

## **DRAFT CONDITIONS OF APPROVAL**

**MEETING DATE:** October 8, 2019

**TITLE:** TOBA DAY SPA CONDITIONAL USE PERMIT NO. 07-18  
to construct and operate a ground-floor day spa with hot mineral waters on 0.18 acres, including treatment rooms, steam rooms and saunas, with a second-story post-and-beam open roof structure and four (4) upper-level soaking tubs.

**CASE NO:** CONDITIONAL USE PERMIT (CUP 07-18)

**PREPARED BY:** Judy Deertrack, Planning Assistant

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

### **Project Specific Conditions**

1. Applicant shall provide appropriate signage and directional arrows for the proposed one-way curved driveway as shown on the site plan exhibits. The Planning Department and Building Department have reserved the right of inspection and review of the driveway and parking design at time of Building Permit Issuance.
2. All parking areas shall provide 25% permanent shading for parked vehicles, as provided for under DHSMC 17.48.060 (N) Shading. Applicant has provided a landscaping plan in conjunction with a roof overhang design to accommodate this planning standard. The Municipal Section provides that any reasonable combination of shading methods can be utilized, as long as they are effective.
3. Applicant will be utilizing an on-site well to supply hot mineral water to the project. Applicant shall comply with all regulations and requirements of the Riverside County Health Department pursuant to California Water Code Section 13801(c) with respect to well operations, together with full compliance with the regulations and requirements of the Mission Springs Water District, including specification of water use and water disposal sources for residual hot mineral waters and water used for the planted landscape.
4. Applicant is prohibited from using highly reflective aluminum, other metal panels, or finishing materials that are incompatible with the neighborhood and district on the building exterior or roofing. Materials used shall conform with the structure's overall design character in a manner to complement and enhance the neighborhood environment.

### **Standard Administrative Conditions**

5. The approval for Conditional Use Permit No. 07-18 is subject to the expiration provisions of the City's Zoning Ordinance, as provided in 17.76.070 Conditional Use Permit Expiration.
6. Per the City's Zoning Ordinance Section 17.76.090, the applicant may request a one-year time extension of said permit(s) upon filing for a time extension(s) at least 30 days prior to expiration. The Planning Commission may grant said time extension for good cause, a time extension not to exceed twelve (12) months.
7. 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.
8. 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.
9. All development on the project site shall comply 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.
10. No Certificate of Occupancy (C of O) shall be granted until all Conditions of Approval have been completed and approved by the Planning, Engineering, Building, and Fire Departments and/or the City Manager and Chief of Police, unless otherwise identified herein.
11. The development of the project on the project site shall be in substantial

compliance with the exhibits contained in the project file for CUP 07-18 as shown in all Exhibits attached hereto and incorporated herein by this reference.

12. 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.

13. 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 \$50.00 to enable the City to file a Notice of Exemption required pursuant to California Code of Regulations. 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.

#### **Standard Planning Conditions**

14. Any/all permits may be subject to revocation if the applicant/developer/project is not in compliance with all conditions of approval contained herein.
15. 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.
16. 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.
17. 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.

18. 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. 
19. All mechanical equipment, either roof or ground mounted, 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.
20. The applicant shall submit a Sign Permit to be approved by the staff to include the following:
  - a. 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.
21. 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.
22. 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. 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

#### **Standard Building & Safety Conditions**

19. 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.

20. 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.
21. 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.
22. 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.
23. 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.
24. 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**

25. 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.
26. Operations involving the use of cutting and welding shall be done in accordance with Chapter 35.

27. An approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on the site.
28. 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.

### **Fire Department Conditions**

29. With respect to the conditions of approval for the referenced project, the Fire Department requires the following fire protection measures be provided in accordance with Desert Hot Springs Ordinances and/or recognized fire protection standards. Questions should be directed to the Riverside County Fire Department, Office of the Fire Marshal at 77933 Las Montanas #201, Palm Desert, CA 92211 (Phone: 760-863-8886).

#### **ACCESS**

30. 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.

#### **WATER**

31. 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.

#### **FIRE SPRINKLER SYSTEM REQUIRED**

32. Deferred submittal of plans shall be provided to the appropriate Office of the Fire Marshal representative to be reviewed and approved prior to installation. Phased inspections will be required to be completed in association with the rough piping and final acceptance. (Currently: Riverside County Fire Department – Office of the Fire Marshal, 77933 Las Montanas Rd. #201, Palm Desert, CA 92211 (Phone (760) 863-8886).

#### **FIRE CONSTRUCTION PERMITS REQUIRED**

33. Submittal to the Office of the Fire Marshal for development, construction, installation and operational use permitting will be required.

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

### **Engineering Conditions**

35. Applicant/developer shall submit the annexation packet and pay the Five Thousand Dollars (\$5,000.00) cost for the City's consultant to annex into the Community Facilities District No. 2010-1 and the City fee for processing the request. The annexation packet shall be submitted prior to issuance of grading permit, and the annexation shall be completed prior to the issuance of an occupancy permit. The Community Facilities District No. 2010-1 is for the maintenance of:
- a. Landscape/Hardscape
  - b. Streetlights
  - c. Drainage Basins/Storm Drain Facilities/Storm Water Retention System Facilities
36. Applicant/developer shall submit the annexation packet and pay the Five Thousand Dollars (\$5,000.00) cost for the City's consultant to annex into PTAX2 and the City fee for processing the request. The annexation packet shall be submitted prior to issuance of grading permit, and the annexation shall be completed prior to the issuance of an occupancy permit.
37. Applicant/developer shall submit the following items for approval from the Engineering Department:
- a. Grading Plans
  - b. Storm Drain/Drainage Plans/Storm Water Retention Systems Facilities Plans
  - c. Street Improvement Plans
  - d. Street Signage, Striping, and Street Lighting Plans
  - e. Soils Report
  - f. Hydrology Report
  - g. Water Quality Management Plan/Erosion Control Plan
  - h. Storm Water Pollution Prevention Plan
  - i. PM10 Dust Mitigation Plan
  - j. Composite Utility Plans
  - i. (Sewer and Water Plans – submit to Mission Springs Water District)
38. All grading plans for the project shall be in compliance with the requirements of the City of Desert Hot Springs and the City Engineer. These requirements may include geotechnical, soils, dust control, erosion control, or other submittals to the satisfaction of the City Engineer.
39. All grading plans and improvement plans shall be coordinated for consistency prior to the issuance of any permits and prior to the issuance of building permits with the proper pad certification from a licensed engineer.
40. 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.

41. The developer will be required to construct all parking spaces, parking areas and driveways to a 1% slope on AC and 0.5% slope on PCC to drain to an approved drainage facility onsite or City Storm Drain Facility as approved by the City Engineer.
42. The design of the on-site grading and the storm drainage improvements shall be coordinated with all adjacent projects to the satisfaction of the City Engineer.
43. Applicant/developer is required to construct all transition and missing links between existing and proposed improvements.
44. Any slopes exceeding 3' will need to have an in-ground water system and be planted with plant material to be approved by the Planning Department prior to Certificates of Occupancy per the City of Desert Hot Springs Zoning Ordinance 17.56.100.
45. All wall heights, wall types, and wall setbacks must be approved with the Planning Department, and subject to a separate Building Permit.
46. All project associated sidewalks, ramps, and landings shall be compliant with the Americans with Disability Act.
47. All overhead utilities less than 92kv, located within the project boundaries, bordering the project and/or fronting the project shall be undergrounded.
48. Applicant/developer shall submit a project specific Hydrology Report, using Riverside County Flood Control and Water Conservation District's Hydrology Manual for City review and approval.
49. 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. The retention basin shall be designed with a maximum depth of 5 feet and maximum side slopes of 3:1 and shall not be used for purposes other than for the collection of storm water, nuisance water and well blow-off water. Alternate methods may be provided with the approval of the City Engineer.

- a. Any other facilities required in the drainage/hydrology study shall be

designed and installed as detailed in Section 15.68, Flood Plain Management, and Section 15.72 Floodplain Construction of the Desert Hot Springs Municipal Code.

- b. All retention basins/systems shall be located on site; off-site retention basins/systems are specifically prohibited.
  - c. Retention Basin Vehicular Access - vehicular access shall be provided for maintenance of the retention basins to the satisfaction of the City Engineer. The City Engineer shall determine the need and/or design of such access. The grading of a "road" to the bottom shall comply with health and safety standards and shall meet the requisite design requirements including geometries and capacity of the basin(s). Maintenance of retention basins and drainage system shall be the responsibility of the applicant/property owner/operator.
- 50. 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.
  - 51. Applicant/developer shall submit grading plans to California Department of Fish and Wildlife to obtain clearance prior to issuance of grading permit.
  - 52. The developer will be required to install any improvements to any off-site facility if damaged during construction to the satisfaction of the City Engineer.
  - 53. Applicant/developer shall comply with the National Pollution Discharge Elimination System (NPDES) requirements per the California Regional Water Quality Control Board (RWQCB) regulations. The applicant/developer shall submit a Project Specific Stormwater Pollution Prevention Plan (SWPPP) to comply with the California General Permit for Stormwater Discharges Associated with the Construction Activity, prior to the issuance of a grading permit. For projects larger than 1 acre, the applicant/developer shall obtain all required permits from the California Regional Water Quality Control Board (RWQCB) and submit a copy of the Notice of Intent (NOI) and the Waste Discharge Identification Number (WDID#) to the City's Public Works Department prior to the issuance of the any grading permit. For further information contact the RWQCB at:

California Regional Water Quality Control Board (RWQCB)  
Colorado River Basin Region  
73-720 Fred Waring Drive #100  
Palm Desert, CA 92260  
(760) 346-7491  
[www.waterboards.ca.gov/colorariver](http://www.waterboards.ca.gov/colorariver)

- 54. 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.

55. Applicant/developer shall construct full street improvements on the following streets below. The street improvements shall include construction of asphalt concrete pavement, curb/gutter, sidewalk, streetlights, catch basins, storm drains, and fully landscaped and irrigated along the property frontage;
  - a. Ocotillo Road, one-half street improvements on the east side from centerline to ultimate right-of-way of 30 feet.
56. If the property is located in a Federal Emergency Management Act (FEMA) flood zone an Elevation Certificate shall be provided to the Engineering Department prior to final grading signoff. In lieu of elevating the site, a Floodproofing Certificate for Non-Residential Structures may be filed with the Engineering Department for the project and approved prior to issuance of an occupancy permit.
57. A soil compaction report and pad certification shall be prepared and submitted to the Engineering Department for approval prior to issuance of any building permits.
58. 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.
59. If imported or exported soil material is necessary to balance the grading on the site, a separate grading plan and haul permit approval is necessary before transport of the material.
60. Applicant/developer/contractor shall comply with section 8.08 Recycling and Diversion of Waste from Construction and Demolition of the Municipal Code. An applicant may arrange exclusively with the City's preferred hauler to remove construction and demolition waste for recycling or diversion from a project, and submit written evidence to the City, whereupon certain Chapter 8.08 requirements of applicant may be waived.
61. If the applicant/developer requests a Temporary Certificate of Occupancy before all the improvements are completed the applicant/developer shall submit the following items for approval with the submittal of the Improvement Agreement for the project;
  - a. Soils Report
  - b. Title Report
  - c. Grading Plans
  - d. Hydrology Report
  - e. Preliminary Traffic Impact Report
  - f. Street Improvement Plans
  - g. Engineer's Estimate of the incomplete improvements

62. If the applicant/developer requests a Temporary Certificate of Occupancy before all the improvements are completed the applicant/developer shall file an improvement agreement with security to guarantee completion of public improvements as follows:
- a. A faithful performance security in an amount deemed sufficient by the City Engineer to cover up to 100% of the total estimated cost of all required improvements, including bonding requirements for grading as outlined in the Municipal Code.
  - b. A labor and material security to cover up to 50% of the total estimated cost of all required improvements.
  - c. A monumentation security in an amount stipulated by the City Engineer to cover the cost of placing lot corners and other related monuments.
  - d. If the required project improvements are financed and installed pursuant to special assessment proceedings, upon the furnishing by the contractor of the faithful performance and labor and material security required by the special assessment act being used, the City may reduce the improvement security of the applicant/developer by an amount corresponding to the amount of the security furnished by the contractor.
  - e. Notwithstanding the above, the applicant/developer may satisfy the requirement for security of certain improvements by providing proof that same has been posted with another public agency subject to the approval of the City Engineer.
63. Security may be one of the following types subject to the approval of the City Engineer and City Attorney as to form:
- a. Bonds - All bonds shall be executed by a surety company authorized to transact business as a surety, and have an agent for service in California, together with an acceptable policy holder's rating. The bond(s) shall contain the nearest street address of the institution providing the bond(s).
  - b. Cash Deposits - In lieu of the faithful performance and labor and material bonds, the developer may submit cash deposits or negotiable bonds of a kind approved for securing deposits of public monies under the conditions hereinafter described.
    - i. Disbursements from cash deposits shall be made in compliance with a separate agreement between the developer and the City. A bookkeeping fee of 1% of the total amount deposited with the City for each cash deposit shall be submitted with each security. Disbursements from a cash deposit in any instance shall not be permitted unless and until authorized in writing by the City Engineer.
64. All improvement agreements shall be approved by the City Attorney and City Council. Security for the agreement shall be approved by the City Attorney and Finance Director.

## **Water Service**

65. Water service is available for the proposed project provided the following conditions of service are completed:
66. The developer shall comply with all rules, laws, ordinances, guidelines, and regulations of the Mission Springs Water District (MSWD or District) at the time the water service application is submitted.
67. There is an existing 8" water main located on the east side of Ocotillo Road that will be the point of connection for new fire, irrigation, and domestic service. Connection to the 4" ACP water in the rear easement of the property will not be allowed.
68. The developer shall comply with all the District standards, specifications and conditions, and have final approval of all design plans by the District Engineer or his/her designee, and the District General Manager.
69. 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 Engineering Department.
70. The developer is required to apply for water service and submit payment for District fees, charges, and deposits. The water meter and connection fees will be based on the actual meter sizes and quantities shown on the approved plans. All fees are subject to change based on the time of application for services from the District.
71. All new commercial developments are required to install a dedicated irrigation meter as well as a domestic meter.
72. The developer shall provide signed plumbing plans showing domestic water demands in fixture units and gallons per minute.
73. The installation of backflow prevention devices will be required for all domestic, irrigation, and fire service connections.
74. The project includes a private well and the developer shall provide plans that assure that there is no cross connection between well water and either public domestic or irrigation water systems.
75. 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.

76. MSWD requires having all of its facilities within the public right-of-way or recorded and dedicated easements to be dedicated prior to construction.

#### **Sewer Service**

77. Sewer service is available for the proposed project provided the following conditions of service are completed:
78. The developer shall comply with all rules, laws, ordinances, guidelines, and regulations of the Mission Springs Water District at the time the sewer service application is submitted.
79. Sewer service to the existing 8" main in Ocotillo Road is available through an existing 4" diameter lateral which does not meet MSWD requirements for 6" minimum lateral for commercial. The developer shall submit signed calculations showing that the flows will not exceed the capacity of the existing lateral or shall abandon the existing lateral and install a new 6" diameter lateral in accordance with MSWD requirements.
80. The developer shall comply with all the District standards, specifications and conditions, and have final approval of all design plans by the District Engineer or his/her designee, and the District General Manager.
81. The developer/property owner shall complete an application for sewer service with payment of all applicable fees, charges and deposits at the time of application (i.e., multi-family, residential, commercial sewer connection fees per current MSWD fee schedules).
82. The developer shall comply with all Sewer Ordinances and the Rules and Regulations per Ordinance 2008-02 Section 3.01 and 8.04 (as amended by 2009-02 Sections 7.01 to 7.20). As applicable, this will also ensure that the applicant complies with the Fats, Oils, and Grease Program (FOG).
83. The developer shall provide signed plumbing and/or site plans confirming that no drainage water from the spas, pools, or filters will discharge into the public sewer system.

#### **Landscape, as applicable per City requirements:**

84. 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 at (760) 329-6448 ext. 126.

#### **Hot Water Well Conditions**

85. Applicant/developer shall comply with all rules, laws, ordinances, guidelines, and regulations of the Mission Springs Water District for wells, 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 wells, water service and wastewater disposal have been obtained.

**END**