

## **DRAFT CONDITIONS OF APPROVAL**

**MEETING DATE:** 12 September 2017

**TITLE:** Tentative Tract Map for the Development of a Medical Marijuana Cultivation Facility

**CASE NO:** TPM 37322

**PREPARED BY:** Craig A. Ewing, Consulting Planner

**REVIEWED BY:** Daniel Porras, Community Development Director

### **Standard Administrative Conditions**

1. The approval of TPM 37322 is subject to the (2) year expiration provisions of the City's Zoning Ordinance, as provided in Section 17.64.070 and will expire on \_\_\_\_\_.
2. The applicant may request an extension of time for TPM 37322, per the City's Zoning Ordinance Sections 17.92.100 and 17.76.090. Upon filing a time extension(s) at least 30 (thirty) days prior to expiration of the project the Planning Commission may grant said time extension for good cause not to exceed twelve (12) months.
3. Applicant/Developer shall indemnify, protect, hold harmless and defend, with counsel selected by the City, 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 application. City shall promptly notify both the Applicant/Developer 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.
4. All development on the Project Site shall be in compliance with all applicable provisions of the City's Municipal Code as well as all applicable provisions of the adopted Building and Fire Codes. All new construction shall obtain a building permit and comply with the requirements of the Planning, Building, and Fire Departments.

5. No Certificate of Occupancy (CofO) shall be granted until all Conditions of Approval have been completed and approved by the Planning, Engineering, Building, and Fire Departments unless otherwise identified herein. A Temporary Certificate of Occupancy (TCO) may be issued for a specific time period if a significant amount of issues have been resolved and there remains only minor issues that do not pose a threat to health & safety.
6. The development of the Project on the Project Site shall be in substantial compliance with the exhibits contained in the project file for TPM 37322 as shown in all Exhibits attached hereto and incorporated herein by this reference.
7. Within fifteen (15) days of final approval (expiration of the appeal period) by the Planning Commission, the Applicant/Developer shall submit in writing, a statement indicating that he/she has read and agrees to the conditions imposed herein. This approval shall become void, and any privilege, permit, or other authorization granted under these entitlements if compliance with this condition has not been undertaken within the specified time limits.
8. The Applicant/Developer shall pay all established service, permit, impact, public art, and other applicable fees required by the City.
9. Note: The Transportation Unified Mitigation Fee is collected by the City of Desert Hot Springs on behalf of the Coachella Valley Association of Governments. Questions on the calculation of this fee should be addressed to them at (760) 346-1127. The School District Fees are imposed by the Palm Springs Unified School District and questions should be addressed to them at (760) 416-6159.
10. The Applicant / Developer shall deliver within 5 (five) working days after the appeal period (15 days) to the Community Development Department a cashier's check, money order, or other acceptable form of payment made payable to "Riverside County" in the amount of \$2,266.25 to enable the City to file a Notice of Determination required pursuant to California Code of Regulations Section 15075. Any additional fees that may be attributed to the required filing of environmental documents shall be paid by the Applicant/Developer. If Applicant/Developer has not delivered to the Community Development Department the check as required above, the approval for the project granted shall be void by reason of failure of condition (Fish and Game Code Section 711.4(c)).

**Standard Environmental/Tribal Mitigation Conditions**

11. The applicant/developer shall implement all mitigation measures and monitoring program requirements outlined in the Environmental Documents.
12. If the project involves any ground disturbance Applicant / Developer shall hire a paleontological monitor and shall be responsible for payment of all related expenses. If paleontological resources are encountered, adequate funding shall be provided to collect, curate and report on these resources to ensure the values inherent in the resources are adequately characterized and preserved.
13. The applicant/developer shall provide the consulting tribes the following;
  - a. Cultural resources inventory of the project area (by a qualified archaeologist) prior to any development activities in the area.
  - b. Copy of the records search with associated survey reports and site records from the information center.
  - c. Copies of any cultural resource documentation (report and site records) generation in connection with this project.
14. The applicant/developer shall have an approved Cultural Resource / Tribal Monitor on site during any ground disturbing activities (including archeological surveys). Should buried cultural resource be encountered, the Monitor may request that desiccative construction halt and the Monitor shall notify a Qualified Archeologist to investigate and, if necessary, prepare a mitigation plan for submission to the State Historic Preservation Officer and each of the consulting Tribal Preservation Office's.
15. In the event that human remains (or remains that may be human) are discovered at the project site during grading or earthmoving, the construction contractors, project archaeologist, and/or designated Native American Monitor shall immediately stop all activities within 100 feet of the find. The project proponent shall then inform the Riverside County Coroner and the City of Desert Hot Springs immediately, and the coroner shall be permitted to examine the remains as required by California Health and Safety Code Section 7050.5(b). Section 7050.5 requires that excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If human remains are determined as those of Native American origin, the applicant shall comply with the state relating to the disposition of Native American burials that fall within the jurisdiction of the NAHC (PRC Section 5097). The coroner shall contact the NAHC to determine the most likely descendant(s). The MLD shall complete his or her inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site. The Disposition of the remains shall be overseen by the most likely descendant(s) to determine the most appropriate means of treating the human remains and any associated

grave artifacts. The specific locations of Native American burials and reburials will be proprietary and not disclosed to the general public. The County Coroner will notify the Native American Heritage Commission in accordance with California Public Resources Code 5097.98. According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052) determined in consultation between the project proponent and the MLD. In the event that the project proponent and the MLD are in disagreement regarding the disposition of the remains, State law will apply and the median and decision process will occur with the NAHC (see Public Resources Code Section 5097.98(e) and 5097.94(k)).

16. **MM 1 - Prior to grading permit issuance:** If there are any changes to project site design and/or proposed grades, the Applicant shall contact the consulting tribes to provide an electronic copy of the revised plans for review. Additional consultation shall occur between the City of Desert Hot Springs, Applicant and interested tribes to discuss the proposed changes and to review any new impacts and/or potential avoidance/preservation of the cultural resources on the Project. The Applicant will make all attempts to avoid and/or preserve in place as many as possible of the cultural resources located on the project site if the site design and/or proposed grades should be revised in consult with the City of Desert Hot Springs. In specific circumstances where existing and/or new resources are determined to be unavoidable and/or unable to be preserved in place despite all feasible alternatives, the developer shall make every effort to relocate the resource to a nearby open space or designated location on the property that is not subject any future development, erosion or flooding.
17. **MM 2 - Archaeological Monitoring:** At least 30-days prior to application for a grading permit and before any grading, excavation and/or ground disturbing activities on the site take place, the Project Applicant shall retain a Secretary of Interior Standards qualified archaeological monitor to monitor all ground-disturbing activities in an effort to identify any unknown archaeological resources.
  - a. The Project Archaeologist, in consultation with the consulting tribes, the Developer and the City of Desert Hot Springs , shall develop an Archaeological Monitoring Plan to address the details, timing and responsibility of all archaeological and cultural activities that will occur on the project site. Details in the Plan shall include;
    - i. Project grading and development scheduling;
    - ii. The development of a rotating or simultaneous schedule in coordination with the applicant and the Project Archeologist for designated Native American Tribal Monitors from the

consulting tribes during grading, excavation and ground disturbing activities on the site: including the scheduling, safety requirements, duties, scope of work, and Native American Tribal Monitors' authority to stop and redirect grading activities in coordination with all Project archaeologists;

- iii. The protocols and stipulations that the Developer, City of Desert Hot Springs , the consulting tribes and Project archaeologist will follow in the event of inadvertent cultural resources discoveries, including any newly discovered cultural resource deposits that shall be subject to a cultural resources evaluation;
- iv. Archaeological Monitoring Plan shall take into account the potential impacts to undiscovered buried archaeological and cultural resources and procedures to protect in place and/or mitigate such impacts.

**18.MM 3 - Treatment and Disposition of Cultural Resources:** In the event that Native American cultural resources are inadvertently discovered during the course of grading for this Project. The following procedures will be carried out for treatment and disposition of the discoveries:

- a. **Temporary Curation and Storage:** During the course of construction, all discovered resources shall be temporarily curated in a secure location onsite or at the offices of the project archaeologist. The removal of any artifacts from the project site will need to be thoroughly inventoried with tribal monitor oversight of the process; and
- b. **Treatment and Final Disposition:** The landowner(s) shall relinquish ownership of all cultural resources, including sacred items, burial goods, and all archaeological artifacts and non-human remains as part of the required mitigation for impacts to cultural resources. The applicant shall relinquish the artifacts through one or more of the following methods and provide the City of Desert Hot Springs with evidence of same:
  - i. Accommodate the process for onsite reburial of the discovered items with the consulting Native American tribes or bands. This shall include measures and provisions to protect the future reburial area from any future impacts. Reburial shall not occur until all cataloguing and basic recordation have been completed;
  - ii. A curation agreement with an appropriate qualified repository within Riverside County that meets federal standards per 36 CFR Part 79 and therefore would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records shall be transferred, including title, to

an appropriate curation facility within Riverside County, to be accompanied by payment of the fees necessary for permanent curation.

- iii. For purposes of conflict resolution, if more than one Native American tribe or band is involved with the project and cannot come to an agreement as to the disposition of cultural materials, they shall be curated at the Western Science Center or Agua Caliente Cultural Museum.
- iv. At the completion of grading, excavation and ground disturbing activities on the site a Phase IV Monitoring Report shall be submitted to the City of Desert Hot Springs documenting monitoring activities conducted by the project Archaeologist and Native Tribal Monitors within 60 days of completion of grading. This report shall document the impacts to the known resources on the property; describe how each mitigation measure was fulfilled; document the type of cultural resources recovered and the disposition of such resources; provide evidence of the required cultural sensitivity training for the construction staff held during the required pre-grade meeting; and, in a confidential appendix, include the daily/weekly monitoring notes from the archaeologist. All reports produced will be submitted to the consulting tribes and Eastern Information Center and interested tribes.

### **Standard Planning Conditions**

- 19. The Applicant / Developer shall maintain the Project Site after the start of construction and until the Project is completed, free of weeds, debris, trash or any other offensive, unhealthful and dangerous material. If after five (5) days notice by certified mail, the Applicant/Developer does not comply with the before mentioned criterion, the City may either cancel building or grading permits and/or enter the Project Site with City staff and remove all subject violations, bill the Applicant/Developer and/or put a lien on the Project Site.
- 20. Any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project shall obtain a Temporary Use Permit and comply with the City of Desert Hot Springs requirements.
- 21. All property lines, easement lines, etc. shall be located and/or relocated in such a manner as to not cause any existing structure to become non-conforming with the requirements of the latest adopted edition of the Building Code, or any other applicable law, ordinance, or code.

## **Engineering Conditions**

22. The map shall be labeled for Condominium Purposes.
23. Applicant/Developer shall submit the following items for approval with the submittal of the Tentative Parcel Map;
  - a. Soils Report
  - b. Title Report
  - c. Preliminary Grading Plan
  - d. Hydrology Report
  - e. Utility master plan
24. An Environmental Constraint Sheet shall be filed concurrently with the parcel map depicting the FEMA zones affecting the property.
25. Applicant/Developer shall annex the property to Community Facilities District No. 2010-1 to pay for the cost of maintenance of public improvements and pay the Five Thousand Dollars (\$5,000.00) cost for the City's consultant to and the City fee for processing the request, prior to parcel map approval.
26. The Applicant/Developer shall annex the property to Public Safety Special Tax 2 to provide essential funding for public safety purposes and pay the Five Thousand Dollars (\$5,000) cost for the City's consultant to annex to PTAX2 and the City fee for processing the request, prior to parcel map approval.
27. The Applicant/Developer shall dedicate, if not already dedicated, and construct street improvements on the following streets:
  - a. Little Morongo Road, easterly one-half from centerline, 55 feet of an ultimate 110 foot right of way
  - b. San Gorgonio Road north 30 feet of an ultimate 60- foot Local Collector.
  - c. The street improvements shall include construction of asphalt concrete pavement, curb/gutter, sidewalk, streetlights, catch basins, storm drains, and fully landscaped and irrigated along the property frontage except as noted.
  - d. Improvements shall include removal and construction of existing street improvements that are severely damaged and/or not in compliance with City Standards, to be determined at the time plans are submitted.
  - e. All sidewalks, ramps, and landings shall be compliant with the Americans with Disability Act.
  - f. All street improvements including the energizing of street lights and installation of irrigation and landscaping to be constructed and

accepted by the City Public Works Department prior to the issuance of occupancy.

28. Any street or dedications of easements shall be shown on the subdivision map.
29. Accurate and complete surveys of the land to be subdivided shall be made by a registered civil engineer or licensed land survey. All existing and required monuments shall be identified and/or set in accordance with Section 16.20.030 of the City Municipal Code.
30. Dedicate to the City the right to restrict direct vehicular access to Little Morongo Road to a single driveway. The driveway shall provide adequate clearance for the existing Edison Utility poles on Little Morongo. Submit to the City Edison's approval of the location and indicate on the map the approved location of the driveway. The remainder of the frontage shall have no direct access to Little Morongo and the dedications and acceptance shall reflect these conditions.
31. The parcel map shall be prepared in accordance with Chapter 16.20 Final and Parcel Maps of the City Municipal Code.
32. Applicant/Developer shall submit the following items for approval with the submittal of the Final Tract/Parcel Map:
  - a. Final tract/parcel map
  - b. Title Report (updated within at least 6 months) a subdivision guarantee indicting those persons/entities who may sign the map will be required immediately prior to the City's signing of the map.
  - c. Final Map Closures
  - d. Street Names
  - e. Improvement Agreements with Security
33. Applicant/Developer shall submit the following items for approval from the Engineering Department:
  - a. Grading Plans
  - b. Storm Drain / Drainage Plans
  - c. Street Improvement Plans
  - d. Street Signage and Striping Plans
  - e. Street Lighting Plans
  - f. Composite Utility Plans  
(Sewer and Water Plans – submit to Mission Springs Water District)
34. Applicant/Developer shall provide and install adequate water supply, sanitary sewer, natural gas, electric, telephone and cable television lines to serve each separate lot.



35. If fill/cut material is proposed to construct the building pads, prior approval by the City of the burrow/deposit site is required.
36. Applicant/Developer shall submit an owner-and contractor-signed PM10 Dust Control Implementation Plan in accordance with the standards and codes of the City and the South Coast Air Quality Management District (SCAQMD). Plans shall be submitted for review and approval by the Public Works Department prior to the issuance of any grading and/or applicable building permits. Any site that is greater than 10 acres shall concurrently process a PM10 Dust Control Implementation Plan with the SCAQMD. For further information contact the SCAQMD at:  
South Coast Air Quality Management District (SCAQMD)  
21865 Copley Drive  
Diamond Bar, CA 91765  
(800) CUT-SMOG (288-7664)  
[www.aqmd.gov](http://www.aqmd.gov)
37. Applicant/Developer shall submit a project specific Hydrology Report, using Riverside County Flood Control and Water Conservation District's Hydrology Manual for City review and approval.
38. No nuisance water shall escape the site onto public streets.
39. The Applicant/Developer shall provide on-site storm water retention basin(s) or system(s) designed to the satisfaction of the City Engineer. The retention basin shall be sized to retain all post-development storm water runoff within the limits of the project based on a 100-year storm event of 24-hour duration and shall completely drain/percolate any storm event within 72 hours. All upstream runoff from adjacent properties that has historically been directed onto the proposed project may be considered to pass through the project with the exception of historical retention that occurred on-site. The retention basin shall be designed with a maximum depth of 5 feet and maximum side slopes of 3:1 and shall not be used for purposes other than for the collection of storm water, nuisance water and well blow-off water.
- a. Any other facilities required in the drainage/hydrology study shall be designed and installed as detailed in Section 15.68, Flood Plain Management, and Section 15.72 Floodplain Construction of the Desert Hot Springs Municipal Code.
  - b. All retention basins/systems shall be located on site; off-site retention basins/systems are specifically prohibited.
  - c. Retention Basin Vehicular Access - Vehicular access shall be provided for maintenance of the retention basins to the satisfaction of the City Engineer. The City Engineer shall determine the need and/or design of such access. The grading of a "road" to the bottom shall comply with health and safety standards and shall meet the

requisite design requirements including geometries and capacity of the basin(s). Maintenance of retention basins and drainage system shall be the responsibility of the Applicant / property owner / operator

40. The design of the on-site grading, street improvements and the storm drainage improvements shall be coordinated with all adjacent projects to the satisfaction of the City Engineer.
41. Applicant/Developer shall prepare and submit a Project Specific Preliminary and Final Water Quality Management Plans pursuant to the Whitewater River Region Water Quality Management Plan for Urban Runoff.
42. Applicant/Developer shall comply with the National Pollution Discharge Elimination System (NPDES) requirements per the California Regional Water Quality Control Board (RWQCB) regulations. The Applicant/Developer shall submit a Project Specific Stormwater Pollution Prevention Plan (SWPPP) to comply with the California General Permit for Stormwater Discharges Associated with the Construction Activity, prior to the issuance of a grading permit. For projects larger than 1 acre, the Applicant/Developer shall obtain all required permits from the California Regional Water Quality Control Board (RWQCB) and submit a copy of the Notice of Intent (NOI) and the Waste Discharge Identification Number (WDID#) to the City's Public Works Department prior to the issuance of the any grading permit. For further information contact the RWQCB at:  
California Regional Water Quality Control Board (RWQCB),  
Colorado River Basin Region,  
73-720 Fred Waring Drive #100  
Palm Desert, CA 92260  
(760) 346-7491  
[www.waterboards.ca.gov/colorariver](http://www.waterboards.ca.gov/colorariver)
43. The Applicant/Developer is required to construct all transition and missing links between existing and proposed improvements.
44. The Applicant/Developer/Contractor shall comply with section 8.08 Recycling and Diversion of Waste from Construction and Demolition of the Municipal Code and file a Plan with the City's Building Department prior to the start of any construction.
45. The minimum grade on all proposed streets shall be 0.50% unless approved in advance, in writing, by the City Engineer.

46. All project streets shall be maintained as private streets until such a time as they are fully improved to City Standards and accepted, except the Private Streets, by the City Council.
47. A soil compaction report shall be prepared and submitted to the City Building Department for approval prior to issuance of any building permits.
48. Developer shall contact Sunline Transit for location and requirements for bus stop / bus turnout..
49. Proposed street striping shall be per City standards.
50. The proposed driveways shall be a radius driveway per City of Desert Hot Springs Standard No. 210.
51. All overhead utilities less than 92kv, located within the project boundaries, bordering the project and/or fronting the project shall be undergrounded.
52. Applicant/Developer shall enter into a water service agreement with the Mission Springs Water District for domestic water service.
53. Applicant/Developer shall file an improvement agreement with security to guarantee completion of public improvements as follows:
  - a. A faithful performance security in an amount deemed sufficient by the City Engineer to cover up to 100% of the total estimated cost of all required improvements, including bonding requirements for grading as outlined in the Municipal Code.
  - b. A labor and material security to cover up to 50% of the total estimated cost of all required improvements.
  - c. A monumentation security in an amount stipulated by the City Engineer to cover the cost of placing lot corners and other related monuments.
  - d. If the required project improvements are financed and installed pursuant to special assessment proceedings, upon the furnishing by the contractor of the faithful performance and labor and material security required by the special assessment act being used, the City may reduce the improvement security of the Applicant/Developer by an amount corresponding to the amount of the security furnished by the contractor.
  - e. Notwithstanding the above, the Applicant/Developer may satisfy the requirement for security of certain improvements by providing proof that same has been posted with another public agency subject to the approval of the City Engineer.
54. Security may be one of the following types subject to the approval of the City Engineer and City Attorney as to form:

- a. Bonds - All bonds shall be executed by a surety company authorized to transact business as a surety, and have an agent for service in California, together with an acceptable policy holder's rating. The bond(s) shall contain the nearest street address of the institution providing the bond(s).
  - b. Cash Deposits - In lieu of the faithful performance and labor and material bonds, the developer may submit cash deposits or negotiable bonds of a kind approved for securing deposits of public monies under the conditions hereinafter described.
    - i. Disbursements from cash deposits shall be made in compliance with a separate agreement between the developer and the City. A bookkeeping fee of 1% of the total amount deposited with the City for each cash deposit shall be submitted with each security. Disbursements from a cash deposit in any instance shall not be permitted unless and until authorized in writing by the City Engineer.
55. All improvement agreements shall be approved by the City Attorney and City Council. Security for the agreement shall be approved by the City Attorney and Finance Director.

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