

DRAFT CONDITIONS OF APPROVAL

MEETING DATE: September 12, 2017

TITLE: Conditional Use Permit No. 26-17 for a Type 20 (Off-Sale) ABC License

CASE NO: CUP No. 26-17

PREPARED BY: Benjamin Torres, Associate Planner

REVIEWED BY: Daniel Porras, Community Development Director

Planning Department Conditions

1. Three (3) downward shielded roof mounted lighting fixtures shall be installed to illuminate the existing parking area.
2. The business owner/licensee shall install and maintain digital video surveillance cameras on the interior of this facility. The surveillance points shall include the front entrance doors, the point of sale area, all the coolers containing alcohol for sale. Surveillance media shall be maintained for a minimum of two months, and shall be accessible to law enforcement during regular business hours.
3. All provisions of the California Department of Alcoholic Beverage Control (ABC) for the sale of off-sale beer and wine shall be complied with.
4. A copy of the applicable operating standards from ABC shall be available during normal business hours for viewing by the general public.
5. Employees engaged in the sale or distribution of alcoholic beverages shall be at least 18 years of age. If the business owner/licensee chooses to employ a salesperson under 18 years of age, at least one salesperson 21 years old or older shall be on the premises during all times when alcoholic beverages are sold.
6. Prior to relocating the approved alcoholic beverage display area within the store, approval from the Planning Department and/or Police Department is required for the new display area.
7. Sales of alcoholic beverages will be restricted to, and within the confines of, the approved building portion of the premises.
8. The business owner/licensee or management shall prevent on-site loitering. The business owner/licensee shall regularly police the area under its control to prevent

the loitering of persons about the premises.

9. A prominent, permanent sign or signs stating "NO OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED ON THESE PREMISES" shall be posed in a place that is clearly visible to patrons of the licensee. The sign shall be posted on the south and west sides of the building. The size, format, form, placement, and languages of the sign(s) shall be determined by the ABC.
10. The possession of alcoholic beverages in open containers and the consumption of alcoholic beverages is prohibited on or around the licensed premise.
11. All emergency exit doors shall be kept closed at all times during operation of the premises except in the case of emergency or to permit deliveries. Panic hardware on the doors shall comply with all City and Fire Agency code requirements.
12. Litter shall be removed daily from the premises, including adjacent public sidewalks and all parking areas under the control of the licensee. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis to control debris.
13. If parking lot circulation becomes problematic, City Staff reserves the right to require further circulation improvements.
14. Driveway approach/drive aisle shall be widened to the satisfaction of the City Engineer.
15. Outdoor sales are prohibited unless the applicant has a Temporary Use Permit approved subject to the provisions of Section 17.136 of the Desert Hot Springs Municipal Code.

Standard Administrative Conditions

16. The approval of CUP 26-17 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 _____.
17. The applicant may request an extension of time for CUP 26-17, 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.
18. 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.

19. 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.
20. 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.
21. The development of the Project on the Project Site shall be in substantial compliance with the exhibits contained in the project file for CUP 26-17 as shown in all Exhibits attached hereto and incorporated herein by this reference.
22. 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.
23. The Applicant/Developer shall pay all established service, permit, impact, public art, and other applicable fees required by the City.

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.

24. 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 \$50 to enable the City to file a Notice of Exemption required pursuant to California Code of Regulations Section 15062. 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

25. The applicant/developer shall implement all mitigation measures and monitoring program requirements outlined in the Environmental Documents.
26. 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.
27. 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.
28. 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.
29. 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)).

30. **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.
31. **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;

32. **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

- 33. 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.
- 34. All walls and trash enclosures shall have a decorative wall surface and a decorative cap that are consistent with the overall architecture of the project. The use of rolled concrete on any exterior walls or trash enclosures is specifically prohibited.
- 35. Applicant / Developer shall construct or remodel an existing trash enclosure in

location per the approved Site Plan. The trash enclosure shall be constructed per City Standards.

36. All new breaker boxes, fire sprinkler risers, utility conduits, and drain pipes shall be interior to the building. Any exposed pipes are specifically prohibited. All new drain terminations shall be from the Watts Drainage Product RD-940 or a product of equal value.



37. All mechanical equipment, either roof or ground mounted, and shall be screened from public view. All such equipment shall be fully screened by the roof structure, a parapet wall, appropriate ground mounted walls, berming, or landscaping. All walls shall architecturally match the building.
38. The applicant shall submit a Sign Permit to be approved by the staff to include the following:
- a. All signage for in-line tenants shall be channel letters.
 - b. No sign shall have exposed raceways or conduits.
 - c. All signage shall comply with the Desert Hot Springs Municipal Code.
 - d. All signs that are removed shall be painted and patched immediately.
39. At no time shall the combination of uses or activities conducted with the building exceed the total demand for parking, as calculated in the City's Zoning Code and as provide on site according to the approved site plan. Any change to the floor plan shall be subject to review and approval by the Planning Department.

Standard Landscaping/Parking Conditions

40. All new industrial development shall comply with Mission Springs Water District's Water Efficient Landscaping Guidelines (guidelines are available at www.ms wd.org). This policy requires outdoor water conservation practices within MSWD's service area, specifically: (1) the creation of landscape plans featuring the use of California native desert friendly plants; and (2) the preparation of irrigation plans detailing water efficient irrigation technology systems (e.g., drip irrigation, evapotranspiration irrigation controllers, etc.) appropriate to an arid desert climate.
41. The applicant shall prepare a Final Landscape Construction and Irrigation Plan that is prepared by a licensed landscape architect subject to the following:
- a. Approval from the Planning Department

- b. Approval from Mission Springs Water District
- c. A plant landscape legend, including a specific symbol for each plant species used, size (i.e., caliper, gallon, box, or brown trunk height, and/or quantity) and whether it is deciduous or evergreen.
- d. Provide the total percentage of evergreen trees of all trees not including palm trees as evergreen.
- e. Clear indication where landscaping will be used to screen mechanical, electrical, and irrigation equipment.
- f. A detail showing planter design adjacent to walkways and driveways that is designed to prevent soil and/or decomposed granite from flowing onto walkways and driveways. There shall be a minimum two-inch vertical separation between the pavement and the soil.
- g. Plant and tree installation and staking details.
- h. Details on how vines will be attached to the structural elements.
- i. Install a row of trees and ground cover across the rear property line.

42. Site landscaping shall comply with the City Guidelines and Water Conservation policies regardless of whether the items are illustrated on the Construction Landscape Plans:

- a. Plants and trees shall be primarily of drought tolerant species compatible with the desert environment.
- b. Projects shall minimize the use of turf.
- c. At least fifty percent (50%) of the trees shall be evergreen species.
- d. All trees in parking lots shall be centered between parking spaces to provide optimal shading.
- e. All single trunk trees shall be double staked and multi-trunk trees shall be staked appropriate to the species of tree.
- f. Arbor guards shall be installed around trees in turf areas.
- g. Projects located along major arterials and/or streets shall comply with the street tree requirements of the Design Guidelines.
- h. Planter areas shall be surrounded by a concrete mow strip or other hard surface.
- i. All ground-mounted equipment, such as mechanical, electrical, and irrigation equipment (backflow preventers), shall be located

within a landscape planter. This equipment shall not be located within a turf area and shall not be visible from public view.

- j. Any drain that terminates in a planter shall have a splash guard.
- k. All palm trees shall have a brown trunk height of twenty (20) feet.
- l. The site shall have a maximum of twenty-five percent (25%) fifteen (15) gallon trees and all other trees shall be thirty-six (36) inch box or greater.
- m. All trees twenty-four (24) inch box or greater shall be verified as to size by the project planner who shall ensure that each tree has diameter of three (3) inches five (5) inches from the ground level.
- n. All changes of species made by the Mission Springs Water District shall have concurrent approval from the Community Development prior to final approval.

- 43. Parking spaces adjacent to any planter shall have a width totaling eleven (11) feet, or the landscape finger or planter curb be an extra foot wide to protect the landscaping.
- 44. Wheel stops within the parking lot are prohibited unless required for ADA compliance.
- 45. All redwood headers are specifically prohibited from use on the project site.

Standard Graffiti Conditions

- 46. The Applicant / Developer and/or successor(s) in interest shall be responsible for the removal of any graffiti vandalism from the project site (exterior building surfaces and/or exterior walls/fences) within 48-hour after discovering the graffiti vandalism or receipt of notice from the City of the same. The Applicant/Developer shall contact the City's Graffiti Hot Line at 888-562-3822 within 48 hours of discovering the graffiti vandalism.
- 47. The Applicant / Developer and/or successor(s) shall apply (and maintain) a protective coating or graffiti resistant materials acceptable to the City's Public Works and/or Community Development Department, to provide for the effective and expeditious removal of graffiti on all exterior building elevations and/or project walls and/or replacement of defaced screening panels.
- 48. The Applicant / Developer and/or successor(s) in interest hereby agrees to allow

the City and/or its agents to enter the property for the purpose of removing or painting over graffiti vandalism, if the Applicant/Developer and/or successor(s) in interest fail to remove the reported graffiti vandalism within the 48 hours of discovering the graffiti or receipt of notice from the City.

49. The Applicant / Developer and/or successor(s) in interest shall, to the extent feasible, have designed a building structure visible from any public or quasi-public place in such a manner to consider prevention of graffiti, including, but not limited to the following:
- a. Use of additional lighting;
 - b. Use of non-solid fencing;
 - c. Use of landscaping designed to cover large expansive walls such as ivy or similar clinging vegetation; or
 - d. Use of architectural design to break up long, continuous wall or solid areas.

Standard Lighting Conditions

50. The Applicant shall submit an exterior Lighting Plan in compliance with all relevant sections of the DHSMC; include a photometric analysis, to the City Planner for review and approval prior to issuance of a building permit. The Lighting Plan shall also identify the following:
- a. Exterior lighting shall be energy-efficient and shielded or recessed so that direct glare and reflections are contained within the boundaries of the Project Site, and shall be directed downward and away from adjoining properties and the public right-of-way.
 - b. All lighting outdoor lighting including fixture shall direct lighting downward.
 - c. The type of fixtures, including height, material, and color.
 - d. The total height of all freestanding lighting fixtures shall not exceed 18 feet.
 - e. That all concrete fixture bases will have a decorative finish. At a minimum, a trowel finish shall be provided.
 - f. That the bolts connecting the light fixture to the base shall be covered.
 - g. The lighting on-site shall provide 100-foot face recognition
51. Prior to the issuance of a Certificate of Occupancy the lighting shall be inspected by the Police Department and Community Development Department and requested changes for safety shall be implemented. The Planning and / or Police

Departments may require additional lighting to prevent unintended dark spots prior to final occupancy.

52. Applicant / Developer shall adhere to the City's light standard and identify all light fixtures (wall mounted and pole lights) on the site plan.

Standard Building & Safety Conditions

53. Project shall comply with the 2016 California Building Standards Code (Title 24, California Code of Regulations) and other adopted City Ordinances which include the following:

- a. CA Building Code
- b. CA Plumbing Code
- c. CA Mechanical Code
- d. CA Electrical Code
- e. CA Fire Code
- f. CA Green Building Standards Code
- g. CA Energy Code

54. As applicable, automatic fire sprinkler systems shall be installed in all new construction as per Chapter 9 of the California Building code and per City Ordinance. Design and type of system shall be based upon the requirements of the California Building Code, the California Fire Code and the requirements of the Fire Department.

55. The requirements of the Department of Environmental Health Services and the Air Quality Management District shall be satisfied prior to the issuance of any permit if hazardous materials are stored and/or used.

56. 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.

57. All perimeter/boundary walls shall be designed and constructed so that the outer/exterior face of the wall is as close as possible to the property line. In any case, the outer/exterior face of the wall shall be within two (2) inches of the property line. Distances greater than two (2) inches may be approved prior to construction by the Building Official on a case-by-case basis for extenuating circumstances.

58. 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.
59. If hazardous substances are used and/or stored, a technical opinion and report, identifying and developing methods of protection from the hazards presented by the hazardous materials may be required. This report shall be prepared by a qualified person, firm, or corporation and submitted to the Building Department. This report shall also explain the proposed facility's intended methods of operation and list all of the proposed materials, their quantities, classifications, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.

Standard Construction/Demolition Activity Fire Safety Conditions

60. Smoking shall be prohibited except in approved areas. Signs shall be posted in accordance with Section 310. In approved areas where smoking is permitted, approved ashtrays shall be provided in accordance with Section 310.
61. Operations involving the use of cutting and welding shall be done in accordance with Chapter 35.
62. An approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on the site.
63. Structures under construction, alteration or demolition shall be provided with not less than one approved portable fire extinguisher in accordance with section 906 and sized for not less than ordinary hazard as follows:
- a. At each stairway on all floor levels where combustible materials have accumulated.
 - b. In every storage and construction shed.
 - c. Additional portable fire extinguishers shall be provided where special hazards exist including hazards exist including, but not limited to, the storage and use of flammable and combustible liquids.

Water and Wastewater Conditions

64. The applicant / developer shall comply with all rules, laws, ordinances, guidelines, and regulations of the Mission Springs Water District for water and for wastewater disposal services. Prior to issuance of any certificate of occupancy, the applicant / developer shall provide evidence to the satisfaction of the City Engineer that all

permits and approvals for water service and wastewater disposal have been obtained.

END