



VIA U.S. MAIL AND ELECTRONIC MAIL

October 7, 2016

Honorable Commissioners	Nathan Bouvet
City of Desert Hot Springs	City of Desert Hot Springs
65-950 Pierson Blvd.	65-950 Pierson Blvd.
Desert Hot Springs, CA 92240	Desert Hot Springs, CA 92240

RE: October 11, 2016 Planning Commission Meeting, Agenda #1
Conditional Use Permit (CUP 12-16), Development Agreement (DA 06-16) and
Tentative Tract Map (TTM 37145)

Requested Action: Approve with Modifications to Conditions of Approval

Dear Honorable Commissioners and Mr. Bouvet:

We are counsel to MERJ, LLC, the property owner and applicant relating to the above development applications.

First, we appreciate staff's hard work in preparing this matter for hearing, and the collaborative process with the Architectural and Landscaping Review Committee, which was most complementary toward our design and provided helpful feedback, which has been implemented in the application before you.

We write to request three modifications to the proposed conditions of approval before you, and have attached proposed language to this letter, which we believe will help bring tax dollars forward, more quickly, which will avoid confusion concerning future applications, and which are fair in light of the City's handling of similarly situated applications already before the City:

- 1) We have requested that the City add separate conditions for the tentative tract map portion of this application, which are actually identical to the conditions before the City on Agenda Item #4. Agenda Item 4, "GFarmaLabs" is seeking the same thing as we are—a tentative tract map, for condominium purposes, relating to a marijuana cultivation conditional use permit. However, for clarity, they have a separate set of conditions, specifically for the tentative map. This is important, because as you are aware, a final map review looks specifically at whether the tentative tract map conditions of approval were satisfied. In our application, with the conditions mixed in with the CUP conditions, we believe there is the potential for confusion at a later date. We ask the City to merely

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THE LOFTIN FIRM, P.C.

Honorable Commissioners

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append the same conditions of approval for Agenda Item 4, to our Conditions of Approval—labeling them “Tentative Tract Map Conditions of Approval.” Please see the attached “Exhibit A” which can be added to your resolution “appending to the Conditions of Approval to clarify those conditions which must be satisfied under the tentative tract map.”

- 2) We respectfully request that the City defer the undergrounding of on-site 92kv or less electrical facilities, in exchange for:
 - a. “a corrected easement that provides a right of surface entry, and requires the property owner to restore the surface to its original condition,” or
 - b. “the placement of conduit pursuant to California Public Utilities Commission General Order 128, with Southern California Edison consultation, allowing for the future undergrounding of overhead, onsite electrical lines at such later time as the contiguous properties have underground facilities installed.”
- 3) Though we have not yet received the city revisions of the Development Agreement, per recommendation by Jennifer Mizrahi to the developer, we respectfully request that the Conditional Use Permit allow uses of the newly adopted Ordinance 585 to include all permitted uses including manufacturing and processing, in addition to cultivation.

Finally, to correct the record, the Applicant submitted a revised Development Agreement to Messrs. Bouvet and Quintanilla on September 1, 2016, and hereby incorporates those requested revisions by reference into the administrative record for this hearing.

Thank you for your time, and consideration of our application and this correspondence.

Sincerely,

THE LOFTIN FIRM, P.C.



Alexander S. Maniscalco, Esq.

cc: L. Sue Loftin, Esq.
Client

Encls.

EXHIBIT A

General

- 1) The final plat of any phase shall be in substantial compliance with the approved Tentative Tract Map, as shown in Exhibit # and shall comply with all conditions of approval as provided herein.
- 2) This entitlement shall expire two (2) years from the date of approval, unless extended, pursuant to the City of Desert Hot Springs Subdivision regulations and the State Subdivision Map Act.
- 3) Applicant/developer shall indemnify, protect, hold harmless and defend the City and any agency or instrumentality thereof, an/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, seek monetary damages resulting from an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board or legislative body including actions approved by the voter of the City, concerning the entitlement applications. City shall promptly notify both the applicant and landowner of any claim, action, or proceeding to which this condition is applicable and shall further cooperate fully 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.

Final Map/Plat:

- 4) Developer shall provide all dedications and easements to the satisfaction of the City of Desert Hot Springs and the City Engineer.

Acceptance of Conditions:

- 5) Within fifteen (15) days of approval by the Planning Commission, the applicant shall submit in writing, a statement indicating that he/she has read and agrees to the conditions imposed herein. This authorization shall become void, and any privilege, permit, or other authorization granted under these entitlements (i.e. TTM No. 37145) shall be deemed to have elapsed if compliance with this condition has not been undertaken within the specified time limits.

Site Maintenance:

- 6) Within 30-days of approval the applicant shall remove any discarded green waste, household debris, and/or construction rubble from the Parcel. If after 5-days' notice by certified mail, the Applicant/developer does not comply with the before mentioned condition, the Planning Commission may enter the subject properties with City forces and remove all subject violations, bill the applicant and/or put a lien on the subject properties.

- 7) If after 5-days' notice by certified mail, the applicant/developer does not comply with the before mentioned criterion, the Planning Commission may either suspend future building or grading permits and/or enter the subject properties with City forces and remove all subject violations, bill the applicant and/or put a lien on the subject properties.

Grading:

- 8) Any grading will require a Permit issued by the Engineering Division of the Community Development Department.

Mapping Requirements

- 9) Parcel Map in accordance with Chapter 2, Article 3, Section 66444 et.al of the Subdivision Map Act.
 - a) Title report (updated within at least 60 days).
 - b) Parcel Map closure calculations including individual parcels.
 - c) Dedicate the required right-of-way along Little Morongo Road to City of Desert Hot Springs, per General Plan for a Major Arterial 55 feet from centerline.