

## **DRAFT CONDITIONS OF APPROVAL**

**MEETING DATE:** September 25, 2017

**TITLE:** Conditional Use Permit No 191-17 &  
Variance No 02-17, for the construction of a 75  
Foot tall monoeculyptus cell tower at 13500  
Little Morongo Road

**CASE NO:** CUP 19-17 & VAR 02-17

**PREPARED BY:** Scott Taschner, Senior Planner

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

### **Project Specific Conditions**

1. The applicant/developer shall comply with all state & Federal Law pertaining to construction & operation of the proposed cell tower.
2. The applicant/developer shall submit proof that they have submitted this project for review and approval to the Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS).

### **Standard Administrative Conditions**

3. The approval of CUP 19-17 & VAR 02-17 are subject to the (2) year expiration (CUP), and (1) year expiration provisions of the City's Zoning Ordinance, as provided in Section 17.64.070 & 17.140.080 and will expire on:
  - CUP 19-17, on September 25, 2019
  - VAR 02-17, on September 25, 2018
4. The applicant may request an extension of time for CUP 19-17 & VAR 02-17, per the City's Zoning Ordinance Sections 17.76.090 and 17.140.090. 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.
5. 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.

6. 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.
7. 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.
8. The development of the Project on the Project Site shall be in substantial compliance with the exhibits contained in the project file for *CUP 19-17 & VAR 02-17* as shown in all Exhibits attached hereto and incorporated herein by this reference.
9. 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.
10. 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.

11. 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 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**

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 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.
14. 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)).

15. **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**

16. 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.
17. 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.
18. 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.

#### **Standard Graffiti Conditions**

19. 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.

20. 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.
21. 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.
22. 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**

23. 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
24. 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.
25. 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.

26. 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.
27. 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.
28. 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**

29. 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.
30. Operations involving the use of cutting and welding shall be done in accordance with Chapter 35.
31. An approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on the site.
32. 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.

33. The Applicant / Developer shall comply with all applicable federal, state and City laws and regulations.
34. The Applicant / Developer shall incorporate all aspects of Crime Prevention through Environmental Design for visual surveillance, access control and territorial reinforcement.
35. Every area of the proposed development must be visible either from the street or from the structure. Unavoidable dead spaces or hidden/secluded areas require additional mitigating measures which may include increased lighting, hostile landscaping, security surveillance cameras, perimeter fencing and/or security gates, on-site security guards or other mitigating measures deemed appropriate by the Police Department.
36. Applicant / Developer shall adhere to the City's light standard and identify all light fixtures (wall mounted and pole lights) on the site plan.
37. Lighting shall provide face recognition at 100 feet.
38. The Police Department may require additional lighting to prevent unintended dark spots prior to final occupancy.
39. Secluded or hidden interior corridors are strongly discouraged by the Police Department. For uses utilizing said corridors, mitigation measures shall be required and may include increased lighting, security surveillance cameras, controlled access, on-site security guards or other mitigating measures deemed appropriate by the Police Department.
40. The applicant and operator shall at all times implement the Utilize Crime Prevention Through Environmental Design (C.P.T.E.D) throughout the project, as follows:

CPTED Principle #1 – Natural Surveillance

"See and be seen" is the overall goal when it comes to CPTED and natural surveillance. A person is less likely to commit a crime if they think someone will see them do it. Lighting and landscape play an important role in Crime Prevention Through Environmental Design.

CPTED Principle #2 - Natural Access Control

Natural Access Control is more than a high block wall topped with barbed wire. Crime Prevention Through Environmental Design or CPTED utilizes the use of walkways, fences, lighting, signage and landscape to clearly guide people and vehicles to and from the proper entrances. The goal with this CPTED principle is



not necessarily to keep intruders out, but to direct the flow of people while decreasing the opportunity for crime.

### CPTED Principle #3 – Territorial Reinforcement

Creating or extending a "sphere of influence" by utilizing physical designs such as pavement treatments, landscaping and signage that enable users of an area to develop a sense of proprietorship over it is the goal of this CPTED principle. Public areas are clearly distinguished from private ones. Potential trespassers perceive this control and are thereby discouraged.

### CPTED Principle #4 – Maintenance

CPTED and the "Broken Window Theory" suggests that one "broken window" or nuisance, if allowed to exist, will lead to others and ultimately to the decline of an entire neighborhood. Neglected and poorly maintained properties are breeding grounds for criminal activity. We will work with you to develop a formal CPTED based maintenance plan to help you preserve your property value and make it a safer place.

41. Prior to issuance of building permits, the site plan shall indicate all perimeter walls and fences to be of a design to prevent or discourage scaling & graffiti.
42. Prior to issuance of building permits, that landscape plan shall be amended to include drought tolerant "hostile vegetation" shall be used when possible under windows and around the fence line.
43. Prior to issuance of building permits, a photovoltaic survey shall be prepared and submitted with the proposed lighting plan. The lighting plan shall be reviewed to assure that:
  - a. Lighting provides adequate visibility, face & color recognition, and a sense of security for employees and visitors.
  - b. LED and / or Metal Halide lights are recommended.
  - c. Lighting shall be shielded through the use of fixture design and placement, and shrouds so that spillover at the property line is minimized.
  - d. Prior to issuance of building permits, the building plans shall indicate that motions sensors are installed on the building rooftops, subject to review and approval by the City of Desert Hot Springs Police Department. Specifications for the motions sensors shall be included in the building plan set.
44. At no time shall any plant materials, plant products, or plant-derived products be visible from any public areas.
45. Prior to issuance of building permits, the plans shall be amended to indicate the location and type of all gate control and access equipment and / or systems (e.g. Knox box, keypad, radio control, etc.) Prior to issuance of occupancy permits, the

applicant will provide all access equipment, materials, codes, etc. to the City of Desert Hot Springs Police Department.

46. All delivery vehicles shall be equipped with GPS location equipment, which shall be maintained and available at all times.
47. All employees, regardless of status, shall be subject to Live Scan or similar security clearance through the City of Desert Hot Springs Police Department. All employees shall be issued photo ID cards and shall keep the card on her / his person at all times.
48. Any private security service that uses security guards with uniforms shall assure to the satisfaction of the City of Desert Hot Springs Police Department that the uniforms are sufficiently different in appearance from any uniform of the Police Department, Riverside County Sheriff or other local police department.
49. Security cameras shall be utilized to capture video of the perimeter of the building as well as interior areas of importance. The exterior shall have cameras two camera on each exterior wall. The interior shall have cameras covering areas of operation, registers, and one facing the entrance door from the inside to capture video of each person as they enter. The camera system shall have recording and back up capabilities for 90 days and will be made accessible to the Police Department on demand
50. Prior to issuance of occupancy permits, the applicant shall provide in the security plan that at all times at least one member of the dispensary management or staff has knowledge of the operation of all video surveillance equipment and is capable of assisting the Police Department at any time the Police have need of such assistance.
51. Prior to issuance of occupancy permits the building plan will be amended to show the location of camera to be installed.

#### **Engineering Department Conditions / CUP 19-17**

52. The Applicant/Developer shall 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 the issuance of an occupancy permit.
53. Applicant/Developer shall submit the following items for approval from the Engineering Department:
  - a. Grading Plans with the street address for the lot and/or building foot prints
  - b. Street Lighting Plans
  - c. Composite Utility Plans  
(Sewer and Water Plans – submit to Mission Springs Water District)

54. Prior to the installation of any improvements in the public right-of-way (ROW), an encroachment permit shall be obtained from the City Public Works Department.
55. A soil compaction report shall be prepared and submitted to the City Building Department for approval prior to issuance of any building permits.
56. There shall be no encroachment into public rights of way for construction trailers, equipment, trash bins, portable toilets, or materials; all of which shall be kept on-site. Construction access to the site shall be by an approved driveway, entry, or curb cut; no asphalt ramps or curb jumping is permitted.
57. At no time shall any adjacent streets for the project be allowed to be used for construction staging, storage or other such construction related activities. Access by heavy equipment shall be limited to the minimum number of trips essential to completing the construction. Any damage to the existing public roadways, sidewalks or other infrastructure shall be repaired or replaced by the Applicant's contractor at his own expense, as directed by the Public Works Director.
58. 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.
59. The on-site driveways and parking areas shall be improved with asphalt or concrete paving, permeable pavers, and appurtenances as shown generally on the approved site plan.
60. All on-site paving, and other site work shall be constructed to City standards, subject to the improvement plans approved by the City Engineer.
61. 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.
62. The Applicant/Developer shall construct an access driveway out to join the existing pavement on Little Morongo Road.
63. No nuisance water shall escape the site onto public streets.
64. The Applicant/Developer shall provide on-site storm water retention basin(s) or system(s) designed to the satisfaction of the City Engineer. Each retention basin shall include a sufficient number of underground vertical drywells designed to eliminate standing water in the basin. 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.

65. 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.

### **Fire Department Conditions**

#### **Access**

66. Fire Department emergency vehicle apparatus access road locations and design shall be in accordance with the California Fire Code, Riverside County Ordinance 460, Riverside County Ordinance 787, and Riverside County Fire Department Standards. All portions of structures shall be within 150 feet of the approved 24 foot-wide fire lane or municipal street.

#### **Water**

67. Fire Department water system(s) for fire protection shall be in accordance with the California Fire Code, Riverside County Ordinance 787 and Riverside County Fire Department Standards. Plans must be submitted to the Fire Department for review and approval prior to building permit issuance.
68. For the proposed project, provide or show a water system capable of delivering a fire flow of 1500 gallons per minute for a two-hour duration at 20 psi residual operating pressure.
69. The required water system, including fire hydrants, shall be installed and accepted by the appropriate water agency prior to any combustible building material being placed on an individual lot. Two sets of water plans are to be submitted to the Fire Department for approval. Hydrants located at corners and spaced 350-500 feet apart, depending on the subdivision (per Coachella City).
70. Fire sprinklers are required in all structures over 3600 square feet.
71. Any building constructed on lots created by this project shall comply with the special construction provisions contained in Riverside County Ordinance 787, Title 14, the California Building Code and Riverside County Fire Department Information Bulletin #08-05. Plans must be submitted to the Fire Department for review and approval prior to building permit issuance.

71, The applicant or developer shall prepare and submit to the Fire Department for approval, a site plan designating required fire lanes with appropriate lane printing and/or signs.

**Mission Springs Water District**

72. 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**