

## **DRAFT CONDITIONS OF APPROVAL**

**MEETING DATE:** August 13, 2019

**TITLE:** Desert Finest

**CASE NO:** CUP No. 10-14 Amendment

**PREPARED BY:** Patricia M Villagomez, Planning Technician

**REVIEWED BY:** Rebecca Deming, Community Development Director

### **Planning Department Project Specific Conditions**

1. This Conditional Use Permit Amendment is for the proposed project of the expansion of an approximately 1,900 square foot building (vacant suite to the north and first floor of the two-story building in the rear **ONLY**) for a total of 3,981 square feet building. The ancillary cannabis uses include light manufacturing, packaging, and cultivation up to 99 mature plants within an indoor facility.
2. Any future expansions or change of use (2<sup>nd</sup> floor) will require additional review and approval from the City. The 2<sup>nd</sup> floor is not part of the amendment; **NO** use clearance is permitted in this area.
3. The applicant/developer shall paint/update the exterior of the rear building to match/complement the structure being used for the business fronting Palm Drive. The colors and materials shall be submitted to the Planning Department for review and approval.
4. Applicant shall be required to obtain all necessary building permits for the construction of all/any tenant improvements to the building.
5. Any new mechanical equipment shall be submitted for review and approval and shall be screened from view.
6. The manufacturing on Phase II shall be limited to "Light Manufacturing" activities **ONLY**.
7. Prior to the issuance of the building permit of phase 1 & 2 the applicant/developer shall submit a security plan for review and approval by the Planning Department, Police Department, and the Cannabis Compliance Officers.

8. Applicant/developer shall be required to revise the Regulatory Permit with the City Manager's office.

**Standard Administrative Conditions**

9. The approval of Conditional Use Permit 10-14 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 August 13, 2021. Phase II will expire as provided by Municipal Code.
10. The applicant may request an extension of time for CUP 10-14, 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.
11. 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.
12. 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.
13. 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.
14. The development of the Project on the Project Site shall be in substantial compliance with the exhibits contained in the project file for CUP 10-14 as shown in all Exhibits attached hereto and incorporated herein by this reference.


15. 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.
16. 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.

17. The applicant/developer shall deliver within 5 (five) working 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. Any additional fees that may be attributed to the required filing of environmental documents shall be paid by the applicant/developer.

### **Standard Planning Conditions**

18. Any/all permits may be subject to revocation if the applicant/developer/project is not in compliance with all the conditions of approval contained herein.
19. Outdoor sales of sales of marijuana and marijuana products prohibited. Other types of activities or special events 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.
20. 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.

21. For any extractions that will be conducted, inspection and approval of those facilities will either be through our Fire Department or through a certified or other engineer as the City Manager deems appropriate for approving those types of operations.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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.
27. 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.
28. 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 onsite according to the approved site plan. Any change to the floor plan shall be subject to review and approval by the Planning Department.

### **Standard Graffiti Conditions**

29. 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.
30. 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.
31. 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.
32. 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.

### **Signs:**

33. No signage is approved under this permit (include unless sign application was submitted as part of the project)

34. 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.
35. All signs shall be Underwriters Laboratories approved or the equivalent.
36. All appropriate permits shall be pulled with the City's Building Department.

#### **Standard Lighting Conditions**

37. 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.
38. 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**

39. 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
40. 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.

41. 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.
42. 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.
43. 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.
44. 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.
45. 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 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**

46. 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.
47. Operations involving the use of cutting and welding shall be done in accordance with Chapter 35.
48. An approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on the site.

49. 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 Conditions**

50. The applicant/developer shall comply with all applicable federal, state and City laws and regulations.
51. The applicant/developer shall incorporate all aspects of Crime Prevention through Environmental Design for visual surveillance, access control and territorial reinforcement.
52. 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.
53. Applicant/developer shall adhere to the City's light standard and identify all light fixtures (wall mounted and pole lights) on the site plan.
54. Lighting shall provide face recognition at 100 feet.
55. The Police Department may require additional lighting to prevent unintended dark spots prior to final occupancy.
56. 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.
57. 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.

58. 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.
59. 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.
60. 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.
- 61. At no time shall any plant materials, plant products, or plant-derived products be visible from any public areas.
  - 62. 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.
  - 63. All delivery vehicles shall be equipped with GPS location equipment, which shall be maintained and available at all times.
  - 64. 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.
  - 65. 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.
  - 66. 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
  - 67. 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.
  - 68. Prior to issuance of occupancy permits the building plan will be amended to show the location of camera to be installed.

## **Fire Department Conditions**

### **ACCESS**

69. Fire Department emergency vehicle apparatus access road locations and design shall be in accordance with the California Fire Code, Desert Hot Springs Ordinance 596, and Riverside County Fire Department Standards. Plans must be submitted to the Fire Department for review and approval prior to building permit issuance. Fire lanes shall be at least 24 feet wide and all-weather hard surface.

### **WATER**

70. Fire Department water system(s) for fire protection shall be in accordance with the California Fire Code, Desert Hot Springs Ordinance 596, and Riverside County Fire Department Standards. Plans must be submitted to the Fire Department for review and approval prior to building permit issuance.

### **PHASE 1 IMPROVEMENTS**

71. FIRE CONSTRUCTION PERMITS REQUIRED – Submittal to the Office of the Fire Marshal for development, construction, installation and operational use permitting will be required.

### **PHASE 2 IMPROVEMENTS**

72.
  - a) CA Fire Code Section 102.3 “Change of use or occupancy” – establishes the requirement for this phase to comply with the current requirement of both the CA Fire and Building Codes. It is recognized that the change in occupancy to now include Extraction and Manufacturing facilities IS an increase in the prospective “hazards, based on life and fire risk,” than the existing/previous residential uses.
  - b) Due to the gross square feet area of the occupancy and building use exceeding 3,600 sq. ft., the CA Fire Code as amended by the Desert Hot Springs Ordinance 596 establishes retroactive requirements for automatic suppression systems for the structure, up to the qualifying fire-rated wall assembly in compliance with CBC Section 706.
  - c) FIRE CONSTRUCTION PERMITS REQUIRED – Submittal to the Office of the Fire Marshal for development, construction, installation and operational use permitting will be required.
  - d) Submit Tenant Improvement and Occupancy Use plans that adequately identify rated separations from neighboring parcels and structures in compliance with current CA Building Codes.

**These conditions are preliminary and further review will occur upon receipt of building plans. Additional conditions may be necessary at that time.**

**Engineering Department Conditions**

73. There shall be no encroachment into the 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.
74. At no time shall any adjacent streets for the project be allowed to 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 Manager.
75. All on-site paving, curbs and gutters, sidewalks, ramps and other site work shall be constructed to City standards, subject to the improvement plans approved by the City Engineer.
76. 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.
77. No nuisance water shall escape the site onto public streets.

**Water and Wastewater Conditions**

78. The developer shall comply with all rules, laws, ordinances, guidelines, and regulations of the District at the time that any new water service application is submitted.
79. There are existing domestic water meters with backflow protection serving the property, one listed with each address.
80. The parcel east of the public alley (APN 641-101-006) that is shown as existing landscaped parking and retention has separate landscape meter in accordance with MSWD ordinances.
81. The parcel north of and adjacent to the project (APN 641-101-006) is incorporated into this project to provide additional parking and will require addition of ¾" backflow preventers in accordance with MSWD Std. Dwg. W-14 prior to any paving or demolition on this parcel.

82. Should the additional parking include any new landscaping, a dedicated irrigation meter with a meter size backflow preventer in accordance with MSWD Std. Dwg. W-14.
83. The site plan call out for deferred approval of an automatic fire suppression system, if this included fire sprinklers, then the following two corrections, 80 and 81 shall apply.
84. Installation of private fire line services may be required per Riverside County Fire Department Standards. Double check detector assemblies (DCDA) per MSWD Standards will be a requirement at the time of installation.
85. The developer must submit hydraulic calculations to the District indicating the availability of the required fire flows as determined by the Riverside County Fire Department. These calculations shall be based on a current fire hydrant flow test which can be ordered through the MSWD Engineering Department.
86. The developer shall provide plumbing plans with fixture units for District review of meter and service size.
87. The developer shall be responsible for any additional costs and shall replenish the MSWD plan check and inspection account.

### **Sewer Service**

Sewer service is available for the proposed project provided the following conditions of service are completed:

88. The developer shall comply with all rules, laws, ordinances, guidelines, and regulations of the District at the time the sewer service application is submitted.
89. MSWD requires submittal of proposed plumbing plans showing all connections to the public sewer system and the size and location of the proposed lateral for the project.
90. No drainage from marijuana cultivation areas shall discharge into the public sewer system, any drainage from these areas shall be drained or pumped to a holding tank to be treated or removed from the property for legal disposal at an approved facility.
91. If any drainage from marijuana cultivation areas is considered MSWD will require a Report of Waste Discharge for the project. MSWD will review the waste water quality and determine if any pretreatment process will be required or approved. The report shall be prepared by a qualified Licensed Professional

Engineer in accordance with requirements currently in use by the California State Water Resources Control Board.

### **Landscape**

#### **As applicable per City requirements:**

All new and rehabilitated residential and commercial development shall comply with the *Mission Springs Water District's Water Efficient Landscaping Guidelines* (guidelines are available at [www.mswd.org](http://www.mswd.org)). This policy requires outdoor water conservation practices within the MSWD 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. For additional details regarding plan check and inspection fees, please contact Theresa Murphy via email at [tmurphy@mswd.org](mailto:tmurphy@mswd.org) or (760) 329-6448 ext. 126.

**END**