



THE CITY OF SAN DIEGO

Report to the Hearing Officer

DATE ISSUED: May 8, 2019 REPORT NO. HO-19-041

HEARING DATE: May 15, 2019

SUBJECT: MPF 7955 Arjons Drive, Process Three Decision

PROJECT NUMBER: [602575](#)

OWNER/APPLICANT: Fifty Five Arjons, LLC, Owner and Dr. Duncan Neal, Applicant

SUMMARY

Issue: Should the Hearing Officer approve a Marijuana Production Facility located at 7955 Arjons Drive, Suite "A," in the IL-2-1 Zone of the Mira Mesa Community Plan area?

Staff Recommendation: Deny Conditional Use Permit No. 2126383.

Community Planning Group Recommendation: As of the printing of this report, the Mira Mesa Community Planning Group (MMCPG) has not taken any action on this project. The project applicant has decided to continue processing their application for the City's public hearing and should a recommendation be provided by the MMCPG, then it will be provided to the decision-maker.

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15303(c), New Construction or Conversion of Small Structures. The environmental exemption determination for this project was made on November 14, 2018, and the opportunity to appeal that determination ended November 29, 2018 (Attachment 5). Two appeals of the environmental determination were previously filed and were withdrawn on January 7, 2019 and January 31, 2019. The scope of the subject hearing only includes the project, and not the environmental determination.

BACKGROUND

The project is a request for a Conditional Use Permit (CUP) pursuant to San Diego Municipal Code (SDMC) section 126.0303 to operate a Marijuana Production Facility (MPF) in an existing Suite "A," comprising of an operational area of 4,576 square feet within an existing 19,971 square-foot industrial building located on a 0.91-acre site at 7955 Arjons Drive in the Mira Mesa Community Plan

area. The site is improved with a one-story building constructed in 1977 and is currently being used as a vehicle towing and auto repair businesses facility (Attachment 3).

Pursuant to SDMC section 141.1004, MPFs are restricted to forty City-wide, within light and heavy industrial zones. As of the published date of this report, 30 CUP applications for MPFs have been approved. 10 additional CUP applications for MPFs have been approved by the Hearing Officer; however, the decisions of the Hearing Officer on these applications have been appealed to the Planning Commission. The appeals to Planning Commission are currently in process.

Conclusion:

On April 3, 2019, the City of San Diego Hearing Officer has approved a total of 40 CUP applications for MPFs. Pursuant to SDMC section 141.1004, no more than 40 MPFs may be permitted in the City of San Diego. Therefore, City staff cannot support the Project's CUP findings for approval (Attachment 4), specifically SDMC section 126.0305(b), (c) and (d), and recommends the Hearing Officer deny the Project as no more than 40 MPFs are allowed City-wide by the adopted City Ordinance.

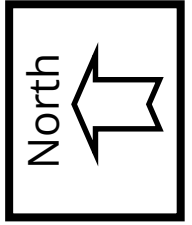
Respectfully submitted,



Tim Daly, Development Project Manager

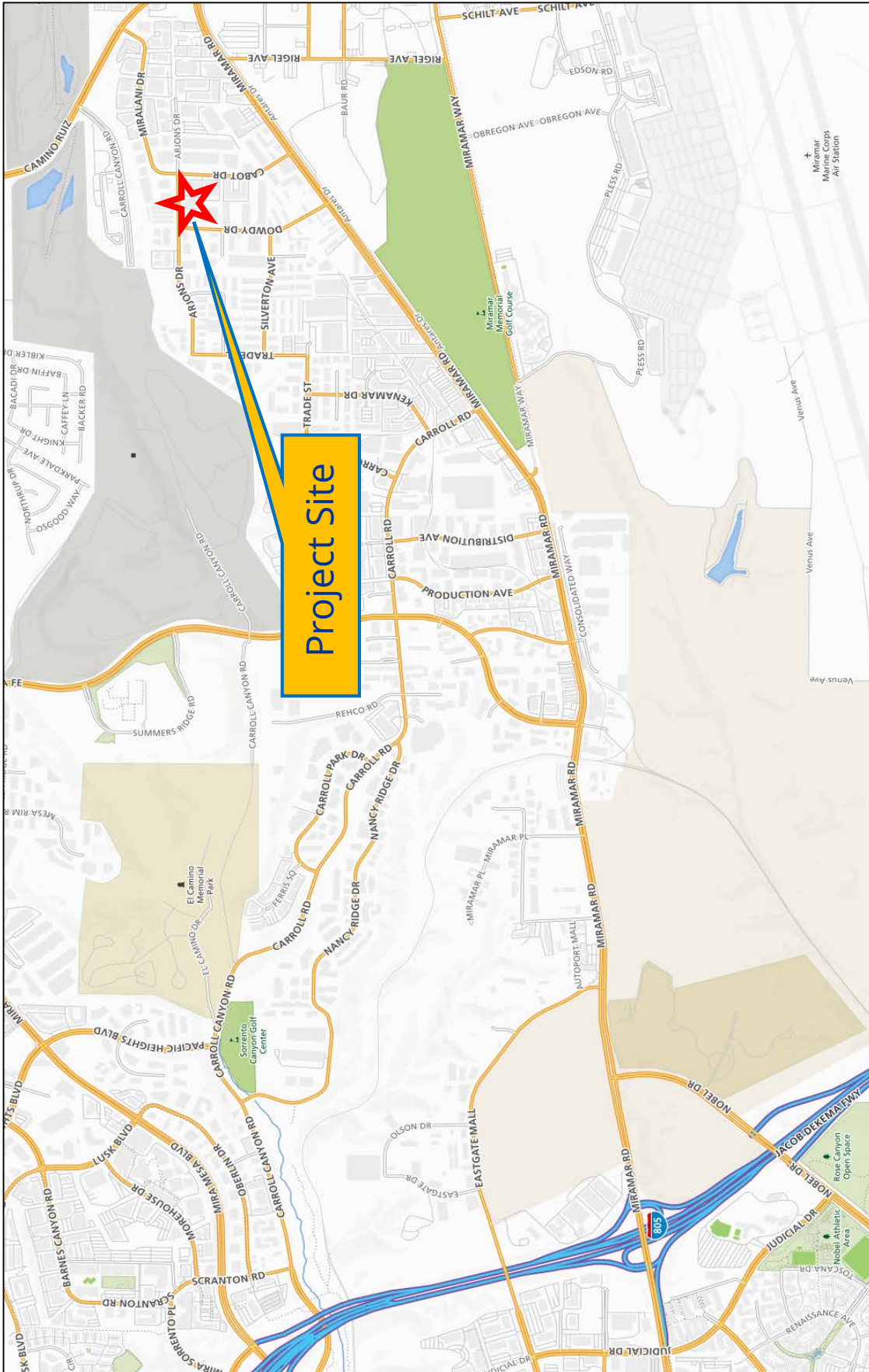
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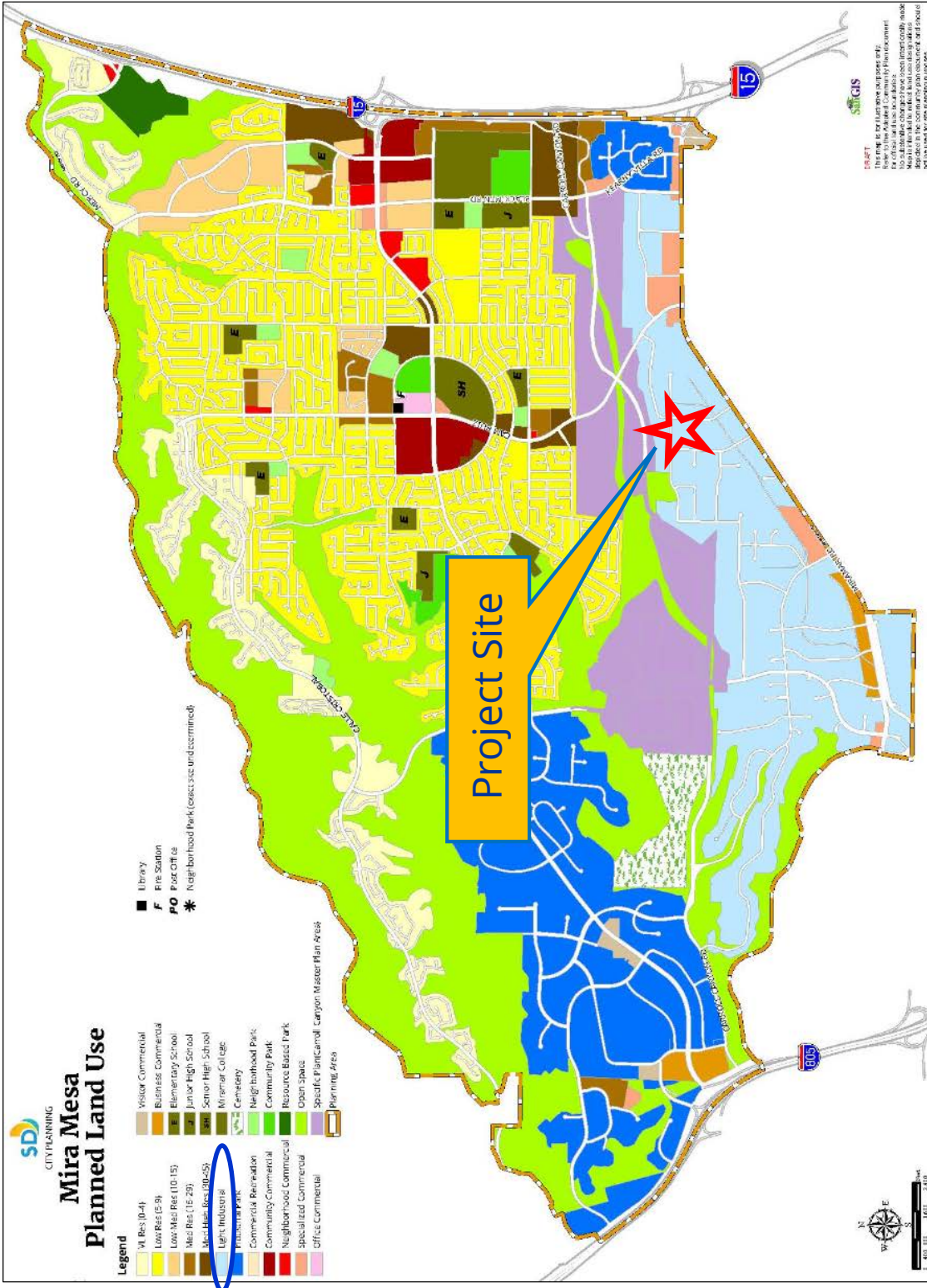
1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Draft Resolution with Findings
5. Notice of Right to Appeal Environmental Determination
6. Ownership Disclosure Statement



Project Location Map

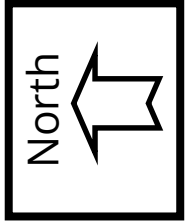
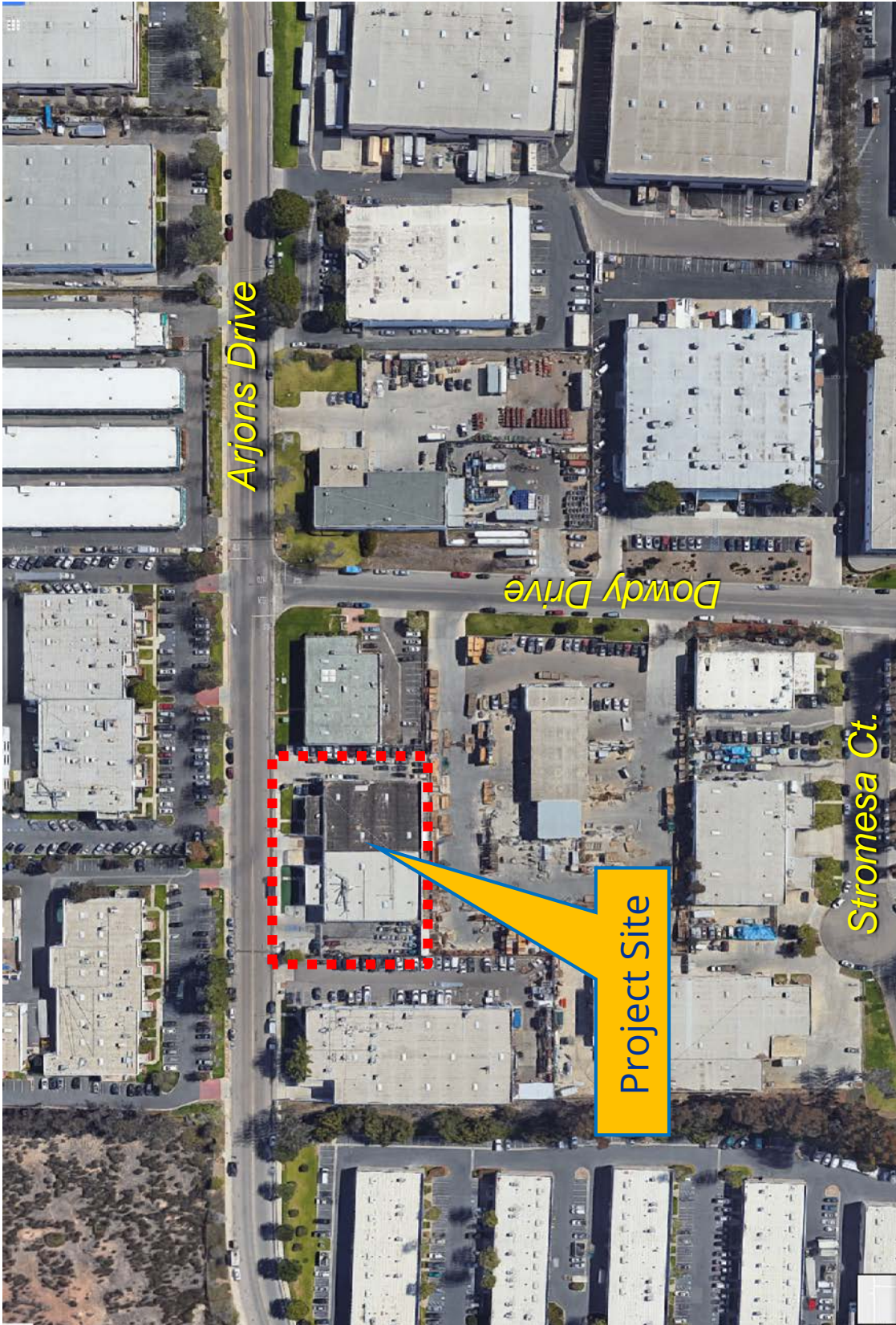
PROJECT NO. 602575, MPF 7955 ARJONS DRIVE
7955 ARJONS DRIVE, SAN DIEGO CA 92126





Community Land Use Map
PROJECT NO. 602575, MPF 7955 ARJONS DRIVE
7955 ARJONS DRIVE, SAN DIEGO CA 92126





Aerial Photograph

PROJECT NO. 602575, MPF 7955 ARJONS DRIVE
7955 ARJONS DRIVE, SAN DIEGO CA 92126



HEARING OFFICER RESOLUTION NO. HO-XXXX
CONDITIONAL USE PERMIT NO. 2126383
MPF 7955 ARJONS DRIVE - PROJECT NO. 602575

WHEREAS, FIFTY FIVE ARJONS, LLC, a California Limited Liability Company, Owner and DR. DUNCAN NEAL, Permittee, filed an application with the City of San Diego for a Conditional Use Permit to operate a Marijuana Production Facility on portions of a 0.91-acre site;

WHEREAS, the project site is located at 7955 Arjons Drive, Suite "A", in IL-2-1 Zone, Prime Industrial Lands, Airport FAA Part 77 Noticing Area – MCAS Miramar, Airport Influence Area Review Area 1 – MCAS Miramar, Airport Land Use Compatibility Overlay Zone – MCAS Miramar, Airport Land Use Compatibility Overlay Zone – MCAS Miramar, and designated Light Industrial within the Mira Mesa Community Plan area;

WHEREAS, the project site is legally described as Unit No. U-2, as shown on Condominium Plan recorded in the Office of the County Recorder of San Diego County, California, on December 9, 2005, as file No. 2005-1060140 and an undivided one-half interest in Common Area in Plan recorded in the Office of the County Recorder of San Diego County, California, on December 9, 2005, as file No. 2005-1060141, within Parcel No. 2 of Map No. 5878, filed in the Office of the San Diego County Recorder on May 3, 1977;

WHEREAS, on November 14, 2018, 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(c), New Construction or Conversion of Small Structures, and the Environmental Determination was appealed to City Council, which the appeals were withdrawn on January 7, 2019 and January 31, 2019;

WHEREAS, on May 15, 2019, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 2126383 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. 2126383:

A. CONDITIONAL USE PERMIT [SDMC Section 126.0305]

1. Findings for all Conditional Use Permits:

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

The proposed project requests a Conditional Use Permit (CUP) to operate a Marijuana Production Facility (MPF) in an existing Suite "A," comprising of an operational area of 4,576 square feet within an existing 19,971 square-foot industrial building located on a 0.91-acre site at 7955 Arjons Drive, Suite "A", in the IL-2-1 Zone, Prime Industrial Lands, Airport FAA Part 77 Noticing Area – MCAS Miramar, Airport Influence Area Review Area 1 – MCAS Miramar, Airport Land Use Compatibility Overlay Zone – MCAS Miramar, and Airport Land Use Compatibility Overlay Zone – MCAS Miramar within the Mira Mesa Community Plan area (Community Plan) area.

The project site is designated as Prime Industrial by the Economic Prosperity Element and Industrial Employment by the Land Use and Community Planning Element of the General Plan. The General Plan identifies a citywide shortage of land suitable for manufacturing activities and a need to protect a reserve of manufacturing land from non-manufacturing uses. The project site is also designated Light Industrial Zone in the South District by the Community Plan. Lands identified as prime industrial by the Community Plan are intended to support export-oriented base sector activities such as warehouse distribution, manufacturing, research and development uses, and supporting business service uses. The identification of lands as prime industrial is intended to protect these valuable employment lands and prevent future encroachment of uses that do not conform to the purpose of prime industrial. Surrounding properties are zoned IL-2-1 and include uses consistent with the Light Industrial designation of the community plan. The proposed MPF, classified as an industrial use, is consistent with the underlying zone and land use designation.

The operations of the proposed MPF include the cultivation and distribution of cannabis products, which are classified as an industrial use. Therefore, the proposed development is consistent with the community plan, and will not adversely affect the applicable land use plan.

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

The proposed project requests a CUP to operate an MPF comprising of an operational area of 4,576 square feet within an existing 19,971 square-foot industrial building located at 7955 Arjons Drive, Suite "A". MPFs are allowed in the IL-2-1 Zone of the Otay Mesa Community Plan with a CUP. However, on April 3, 2019, the Hearing Officer of the City of San Diego approved a total of 40 CUP applications for MPFs. Pursuant to SDMC section 141.1004, no more than 40 MPFs may be permitted in the City of San Diego. The proposed MPF will not comply with the regulations of the Land Development Code as 40 CUP applications for an MPF have been previously approved. Therefore, the proposed MPF will be detrimental to the public health, safety and welfare.

c. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

MPFs are allowed in the IL-2-1 Zone of the Otay Mesa Community Plan with a CUP. However, on April 3, 2019, the Hearing Officer of the City of San Diego approved a total of 40 CUP applications for MPFs. Pursuant to SDMC section 141.1004, no more than 40 MPFs may be permitted in the City of San Diego. Therefore, the proposed MPF will not comply with the regulations of the Land Development Code as 40 CUP applications for an MPF have been previously approved.

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

The proposed project requests a CUP to operate an MPF comprising of an operational area of 4,576 square feet within an existing 19,971 square-foot industrial building located at 7955 Arjons Drive, Suite "A." The site is located in the IL-2-1 Zone within the Mira Mesa Community Plan area. Light Industrial designation is intended for manufacturing, storage, warehousing, distribution and similar uses. The purpose and intent of the IL Base Zone is to permit a range of uses, including nonindustrial uses in some instances. Specifically, the IL-2-1 allows a mix of light industrial, office, and commercial uses. Surrounding properties are zoned IL-2-1 and include uses consistent with the Light Industrial designation of the community plan.

On April 3, 2019, the Hearing Officer of the City of San Diego has approved a total of 40 CUP applications for MPFs. Pursuant to SDMC section 141.1004, no more than 40 MPFs may be permitted in the City of San Diego. Therefore, the proposed MPF is not an appropriate use 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. 2126383, is hereby DENIED by the Hearing Officer to the referenced Owner/Permittee.

Tim Daly
Development Project Manager
Development Services

Adopted on: May 15, 2019

IO#: 24007792

DRAFT



THE CITY OF SAN DIEGO

Date of Notice: November 14, 2018

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 24007792

PROJECT NAME / NUMBER: MPF 7955 ARJONS DRIVE / 602575**COMMUNITY PLAN AREA:** MIRA MESA**COUNCIL DISTRICT:** 6**LOCATION:** 7955 ARJONS DRIVE, Suite A, San Diego CA, 92126

PROJECT DESCRIPTION: The project is a request for a Conditional Use Permit (CUP) for a Marijuana Production Facility (MPF) to operate within suite A, comprising of an operational area of 4,576 square feet. This would be contained within an existing 19,971 square foot industrial building located at 7955 Arjons Drive. The project proposes tenant improvements with no proposed development. Operations would include indoor cultivation of cannabis and packaging and storage of finished product for distribution to state licensed Marijuana Outlets. The 0.91-acre site is designated Light Industrial of the Miramar Subarea per the Mira Mesa Community Plan and is subject to the IL-2-1 zone requirements. The project is also subject to Prime Industrial Lands, Airport Influence Area – MCAS Miramar Review Area 1, Fire Brush Zones, and Council District 6.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Hearing Officer

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA pursuant to CEQA State Guidelines, Section 15303 (c), 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 which determined that the proposed project is exempt from CEQA pursuant to CEQA Guidelines Section 15303 (c), 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; and applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area. The proposed project, as included in the Project Description of this notice, has a floor area of under 10,000 square feet. No environmental impacts were identified for the proposed project. Additionally, none of the exceptions described in CEQA Guidelines Section 15300.2 apply.

DEVELOPMENT PROJECT MANAGER: Tim Daly
MAILING ADDRESS: 1222 First Avenue, MS 501
San Diego, CA 92101
PHONE NUMBER / EMAIL: (619) 446-5356 / TPDaly@sandiego.gov

On November 14, 2018 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 29, 2018). 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.

	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 _____

Project Title: Synpheon LLC MPF **Project No. For City Use Only:** 602575
Project Address: 7955 ARJONS DRIVE, SAN DIEGO, CA 92126

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

☐ Corporation ☒ Limited Liability -or- ☐ General - What State? CA Corporate Identification No. 200600610020
☐ Partnership ☐ Individual

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: FARIDEH KESHMIRI ☒ Owner ☐ Tenant/Lessee ☐ Successor Agency
 Street Address: 7955 ARJONS DRIVE
 City: SAN DIEGO State: CA Zip: 92126
 Phone No.: 858-254-5994 Fax No.: _____ Email: pacifictax@hotmail.com
 Signature: Farideh Keshmiri Date: 2/15/2018
 Additional pages Attached: ☐ Yes ☒ No

Applicant

Name of Individual: Dr. DUNCAN EARL ☐ Owner ☒ Tenant/Lessee ☐ Successor Agency
 Street Address: 10652 Berryessa Lane
 City: SAN DIEGO State: CA Zip: 92127
 Phone No.: 865-599-5233 Fax No.: _____ Email: dduncanearl@gmail.com
 Signature: Duncan Earl Date: 03/18/18
 Additional pages Attached: ☐ Yes ☒ No

Other Financially Interested Persons

Name of Individual: none ☐ Owner ☐ Tenant/Lessee ☐ Successor Agency
 Street Address: _____
 City: _____ State: _____ Zip: _____
 Phone No.: _____ Fax No.: _____ Email: _____
 Signature: _____ Date: _____
 Additional pages Attached: ☐ Yes ☒ No

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.