

## **DRAFT CONDITIONS OF APPROVAL**

**MEETING DATE:** December 12, 2017

**TITLE:** Amendment to Vets Leaf Conditional Use Permit & Development Agreement

**CASE NO:** CUP 04-16 (A), DA 02-16

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

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

### **.5 Construction Phase Plan Conditions**

1. The interim site plan shall expire in 6 months from the date of approval, and will expire on June 12, 2018.
2. An extension of time may be granted by the Director of Community Development if good cause is shown and progress of the permanent project for CUP 24-17 has been demonstrated.
3. Prior to issuance of building permit the applicant/developer shall provide the city with a cash deposit of \$40,000 for potential future abatement of the interim facilities.
4. Prior to issuance of building permit the applicant/developer shall provide the Planning Department with the following materials:
  - Security Camera Plan
  - Perimeter Fence Plan
  - Lighting Plan /Photometric of the Site
4. The lighting plan, parking plan, landscape plan, street/infrastructure plan shall conform to the improvements shown on that portion of the permanent plan. Small modifications of the required infrastructure and site improvements for temporary facilities may be conditionally approved, at the discretion of the Director of Community Development.
5. The interim facilities shall be adequately screened with fencing, landscaping, and other screening/aesthetic improvements to the satisfaction of the Planning Department.

7. Prior to Certificate of Occupancy for the temporary phase, the applicant/developer shall install all site improvements for that portion of the site.

### **Standard Administrative Conditions**

1. The approval of Conditional Use Permit No. 04-16 (A) & Development Agreement No. 02-16 are subject to the (2) year expiration provisions of the City's Zoning Ordinance, as provided in Section 17.76.070 and will expire on November 14, 2019.
2. The applicant may request an extension of time for Conditional Use Permit No. 04-16 per the City's Zoning Ordinance Section 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, and/or any of its officers, employees and agents from any and all claims, actions, or proceedings, including those involving environmental issues, against the City to attack, set aside, void, annul, and/or 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 voters 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 CUP 04-16 (A) 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.

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.

#### **Standard Environmental/Tribal Mitigation Conditions**

9. 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.
10. 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.
11. 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.

12. 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)).

13. **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.

**14. 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;

**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 comply with all conditions of approval from the previously approved permanent project; Conditional Use Permit No. 04-16.
17. Any/all permits may be subject to revocation if the applicant/developer/project is not in compliance with all of the conditions of approval contained herein.
18. Should odors emanate from the building or project site in the future, the applicant/developer/proprietor shall be required to submit revised plans and equipment specifications demonstrating techniques to control odors and shall

submit those plans/documents/specs to the planning department for review and approval.

19. 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 Construction/Demolition Activity Fire Safety Conditions**

53. 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.
54. Operations involving the use of cutting and welding shall be done in accordance with Chapter 35.
55. An approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on the site.
56. 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.

#### **Police Department Standard Conditions**

57. The Applicant / Developer shall comply with all applicable federal, state and City laws and regulations.
58. The Applicant / Developer shall incorporate all aspects of Crime Prevention through Environmental Design for visual surveillance, access control and territorial reinforcement.
59. 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.

60. Applicant / Developer shall adhere to the City's light standard and identify all light fixtures (wall mounted and pole lights) on the site plan.
61. Lighting shall provide face recognition at 100 feet.
62. The Police Department may require additional lighting to prevent unintended dark spots prior to final occupancy.
63. 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.
64. 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.

65. 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.
66. 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.
67. 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.
68. At no time shall any plant materials, plant products, or plant-derived products be visible from any public areas.
69. 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.
70. All delivery vehicles shall be equipped with GPS location equipment, which shall be maintained and available at all times.
71. 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 issues photo ID cards and shall keep the card on her / his person at all times.

72. 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.
73. 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
74. 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.
75. Prior to issuance of occupancy permits the building plan will be amended to show the location of camera to be installed.

**Engineering Department Conditions**  
**65441 Two Bunch Palms Trail**  
**AMB 665-030-059**

76. The Applicant/Developer shall provide an Irrevocable Offer of Dedication of 5 feet on the north side of the property to complete 55 feet of right of way for Two Bunch Palms Trail pursuant to the City's General Plan.
77. Install a street light along Two Bunch Palms Trail in accordance with City Standards.
78. 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.
79. Applicant/Developer shall submit the following items for approval from the Engineering Department:
  - a. Street Lighting Plans
80. 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.

### **Fire Department Conditions**

81. Applicant/Developer shall provide a water system capable of delivering a minimum fire flow of 1,500 gallons per minute for 2 hours duration at twenty (20) pounds per square inch (PSI) residual operating pressure, which must be available before any combustible material is placed on the construction site. **The minimum required GPM and PSI may change during official plan check.**
82. The greenhouses must be type IIB. All framing needs to be non-combustible, unless it is permitted per Section 603.
83. The Applicant/Owner shall install Knox Boxes as approved by the Fire Department subject to the following:
- On Structures the Knox Box shall be installed next to the Fire Department access door and be flush with the building.
84. 503.6.1 Automatic opener. New motorized gates shall be provided with means to be automatically opened remotely by emergency vehicle in accordance with Riverside County Fire Department standards and Policies, as may be amended from time to time.
85. If the buildings are protected with a FIRE alarm system, the lock box shall be required to have tampered monitoring.
86. Required order forms and installation standards may be obtained at the Fire Department Headquarters at 77933 Los Montana's in Palm Desert or Desert Hot Springs City Hall
87. Applicant/Developer shall display street numbers in a prominent location on the address side of building(s) and/or rear access if applicable. Numbers and letters shall be a minimum of twelve (12) inches in height except for building(s) greater than twenty-five (25) feet in height which shall have a minimum letter height of twenty-four (24) inches. In complexes with alpha designations, letter size must match numbers. All addressing must be legible, of a contrasting color, and adequately illuminated to be visible from street at all hours.
88. The Applicant/Developer shall submit three (3) sets of construction drawings to the Riverside County Fire Department Headquarters located at 77933 Los Montana's in Palm Desert for review and approval prior to issuance of any permits. Said

construction drawings shall demonstrate Project adherence to all provisions of the currently adopted Uniform Fire Code.

89. Applicant/Developer shall install a portable fire extinguisher, with a minimum rating of 2A-10BC, for every 3,000 sq. ft. and/or seventy-five (75) feet of travel distance. Fire extinguishers shall be mounted three and a half (3.5) to five (5) feet above finished floor, measured to the top of the extinguisher. Where not readily visible, signs shall be posted above all extinguishers to indicate their locations. Extinguishers must have current CSFM service tags affixed.
90. No hazardous materials shall be stored and/or used within the building, which exceeds quantities listed in 2016 California Building Code. No class I, II or IIIA of combustible/flammable liquid shall be used in any amount in the building, **unless approved through a plan review process.**
91. Exit designs, exit signs, door hardware, exit markers, exit doors, and exit path marking shall be installed per the 2016 California Building Code. **Exit door in extraction room must swing outward in the direction of exit discharge and must be equipped with panic hardware.**
92. Fire apparatus access roads shall be 24' in width with no parking allowed on either side of the access road with a 38' turning radius
93. Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus.
94. Fire Equipment such as electrical room doors, FACP, fire riser, roof access shall be labeled by the Applicant/Developer and be approved by the Fire Department.
95. Access shall be provided to all mechanical equipment located on the roof as per the 2016 California Mechanical Code.
96. Fire sprinklers shall be installed in all buildings greater than 3,600 square feet in floor area to the satisfaction of the Fire Marshal.
97. Shall install a fire alarm system.
98. Emergency and standby power systems shall be installed in accordance with CFC, CBC, NFPA 110, and NFPA 30.
99. An on-site acceptance test for generators shall be conducted as a final approval. The test of the transfer switch shall consist of electrically operating the transfer switch from the normal position to the alternate position and then return to the normal position.
100. No smoking sign shall be posted at generators.
101. NFPA 704 placard shall be posted where applicable.

102. Shall provide equipment technical data sheets for the access control egress door.
103. Shall provide equipment technical data sheets for the type of plastic to be hung in grow room. Shall be a minimum Class C finishing per CFC 803.9.
104. Shall submit separate plans for CO2 enriched environment and have a California licensed Engineer design to RCFD Technical Policy TP 16-005.
105. Shall submit separate plans for extraction system plans and have a California licensed Engineer design to RCFD Technical Policy TP 16-004.
106. Shall provide sequence of Operation for access control egress doors and shall comply with all requirements per CFC 1008.1.9.8
107. Shall provide equipment technical data sheets for the type of lamps to be used.

#### **MISSION SPRINGS WATER DISTRICT**

108. The applicant / developer shall comply with all rules, laws, ordinances, guidelines, and regulations of the Mission Springs Water District/Coachella Valley 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**