



THE CITY OF SAN DIEGO

## Report to the Hearing Officer

DATE ISSUED: March 17, 2021 REPORT NO. HO-21-013

HEARING DATE: March 24, 2021

SUBJECT: Harbor Collective Cannabis Outlet CUP Amendment, Process Three Decision

PROJECT NUMBER: [652745](#)

REFERENCE: [Report No. PC-15-078](#)

OWNER/APPLICANT: Basil Shamoun, Owner  
NS Harbor, Inc., a California Corporation, Permittee

### SUMMARY

Issue: Should the Hearing Officer approve the request to amend previously approved Conditional Use Permit (CUP) No. 1337996 to allow continued sales of cannabis/cannabis products as a Cannabis Outlet at an existing 1,083-square-foot facility located at 2405 Harbor Drive in the BLPD-Subdistrict D Zone within the Barrio Logan Community Plan area?

Staff Recommendation: Approve CUP No. 2372402.

Community Planning Group Recommendation: On June 17, 2020, the Barrio Logan Planning Group voted 5-1-0 to recommend approval of the proposed project with no additional conditions (Attachment 8).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15303, New Construction or Conversion of Small Structures. This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on October 20, 2020, and the opportunity to appeal that determination ended November 3, 2020 (Attachment 6).

### BACKGROUND

The 0.04-acre project site is located at 2405 Harbor Drive in the Barrio Logan Planned District (BLPD-Subdistrict D) and the IH-2-1 Zone, Airport Influence Area (San Diego International Airport), Transit Priority Area, Parking Impact Overlay Zone, Coastal Overlay Zone (Non-Appealable Review Area 2), and First Public Roadway within the Barrio Logan Community Plan area.

The project site is designated for Exclusively Industrial land use within the Barrio Logan/Harbor 101 Community Plan. Industrial Heavy zones are intended for land-intensive industrial activities emphasizing base-sector manufacturing. IH-2-1 allows manufacturing uses with some office. The 0.04-acre project site is zoned both BLPD-Subdistrict D and the IH-2-1, however, the existing Medical Marijuana Consumer Cooperative (MMCC)/proposed Cannabis Outlet (CO) is located within the BLPD-Subdistrict D. The surrounding parcels are within the BLPD-Subdistrict D or IH-2-1 zones, and the existing uses are consistent with the land use designation. When the City of San Diego City Council adopted Ordinance O-20793, which replaced the former MMCC use with the current cannabis retail sales use category.

On June 25, 2015, CUP No. 1337996 was granted by the City of San Diego Planning Commission to the Owner and Permittee to operate a MMCC within the 1,083-square-foot tenant space. On November 8, 2016, the Control, Regulate and Tax Adult Use of Marijuana Act became law and allowed for recreational cannabis sales in California. On February 22, 2017, the City of San Diego City Council adopted Council Ordinance O-20793, replacing the MMCC use with a new retail sales use category, Marijuana Outlet (MO) and the existing MMCC has been allowed to operate as a CO under the terms of the ordinance. On January 8, 2020, the San Diego Municipal Code (SDMC) was amended by Council Ordinance [O-21163](#). The revision replaced the word "marijuana" with "cannabis", to reflect consistency with the State of California cannabis regulations.

On July 30, 2020, the SDMC was amended by Council Ordinance [O-21221](#). The revision changed the Cannabis Outlet CUP amendment process from a Process Three decision to a Process Two decision, if the project qualifies under SDMC Section 141.0504 (n). These regulations are currently in effect city-wide outside the Coastal Zone, and are pending approval by the California Coastal Commission (Commission) for locations within the Coastal Zone. Amendments as adopted by O-21221 will not apply within the Coastal Overlay Zone until the Commission certifies the regulatory change through a Local Coastal Program Amendment. On January 21, 2021, Commission staff made a [request](#) for a time extension due to insufficient time to adequately review the SDMC amendment and prepare a recommendation under Covid-19 constraints. This request was approved by the Commission on February 10, 2021 to extend the 60-day time limit to act on the City of San Diego LCP Amendment No. LCP-6-SAN-20-0076-4 for one year. As this project is located within the Coastal Zone, and amendment via Process 2 is not yet available, this application for amendment to the existing CUP must be processed as a Process Three, Hearing Officer decision.

The existing 1,083-square-foot tenant space is currently being used for the retail sale of medicinal and recreational cannabis and cannabis products. The associated building permits, inspections and approvals to establish the retail sales use have been obtained to the satisfaction of the Building Official. All conditions per CUP No. 1337996, including public improvements for the installation of City standard curb, gutter and sidewalk, along the project frontage on East Harbor Drive, have been satisfied. The business is current with respect to any tax obligations per the Office of the City Treasurer.

## DISCUSSION

The proposed project is a request to amend previously approved CUP No. 1337996 to allow continued sales of cannabis/cannabis products as a Cannabis Outlet at an existing 1,083-square-foot tenant space within an existing 1,966-square-foot, one-story building at 2405 Harbor Drive.

The CUP amendment includes conditions to ensure the facility's operations and continued use of the building for cannabis retail sales will not be detrimental to the public health, safety and welfare or the surrounding neighborhood. The proposed Cannabis Outlet is subject to specific operational requirements and restrictions as set forth in SDMC Section 141.0504, and must comply with SDMC Chapter 4, Article 2, Division 15, which provides guidelines for required background checks and lawful operation. Conditions of the existing CUP required public improvements to install four new parking spaces, curb, gutter, sidewalk and landscaping within the public right-of-way along the Harbor Drive project frontage, and these improvements were installed to the satisfaction of the City Engineer. The applicant is currently working with the City Streets Division under work order #40300263216 regarding the installation of approximately 63 feet of green curb for three of the four existing on-street parking spaces along the site's frontage on Harbor Drive in order to increase parking turnover and availability through implementation of a 30 minute time limitation.

A review of the San Diego Police Department Call for Service report reveals no significant police activities at the subject location within the past three years. A compliance inspection was conducted on October 21, 2020 to evaluate the current cannabis business operation and latest permitted configuration of the existing facility and no issues were identified.

#### CONCLUSION

City staff has reviewed the proposed project and all issues identified through the review process have been resolved in conformance with adopted City Council policies and regulations of the Land Development Code. The proposed project complies with all development regulations of the BLPD-Subdistrict D Zone and no deviations are required to approve the project. Staff has provided draft findings (Attachment 4) and draft conditions of approval (Attachment 5) to support the proposed amendment. Staff is recommending the Hearing Officer approve the project as presented.

#### ALTERNATIVES

1. Approve Conditional Use Permit No. 2372402, with modifications.
2. Deny Conditional Use Permit No. 2372402, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



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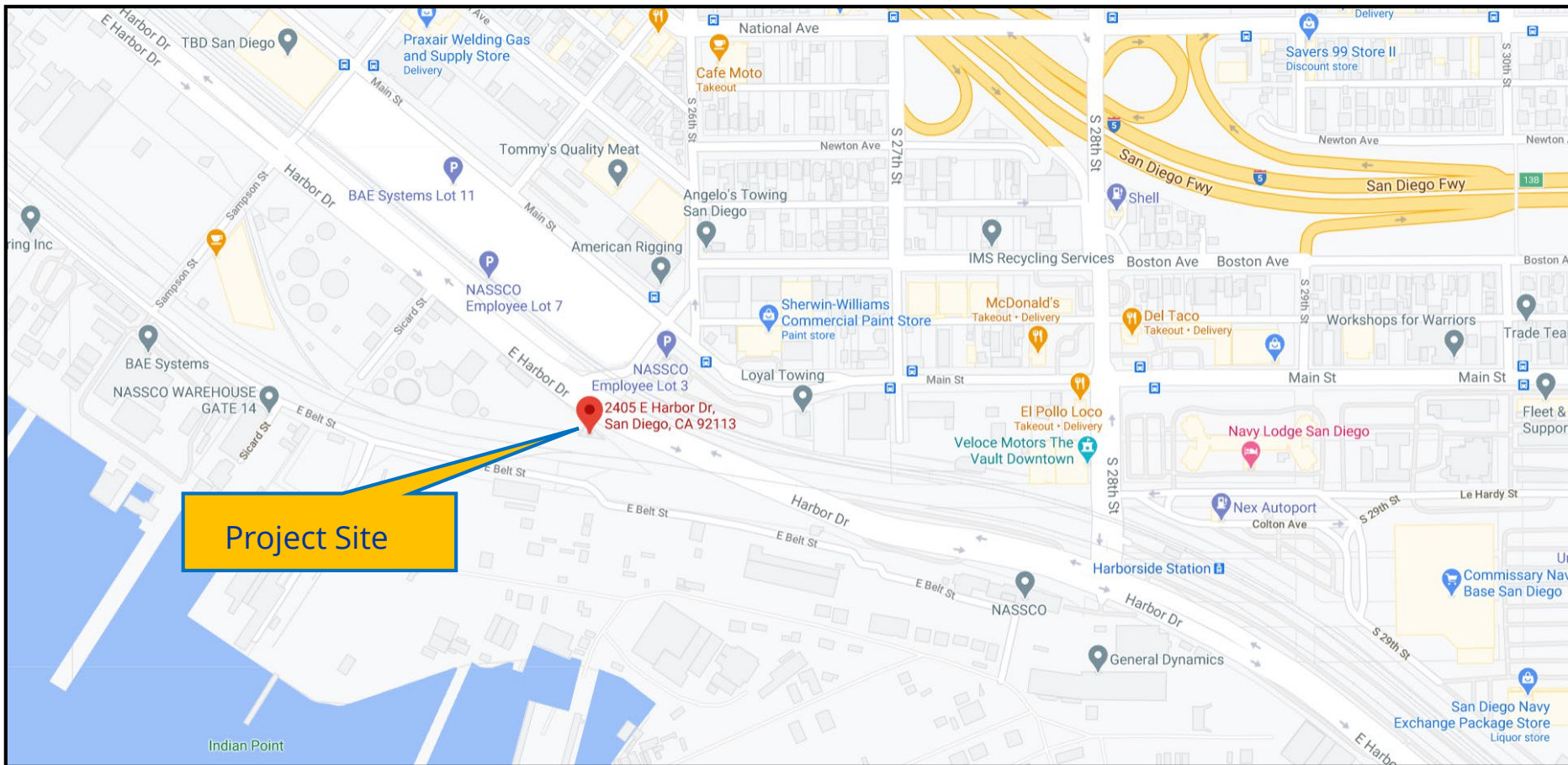
Sammi Ma, Development Project Manager

#### Attachments:

1. Project Location Map
2. Community Plan Land Use Map

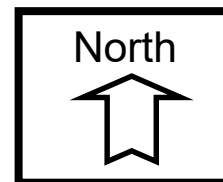
3. Aerial Photograph
4. Draft Resolution with Findings
5. Draft Permit with Conditions
6. Environmental Exemption
7. Copy of Recorded (existing) Permit
8. Community Planning Group Recommendation
9. Ownership Disclosure Statement
10. Project Plans

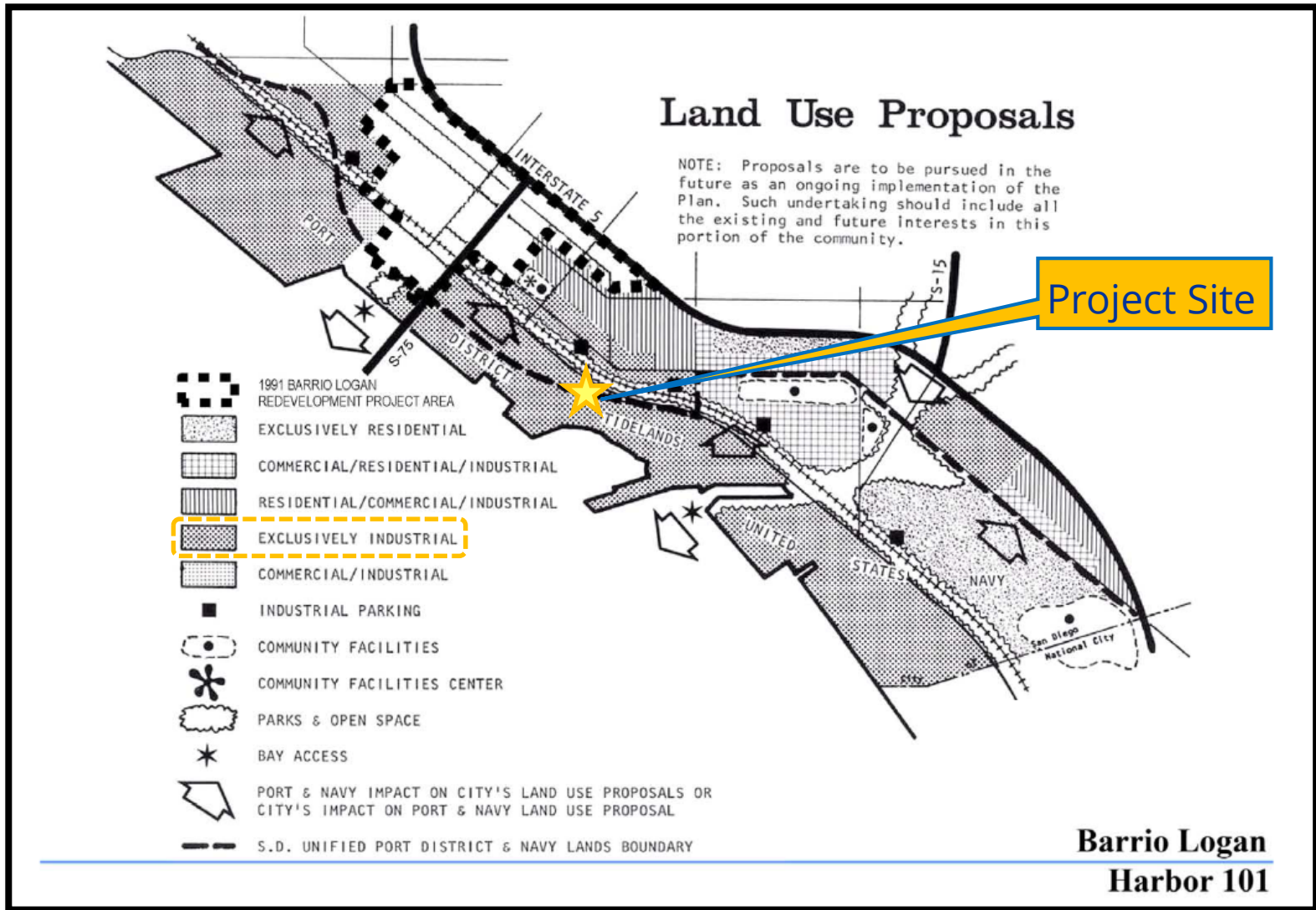




## Project Location Map

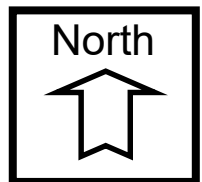
Harbor Collective CO CUP Amendment / 2405 E. Harbor Dr.  
PROJECT NO. 652745



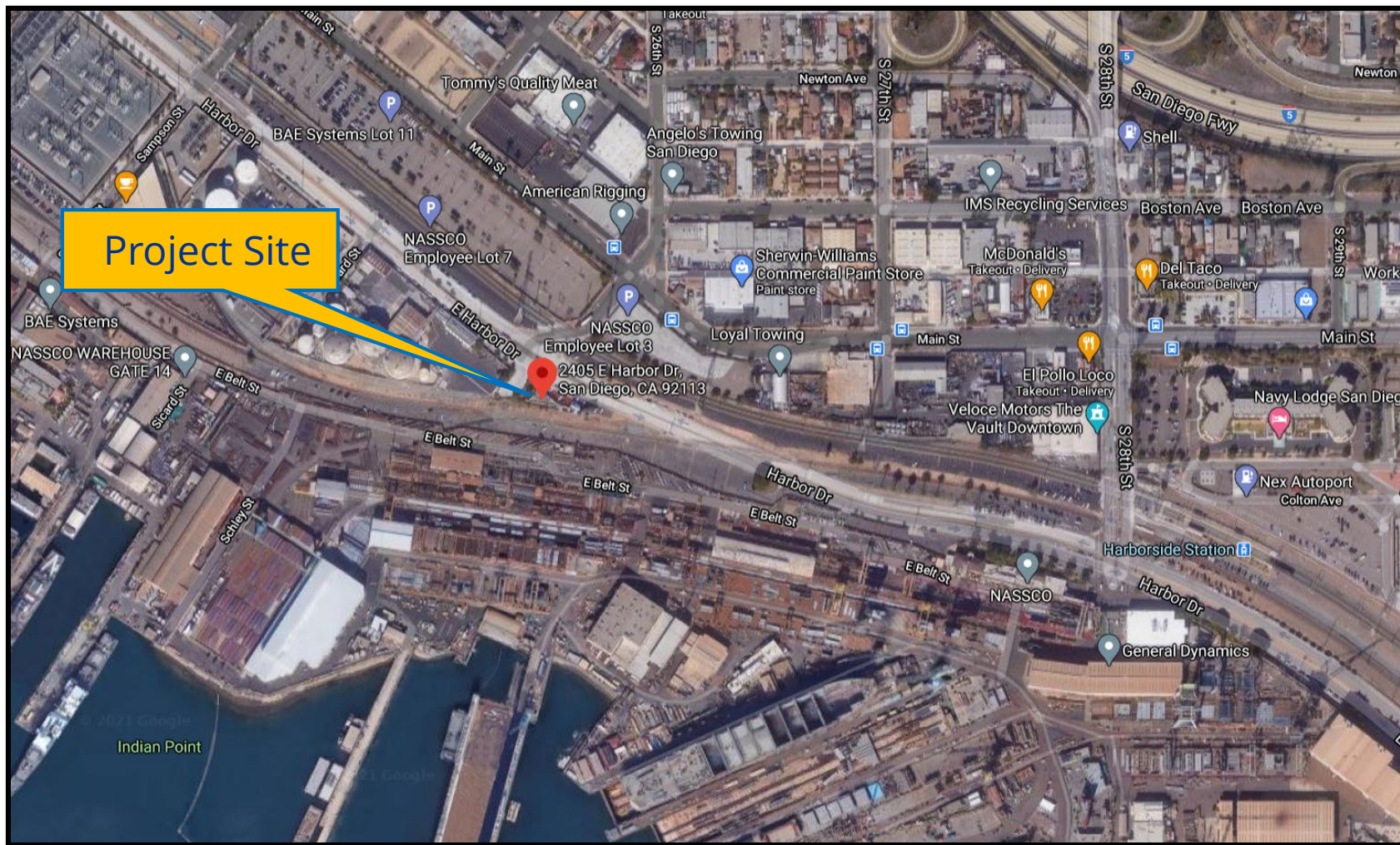


## Community Plan Land Use Map

Harbor Collective CO CUP Amendment / 2405 E. Harbor Dr.  
PROJECT NO. 652745

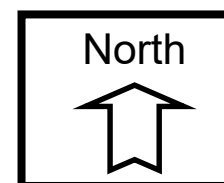






## Aerial Photo

Harbor Collective CO CUP Amendment / 2405 E. Harbor Dr.  
PROJECT NO. 652745



HEARING OFFICER  
RESOLUTION NO. \_\_\_\_\_  
CONDITIONAL USE PERMIT NO. 2372402  
**HARBOR COLLECTIVE CANNABIS OUTLET - PROJECT NO. 652745**  
AMENDMENT TO CONDITIONAL USE PERMIT NO. 1337996

WHEREAS, Basil Shamoun, Owner and NS Harbor, Inc, a California Corporation, Permittee, filed an application with the City of San Diego to amend previously approved Conditional Use Permit No. 1337996 regarding continued sales of cannabis/cannabis products at an existing 1,083-square-foot facility located at 2405 East Harbor Drive (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 2372402), on portions of a 0.04-acre site; and

WHEREAS, the project site is located at 2405 Harbor Drive in the Barrio Logan Planned District (BLPD-Subdistrict D) and the IH-2-1 Zone, Airport Influence Area (San Diego International Airport), Transit Priority Area, Parking Impact Overlay Zone, Coastal Overlay Zone (Non-Appealable Review Area 2), and First Public Roadway within the Barrio Logan Community Plan area; and

WHEREAS, the project site is legally described as Lots 47 & 48, Map 379, October 30, 1886 and Resolution No. 141796, September 20, 1957, Book 6756, Page 532; and

WHEREAS, on October 20, 2020, 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 Guideline Section 15303, New Construction or Conversion of Small Structures, and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; and

WHEREAS, on June 2, 2020, the San Diego City Council approved interim urgency Ordinance O-21198 which granted a 365-day extension of the expiration date of Development Permits,

including Cannabis Conditional Use Permits issued under SDMC Section 141.0504 or Section 141.1004 that had not expired prior to March 12, 2020 and had been utilized as of the effective date of the Ordinance (June 2, 2020) and previously issued Conditional Use Permit No. 1296130 met both these criteria and so the permit expiration was legislatively extended to June 25, 2021; and

WHEREAS, on March 24, 2021, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 2372402 pursuant to the Land Development Code of the City of San Diego; NOW THEREFORE,

BE IT RESOLVED by the Hearing Officer of City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. 2372402:

**A. CONDITIONAL USE PERMIT FINDINGS [SDMC Section 126.0305]**

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

The proposed project is a request to amend previously approved Conditional Use Permit (CUP) No. 1337996 to allowed continued sales of cannabis/cannabis products at an existing 1,083-square-foot tenant space within an existing 1,966-square-foot, one-story building at 2405 East Harbor Drive. The 0.04-acre site is in the Barrio Logan Planned District (BLPD-Subdistrict D) and the IH-2-1 Zone, Airport Influence Area (San Diego International Airport), Transit Priority Area, Parking Impact Overlay Zone, Coastal Overlay Zone (Non-Appealable Review Area 2), and First Public Roadway within the Barrio Logan Community Plan area.

The project site is designated for Exclusively Industrial land use within the Barrio Logan/Harbor 101 Community Plan. Barrio Logan is a mixed-use waterfront community that has mostly industrial uses. The community plan encourages residential and industrial coexistence by strengthening its housing, commercial and industrial assets. Industrial Heavy zones are intended for land-intensive industrial activities emphasizing base-sector manufacturing. IH-2-1 allows manufacturing uses with some office. The 0.04-acre project site is zoned both BLPD-Subdistrict D and the IH-2-1, however, the existing Medical Marijuana Consumer Cooperative (MMCC)/proposed Cannabis Outlet (CO) is located within the BLPD-Subdistrict D. The existing tenant suite was improved to meet applicable building code standards for the retail sales of cannabis per conditions of CUP No. 1337996. The surrounding parcels are within the BLPD-Subdistrict D or IH-2-1 zones, and the existing uses are consistent with the land use designation.

On June 25, 2015, CUP No. 1337996 was granted by the City of San Diego Planning Commission to the Owner and Permittee to operate a MMCC within the 1,083-square-

foot tenant space. On November 8, 2016, the Control, Regulate and Tax Adult Use of Marijuana Act became law and allowed for recreational cannabis sales in California. On February 22, 2017, the City of San Diego City Council adopted Council Ordinance O-20793, which replaced the MMCC use with a new retail sales use category, Marijuana Outlet (MO). On July 30, 2020, the San Diego Municipal Code (SDMC) was amended by Council Ordinance O-21221. The revisions include replacing the word "marijuana" with "cannabis", to reflect consistency with the State of California cannabis regulation.

The existing CO use, classified as commercial services, is consistent with the Industrial designation of the community plan and is allowed to continue at this location with a CUP. Therefore, the proposed project 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 project is a request to amend previously approved CUP No. 1337996 to allow continued sales of cannabis/cannabis products at an existing 1,083-square-foot facility located at 2405 East Harbor Drive. The existing tenant space is currently being used for the sale of medicinal and recreational cannabis and cannabis products. The associated building permits, inspections and approvals to establish the retail sales use have been obtained to the satisfaction of the Building Official. All conditions per CUP No. 1337996, including public improvements for the installation of City standard curb, gutter and sidewalk, along the project frontage on East Harbor Drive, were satisfied.

The CUP includes security conditions to improve the safety of the building and the surrounding neighborhood. The proposed CO is subject to specific operational requirements and restrictions as set forth in SDMC Section 141.0504, and must comply with SDMC Chapter 4, Article 2, Division 15, which provides guidelines for required background checks and lawful operation. A review of the San Diego Police Department Call for Service report reveals no significant police activities at the subject location within the past three years. As part of the amendment review, a compliance inspection was conducted to evaluate the current cannabis business operation and latest permitted configuration of the existing facility and no issues were identified.

The proposed project will be required to comply with development conditions as described in CUP No. 2372402. The CUP will be valid for five years and may be revoked if the Owner or Permittee violates the terms, conditions, lawful requirements, or provisions of the Permit.

The discretionary permit controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project's compliance with applicable local, regional, state and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large. Therefore, the proposed project 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 CUP for this project includes various conditions and corresponding exhibits of approval relevant to achieving compliance with the SDMC regulations for a CO, which include parking, signage, lighting, security measures, hours of operation, and site maintenance. No variance or deviations are requested as part of this application, nor are any required to approve the CUP. Therefore, the proposed development will comply with the regulations of the Land Development Code.

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

The proposed project is a request to amend previously approved CUP No. 1337996 to allow continued sales of cannabis/cannabis products at an existing 1,083-square-foot facility located at 2405 East Harbor Drive. The 0.04-acre site is in the Barrio Logan Planned District (BLPD-Subdistrict D) and the IH-2-1 Zone, Airport Influence Area (San Diego International Airport), Transit Priority Area, Parking Impact Overlay Zone, Coastal Overlay Zone (Non-Appealable Review Area 2), and First Public Roadway within the Barrio Logan Community Plan area.

The project site is designated for Exclusively Industrial land use within the Barrio Logan/Harbor 101 Community Plan. Barrio Logan is a mixed-use waterfront community that has mostly industrial uses. The community plan encourages residential and industrial coexistence by strengthening its housing, commercial and industrial assets. Industrial Heavy zones are intended for land-intensive industrial activities emphasizing base-sector manufacturing. IH-2-1 allows manufacturing uses with some office. The 0.04-acre project site is zoned both BLPD-Subdistrict D and the IH-2-1, however, the existing Medical Marijuana Consumer Cooperative (MMCC)/proposed Cannabis Outlet (CO) is located within the BLPD-Subdistrict D. The existing tenant suite was improved to meet applicable building code standards for the retail sales of cannabis per conditions of CUP No. 1337996. The surrounding parcels are within the BLPD-Subdistrict D or IH-2-1 zones, and the existing uses are consistent with the land use designation.

The existing MMCC has been allowed to operate as a CO since February 22, 2017, when the City of San Diego City Council adopted Ordinance O-20793, which replaced the former MMCC use with the current cannabis retail sales use category. COs, classified as commercial services, are allowed in BLPD-Subdistrict D zone with a CUP and are consistent with the land use designation of Industrial use in the Barrio Logan/Harbor 101 Community Plan. The CO use is consistent with the community plan and all land development regulations relevant for the site and is a compatible continued use allowed at this location for another five-year term with approval of a CUP. No deviations are required or requested to approve the CUP. The associated building permits, inspections and approvals to establish the retail sales use have been obtained to the satisfaction of the Building Official and City Engineer. All conditions per CUP No. 1337996, including public improvements for the installation of City standard curb, gutter and sidewalk,

along the project frontage on East Harbor Drive, have been satisfied. The business is current with respect to any tax obligations per the Office of the City Treasurer. Therefore, the proposed continued CO use is appropriate at the proposed location.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 2372402 is hereby GRANTED by the Hearing Officer to the referenced Owner and Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 2372402, a copy of which is attached hereto and made a part hereof.

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Sammi Ma  
Development Project Manager  
Development Services

Adopted on: March 24, 2021

IO#: 24008466



**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION  
501

**WHEN RECORDED MAIL TO**  
**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 501**

INTERNAL ORDER NUMBER: 24008466

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 2372402  
**HARBOR COLLECTIVE CANNABIS OUTLET - PROJECT NO. 652745**  
AMENDMENT TO CONDITIONAL USE PERMIT NO. 1337996  
HEARING OFFICER

This Conditional Use Permit No. 2372402 (Amendment to Conditional Use Permit No. 1337996) is granted by the Hearing Officer of the City of San Diego to Basil Shamoun, Owner and NS Harbor, Inc, a California Corporation, Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0305. The 0.04 -acre site is located at 2405 Harbor Drive in the Barrio Logan Planned District (BLPD-Subdistrict D) and the IH-2-1 Zone, Airport Influence Area (San Diego International Airport), Transit Priority Area, Parking Impact Overlay Zone, Coastal Overlay Zone (Non-Appealable Review Area 2), and First Public Roadway within the Barrio Logan Community Plan area. The project site is legally described as: Lots 47 & 48, Map 379, October 30, 1886 and Resolution No. 141796, September 20, 1957, Book 6756, Page 532.

Subject to the terms and conditions set forth in this Permit, permission to amend previously approved Conditional Use Permit No. 1337996 regarding continued sales of cannabis/cannabis products at an existing 1,083-square-foot facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated March 24, 2021, on file in the Development Services Department.

The project shall include:

- a. Operation of a Cannabis Outlet (CO) in an existing 1,966-square-foot facility located at 2405 Harbor Drive;
- 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 Conditional Use Permit [CUP] and corresponding Cannabis Outlet use of this site shall expire on June 25, 2026.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, 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; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property 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.
4. This Permit is a covenant running with the subject property 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.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. 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.).
7. 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.
8. 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.
9. 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" condition(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.

10. 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.

**CLIMATE ACTION PLAN REQUIREMENTS:**

11. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

**PLANNING/DESIGN REQUIREMENTS:**

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

13. Security shall be provided at the cannabis outlet which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the premises during business hours. The security guard shall only be engaged in activities related to providing security for the facility, except on an incidental basis.

14. Signage: Primary signs shall be posted on the outside of the cannabis outlet and shall only contain the name of the business, which shall contain only alphabetic characters, and shall be limited to two colors. Secondary signs advertising cannabis, window signs and any display visible from the public right-of-way, are not permitted. No marketing or advertising for cannabis or cannabis products shall be displayed visible from the public right-of-way. All cannabis licensees, and any person acting on behalf of a licensee, must comply with the State of California statutes and regulations governing commercial cannabis advertising and/or promoting.

15. The name and emergency contact phone number of the designated responsible managing operator shall be posted in a location visible from outside the cannabis outlet in character size at least two inches in height.

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

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

18. An annual operating permit shall be obtained as required pursuant to Chapter 4, Article 2, Division 15.

19. Deliveries shall be permitted as an accessory use only from cannabis outlets with a valid Conditional Use Permit unless otherwise allowed pursuant to state law.

20. The cannabis outlet, adjacent public sidewalks, and areas under the control of the cannabis outlet, shall be maintained free of litter and graffiti at all times.

21. The cannabis outlet shall provide daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.

22. Consultations by medical professionals shall not be a permitted accessory use at a cannabis outlet.

**TRANSPORTATION REQUIREMENTS:**

23. There is not a minimum parking requirement for this site per SDMC 142.0504(a) and Table 142-05H. The lot size is less than 10,000 square feet and there is no alley access. The project will maintain the four existing off-street parking spaces along the site's frontage.

24. The Cannabis Outlet must permanently maintain off-site, off-street employee parking.

**INFORMATION ONLY:**

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary 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.
- Cannabis businesses that operate or provide services within the City of San Diego are liable for a monthly gross receipts tax. As referenced in San Diego Municipal Code Section [34.0103 \(b\)](#), taxable activities include but are not limited to, transporting, manufacturing, cultivating, packaging, or retail sales of cannabis and any ancillary products in the City. For additional information, contact the Office of the City Treasurer at (619) 615-1580.

APPROVED by the Hearing Officer of the City of San Diego on March 24, 2021 and HO-21-013.

**ATTACHMENT 5**

Permit Type/PTS Approval No.: 2372402  
Date of Approval: March 24, 2021

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

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Sammi Ma  
Development Project Manager

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

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**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.

**BASIL SHAMOUN**  
Owner

By \_\_\_\_\_  
Basil Shamoun

**NS HARBOR, INC**  
Permittee

By \_\_\_\_\_  
Noel Shamoun

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

## NOTICE OF EXEMPTION

(Check one or both)

TO:   X   Recorder/County Clerk  
 P.O. Box 1750, MS A-33  
 1600 Pacific Hwy, Room 260  
 San Diego, CA 92101-2400

FROM: City of San Diego  
 Development Services Department  
 1222 First Avenue, MS 501  
 San Diego, CA 92101

       Office of Planning and Research  
 1400 Tenth Street, Room 121  
 Sacramento, CA 95814

**Project Name/Number:** Harbor Collective Cannabis Outlet CUP Amendment/ 652745 **SCH No.:** N.A.

**Project Location-Specific:** 2405 Harbor Drive, San Diego, CA 92113

**Project Location-City/County:** San Diego/San Diego

**Description of nature and purpose of the Project:** The project is a request for an Amendment to Conditional Use Permit (CUP) No. 1337996, to change the existing use from a 1,083-square-foot Medical Marijuana Consumer Cooperative (MMCC) to a 1,083-square-foot Cannabis Outlet (CO) in Suite A of an existing 1,966-square-foot building consisting of Suites A and B, located at 2405 Harbor Drive, San Diego, California, on a 0.4-acre site. No work or construction is proposed in Suites A and B. The marijuana outlet shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week. The project site is in the BLPD-SUBD-D and IH-2-1 (Industrial-Heavy) Zones within the Barrio Logan Community Plan, Promise Zone, First Public Roadway, Coastal Overlay Zone (Non-Appealable-2), Parking Impact Overlay Zone (Coastal Impact), Parking Standards Transit Priority Area, Transit Priority Area, Transit Area Overlay Zone, Airport Influence Area (San Diego International Airport (SDIA)-Review Area 2), and the Federal Aviation Administration (SDIA and NAS North Island) Part 77 Notification area (Legal Description: Lots 47 & 48, Map 379, October 30, 1886 and Resolution No. 141796, September 20, 1957, Book 6756, Page 532, APN 538-800-02-00). The project site is designated Exclusively Industrial by the Barrio Logan Community Plan.

**Name of Public Agency Approving Project:** City of San Diego

**Name of Person or Agency Carrying Out Project:** Kent Coston, Coston Architects, Inc. (Firm), 8415 La Mesa Boulevard, Suite 4, La Mesa, CA 91942, (619) 518-8071

**Exempt Status:** (CHECK ONE)

- ( ) Ministerial (Sec. 21080(b)(1); 15268);
- ( ) Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ( ) Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- (X) Categorical Exemption: Categorically exempt from CEQA pursuant to CEQA State Guidelines, Section 15303 (New Construction or Conversion of Small Structures).

**Reasons why project is exempt:** 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 (c) that allows for the conversion of existing small structures from one use to another, which is the case for this project, and where only minor modifications are made to the exterior of the structure. This would include a store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. It has

## ATTACHMENT 6

been determined the project meets this criteria in terms of occupying an area under 10,000 square feet in floor area. Further, based on the information provided the project would not use significant amounts of hazardous substances, public services and facilities are available in the area to serve the project, and the project is not located in an environmentally sensitive area. The exemptions listed in CEQA Section 15300.2 would not apply.

Lead Agency Contact Person: Rhonda Benally

Telephone: (619) 446-5468

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? ( ) Yes ( ) No

It is hereby certified that the City of San Diego has determined the above activity to be exempt from CEQA



\_\_\_\_\_  
Senior Planner

Signature/Title

\_\_\_\_\_  
November 4, 2020

Date

Check One:

- (X) Signed By Lead Agency  
( ) Signed by Applicant

Date Received for Filing with County Clerk or OPR:



DOC# 2015-0337274



Jun 29, 2015 10:38 AM

OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

FEES: \$77.00

PAGES: 13

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION 501

**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 501**

13P  
10

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004934

**CONDITONAL USE PERMIT NO. 1337996**  
**SOUTH BAY MMCC - PROJECT NO. 381308**  
**PLANNING COMMISSION**

This Conditional Use Permit No. 1337996 is granted by the Hearing Officer of the City of San Diego to BASIL SHAMOUN, Owner and SOUTH BAY DREAMS COOPERATIVE, INC, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 0.04-acre site located at 2405 Harbor Drive is in the BLPD-Subdistrict D and the IH-2-1 Zone (MMCC within BLPD-Subdistrict D only), the Airport Influence Area (San Diego International Airport), Transit Area Overlay Zone, Parking Impact Overlay Zone, Coastal Overlay Zone (Non-Appealable Area 2 and other jurisdiction) and within the First Public Roadway within the Barrio Logan/Highway 101 Community Plan area. The project site is legally described as: Lots 47 & 48, Map 379, October 30, 1886 and Resolution No. 141796, September 20, 1957, Book 6756, Page 532.

Subject to the terms and conditions set forth in this Permit, permission is granted 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 approved exhibits [Exhibit "A"] dated June 25, 2015, on file in the Development Services Department.

The project shall include:

- a. Demolition of 293 square-feet to an existing 2,259 square-foot building for a total of 1,966 square-feet to remain on a 0.04-acre site.
- b. Operation of a Medical Marijuana Consumer Cooperative (MMCC) in a 1,083 square-foot tenant space within a proposed 1,966 square-foot, one-story building;
- c. Landscaping (planting, irrigation and landscape related improvements);

- d. Providing on-street parking;
- e. 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 June 25, 2018
2. This Conditional Use Permit [CUP] and corresponding use of this MMCC shall expire on June 25, 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 approved 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" condition(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 1,083 square-foot tenant space shall be limited to the MMCC and any use permitted in the BLPD-Subdistrict D.
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 Development Services Department. This facility shall also include alarms and two armed security guards to the extent the possession of a firearm 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 guards shall be licensed by the State of California. One security guard must be on the premises 24 hours a day, seven days a week, the other must be present during business hours. The security guards 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 Owner/Permittee shall install bullet resistant glass, plastic, or laminate shield at the reception area to protect employees.
18. The Owner/Permittee shall install bullet resistant armor panels or solid grouted masonry block walls, designed by a licensed professional, in common areas with other tenants, reception area, and vault room.
19. 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.
20. The MMCC shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
21. 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.
22. 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.
23. Medical marijuana shall not be consumed anywhere within the 0.04-acre site.

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

25. 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:**

26. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the installation of City standard curb, gutter and sidewalk, along the project frontage on East Harbor Drive, satisfactory to the City Engineer.

27. Prior to the issuance of any building permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement for the landscape and irrigation located within East Harbor Drive right-of-way, satisfactory to the City Engineer.

28. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

29. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.

30. Prior to the issuance of any construction permit, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

**TRANSPORTATION REQUIREMENTS:**

31. There is not a minimum parking requirement for this site per SDMC 142.0540(a) and Table 142-05H. The lot size is less than 10,000 square-feet and there is no alley access. The proposed public improvements along the site's frontage will allow for 4 on-street parking spaces.

32. The MMCC must permanently maintain off-site, off- street employee parking.

**POLICE DEPARTMENT RECOMMENDATION:**

33. 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.



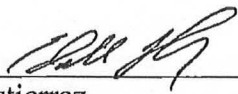
**INFORMATION ONLY:**

- 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.

APPROVED by the Planning Commission of the City of San Diego on June 25, 2015 and Resolution No. PC-4716.

Conditional Use Permit No.1337996/PTS No. 381308  
Date of Approval: June 25, 2015

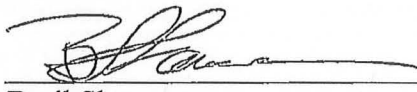
AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

  
\_\_\_\_\_  
Edith Gutierrez  
Development Project Manager

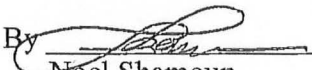
**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

**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.**

BASIL SHAMOUN  
Owner

By   
\_\_\_\_\_  
Basil Shamoun  
Owner

SOUTH BAY DREAMS COOPERATIVE,  
INC  
Permittee

By   
\_\_\_\_\_  
Noel Shamoun  
Permittee

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

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of San Diego )

On June 29, 2015 before me, Vivian M. Gies, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared ~~~~~Edith Gutierrez~~~~~  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Vivian M. Gies  
Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document **PTS #381308/South Bay MMCC/CUP#1337996**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

## Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

ORIGINAL



## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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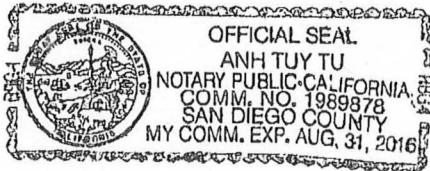
State of California )

County of San Diego )On June 26, 2015 before me, Anh Tuy Tu, Notary Public,  
Date Here Insert Name and Title of the Officerpersonally appeared Shamoun, Noel Jahad and Shamoun,  
Name(s) of Signer(s)Basil J.

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Anh Tuy Tu  
Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

## Description of Attached Document

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Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

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☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

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☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

ORIGINAL

**PLANNING COMMISSION  
RESOLUTION NO. PC-4516  
CONDITONAL USE PERMIT NO. 1337996  
SOUTH BAY MMCC PROJECT NO. 381308**

WHEREAS, BASIL SHAMOUN, Owner and SOUTH BAY DREAMS COOPERATIVE, INC, Permittee, filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) in a 1,083 square-foot tenant space within a proposed 1,966 square-foot, one-story building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1337996), on portions of a 0.04-acre site;

WHEREAS, the project site located at 2405 Harbor Drive is in the BLPD-Subdistrict D and the IH-2-1 Zone (MMCC within BLPD-Subdistrict D only), the Airport Influence Area (San Diego International Airport), Transit Area Overlay Zone, Parking Impact Overlay Zone, Coastal Overlay Zone (Non-Appealable Area 2 and State Coastal Jurisdiction) and within the First Public Roadway within the Barrio Logan/Highway 101 Community Plan area;

WHEREAS, the project site is legally described as Lots 47 & 48, Map 379, October 30, 1886 and Resolution No. 141796, September 20, 1957, Book 6756, Page 532;

WHEREAS, on April 22, 2015, the Hearing Officer of the City of San Diego approved Conditional Use Permit No. 1337996 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on May 5, 2015, Scott Chipman filed an appeal of the Hearing Officer's decision;

WHEREAS, on June 25, 2015, the Planning Commission of the City of San Diego considered the appeal of Conditional Use Permit No. 1337996 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on February 4, 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 March 3, 2015 pursuant to Resolution No. 309535;

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated June 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 in a 1,083 square-foot tenant space within a proposed 1,966 square-foot, one-story building. The 0.04-acre site located at a 2405 Harbor Drive is in the BLPD-Subdistrict D and the IH-2-1 Zone, the Airport Influence Area (San Diego International Airport), Transit Area Overlay Zone, Parking Impact Overlay Zone, Coastal Overlay Zone (Non-Appealable Area 2 and State Coastal Jurisdiction) and within the First Public Roadway within the Barrio Logan/Highway 101 Community Plan area.

The site is designated Exclusively Industrial within the Barrio Logan/Highway 101 Community Plan. Barrio Logan is a mixed-use waterfront community that has mostly industrial uses. The community plan encourages residential and industrial coexistence by strengthening its housing, commercial and industrial assets.

The 0.04-acre site is zoned both BLPD-Subdistrict D and the IH-2-1, however the MMCC is located within the BLPD-Subdistrict D. The site contains a one-story building with two tenant spaces constructed in 1963. The proposed 1,083 square-foot MMCC tenant space is currently vacant the other tenant space is currently being used for food preparation (commercial services). The surrounding parcels are within the BLPD-Subdistrict D or IH-2-1 zones and the existing uses are consistent with the land use designation. 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 1,083 square-foot MMCC site located at 2405 Harbor Drive is within a proposed 1,966 square-foot building on a 0.04-acre site. The proposed tenant space is currently vacant. The project proposes minor demolition and interior improvements that include a reception area, dispensary area, office, and restroom. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. Public improvements include the installation of City standard curb, gutter and sidewalk, along the project frontage on East Harbor Drive and an Encroachment Maintenance and Removal Agreement for the landscape and irrigation located within East Harbor Drive right-of-way.

MMCCs 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 project requires compliance with the development conditions in effect for the subject property as described in Conditional Use Permit No. 1337996. 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 1,083 square-foot MMCC located at 2405 Harbor Drive is within a proposed 1,966 square-foot building. The 0.04-acre site is zoned both BLPD-Subdistrict D and the IH-2-1, however the MMCC is located within the BLPD-Subdistrict D. The site contains a one-story building with two tenant spaces constructed in 1963. The proposed 1,083 square-foot MMCC tenant space is currently vacant the other tenant space is currently being used for food preparation (commercial services). The surrounding parcels are within the BLPD-Subdistrict D or IH-2-1 zones and the existing uses are consistent with the land use designation. The project proposes minor demolition and interior improvements that include a reception area, dispensary area, office, and restroom. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. Public improvements include the installation of City standard curb, gutter and sidewalk, along the project frontage on East Harbor Drive and an Encroachment Maintenance and Removal Agreement for the landscape and irrigation located within East Harbor Drive right-of-way.

MMCCs are allowed in the BLPD-Subdistrict D 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 consistent with the land use designation of Industrial. The proposed MMCC meets all development regulations, no deviations are requested, and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code. The proposed MMCC therefore complies with the regulations of the Land Development Code.

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

The proposed 1,083 square-foot MMCC located at 2405 Harbor Drive is within a proposed 1,966 square-foot building. The 0.04-acre site is zoned both BLPD-Subdistrict D and the IH-2-1, however the MMCC

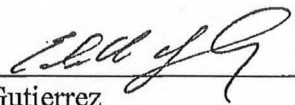


is located within the BLPD-Subdistrict D. The site is designated Exclusively Industrial within the Barrio Logan/Highway 101 Community Plan. Barrio Logan is a mixed-use waterfront community that has mostly industrial uses. The community plan encourages residential and industrial coexistence by strengthening its housing, commercial and industrial assets.

MMCCs, classified as commercial services, are allowed in the BLPD-Subdistrict D with a Conditional Use Permit (CUP) and are consistent with the land use designation of Industrial use in the Barrio Logan/Highway 101 Community Plan. 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 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. The proposed MMCC is a compatible use for this location with a Conditional Use Permit, is consistent with the community plan and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code and therefore, the use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 1337996 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1337996, a copy of which is attached hereto and made a part hereof.

  
\_\_\_\_\_  
Edith Gutierrez  
Development Project Manager  
Development Services

Adopted on: June 25, 2015

Job Order No. 24004934



June 24, 2020

Edith Gutierrez  
Project Manager  
The City of San Diego

Development Services Department  
1222 1<sup>st</sup> Avenue  
San Diego, CA 92101

**RE: Project Number 652745, Harbor MO CUP Amendment**

Dear Ms. Gutierrez,

At our regular meeting of June 17, 2020 held virtually, the Barrio Logan Planning Group voted to support the CUP amendment identified above with a vote of 5-1-0 with no conditions.

Please contact me if you require further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark W. Steele".

Mark W Steele, FAIA, AICP  
Chair  
Barrio Logan Planning Group



**City of San Diego  
Development Services**  
1222 First Ave., MS 302  
San Diego, CA 92101  
(619) 446-5000

# Ownership Disclosure Statement

**FORM  
DS-318**

**October 2017**

**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 Addendum

**Project Title:** Harbor MO CUP Addendum **Project No. For City Use Only:** 652745

**Project Address:** 2405 Harbor Dr. San Diego, CA 92113

**Specify Form of Ownership/Legal Status (please check):**

☒ Corporation ☐ Limited Liability -or- ☐ General - What State? CA Corporate Identification No. 82-5200066  
☐ Partnership ☒ Individual 4137400

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter 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), applicant(s), and other financially interested persons of the above referenced property. A financially interested party includes any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver or syndicate with a financial interest in the application. If the applicant includes a corporation or partnership, include the names, titles, addresses of all individuals owning more than 10% of the shares. If a publicly-owned corporation, include the names, titles, and addresses of the corporate officers. (A separate page may be attached if necessary.) If any person is a nonprofit organization or a trust, list the names and addresses of **ANY** person serving as an officer or director of the nonprofit organization or as trustee or beneficiary of the nonprofit organization. A signature is required of at least one of the property owners. 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.

**Property Owner**

Name of Individual: Basil Shamoun ☒ Owner ☐ Tenant/Lessee ☐ Successor Agency  
Street Address: 3459 Ashley Park Drive  
City: Jamul State: CA Zip: 91935  
Phone No.: 619-518-7570 Fax No.: \_\_\_\_\_ Email: basilrescue@gmail.com  
Signature: [Signature] Date: 11/13/2019  
Additional pages Attached: ☐ Yes ☐ No

**Applicant**

Name of Individual: Noel Shamoun of NS Harbor, Inc. ☐ Owner ☒ Tenant/Lessee ☐ Successor Agency  
Street Address: 2405 Harbor Drive  
City: San Diego State: CA Zip: 92113  
Phone No.: 858-756-7107 Fax No.: 858-225-6700 Email: jessica@mcelfreshlaw.com  
Signature: [Signature] Date: 11/13/2019  
Additional pages Attached: ☐ Yes ☐ No

**Other Financially Interested Persons**

Name of Individual: Swane Shamoun ☐ Owner ☒ Tenant/Lessee ☐ Successor Agency  
Street Address: 2978 Stoncfield DR.  
City: Jamul State: CA Zip: 91935  
Phone No.: 619-778-7665 Fax No.: \_\_\_\_\_ Email: Sanybaysparkshell@yahoo.com  
Signature: [Signature] Date: 11-14-19  
Additional pages Attached: ☐ Yes ☐ No



# State of California Secretary of State

S

## Statement of Information

(Domestic Stock and Agricultural Cooperative Corporations)

FEES (Filing and Disclosure): \$25.00.

If this is an amendment, see instructions.

**IMPORTANT – READ INSTRUCTIONS BEFORE COMPLETING THIS FORM**

1. CORPORATE NAME

2. CALIFORNIA CORPORATE NUMBER

This Space for Filing Use Only

**No Change Statement** (Not applicable if agent address of record is a P.O. Box address. See instructions.)

3. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.

☐ If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to Item 17.

**Complete Addresses for the Following** (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE	CITY	STATE	ZIP CODE
5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY	CITY	STATE	ZIP CODE
6. MAILING ADDRESS OF CORPORATION, IF DIFFERENT THAN ITEM 4	CITY	STATE	ZIP CODE

**Names and Complete Addresses of the Following Officers** (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

7. CHIEF EXECUTIVE OFFICER/	ADDRESS	CITY	STATE	ZIP CODE
8. SECRETARY	ADDRESS	CITY	STATE	ZIP CODE
9. CHIEF FINANCIAL OFFICER/	ADDRESS	CITY	STATE	ZIP CODE

**Names and Complete Addresses of All Directors, Including Directors Who are Also Officers** (The corporation must have at least one director. Attach additional pages, if necessary.)

10. NAME	ADDRESS	CITY	STATE	ZIP CODE
11. NAME	ADDRESS	CITY	STATE	ZIP CODE
12. NAME	ADDRESS	CITY	STATE	ZIP CODE

13. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:

**Agent for Service of Process** If the agent is an individual, the agent must reside in California and Item 15 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 15 must be left blank.

14. NAME OF AGENT FOR SERVICE OF PROCESS

15. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL CITY STATE ZIP CODE

### Type of Business

16. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION

17. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

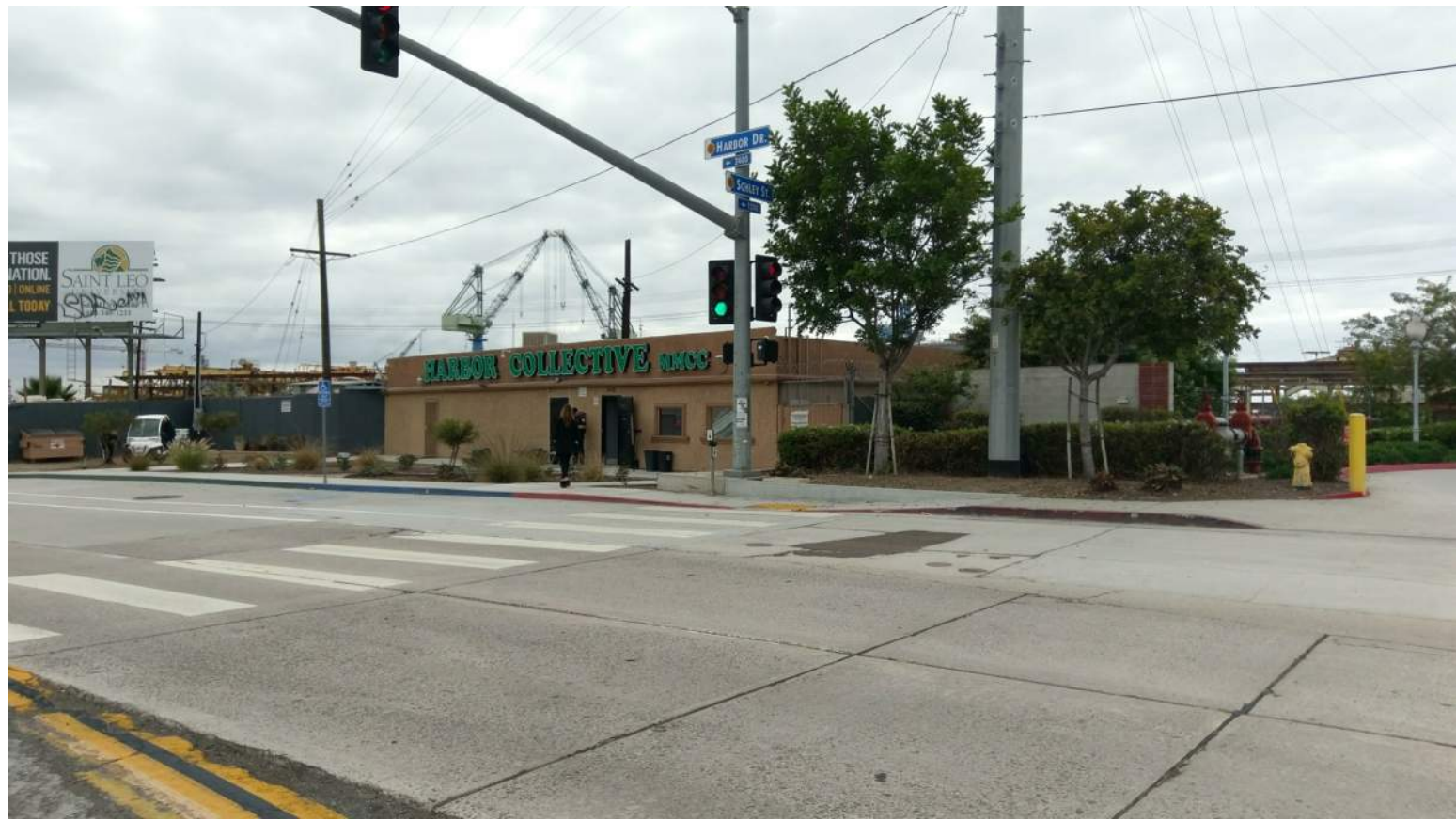
DATE

TYPE/PRINT NAME OF PERSON COMPLETING FORM

TITLE

SIGNATURE





# Marijuana Outlet Conditional Use Permit

2405 E Harbor Drive  
San Diego, CA 92113

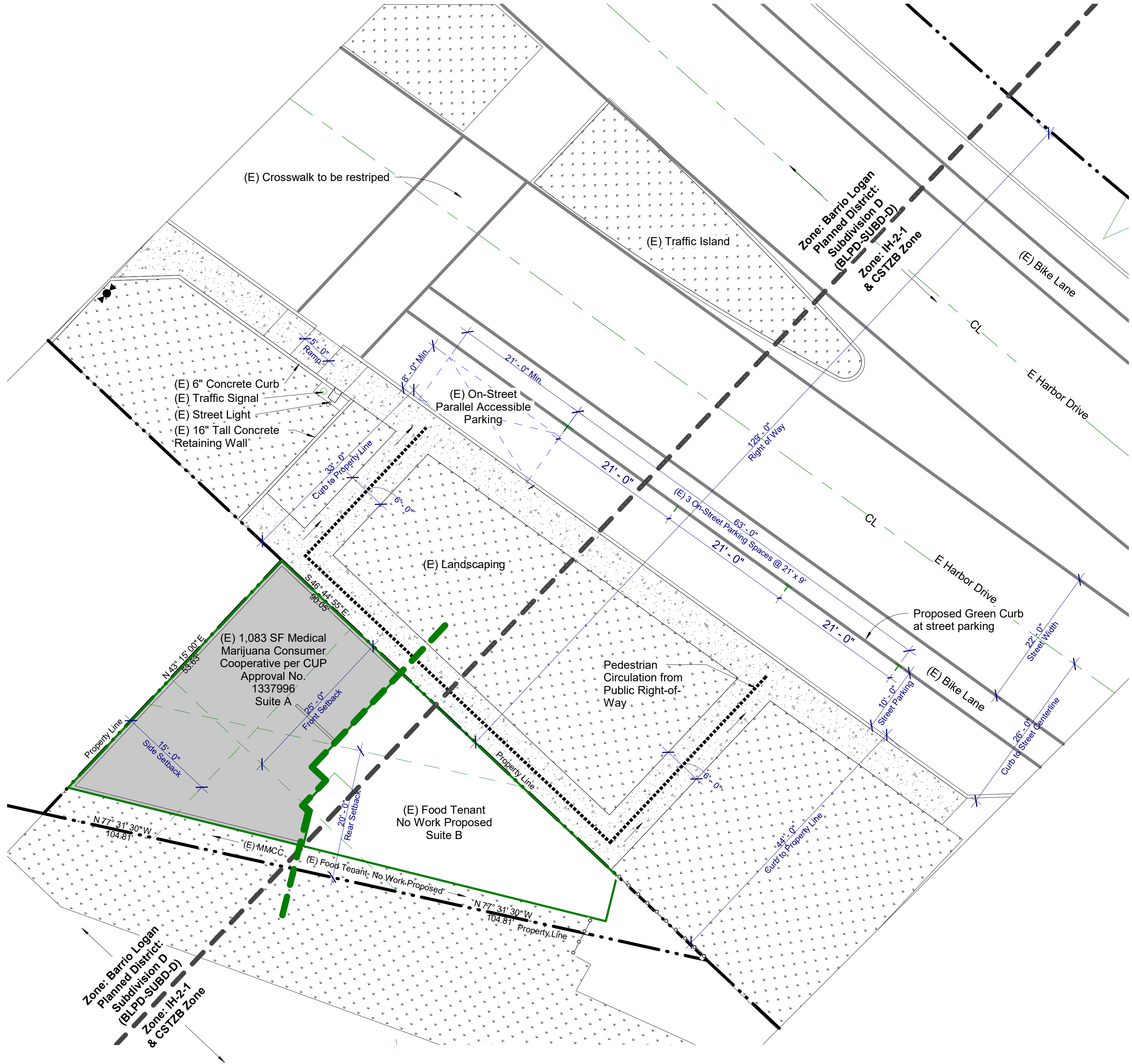


General Notes		Governing Building Codes		Project Information		Scope of Work		Sheet Index																																															
1. The Marijuana Outlet shall operate only between the hours of 7:00 am and 9:00 pm, 7 days a week.		1. All construction, including material and workmanship shall conform to the following California Building Codes: a. 2016 California Building Code (Title 24 Part 2) b. 2016 California Residential Code (Title 24 Part 2.5) c. 2016 California Electrical Code (Title 24 Part 3) d. 2016 California Mechanical Code (Title 24 Part 4) e. 2016 California Plumbing Code (Title 24 Part 5) f. 2016 California Energy Code (Title 24 Part 6) g. 2016 California Fire Code (Title 24 Part 9) h. 2016 California Building Energy Efficiency Standards  2. Wherever code or California Building Code (CBC) is referred in the following general notes or other note sections, it shall imply the CBC code with governing agency amendments.		Project Address: 2405 E Harbor Drive San Diego, CA 92113		1. Amending CUP Approval #1337996 from to change use from (E) 1,083 SF Medical Marijuana Consumer Cooperative Use to 1,083 SF Marijuana Outlet Use		<table><tr><td></td><td>Sheet Name</td><td>Issue Date</td><td colspan="2">Revision</td></tr><tr><td></td><td></td><td></td><td>#</td><td>Issue Date</td></tr><tr><td colspan="4">Architecture</td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>A0.00</td><td>Cover Sheet</td><td>11/08/2019</td><td></td><td></td></tr><tr><td>A0.10</td><td>Stormwater Checklist</td><td>11/08/2019</td><td></td><td></td></tr><tr><td>A1.00</td><td>Site Plan</td><td>11/08/2019</td><td></td><td></td></tr><tr><td>A2.01</td><td>Existing Floor Plan</td><td>11/08/2019</td><td></td><td></td></tr><tr><td>A4.00</td><td>Existing Exterior Elevations</td><td>11/08/2019</td><td></td><td></td></tr></table>					Sheet Name	Issue Date	Revision					#	Issue Date	Architecture									A0.00	Cover Sheet	11/08/2019			A0.10	Stormwater Checklist	11/08/2019			A1.00	Site Plan	11/08/2019			A2.01	Existing Floor Plan	11/08/2019			A4.00	Existing Exterior Elevations	11/08/2019		
					Sheet Name							Issue Date	Revision																																										
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A2.01	Existing Floor Plan	11/08/2019																																																					
A4.00	Existing Exterior Elevations	11/08/2019																																																					
				APN: 538-800-02-00																																																			
				Legal Description: All that portion of the unnumbered fractional blocks in San Diego Land and Town Company's Addition, in the City of San Diego, County of San Diego, State of California, filed in the office of the county recorder October 30th, 1886, lying southeast of Block 54 of said addition and being bounded on the northeast by Colton Avenue (formerly Pierce Avenue) on the northeast by Schley Street (formerly 28th Street) and on the south by the north line of the right of way of California Southern Railroad as shown on said map, composed of two irregular lots numbered 47 and 48 Map 379.  Also that portion of the southeasterly half of Schley Street as vacated and closed to public use by Resolution No. 141796 of the Council of the City of San Diego, recorded September 20, 1957 in Book 6756, Page 532 of official records in the office of the county recorder of San Diego County, adjoining said Lot 48 on the north.																																																			
				Existing Building Construction Date: 1963																																																			
				Zone: IH-2-1 (Industrial-Heavy) Barrio Logan Planned District: Subdistrict D (BLPD-SUBD-D)																																																			
				Overlays: Airport Influence Area (AIA) Airport (FAA) Coastal (City) First Public Road-Way Parking Impact Transit Area																																																			
				Environmentally Sensitive Lands: Sensitive Biological Resources: No Steep Hillsides: No Coastal Beaches: No Sensitive Coastal Bluffs: No 100-Year Floodplain: No																																																			
				Historic District: No																																																			
				Designated Historic: No																																																			
				Geologic Hazard Categories: 13																																																			
				Earthquake Fault Buffer: No																																																			
				Existing Occupancy: B Proposed Occupancy: B																																																			
				Existing Use: Medical Marijuana Consumer Collective Proposed Use: Marijuana Outlet																																																			
				Construction Type: VB																																																			
				Site Area: 2,415 SF																																																			
				Building Area: 1,966 SF																																																			
				FAR: 0.81 1,966 SF / 2,414 SF = 0.81																																																			









Legend

- Limit of Work
- (E) Adjacent Suite, No Work Proposed
- (E) Landscape Area
- (E) Concrete Path
- (E) Fire Hydrant
- (E) Street Striping
- Zone Separation Line

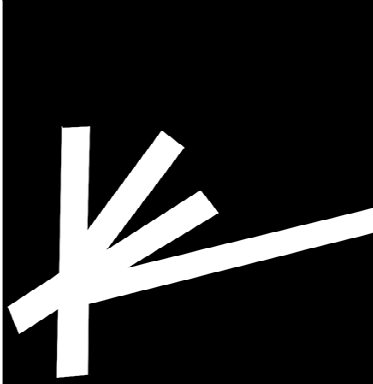
General Notes

- No proposed or existing Transit Stops.
- No proposed or existing Easements.
- Any interference with ROW will be removed.
- Existing unpermitted Storage Yard to be removed.
- Per SDMC 142.1010 Table 142-10B a Loading Space is not required.
- No Parking required per SDMC 142.0540 and Table 142-05H due to small lot status of less than 10,000 SF with no alley access.

Site Analysis


Landscape Area Calculation

Total: 3,372 SF



**COSTON ARCHITECTS INCORPORATED**

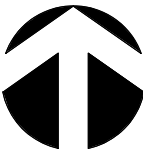
8415 La Mesa Blvd Suite 4  
La Mesa, CA 91942



Marijuana Outlet  
Conditional Use Permit  
2405 E Harbor Drive  
San Diego, CA 92113

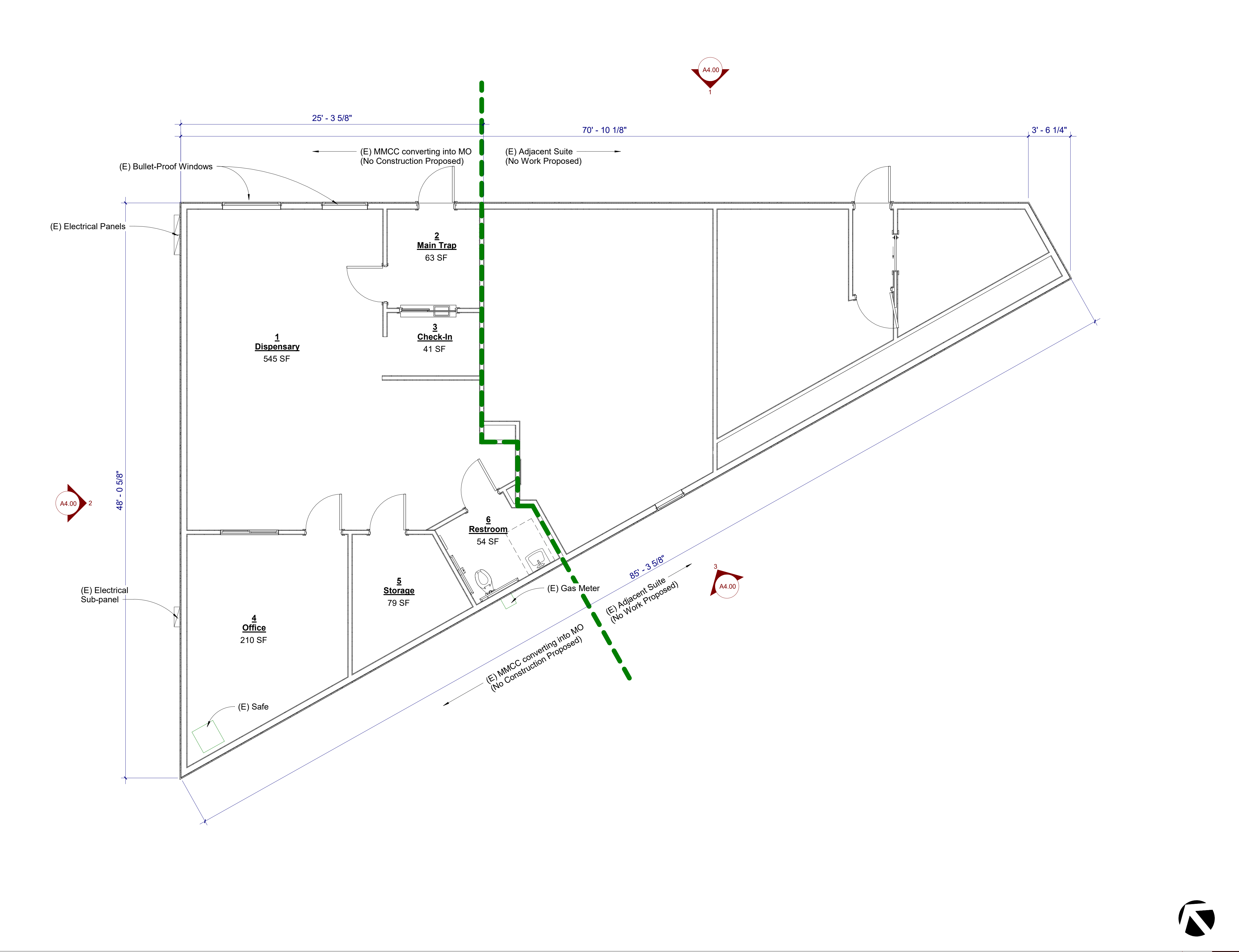
Site Plan

Revision Schedule	
DATE	11/08/2019
DRAWN	CAI
PROJECT	1727
A1.00	
3 OF 5	



Site Plan  
1" = 10'-0"

1



Notes

Existing Wall to Remain



**COSTON  
ARCHITECTS  
INCORPORATED**

8415 La Mesa Blvd Suite 4  
La Mesa, CA 91942



Marijuana Outlet  
Conditional Use Permit  
2405 E Harbor Drive  
San Diego, CA 92113

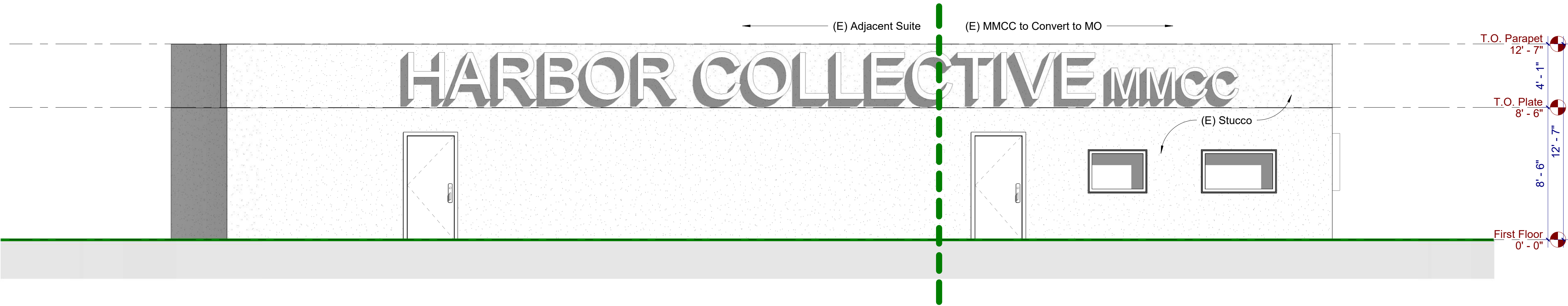
Existing Floor Plan

DATE	Revision Schedule
11/08/2019	
DRAWN	CAI
PROJECT	1727
<b>A2.01</b>	
4 OF 5	

Existing First Floor Plan  
1/4" = 1'-0"

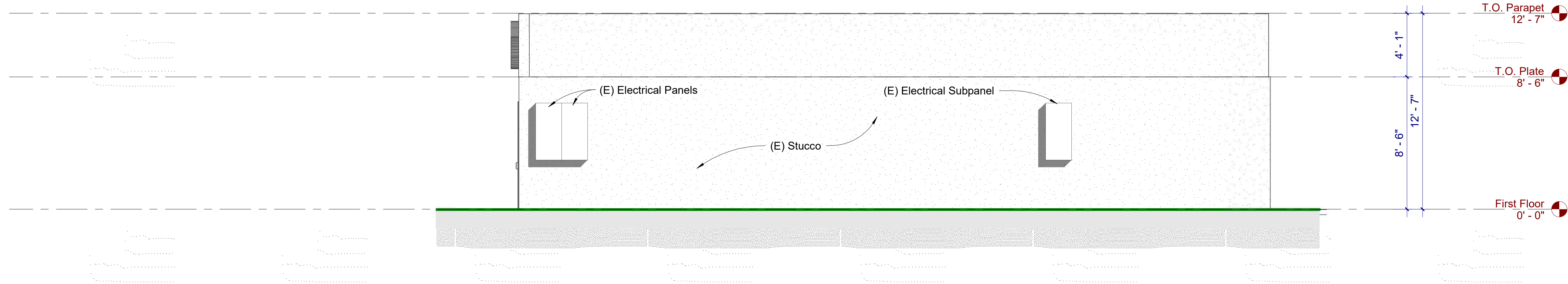


Notes



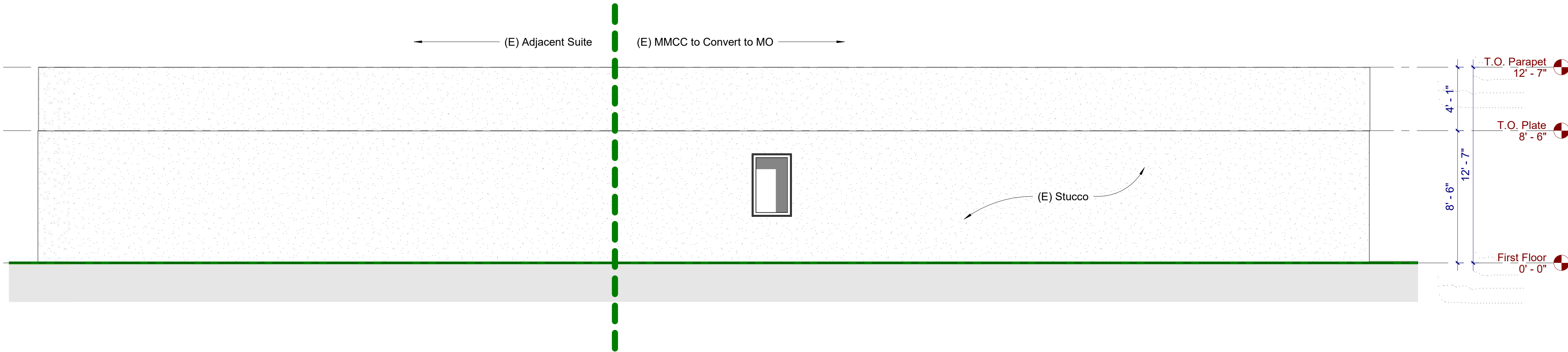
North Elevation  
1/4" = 1'-0"

1



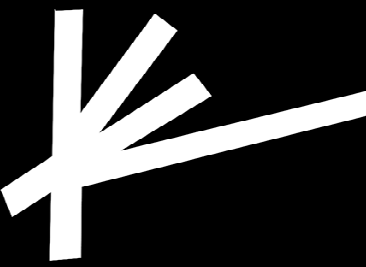
West Elevation  
1/4" = 1'-0"

2




South Elevation  
1/4" = 1'-0"

3



**COSTON  
ARCHITECTS  
INCORPORATED**  
  
8415 La Mesa Blvd Suite 4  
La Mesa, CA 91942



Marijuana Outlet  
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Existing Exterior Elevations

Revision Schedule	
DATE	11/08/2019
DRAWN	CAI
PROJECT	1727
A4.00	
5 OF 5	