REPORT TO THE HEARING OFFICER

HEARING DATE: March 25, 2015

ATTENTION: Hearing Officer

SUBJECT: 3515 HANCOCK STREET MMCC
PROJECT NUMBER: 368338

LOCATION: 3515 Hancock Street

APPLICANT: Brad Termini

SUMMARY

Issue(s): Should the Hearing Officer approve a Conditional Use Permit and a Variance to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in a 3,425 square foot tenant space within an existing 26,300 square foot building within the Midway/Pacific Highway Corridor Community Plan Area?

Staff Recommendation: DENY Conditional Use Permit No. 1293508 and Variance No. 1351898. (NOTE: There are four competing MMCCs within 1,000 feet of each other on today’s docket. The Hearing Officer can approve only one of these MMCC’s pursuant to the San Diego Municipal Code’s 1,000 foot minimum distance separation requirement).

Community Planning Group Recommendation: On July 16, 2014, the Midway Community Planning Group voted 10-0-0 to approve the project with the conditions (attachment 10).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15303, New Construction or Conversion of Small Structures on October 22, 2014 (Attachment 8). An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on January 13, 2015. The scope of the Hearing Officer’s decision only includes the project, and not the environmental determination.

BACKGROUND

In 1996 the people of the State of California passed Proposition 215, the Compassionate Use Act, which allows the use of marijuana for medical purposes when recommended by a physician
and excludes the patient and the primary caregiver from criminal prosecution. In 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP) became law. The MMP requires the California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. In 2008, the California Attorney General established guidelines for Medical Marijuana Collective Operations and allowed cities to adopt and enforce laws consistent with the MMP.

On March 25, 2014, the City of San Diego adopted Ordinance No. O-20356, to implement zoning regulations for Medical Marijuana Consumer Cooperatives (MMCC). MMCC’s are allowed with a Conditional Use Permit, Process 3, Hearing Officer Decision. A limit of four MMCC’s per Council District (36 city-wide) was adopted in order to minimize the impact on the City and residential neighborhoods.

This proposed project is a request for a Conditional Use Permit (CUP) and a Variance to operate a MMCC in a 3,425 square foot tenant space located at 3515 Hancock Street is within an existing two-story building on a 0.06-acre site that does not meet the minimum 1,000 foot distance requirement from a park (Mission Bay). The MMCC site is located at 3515 Hancock Street, south of Interstate 8, west of Interstate 5 and north of Sport Arena Boulevard (Attachment 2). The site is in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area. The site was developed in 1972 per Building Permit No. G96078.

The site is designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. This community portion contains little residential development. The adjacent parcels to the MMCC are in the IS-1-1 zone and the existing uses are consistent with the Light Industrial designation of the community plan. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit within this community plan.

DISCUSSION

The project site located at 3515 Hancock Street is a 0.06-acre site developed with a 26,300 square foot two-story building which is currently being used as office, warehouse, and retail. The MMCC proposes interior improvements that include a reception area, dispensary area, storage, employee lounge and restroom. Public improvements include replacement of the two northwesterly driveways on Hancock Street with the same width in compliance City standard driveways and removal/relocation of an existing wood fence located in the public right-of-way adjacent the most southerly driveway.

MMCC’s must comply with San Diego Municipal Code (SDMC), Section 141.0614 which requires a 1,000 foot separation, measured between property lines, from; public parks, churches,
child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCC’s prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard for the tenant/facility space and directly adjacent area. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCC Conditional Use Permits expire five years from date of issuance. MMCC’s must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The proposed MMCC is within 1,000 feet of Mission Bay Park. Mission Bay Park is a public park (publicly owned area that is designated as a park) located north of Interstate 8. The regulations for MMCCs and the definition contained in SDMC 113.0103 do not differentiate between passive and active parks. Portions of Mission Bay Park within 1,000 feet of this MMCC are used for passive and active uses. This portion of Mission Bay Park includes the San Diego River and a bike path.

The proposed MMCC is separated from Mission Bay Park by Interstate 8. The interstate does provide a built barrier that separates the MMCC from the park, as there is no direct access between the two. SDMC 113.0225, requires that the distance from property line to property line be measured horizontally without regard to topography or structures that would interfere with a straight-line measurement.

Although the proposed MMCC is consistent with the land use designation of light industrial, it does not meet the minimum distance requirement based on a horizontal measurement across Interstate 8 to Mission Bay Park without taking into account the Interstate. Therefore the proposed project does not comply with the regulations of the Land Development Code.

The applicant is requesting a Variance for the required 1,000 foot distance requirement. Staff is unable to support the Variance as there are no special circumstances or conditions applying to the land or premises for which the variance is sought that would deprive the applicant of reasonable use of the land or premises. The 0.06-acre site is consistent with the size, shape and topography of surrounding parcels, all within the IS-1-1 Zone. The existing 26,300 square foot building was constructed in 1972 per Building Permit No. G96078 in compliance with all development regulations. This proposed tenant space does not qualify for a MMCC CUP however; there are a wide range of industrial and nonindustrial land uses allowed in this zone.

The applicant has voluntarily agreed to the following conditions in order avoid adverse impact to the community: 1) operable surveillance cameras and a metal detector to the satisfaction of the San Diego Police Department 2) the cameras shall have and use a recording device that maintains the records for a minimum of 30 days 3) an armed security guard to the extent the possession of a firearm by the security guard is not in conflict with 18 U. S.C. § 922(g) and 27 C.F.R. § 478.11. Nothing herein shall be interpreted to require or allow a violation of federal firearms laws 4) the security guard is required to be on the premises 24 hours a day, seven days a week and 5) graffiti must be removed within 24 hours (Attachment 4, Conditions Number 16 & 20).
The City of San Diego, Development Services staff has reviewed the 1,000 foot radius map (Attachment 6) and 1,000 foot spreadsheet exhibit (Attachment 7) provided by the applicant identifying all the existing uses. Staff has determined that the proposed MMCC does not meet the minimum distance requirements. If the Hearing Officer determines that the findings can be made, the permit has been conditioned to include all development restrictions and the applicant has willingly proposed additional conditions in order to avoid adverse impacts upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area.

CONCLUSION

The Conditional Use Permit for the proposed MMCC may be approved if the Hearing Officer finds that the MMCC meets all applicable regulations. Staff has reviewed the proposed MMCC and has determined that it does not meet all applicable sections of the San Diego Municipal Code, the Midway/Pacific Highway Corridor Community Plan and the General Plan. Staff is recommending denial of the project as proposed.

ALTERNATIVE

1. Approve Conditional Use Permit No. 1293508 and Variance No. 1351898, with modifications.

2. Deny Conditional Use Permit No. 1293508 and Variance No. 1351898, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

Edith Gutierrez, Development Project Manager
Attachments:

1. Aerial Photograph
2. Project Location Map
3. Community Plan Land Use Map
4. Draft Permit with Conditions
5. Draft Permit Resolution with Findings
6. 1000 Foot Radius Map
7. 1000 Foot Radius Map Spreadsheet
8. Notice of Right to Appeal
9. Project Site Plan(s)
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Not Used
13. Applicant Variance Findings
Location Aerial Photo

3515 HANCOCK ST MMCC – 3515 Hancock Street
PROJECT NO. 368338
Project Location Map
3515 HANCOCK ST MMCC – 3515 Hancock Street
PROJECT NO. 368338
Proposed Land Uses
Midway / Pacific Highway Corridor Community Plan
City of San Diego • Community and Economic Development

Land Use Map
3515 HANCOCK ST MMCC – 3515 Hancock Street
PROJECT NO. 368338
INTERNAL ORDER NUMBER: 24004651

CONDITIONAL USE PERMIT NO. 1293508
AND VARIANCE NO. 1351898
3515 HANCOCK STREET MMCC- PROJECT NO. 368338
HEARING OFFICER

This Conditional Use Permit No. 1293508 and Variance No. 1351898 are denied by the Hearing Officer of the City of San Diego to 3515 LTD., A CALIFORNIA LIMITED PARTNERSHIP, Owner and BRAD TERMINI, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305 and 126.0805. The 0.06-acre site is located at 3515 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area. The project site is legally described as: Lots 1-4 of Pickett Industrial Center, Map No. 6709, August 19, 1970.

Subject to the terms and conditions set forth in this Permit, permission is denied to Owner/Permittee to operate a Medical Marijuana Consumer Cooperative (MMCC) and subject to the City’s land use regulations described and identified by size, dimension, quantity, type, and location on the denied exhibits [Exhibit "A"] dated March 25, 2015, on file in the Development Services Department.

The project shall include:

a. Operation of a Medical Marijuana Consumer Cooperative (MMCC) in a 3,425 square foot tenant space within an existing 26,300 square foot building on a 0.06- acre site;

b. Existing landscaping (planting, irrigation and landscape related improvements);

c. Existing off-street parking
d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer’s requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by April 10, 2018.

2. This Conditional Use Permit [CUP] and corresponding use of this MMCC shall expire on April 10, 2020.

3. In addition to the provisions of the law, the MMCC must comply with: Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 6 of the San Diego Municipal Code.

4. No construction, occupancy, or operation of any facility or improvement described herein shall commence, nor shall any activity authorized by this Permit be conducted on the premises until:

   a. The Owner/Permittee signs and returns the Permit to the Development Services Department.

   b. The Permit is recorded in the Office of the San Diego County Recorder.

   c. A MMCC Permit issued by the Development Services Department is denied for all responsible persons in accordance with SDMC, Section 42.1504.

5. While this Permit is in effect, the MMCC shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

6. This Permit is a covenant running with the MMCC and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

10. Construction plans shall be in substantial conformity to Exhibit “A.” Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney’s fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney’s fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.
PLANNING/DESIGN REQUIREMENTS:

13. The use within the 3,425 square foot building shall be limited to the MMCC and any use permitted in the IS-1-1 Zone.

14. Consultations by medical professionals shall not be a permitted accessory use at the MMCC.

15. Lighting shall be provided to illuminate the interior of the MMCC, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.

16. Security shall include operable cameras and a metal detector to the satisfaction of the San Diego Police Department, alarms, and an armed security guard to the extent the possession of a firearm by the security guard is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R. § 478.11. Nothing herein shall be interpreted to require or allow a violation of federal firearms laws. The security guard shall be licensed by the State of California and be on the premises 24 hours a day, seven days a week. The security guard should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the records for a minimum of 30 days.

17. The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the MMCC in character size at least two inches in height.

18. The MMCC shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.

19. The use of vending machines which allow access to medical marijuana except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this section and condition, a vending machine is any device which allows access to medical marijuana without a human intermediary.

20. The Owner/Permittee or operator shall maintain the MMCC, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed within 24 hours.

21. Medical marijuana shall not be consumed anywhere within the 0.06-acre site.

22. The Owner/Permittee or operator shall post anti-loitering signs near all entrances of the MMCC.

23. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Sign colors and typefaces are limited to two. Ground signs shall not be pole signs. A sign is required to be posted on the outside of the MMCC and shall only contain the name of the business.
ENGINEERING REQUIREMENTS:

24. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the replacement of the two northwesterly driveways with the same width current City standard driveways, on Hancock Street, per Standard Drawing SDG-159, satisfactory to the City Engineer.

25. Prior to the issuance of any building permit, the Owner/Permittee shall remove/relocate the existing wood fence, located adjacent the most southerly driveway, from Hancock Street right-of-way, satisfactory to the City Engineer.

TRANSPORTATION REQUIREMENTS:

26. No fewer than 26 parking spaces including 2 accessible space (43 spaces, including 2 accessible spaces are proposed), shall be maintained on the property at all times in the approximate locations shown on Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.

POLICE DEPARTMENT RECOMMENDATION:

27. The San Diego Police Department recommends that a Crime Prevention Through Environmental Design (CPTED) review be requested by their department and implemented for the MMCC.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.

- This development may be subject to impact fees at the time of construction permit issuance.

DENIED by the Hearing Officer of the City of San Diego on March 25, 2015 and Resolution No. HO-XXXX.
Conditional Use Permit No. 1293508 & Variance No. 1351898/PTS No. 368324
Date of Denial: March 25, 2015

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

____________________________________________
Edith Gutierrez
Development Project Manager

NOTE: Notary acknowledgment must be attached per Civil Code section 1189 et seq.

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

3515 LTD, A CALIFORNIA LIMITED PARTNERSHIP
Owner

By __________________________
William T. Fiedler
Holder

BRAD TERMINI
Permittee

By __________________________
Brad Termini
Permittee

NOTE: Notary acknowledgments must be attached per Civil Code section 1189 et seq.
WHEREAS, 3515 LTD., A CALIFORNIA LIMITED PARTNERSHIP, Owner and BRAD TERMINI filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) in a 3,425 square foot tenant space within an existing 26,300 square foot building (as described in and by reference to the Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1293508), on portions of a 0.06-acre site;

WHEREAS, the project site is located at 3515 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area;

WHEREAS, the project site is legally described as Lots 1-4 of Pickett Industrial Center, Map 6709, August 19, 1970;

WHEREAS, on March 25 2015, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1287965 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on October 22, 2014, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures); and the Environmental Determination was appealed to City Council, which heard and denied the appeal on January 13, 2015 pursuant to Resolution No. 309477;

NOW, THEREFORE, BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer approves the following written Findings, dated March 25, 2015.

FINDINGS:

Conditional Use Permit Approval – Section §126.0305

1. The proposed development will not adversely affect the applicable land use plan.

The proposed project is a request for a Conditional Use Permit to operate a MMCC in a 3,425 square foot building. The 0.06-acre site is located at 3515 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area.
The site is designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. This community portion contains little residential development. All of the surrounding parcels are in the IS-1-1 zone and the existing uses are consistent with the Light Industrial designation of the community plan. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit and is consistent with the community plan, therefore will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The proposed 3,425 square foot tenant space located at 3515 Hancock Street is within an existing two-story building. The project proposes interior improvements to include a reception area, dispensary area, storage, employee lounge and restroom. Public improvements include replacement of the two northwesterly driveways on Hancock Street with the same width in compliance City standard driveways and removal/relocation of an existing wood fence located in the public right-of-way adjacent the most southerly driveway.

The City of San Diego conducted an environmental review of this site in accordance with the California Environmental Quality Act (CEQA) guidelines. The project was determined to be categorically exempt from CEQA pursuant to Section 15303 (New Construction or Conversion of Small Structures).

MMCs are restricted to four per Council District, 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. MMCCs require compliance with San Diego Municipal Code (SDMC), section 141.0614 which require a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The proposed interior improvements include a reception area, dispensary area, storage, employee lounge and restroom and will require a ministerial building permit. The building permit will require compliance with the California Uniform Building Code, Fire, Plumbing, Electrical, and Mechanical Codes.

The project requires compliance with the development conditions in effect for the subject property as described in Conditional Use Permit No. 1293508. The Conditional Use Permit is valid for five years, however may be revoked if the use violates the terms, conditions, lawful requirements, or provisions of the permit.

The referenced regulations and conditions have been determined as necessary to avoid adverse impact upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area and therefore, the proposed MMCC will not be detrimental to the public health, safety and welfare.
3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The proposed 3,425 square foot tenant space located at 3515 Hancock Street is within an existing two-story building on a 0.06-acre site. The site is in the IS-1-1 Zone and was developed in 1972 per Building Permit No. G96078. The project proposes interior improvements that include a reception area, dispensary area, storage, employee lounge and restroom. Public improvements include replacement of the two northwesterly driveways on Hancock Street with the same width in compliance City standard driveways and removal/relocation of an existing wood fence located in the public right-of-way adjacent the most southerly driveway.

MMCCs are allowed in the IS-1-1 Zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to comply with SDMC, section 141.0614 which requires a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The proposed MMCC is within 1,000 feet of Mission Bay Park. Mission Bay Park is a public park (publicly owned area that is designated as a park) located north of Interstate 8. The regulations for MMCCs and the definition contained in SDMC 113.0103 do not differentiate between passive and active parks. Portions of Mission Bay Park within 1,000 feet of this MMCC are used for passive and active uses. This portion of Mission Bay Park includes the San Diego River and a bike path.

The proposed MMCC is separated from Mission Bay Park by the interstate. The interstate does provide a built barrier that separates the MMCC from the park, as there is no direct access between the two. SDMC 113.0225, requires that the distance from property line to property line be measured horizontally without regard to topography or structures that would interfere with a straight-line measurement.

Although the proposed MMCC is consistent with the land use designation of light industrial, it does not meet the minimum distance requirement based on a horizontal measurement across Interstate 8 to Mission Bay Park without taking into account the Interstate. Therefore the proposed project does not comply with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

The proposed 3,425 square foot tenant space located at 3515 Hancock Street is within an existing two-story building on a 0.06-acre site. The site is in the IS-1-1 Zone and designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. This community portion contains little residential development. The proposed MMCC, classified as commercial
services, is consistent with the community plan. All of the surrounding parcels are in the IS-1-1 zone and the existing uses are consistent with the Light Industrial designation of the community plan.

The San Diego Municipal code limits MMCCs to commercial and industrial zones and the number of MMCCs to only four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods.

MMCCs are allowed in the IS-1-1 Zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to comply with SDMC, section 141.0614 which requires a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The proposed MMCC is within 1,000 feet of Mission Bay Park. Mission Bay Park is a public park (publicly owned area that is designated as a park) located north of Interstate 8. The regulations for MMCCs and the definition contained in SDMC 113.0103 do not differentiate between passive and active parks. Portions of Mission Bay Park within 1,000 feet of this MMCC are used for passive and active uses. This portion of Mission Bay Park includes the San Diego River and a bike path.

The proposed MMCC is separated from Mission Bay Park by the interstate. The interstate does provide a built barrier that separates the MMCC from the park, as there is no direct access between the two. However, SDMC 113.0225, requires that the distance from property line to property line be measured horizontally without regard to topography or structures that would interfere with a straight-line measurement.

Although the proposed MMCC is allowed in the IS-1-1 Zone and consistent with the land use designation of Light Industrial, it does not meet the minimum distance requirement based on a horizontal measurement across Interstate 8 to Mission Bay Park. The proposed project does not comply with the minimum distance requirement of SDMC, Section 141.0614, as it is within 1,000 feet of a park and therefore the proposed MMCC is not an appropriate location.

Variance Approval – Section §126.0805

1. There are special circumstances or conditions applying to the land or premises for which the variance is sought that are peculiar to the land or premises and do not apply generally to the land or premises in the neighborhood, and these conditions have not resulted from any act of the applicant after the adoption of the applicable zone regulations.

The existing 26,300 square foot two-story building located at 3515 Hancock Street is on at 0.06-acre site in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area. MMCCs are allowed in the IS-1-1 Zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to
ATTACHMENT 5

comply with SDMC, section 141.0614 which requires a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. This site is within 1,000 feet of a public park and therefore does not comply with the distance requirement. There are no special circumstances or conditions applying to the land or premises for which the variance is sought that would deprive the applicant of reasonable use of the land or premises. The 0.06-acre site is consistent with the size, shape and topography of surrounding parcels, all within the IS-1-1 Zone. The existing 26,300 square foot building was constructed in 1972 per Building Permit No. G96078 in compliance with all development regulations. This proposed tenant space does not qualify for a MMCC CUP however, there are a wide range of industrial and nonindustrial land uses allowed in this zone.

2. The circumstances or conditions are such that the strict application of the regulations of the Land Development Code would deprive the applicant of reasonable use of the land or premises and the variance granted by the City is the minimum variance that will permit the reasonable use of the land or premises.

There are no special circumstances or conditions applying to the land or premises for which the variance is sought that would deprive the applicant of reasonable use of the land or premises. The 0.06-acre site is consistent with the size, shape and topography of surrounding parcels, all within the IS-1-1 Zone. The existing 26,300 square foot building was constructed in 1972 per Building Permit No. G96078 in compliance with all development regulations. This proposed tenant space does not qualify for a MMCC CUP however, there are a wide range of industrial and nonindustrial land uses allowed in this zone.

3. The granting of the variance will be in harmony with the general purpose and intent of the regulations and will not be detrimental to the public health, safety, or welfare.

Granting a variance for 3515 Hancock Street would not be in harmony with the general purpose and intent of the regulations and would be detrimental to the public health, safety and welfare of the Midway/Pacific Highway Corridor Community Plan Area as it does not meet the distance requirements for a MMCC. There are several other sites within the immediate area that meet all of the development regulations for a MMCC without the request for a variance.

4. The granting of the variance will not adversely affect the applicable land use plan. If the variance is being sought in conjunction with any proposed coastal development, the required finding shall specify that granting of the variance conforms with, and is adequate to carry out, the provisions of the certified land use plan.

The site is designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The proposed MMCC, classified as commercial services, is a compatible use in the Light Industrial designation with a Conditional Use Permit; however the community plan also requires that proposed uses comply with the development regulations of the municipal code. This site does not meet the required 1,000 foot separation, measured between property lines, from a public park. Therefore, granting of the variance would adversely affect the land use plan.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1293508 is hereby DENIED by the Hearing Officer to the referenced
Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1293508, a copy of which is attached hereto and made a part hereof.

Edith Gutierrez
Development Project Manager
Development Services

 Adopted on: October 29, 2014

Job Order No. 24004715
NOTE: NO RESIDENTIAL ZONES WITHIN 100 FEET OF PIQ

3515 Hancock St

1.000' RADIUS

This map is provided for information purposes only; it is not a plat or survey of the land depicted. This map is furnished as a convenience to locate the land indicated herein with reference to streets and other land. The company assumes no liability for any loss occurring by reason of reliance thereon.
<table>
<thead>
<tr>
<th>APN</th>
<th>First Owner Name</th>
<th>Full Site Address</th>
<th>Business Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>435-480-16-00</td>
<td>City Of San Diego</td>
<td>City use</td>
<td>City use</td>
</tr>
<tr>
<td>441-581-09-00</td>
<td>City Of San Diego</td>
<td>City use</td>
<td>City use</td>
</tr>
<tr>
<td>441-581-11-00</td>
<td>Sinner Brothers Inc</td>
<td>Sinner Bros Cemetery Products</td>
<td>Sinner Bros Cemetery Products</td>
</tr>
<tr>
<td>441-581-13-00</td>
<td>Russell Pond</td>
<td>Russell Pond Architects</td>
<td>Russell Pond Architects</td>
</tr>
<tr>
<td>441-581-17-00</td>
<td>Sedlock Development Co LP</td>
<td>Hancock Street Cafe</td>
<td>Hancock Street Cafe</td>
</tr>
<tr>
<td>760-102-88-00</td>
<td>Mooers Trust</td>
<td>Brazil by the Bay, Capoeira Brazilian Cultural Arts</td>
<td>Brazil by the Bay, Capoeira Brazilian Cultural Arts</td>
</tr>
<tr>
<td>441-540-16-00</td>
<td>Wells-Sherman L LC</td>
<td>Vacant Commercial lot</td>
<td>Vacant Commercial lot</td>
</tr>
<tr>
<td>441-581-20-00</td>
<td>Peters Trust</td>
<td>Vacant Industrial Lot</td>
<td>Vacant Industrial Lot</td>
</tr>
<tr>
<td>441-340-20-00</td>
<td>Peters Trust</td>
<td>Vacant Industrial Lot</td>
<td>Vacant Industrial Lot</td>
</tr>
<tr>
<td>441-340-21-00</td>
<td>Peters Trust</td>
<td>Vacant Industrial Lot</td>
<td>Vacant Industrial Lot</td>
</tr>
<tr>
<td>441-530-40-00</td>
<td>Wells-Kemper L LC</td>
<td>SUBJECT</td>
<td>SUBJECT</td>
</tr>
<tr>
<td>441-530-49-00</td>
<td>3515 Limited</td>
<td>SUBJECT</td>
<td>SUBJECT</td>
</tr>
<tr>
<td>441-530-50-00</td>
<td>3515 Limited</td>
<td>SUBJECT</td>
<td>SUBJECT</td>
</tr>
<tr>
<td>441-530-70-00</td>
<td>C &amp; G Hicock LLC</td>
<td>S &amp; F Motorsports</td>
<td>S &amp; F Motorsports</td>
</tr>
<tr>
<td>441-581-02-00</td>
<td>Calderon Family Trust 08-16-88</td>
<td>Five Star Fish Processing</td>
<td>Five Star Fish Processing</td>
</tr>
<tr>
<td>441-581-08-00</td>
<td>Williams Trust</td>
<td>Hancock Street</td>
<td>Hancock Street</td>
</tr>
<tr>
<td>441-581-19-00</td>
<td>Simon &amp; Associates LLC</td>
<td>Vacant Lot</td>
<td>Vacant Lot</td>
</tr>
<tr>
<td>441-581-24-00</td>
<td>Wells-Sherman L LC</td>
<td>Vacant Lot</td>
<td>Vacant Lot</td>
</tr>
<tr>
<td>441-582-34-00</td>
<td>Toma Family Trust No 3 05-03-10</td>
<td>San Diego Ice</td>
<td>San Diego Ice</td>
</tr>
<tr>
<td>441-540-18-00</td>
<td>Peters Trust</td>
<td>Vacant Industrial lot</td>
<td>Vacant Industrial lot</td>
</tr>
<tr>
<td>441-581-03-00</td>
<td>Spouses</td>
<td>Vacant Warehouse</td>
<td>Vacant Warehouse</td>
</tr>
<tr>
<td>760-102-04-00</td>
<td>Pier One Imports</td>
<td>3220 Sports Arena Blvd</td>
<td>3220 Sports Arena Blvd</td>
</tr>
<tr>
<td>760-102-05-00</td>
<td>Victor Schulmann</td>
<td>3240 Sports Arena Blvd</td>
<td>3240 Sports Arena Blvd</td>
</tr>
<tr>
<td>760-102-01-00</td>
<td>Probuild Company LLC</td>
<td>3250 Sports Arena Blvd</td>
<td>3250 Sports Arena Blvd</td>
</tr>
<tr>
<td>441-581-20-00</td>
<td>Sweetwater Plaza East L LC</td>
<td>Luz Engineering, Dewalt Sheetmetal</td>
<td>Luz Engineering, Dewalt Sheetmetal</td>
</tr>
<tr>
<td>441-582-32-00</td>
<td>Kenton Properties L LC</td>
<td>SCA Tansmission</td>
<td>SCA Tansmission</td>
</tr>
<tr>
<td>441-582-14-00</td>
<td>Calderon Building Maintenance Inc</td>
<td>Purosino Furniture</td>
<td>Purosino Furniture</td>
</tr>
<tr>
<td>760-102-70-00</td>
<td>Kathr Huntington</td>
<td>Dixeline</td>
<td>Dixeline</td>
</tr>
<tr>
<td>441-582-13-00</td>
<td>Simon &amp; Associates LLC</td>
<td>So Cal Construction &amp; Design</td>
<td>So Cal Construction &amp; Design</td>
</tr>
<tr>
<td>441-582-33-00</td>
<td>Kenton Properties L LC</td>
<td>SCA Tansmission</td>
<td>SCA Tansmission</td>
</tr>
<tr>
<td>441-582-19-00</td>
<td>Sedlock Development Co LP</td>
<td>Hagberg Environmentally Green</td>
<td>Hagberg Environmentally Green</td>
</tr>
<tr>
<td>760-102-32-00</td>
<td>City Of San Diego</td>
<td>SOMA</td>
<td>SOMA</td>
</tr>
<tr>
<td>441-582-12-00</td>
<td>Marco1 L &amp; Sheyla Zouvi</td>
<td>San Diego Westy</td>
<td>San Diego Westy</td>
</tr>
<tr>
<td>441-582-20-00</td>
<td>Marouf Family Trust</td>
<td>Roei Construction</td>
<td>Roei Construction</td>
</tr>
<tr>
<td>441-582-11-00</td>
<td>Pamela Roach</td>
<td>JR Smog &amp; Repair</td>
<td>JR Smog &amp; Repair</td>
</tr>
<tr>
<td>441-582-21-00</td>
<td>Toma Family Trust No 3 05-03-10</td>
<td>JJI Flooring</td>
<td>JJI Flooring</td>
</tr>
<tr>
<td>441-582-22-00</td>
<td>Toma Family Trust No 3 05-03-10</td>
<td>San Diego Ice</td>
<td>San Diego Ice</td>
</tr>
<tr>
<td>441-582-10-00</td>
<td>Herbst Trust</td>
<td>Jacobs Woodworks</td>
<td>Jacobs Woodworks</td>
</tr>
<tr>
<td>Phone</td>
<td>Name</td>
<td>Address</td>
<td>Type</td>
</tr>
<tr>
<td>---------</td>
<td>-----------------------------</td>
<td>--------------------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>441-330-33-00</td>
<td>Jeffrey Taich</td>
<td>3584 Hancock St</td>
<td>Total Secure Shredding</td>
</tr>
<tr>
<td>441-330-46-00</td>
<td>Morris Family Trust 06-01-05</td>
<td>3585 Hancock St</td>
<td>R&amp;R Wine Marketing</td>
</tr>
<tr>
<td>441-330-45-00</td>
<td>Wells-Kemper L L C</td>
<td>3597 Hancock St</td>
<td>City Wide Cycles, Rail Tech, &amp; Fleet Welding</td>
</tr>
<tr>
<td>441-340-05-01</td>
<td>Peters Trust</td>
<td>3602 Kurtz St</td>
<td>Consignment Classics</td>
</tr>
<tr>
<td>441-340-05-02</td>
<td>Butler Trust</td>
<td>3602 Kurtz St</td>
<td>Consignment Classics</td>
</tr>
<tr>
<td>441-340-10-01</td>
<td>Butler Trust</td>
<td>3608 Kurtz St</td>
<td>Warehouse</td>
</tr>
<tr>
<td>441-340-10-02</td>
<td>Peters Trust</td>
<td>3608 Kurtz St</td>
<td>warehouse</td>
</tr>
<tr>
<td>441-330-66-00</td>
<td>Grafton Trust</td>
<td>3610 Hancock St</td>
<td>Cement Cutting Inc</td>
</tr>
<tr>
<td>441-340-03-01</td>
<td>Butler Trust</td>
<td>3612 Kurtz St</td>
<td>Anderson News Company</td>
</tr>
<tr>
<td>441-340-03-02</td>
<td>Peters Trust</td>
<td>3612 Kurtz St</td>
<td>Anderson News Company</td>
</tr>
<tr>
<td>441-340-19-00</td>
<td>Peters Trust</td>
<td>3620 Kurtz St</td>
<td>Advantage Towing</td>
</tr>
<tr>
<td>441-330-43-00</td>
<td>Brown Trust</td>
<td>3627 Hancock St</td>
<td>Storage Yard</td>
</tr>
<tr>
<td>441-330-35-00</td>
<td>Berlage Frank No 33818</td>
<td>3630 Hancock St</td>
<td>PlusOne Surfboards</td>
</tr>
<tr>
<td>441-330-42-00</td>
<td>Brown Trust</td>
<td>3647 Hancock St</td>
<td>Construction Fence Rental</td>
</tr>
<tr>
<td>760-102-02-00</td>
<td>City Of San Diego</td>
<td>3650 Hancock St</td>
<td>Reconstruction Warehouse</td>
</tr>
<tr>
<td>441-330-62-00</td>
<td>Moses Khouli</td>
<td>3650 Hancock St 3660</td>
<td>Reconstruction Warehouse</td>
</tr>
<tr>
<td>441-330-41-00</td>
<td>Groeppe Revoc Trust 07-31-07</td>
<td>3665 Hancock St</td>
<td>Traditional Boat Works</td>
</tr>
<tr>
<td>441-330-65-00</td>
<td>Steve Family Trust 3</td>
<td>3691 Hancock St</td>
<td>Eberhard Benton Roofing</td>
</tr>
<tr>
<td>760-102-06-00</td>
<td>Sports Arena Village Ltd</td>
<td>3730 Sports Arena Blvd 3760</td>
<td>Ments Fashion Depot</td>
</tr>
<tr>
<td>760-102-69-00</td>
<td>Matthew C &amp; Iris Strauss</td>
<td>3760 Hancock St 3780</td>
<td>Sunglass &amp; Optical Warehouse</td>
</tr>
<tr>
<td>441-330-22-00</td>
<td>Jeffrey Taich</td>
<td>3801 Picket St</td>
<td>Road One Towing</td>
</tr>
<tr>
<td>441-330-16-00</td>
<td>Calderon Family Trust B 08-16-88</td>
<td>3822 Sherman St</td>
<td>Calderon Building Maintenance</td>
</tr>
<tr>
<td>441-330-01-00</td>
<td>Lougeay Family Trust 12-18-95</td>
<td>3826 Sherman St</td>
<td>Green Fix Organic Smoothie</td>
</tr>
<tr>
<td>441-330-13-00</td>
<td>Wells-Sherman L L C</td>
<td>3860 Sherman St</td>
<td>Sunbelt Rentals</td>
</tr>
<tr>
<td>441-330-14-00</td>
<td>Wells-Sherman L L C</td>
<td>3870 Houston St</td>
<td>Sunbelt Rentals</td>
</tr>
<tr>
<td>441-330-21-00</td>
<td>Good Nite Inn Sea World Partners Etal</td>
<td>3880 Greenwood St</td>
<td>Good Nite Inn</td>
</tr>
<tr>
<td>441-330-24-00</td>
<td>Ess Prisa L L C</td>
<td>3883 Sherman St</td>
<td>Extra Space Storage</td>
</tr>
<tr>
<td>441-330-23-00</td>
<td>Newport Taft Inc</td>
<td>3888 Greenwood St</td>
<td>Hampton Inn</td>
</tr>
<tr>
<td>441-330-32-00</td>
<td>Leduc Trust</td>
<td>3910 Hilton St 3918</td>
<td>Guthrie &amp; Sons Heating &amp; Air</td>
</tr>
<tr>
<td>441-330-67-00</td>
<td>Bradley T Wright</td>
<td>3950 Hilton St 3970</td>
<td>Loch Motorsports</td>
</tr>
<tr>
<td>441-330-18-00</td>
<td>P S Ivanhoe L L C</td>
<td>3970 Sherman St 3990</td>
<td>HP Enterprise Services</td>
</tr>
<tr>
<td>441-330-28-00</td>
<td>Bradley T Wright</td>
<td>3990 Hilton St</td>
<td>Greenworks Dispensary</td>
</tr>
<tr>
<td>441-330-56-00</td>
<td>George &amp; Kim Ayoub</td>
<td>4009 Hilton St</td>
<td>SD Water Sport Boat Rentals</td>
</tr>
<tr>
<td>441-330-63-00</td>
<td>George &amp; Kim Ayoub</td>
<td>4009 Hilton St</td>
<td>SD Water Sport Boat Rentals</td>
</tr>
<tr>
<td>441-330-69-00</td>
<td>C &amp; G Hicock Llc</td>
<td>4010 Hilton St</td>
<td>Unoccupied</td>
</tr>
<tr>
<td>441-330-59-00</td>
<td>Moore Family Trust 03-12-04</td>
<td>4019 Hilton St</td>
<td>Marty Moores Motor Homes</td>
</tr>
<tr>
<td>441-330-68-00</td>
<td>C &amp; G Hicock Llc</td>
<td>4020 Hilton St</td>
<td>S &amp; F Motorsports</td>
</tr>
<tr>
<td>441-330-38-00</td>
<td>City Of San Diego</td>
<td>Hancock</td>
<td>City use</td>
</tr>
<tr>
<td>435-480-17-00</td>
<td>City Of San Diego</td>
<td>Sea World Dr</td>
<td>City use</td>
</tr>
<tr>
<td>441-590-04-00</td>
<td>City Of San Diego</td>
<td>Sports Arena Blvd</td>
<td>City use</td>
</tr>
</tbody>
</table>
NOTICE OF RIGHT TO APPEAL
ENVIRONMENTAL DETERMINATION
DEVELOPMENT SERVICES DEPARTMENT
SAP No. 24004651

PROJECT NAME/NUMBER: 3515 Hancock Street MMCC/368338
COMMUNITY PLAN AREA: Midway/Pacific Highway Corridor Community Plan
COUNCIL DISTRICT: 2
LOCATION: The project is located at 3515 Hancock Street, San Diego, CA 92110

PROJECT DESCRIPTION: The proposed project is a request for a Conditional Use Permit (CUP) for a Medical Marijuana Consumer Cooperative (MMCC). The facility is proposing to operate the MMCC within 3,425 sq. ft. of a 26,300 sq. ft. existing building located at 3515 Hancock Street. The 0.06-acre site is located within the Midway/Pacific Highway Corridor Community Plan Area, IS-1-1 Zone, the Airport Influence Area for San Diego International Airport, the Part 77 Noticing Area, and the Coastal Height Limitation Overlay Zone. The community plan designates the site as Light Industrial.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Designated Staff

ENVIRONMENTAL DETERMINATION: CEQA Exemption 15303 (New Construction or Conversion of Small Structures)

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment. The project meets the criteria set forth in CEQA Section 15303 which allows for the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The exceptions listed in CEQA Section 15300.2 would not apply.

DEVELOPMENT PROJECT MANAGER: Edith Gutierrez
MAILING ADDRESS: 1222 First Avenue, MS 501
San Diego, CA 92101
PHONE NUMBER: (619) 446-5147

On October 22, 2014, the City of San Diego made the above-referenced environmental determination
pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (November 5, 2014). The appeal application can be obtained from the City Clerk, 202 ‘C’ Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.
3515 HANCOCK STREET M.M.C.C.

FLOOR PLAN

DEVELOPMENT SUMMARY:

PROPOSED CONDITIONAL USE PERMIT FOR M.M.C.C. EXISTING BUILDING
DEVOTED TO THE DISPLAY/STORAGE OF VINTAGE, ANTIQUE, COLLECTIBLES, AND PERSONAL ART COLLECTABLES WITHIN THE EXISTING BUILDING

REQUESTED PERMITS:
CONDITIONAL USE PERMIT (CUP)

OWNER:
BILL FIEDLER, PRESIDENT, GENERAL PARTNER
OWNER:
3515, LTD., A CALIFORNIA LIMITED PARTNERSHIP

BILL FIEDLER, PRESIDENT, GENERAL PARTNER

BILL FIEDLER, PRESIDENT, GENERAL PARTNER

DATE OF PREPARATION:
APRIL 23, 2014

LEGAL DESCRIPTION:
LOTS 1, 2, 3, AND 4 OF MAP 6709 SHEET 1.

OWNER:
BRAD TERMINI
BRAD TERMINI, G.P.
3515 HANCOCK STREET M.M.C.C.

LEGAL INDEX:
LOT 1.

PREPARED BY:
LANDMARK CONSULTING
9555 GENESSEE AVE. STE 200
SAN DIEGO, CA 92121
PHONE: (858)-587-8070
FAX: (858)-587-8750

FLOOR PLAN SHEET 2 OF 2

NOT A PART

ROLL UP DOOR

STORAGE (SHELVING)

FLOOR PLAN

NOT A PART

ATTACHMENT 9
Community Planning Committee
Distribution Form Part 2

<table>
<thead>
<tr>
<th>Project Name:</th>
<th>Project Number:</th>
<th>Distribution Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1515 Hancock St MMCC</td>
<td>368338</td>
<td>5/9/14</td>
</tr>
</tbody>
</table>

Project Scope/Location:

MIDWAY-ACIFIC HIGHWAY - Commercial Use Permit (Process 3) for a Medical Marijuana Consumer Cooperative (MMCC) to operate within Hancock Street, within an existing 26,100 square foot building located at 3615 Hancock Street. The 0.61-acre site is located within the Midway-Chula Vista Community Plan Area, Council District 2 Notice Card 12.

Applicant Name: Dungan, Brian

Applicant Phone Number: (619) 603-9478

Project Manager: Gutierrez, Edith

Phone Number: (619) 446-5147

Fax Number: (619) 446-5245

E-mail Address: EGutierrez@sandiego.gov

Committee Recommendations: To be completed for Initial Review:

- [ ] Vote to Approve
- [ ] Vote to Approve With Conditions Listed Below
- [ ] Vote to Approve With Non-Binding Recommendations Listed Below
- [ ] Vote to Deny

- [ ] No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)

- [ ] Continued

CONDITIONS: See attached sheet

NAME: Melodie Nickel

SIGNATURE: Melodie Nickel

TITLE: Chair

DATE: 7-16-14

ATTACHMENT 10
Midway Community Planning Group action on project # 368338. 3515 Hancock St.

Note: the Planning Group based its review entirely on compliance with the Midway/Pacific Highway Community Plan. We did not attempt to apply the additional restrictions in the MMCC ordinance, which will be up to the city to evaluate.

Our approval is CONDITIONAL. The conditions are:

1. That the City does not find this business to be located within 1,000 square feet of any use designated as needing a minimum separation requirement.
2. That the City should evaluate Valley View Casino Center (Sports Arena) to see if it qualifies as a “minor oriented facility”.
3. That the City finds that this application meets all of the Medical Marijuana ordinance requirements.
4. That there will be a minimum of 10 parking spaces (9 plus one ADA space) designated to this facility.
Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval(s) requested:
- Neighborhood Use Permit
- Coastal Development Permit
- Neighborhood Development Permit
- Site Development Permit
- Planned Development Permit
- Conditional Use Permit
- Variance
- Tentative Map
- Vesting Tentative Map
- Map Waiver
- Land Use Plan Amendment
- Other

Project Title: 3515 Hancock MMEC, LLC
Project No. For City Use Only: 368338

Project Address: 3515 Hancock St., San Diego, CA 92110

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved/executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached [ ] Yes [ ] No

Name of Individual (type or print):

[ ] Owner [ ] Tenant/Lessee [ ] Redevelopment Agency

Bill Fiedler, 3515 Ltd.

Street Address: 4575 Savannah St.
City/State/Zip: San Diego, CA
Phone No: 619-236-2535 Fax No: 4/23/2014

Signature: [Signature]
Date: [Date]

Name of Individual (type or print):

[ ] Owner [ ] Tenant/Lessee [ ] Redevelopment Agency

Street Address:
City/State/Zip: San Diego, CA
Phone No: Fax No:

Signature: [Signature]
Date: [Date]

Name of Individual (type or print):

[ ] Owner [ ] Tenant/Lessee [ ] Redevelopment Agency

Street Address:
City/State/Zip: San Diego, CA
Phone No: Fax No:

Signature: [Signature]
Date: [Date]

Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services
Upon request, this information is available in alternative formats for persons with disabilities.

DS-318 (5-05)
**Part II - To be completed when property is held by a corporation or partnership**

**Legal Status (please check):**

- [ ] Corporation
- [ ] Limited Liability -or- General
- [ ] Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **Note:** The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. **Additional pages attached**  

<table>
<thead>
<tr>
<th>Corporate/Partnership Name (type or print):</th>
<th>3515 Hancock LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Address:</td>
<td>4890 Savannah St.</td>
</tr>
<tr>
<td>City/State/Zip:</td>
<td>San Diego, CA 92110</td>
</tr>
<tr>
<td>Phone No:</td>
<td>Fax No: 619-278-2835</td>
</tr>
<tr>
<td>Name of Corporate Officer/Partner (type or print):</td>
<td>Bill Fiedler</td>
</tr>
<tr>
<td>Title (type or print):</td>
<td>Signature: Date: 4/23/14</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Corporate/Partnership Name (type or print):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Address:</td>
</tr>
<tr>
<td>City/State/Zip:</td>
</tr>
<tr>
<td>Phone No:</td>
</tr>
<tr>
<td>Fax No:</td>
</tr>
<tr>
<td>Name of Corporate Officer/Partner (type or print):</td>
</tr>
<tr>
<td>Title (type or print):</td>
</tr>
<tr>
<td>Signature: Date:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Corporate/Partnership Name (type or print):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Address:</td>
</tr>
<tr>
<td>City/State/Zip:</td>
</tr>
<tr>
<td>Phone No:</td>
</tr>
<tr>
<td>Fax No:</td>
</tr>
<tr>
<td>Name of Corporate Officer/Partner (type or print):</td>
</tr>
<tr>
<td>Title (type or print):</td>
</tr>
<tr>
<td>Signature: Date:</td>
</tr>
</tbody>
</table>
FINDINGS TO SUPPORT VARIANCE FROM § 141.0614(a)(1)
FOR APPLICATION BY 3515 HANCOCK MMCC, LLC,
FOR A MEDICAL MARIJUANA CONSUMER COOPERATIVE

Background facts: The proposed site for a medical marijuana consumer cooperative to be located at 3515 Hancock Street is located within 1,000 feet of the extreme southern end of the San Diego River, which is technically part of Mission Bay Park. As a consequence, the City, in its letter dated June 13, 2014, has stated that the application of 3515 Hancock MMCC, LLC, cannot be approved, because the minimum separation requirements of Section 141.0614(a)(1) (which mandates, inter alia, that the property lines of medical marijuana consumer cooperatives be at least 1,000 feet from public parks). 3515 Hancock Street is, however, separated from the San Diego River by eight lanes of the I-8 freeway, as well as fences and concrete barriers bordering that freeway. There is absolutely no way that one can access 3515 Hancock from the closest point along the San Diego River section of Mission Bay Park by traveling 1,000 feet “as the crow flies.” (See Attachment A.)

Applicant’s response: Applicant is supplementing its application by requesting a variance from the 1,000 foot separation requirement as it pertains to proximity to the San Diego River. (Section 126.0802 provides that a “variance may be requested for proposed development that would not comply with an applicable development regulation of the Land Development Code ....”)

Proposed findings to support a variance: Pursuant to Section 126.0801, the “purpose of variance procedures is to provide relief for cases in which, because of special circumstances applicable to the property including size, shape, topography, location or surroundings, the strict application of the development regulations would deprive the property of privileges enjoyed by other property in the vicinity and under the same land use designation and zone.”

(a) There are at least five (5) other applications for medical marijuana consumer cooperatives pending in the same land use designation in the Midway-Pacific Highway Corridor Community Plan (Light Industrial) and in the same zone (IS-1-1), that are located within blocks of 3515 Hancock Street that are at least as accessible to users of the San Diego River as is 3515 Hancock, but which are not barred as a location for a medical marijuana consumer cooperative under the 1,000-foot separation requirement imposed by Section 141.0614(a)(1). These five applications include the following: 3421 Hancock Street [Project No. 368301], 3430 Hancock Street [Project No. 368291], 3452 Hancock Street [Project No. 368344], 3486 Kurtz Street [Project No. 368321], and 3487 Kurtz Street [Project No. 368326]). (See Attachments A through G.) In fact, there is an impassable barrier – the eight-lane I-8 freeway along with concrete barriers and fences – between the San Diego River section of Mission Bay Park and any of the pending applications for cooperatives south of that freeway. The three other identified project applicants on Hancock Street and Kurtz Street whose sites are not within 1,000 feet “as the crow flies” of the San Diego River section of Mission Bay Park are actually more accessible to Mission Bay Park than is 3515 Hancock Street. (See Attachments B, C, D, E and discussion below under (c).) Similarly, the two identified project applicants on Kurtz Street are also not within 1,000 feet “as the crow flies” of the San Diego River section of Mission Bay Park and are as accessible to Mission Bay Park as is 3515 Hancock Street. (See
Attachments F & G.) Thus, there is a special circumstance or condition – location within 1,000 feet “as the crow flies” of the San Diego River – that does not apply to other premises in the same neighborhood, and this condition has not resulted from any act of the applicant.

(b) Strict application of the 1,000 foot separation requirement from the San Diego River would deprive 3515 Hancock MMCC, LLC, of reasonable use of its property for a medical marijuana dispensary, and the variance from that requirement is the minimum variance that will permit that reasonable use of the property at 3515 Hancock Street. If a medical marijuana consumer cooperative is a “reasonable use” of 3421 Hancock Street, 3430 Hancock Street, 3452 Hancock Street – which are actually more accessible from Mission Bay Park than is 3515 Hancock Street (see Attachments B, C, D, and E and discussion under (c) below), then strict application of Section 141.0614(a)(1) with respect to proximity to Mission Bay Park would deprive the applicant of reasonable use of its property. Similarly, if a medical marijuana consumer cooperative is a “reasonable use” of 3486 Kurtz Street and 3487 Kurtz Street – which are equally as accessible in terms of walking distance to Mission Bay Park as is 3515 Hancock Street (see Attachments F and G), then strict application of Section 141.0614(a)(1) with respect to proximity to Mission Bay Park would deprive the applicant of reasonable use of its property.

(c) The granting of the requested variance will be in harmony with the general purpose and intent of the separation requirements of the provisions of the Municipal Code allowing medical marijuana consumer cooperatives (Section 141.0614), in that the obvious intent of the requirement that such uses be at least 1,000 feet from a public park was to prevent the location of a cooperative within easy walking distance of minors using such a public park. Here, there is absolutely no way a minor (or anyone of any age) could travel 1,000 feet by foot, bike, scooter, or otherwise (except perhaps by helicopter) from any part of Mission Bay Park and access 3515 Hancock Street. Rather, the shortest route to access 3515 Hancock Street from the most proximate part of the San Diego River area of Mission Bay Park (specifically, the Ocean Beach bike path) is 1.5 miles following a route shown on Attachment B (and this route takes 28 minutes by foot). Indeed, it should be noted that the three above-identified other applicants located at 3421 Hancock Street, 3430 Hancock Street, and 3452 Hancock are actually more accessible to the San Diego River section of Mission Bay Park than is 3515 Hancock (even though 3421, 3430, and 3452 Hancock are not within 1,000 feet “as the crow flies” from the San Diego River). Specifically, as shown by Attachments C, D and E, 3421 Hancock Street, 3430 Hancock Street and 3452 Hancock Street are closer in actual travel distance and travel time – 1.3 miles and 27 minutes for both 3421 and 3430 Hancock, and 1.4 miles and 27 minutes for 3452 Hancock Street – than is 3515 Hancock Street. See Attachments B, C, D and E. Also, the two project applicants at 3468 Kurtz Street and 3487 Kurtz Street are just as close in travel distance from Mission Bay Park as is 3515 Hancock Street – 1.5 miles – yet those properties on Kurtz Street are not within 1,000 feet “as the crow flies” from the San Diego River.
(d) The granting of the requested variance will not adversely affect the Midway/Pacific Highway Corridor Community Plan. City Council, in adopting Ordinance Number O-20356, determined that medical marijuana consumer cooperatives were considered to be commercial retail facilities and should be located within certain specified industrial and commercial zoning districts, including IS-1-1. The site that is the subject of 3515 Hancock MMCC, LLC’s application is designated for Light Industrial use in the Midway/Pacific Highway Corridor Community Plan. Therefore, the use is consistent with the Midway/Pacific Highway Corridor Community Plan and there are no policies in that plan that would suggest that the proposed use is not appropriate at 3515 Hancock.
Walking directions to 3515 Hancock St, San Diego, CA 92110

32.759319, -117.210453
Ocean Beach Bike Path

1. Head east on Ocean Beach Bike Path
2. Slight right to stay on Ocean Beach Bike Path
3. Turn right onto Pacific Hwy
4. Slight right to stay on Pacific Hwy
5. Turn right onto Rosecrans St
6. Turn right onto Hancock St

Destination will be on the left

3515 Hancock St
San Diego, CA 92110
Walking directions to 3421 Hancock St, San Diego, CA 92110

32.759319, -117.210453
Ocean Beach Bike Path

1. Head east on Ocean Beach Bike Path
2. Slight right to stay on Ocean Beach Bike Path
3. Turn right onto Pacific Hwy
4. Slight right to stay on Pacific Hwy
5. Turn right onto Rosecrans St
6. Turn right onto Hancock St

Destination will be on the left
ATTACHMENT D
5°N 117°12'37.6"W (32.759319, -117.210453)

3430 Hancock St, San Diego, CA

Add Destination - Show options

GET DIRECTIONS

Ocean Beach Bike Path and Hancock St

Walking directions to 3430 Hancock St, San Diego, CA 92110

32.759319, -117.210453

Ocean Beach Bike Path

1. Head east on Ocean Beach Bike Path

2. Slight right to stay on Ocean Beach Bike Path

3. Turn right onto Pacific Hwy

4. Slight right to stay on Pacific Hwy

5. Turn right onto Rosecrans St

6. Turn right onto Hancock St

Destination will be on the right

3430 Hancock St
San Diego, CA 92110
Walking directions to 3452 Hancock St, San Diego, CA 92110

32.759319, -117.210453
Ocean Beach Bike Path

1. Head east on Ocean Beach Bike Path
2. Slight right to stay on Ocean Beach Bike Path
3. Turn right onto Pacific Hwy
4. Slight right to stay on Pacific Hwy
5. Turn right onto Rosecrans St
6. Turn right onto Hancock St
   Destination will be on the right

3452 Hancock St
San Diego, CA 92110
Get directions to 3486 Kurtz St, San Diego, CA 92110

Walking directions to 3486 Kurtz St, San Diego, CA 92110

32.759319, -117.210453
Ocean Beach Bike Path

1. Head east on Ocean Beach Bike Path
2. Slight right to stay on Ocean Beach Bike Path
3. Turn right onto Pacific Hwy
4. Slight right to stay on Pacific Hwy
5. Turn right onto Rosecrans St
6. Turn right onto Kurtz St

3486 Kurtz St
San Diego, CA 92110
ATTACHMENT G
Walking directions to 3487 Kurtz St, San Diego, CA 92110

1. Head east on Ocean Beach Bike Path
2. Slight right to stay on Ocean Beach Bike Path
3. Turn right onto Pacific Hwy
4. Slight right to stay on Pacific Hwy
5. Turn right onto Rosecrans St
6. Turn right onto Kurtz St

Destination will be on the left

3487 Kurtz St
San Diego, CA 92110