachute Park PUD and identified by Garfield County Parcel Nos. 2409-123-01-001, 2409-123-01-002, 2409-123-01-003, 2409-123-02-008, 2409-123-02-014, and 2409-123-02-015 (the “Property”);

WHEREAS, Parachute Development Corporation (the “Owner”) owns the Property and authorized the Application;

WHEREAS, the Applicant is under contract to purchase the Property from the Owner;

WHEREAS, pursuant to the Review Procedures Chart (Table 1.1) at Section 15.01.220 of the Code, an application for special use permit is a two-step review process and the Planning Commission reviews an application and makes a recommendation to the Town Council;

WHEREAS, the Applicant wishes to construct a structure or structures to accommodate retail marijuana cultivation facility, retail marijuana product manufacturing facility, retail marijuana testing facility, medical marijuana optional premises cultivation operation, medical marijuana infused products manufacturer, and medical marijuana testing facility uses;

WHEREAS, the Property is zoned Service Commercial (SC) District; however, Applicant has submitted an application to rezone as Lots 1-3, Block 1 and Lot 8, Block 3 of the Parachute Park PUD as Limited Industrial (LI) Zone District and such application was approved by Ordinance No. ~~158~~ 2019;

WHEREAS, pursuant to Schedule of Uses contained at Section 15.02.230 of the Code, retail marijuana cultivation facility and medical marijuana optional premises cultivation operation uses are special uses in both the Service Commercial (SC) District and Limited Industrial (LI) District;

WHEREAS, pursuant Section 15.02.210.A of the Code, uses designated as special uses are contingent uses which may or may not be appropriate in a particular location depending on the nature of the proposed use, its relationship to surrounding land uses and its impact on traffic

capacities, potential environmental effects, compatibility with the neighborhood, and conformance with the comprehensive plan;

WHEREAS, pursuant to Section 15.02.210.C of the Code, in considering an application for special use, the Planning Commission and Town Council shall consider: (1) the compatibility of the use with adjacent uses and adjacent zone districts, as applicable, including the use's potential traffic generation, noise, lighting, parking requirements, and general deleterious effects on such adjacent uses and properties; (2) conformance with the comprehensive plan; and (3) the applicant's history of zoning compliance within the Town;

WHEREAS, pursuant to Section 15.02.210.D of the Code, the Town Council may impose conditions on a special use approval designed to lessen the adverse impacts, if any, of the special use, to protect the health, safety and welfare of Town residents, and to ensure compliance with all other applicable provisions of the Code;

WHEREAS, pursuant to Section 15.01.260 of the Code, a land use approval for a special use shall be 1 year; however, if, within the duration of the approval, no required subsequent application has been filed, or authorized use established or building permit or other development action taken, the approval shall expire, except, for good cause, the granting authority may grant a single extension of the approval for a time period not to exceed the amount of the initial approval's duration;

WHEREAS, pursuant to Section 15.02.210.E of the Code, the Town Council may, in its discretion, specify that the length of the special use approval: (1) be personal to the original applicant, (2) run with the original location for which the permit is approved, or (3) be otherwise transferable, upon such terms and conditions specified by the Town Council; and, in the absence of any specific findings or orders of Town Council concerning the length of an approved special use, the special use approval shall be deemed to be non-transferable and personal to the applicant;

WHEREAS, pursuant to Sections 15.01.420 and 15.01.270.F of the Code, approval of a special use pursuant to PMC Section 15.02.210 shall be considered a site specific development plan, approval of which creates a vested property right for a period of three (3) years, which may be extended where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles, and market conditions:

WHEREAS, a vested property right means the right to undertake and complete development and use of property under the terms and conditions of a site-specific development plan and be governed only by the duly adopted laws and regulations in effect at the time the application is submitted to the Town

WHEREAS, pursuant to Section 15.01.270.G of the Code, the Town may approve a site-specific development plan upon such terms and conditions as may reasonably be necessary to

protect the public health, safety and welfare, and failure to abide by such terms and conditions may, at the option of the Town Board, after public hearing, result in the forfeiture of vested property rights;

WHEREAS, the Planning Commission reviewed the Application at a public meeting, found the Application in conformance with the review criteria set forth in Section 15.02.210.C, and recommended the Town Council approve of the Application, subject to conditions; and

WHEREAS, the Town Council reviewed the Application at a public hearing, found the Application in conformance with the review criteria set forth in Section 15.02.210.C as it relates to the retail marijuana cultivation facility and medical marijuana optional premises cultivation operation uses, wishes to approve of the Application for a special use permit for retail marijuana cultivation facility and medical marijuana optional premises cultivation operation, constituting a site specific development plan and creation of a vested property right, and wishes to extend the vested property rights to a period of five (5) years, subject to the conditions set forth in **Exhibit A** which is incorporated herein (the "Conditions")

NOW THEREFORE, BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF PARACHUTE, COLORADO THAT:

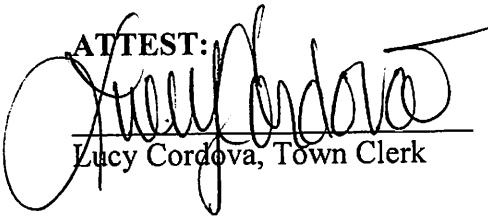
Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. The Town Council hereby approves Applicant's Application and approves/issues a special use permit for retail marijuana cultivation facility and medical marijuana optional premises cultivation operation uses on the Property subject to the conditions set forth on **Exhibit A**. This special use approval shall constitute approval of a site-specific development plan, and creates a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended, for a period of five (5) years

Section 3. This Resolution shall be recorded in the public records of Garfield County, Colorado.

INTRODUCED, PASSED, APPROVED, AND ADOPTED by a vote of 5 to 0 of the Town Council of the Town of Parachute, Colorado at a regular meeting held at the Town Hall in the Town of Parachute, Colorado on the 21 day of February, 2019 and approved by the Mayor on the 21 day of February, 2019.

**BOARD OF TRUSTEES OF THE
TOWN OF PARACHUTE, COLORADO**

ATTEST:

Lucy Cordova, Town Clerk



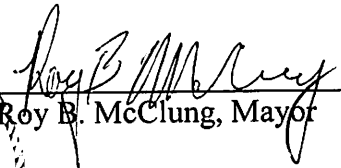

Roy B. McClung, Mayor

EXHIBIT A

1. A six-foot (6') high screened fence that meets Code standards shall enclose that section of the Property that is proposed for active use for the marijuana cultivation uses (building and refuse area) as shown on the Application.
2. The special use permit shall only be effective in the event the Town Council approves a rezoning for the Property.
3. All representations of the Applicant made in the Application and in statements during the public meeting before the Planning Commission and public hearing before Town Council, either in writing, orally, or reflected in the minutes, shall be considered conditions of approval with which the Applicant shall comply.
4. In addition to all requirements of the Code and any requirements imposed by operation of state or local law, no building permits shall be issued for the Property until Applicant submits a detailed Site Plan subject to review and conformance with Section 15.01.215 of the Code and the Development Standards set forth in Chapter 15.04 of the Code, as applicable, including but not limited to: General Architectural Standards as necessary (Section 15.04.310), Landscape Plan (15.04.170), Lighting Plan (15.04.175), Parking Standards (15.04.210), Drainage (15.04.140), Utilities (15.04.165), Signage (Chapter 15.060), and traffic impacts.
5. Prior to the commencement of any construction activities or subsequent uses, Applicant shall obtain all necessary and required permits and approvals, including but not limited to a building permit in accordance with Section 15.01.210 of the Code.
6. At time of Site Plan or Building Permit submittal, Applicant will provide a plan by a qualified professional that will provide specifications for a state-of-the-art odor reduction system.
7. Applicant will submit with the Site Plan Review or Building Permit set appropriate engineering and documentation in connection with erosion control, the site and grading plan, confirmation of trash and utility areas and details as well as complete building design and engineering package.
8. Prior to placing the Property to any marijuana use, Applicant or Applicant's operating tenant shall be required to obtain the necessary license for a Retail Marijuana Establishment or Medical Marijuana Establishment, as applicable, under Chapter 6.11 of the Code.

9. The Applicant shall comply with Section 15.07.305 – General Requirements for all Uses throughout the life of the project.
10. All use of the site shall conform to adopted Fire Codes applicable to the Town of Parachute and recommendations on emergency access and other appropriate safety measures as suggested by the Grand Valley Fire Protection District and the Town of Parachute Police Department.
11. A resolution approving the Application shall be recorded in the public records of Garfield County.
12. Applicant shall reimburse the Town for any and all fees, including consulting costs and attorney fees, incurred in the review of the Application.
13. Applicant shall indemnify and hold the Town harmless from any and all claims against or losses of any nature whatsoever incurred by the Town arising under or resulting from development of the Property.
14. Application also agrees to improve the buffer area owned by the Town of Parachute adjacent to the three (2) properties east of the Parachute Park Boulevard and the residential area to the east.

ACKNOWLEDGED AND ACCEPTED

Applicant