



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: May 30, 2019 REPORT NO. PC-19-048

HEARING DATE: June 6, 2019

SUBJECT: MPF 3279 National Avenue, Process Three Decision

PROJECT NUMBER: [585635](#)

REFERENCE: [Report to the Hearing Officer No. HO-19-016](#)

OWNER/APPLICANT: Aaron Magagna

SUMMARY

Issue: Should the Planning Commission deny or approve the appeals of the Hearing Officer's decision to approve the operation of a Marijuana Production Facility within an existing 3,390 square-foot building located at 3279 National Avenue, within the Southeastern San Diego Community Plan area?

Staff Recommendation: DENY the appeals and affirm the Hearing Officer's decision to APPROVE Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456.

Community Planning Group Recommendation: On November 19, 2018, the Southeastern San Diego Planning Group voted 5-1-0 to recommend approval of the project with "two recommendations of adding conditions for a 24-hour, 7-day-per-week security guard and extra exterior lighting above what the City requires to prevent the building from being a target of thieves" (Report No. HO-19-016, Attachment 8).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities. The environmental exemption determination for this project was made on October 11, 2018, and the opportunity to appeal that determination ended October 25, 2018. Two appeals of the environmental determination were previously filed. The appeals were withdrawn on January 7, 2019 and January 8, 2019, prior to the scheduled appeal hearing. Therefore, the exemption determination is final. The scope of the subject hearing only includes the project, and not the environmental determination.

Fiscal Impact Statement: All costs associated with the processing of this project are paid from a deposit account funded by the applicant.

Code Enforcement Impact: None with this application.

Housing Impact Statement: The project is an industrial development located in the industrial light, IL-3-1 Zone of the Southeastern San Diego Community Plan. The site is designated Light Industrial within the Southeastern San Diego Community Plan and intended for a variety of industrial uses including light manufacturing, research and development, storage, distribution, transportation terminals, multi-tenant industrial uses and corporate headquarters office uses. Therefore, the project would not impact the housing supply within the City of San Diego.

BACKGROUND

The project is a request for a Conditional Use Permit (CUP) pursuant to [San Diego Municipal Code \(SDMC\) Section 126.0303](#) and a Neighborhood Development Permit (NDP) pursuant to [SDMC Section 143.0920](#). The CUP is required to allow the operation of a Marijuana Production Facility (MPF) within an existing 3,390 square-foot building. The NDP is required to allow the requested deviations from the required 100-foot separation from a residential zone, and the required 1,000-foot separation from a school and a church, as set forth in [SDMC Section 141.1004](#). The 0.16-acre site is located at 3279 National Avenue in the IL-3-1 Zone, the Transit Priority Area Overlay Zone, Special Flood Hazard Area (100-year Floodplain), and the San Diego Promise Zone within the Southeastern San Diego Community Plan area.

The existing building was constructed in 1962. It is currently occupied by a medical marijuana cultivation facility, which has been operating pursuant to Business Tax Certificate (BTC) and Zoning Use Certificate (ZUC) issued for an "Indoor Medical Marijuana Cultivation Facility" on August 15, 2016; Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana



Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility. [Ordinance No. O-20859](#) adopted by City Council October 17, 2017, effective November 17, 2017, established the MPF use and included a provision that a MPF with an approved ZUC and a BTC, issued before January 31, 2017, shall have 24 months from the date of final passage of this ordinance in which to cease use or obtain required permits.

The MPF operations would include the cultivation and distribution of both medicinal and recreational marijuana. The project does not propose any interior improvements. All interior improvements for the marijuana cultivation facility were previously permitted in conformance with

the California Building Code, Mechanical Code, Electrical Code, and Fire Code in effect at the time of permit issuance. Proposed exterior improvements include improvement of project frontage along National Avenue, with curb, gutter, noncontiguous sidewalk, and reconstruction of one driveway consistent with current City Standards.

On February 20, 2019, the Hearing Officer approved the project. The Report to the Hearing Officer No. HO-19-016 (Attachment 1) includes the project background, analysis and necessary draft findings with a staff recommendation of approval. City Staff has provided a revised Draft Permit and Resolution to reflect a standard permit condition that was previously inadvertently omitted. The MPF is required to obtain a change of use/occupancy building permit to establish the MPF use, a new separately regulated use, consistent with all California Codes and Regulations in effect at the time of building permit, satisfactory to the Building Official (Attachment 6, Condition No. 12).

PROJECT APPEAL DISCUSSION

On March 6, 2019, three appeals of the Hearing Officer's decision were filed. These appeals were filed by Khoa Nguyen (Attachment 2), Greenspoon Marder LLP c/o Kelley Hayes (Attachment 3), and RS Industries (Attachment 4).

The appellants' project appeal issues are provided below along with City staff responses:

Khoa Nguyen Appeal Issue: "The Hearing Officer's stated finding to approve is not supported by the information that was provided to the Hearing Officer. It is widely known that Marijuana Production Facilities produce strong odors. The applicant has not sufficiently demonstrated that their marijuana production facility will not produce odors that will be detrimental to surrounding businesses and to the public."

Staff Response: The project includes interior design features within rooms containing cannabis products to be within a controlled environment that is air-tight and sealed with negative air pressure. This ensures no air escapes a room when a door is open. All air leaving the rooms will go through carbon filtration systems and odor controlling systems before venting from the building. The carbon filtration systems and odor controlling systems are to be maintained and serviced on a regular basis to ensure proper function and avoid air contaminant nuisance.

The Project's CUP contains various conditions related to SDMC Chapter 14, Article 2, Division 7: Off-Site Development Impact Regulations, which include: requiring the Owner/Permittee to provide an odor absorbing ventilation and exhaust system capable of minimizing excessive or offensive odors emanating outside of the permitted facility; requiring the continued use of this MPF, subject to the regulations of the City and any other applicable governmental agency; and stating that the issuance of the Permit by the City of San Diego does not authorize the Owner/Permittee for the Permit to violate any Federal, State or City laws, ordinances, regulations or policies.

In addition, the Municipal Code regulates air contaminants. Specifically, [SDMC Section 142.0710](#), Air Contaminant Regulations, states air contaminants including smoke, charred paper, dust, soot, grime, carbon, noxious acids, toxic fumes, gases, odors, and particulate matter, or any emissions that

endanger human health, cause damage to vegetation or property, or cause soiling shall not be permitted to emanate beyond the boundaries of the premises upon which the use emitting the contaminants is located. Nuisance complaints for non-compliance will be investigated by the City and/or other regulatory agencies, including, but not limited to, the California Department of Public Health and the Air Pollution Control District.

Greenspoon Marder LLP c/o Kelley Hayes Appeal Issues: "The proposed Marijuana Production Facility is located within 100 feet of Residential Zone, and is located within 1,000 feet of a Public School and a Church which is in violation of the separation requirements outlined in SDMC Section 141.1004 and Section 113.0225. Findings for a deviation from these separation requirements are also not supported under the Land Development Code, and do not meet the findings required under SDMC Section 126.0404(a) and (f) and Section 126.0505(a)."

Staff Response: The proposed MPF is within 100 feet of a residential zone, and within 1,000 feet of a school and a church, and not in compliance with the separation requirements outlined in SDMC Section 141.1004. The project is an in-fill development located within the San Diego Promise Zone, and pursuant to SDMC Section 143.0920, may request deviations from development standards with a Process Two, NDP. The Project is requesting three deviations from the separation requirements relative to a residential zone, church, and school through the NDP process.

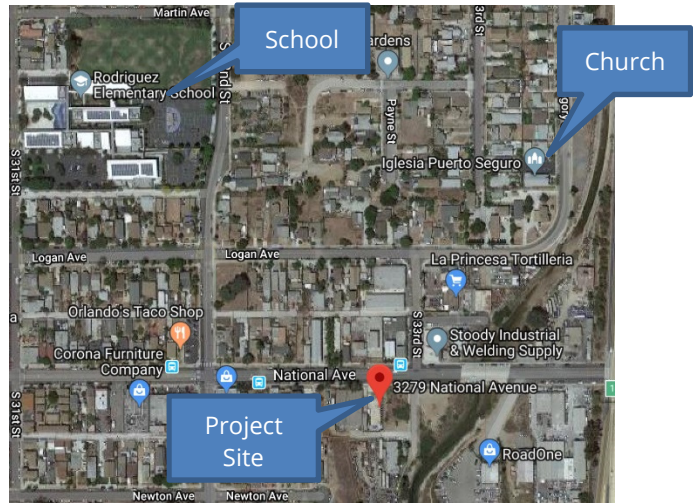
As detailed in the Report to the Hearing Officer No. HO-19-016, the residential zoned property located within 100 feet of the MPF at 3284 Newton Avenue, consists of five parcels. The site is partially occupied by an industrial use, with the remaining sloping parcels undeveloped. Three of these parcels are very narrow with steep slopes that would preclude residential development. The fourth parcel to the east is split zoned RM-1-1 and IL-3-1, and the fifth parcel is zoned IL-3-1. All



parcels are subject of an active code enforcement action for unpermitted structures, and illegal storage of building materials, wood, steel, heavy equipment, vehicles and other miscellaneous items. The closest residential zoned property developed with a residential use is located at 3250 Newton Avenue, and is approximately 125 feet from the proposed MPF, with distance measured property line to property line (Report No. HO-19-016, Attachments 9).

The project site is also located approximately 760 feet from a church, Iglesia Puerto Seguro, at 840 S. Gregory, and approximately 800 feet from Rodriguez Elementary School, located at 825 S. 31st Street, measured property line to property line. Per SDMC Section 113.0225, where natural topographical barriers and constructed barriers such as freeways or flood control channels exist, the separation of distance shall be measured as the most direct route around the barrier in a manner

that establishes direct access. Although not as substantial as a freeway or flood control channel, existing private property, fences and buildings exist that would impede direct physical access between the MPF and the church and the school. When measuring distance between the MPF and the church, and between the MPF and the school, via a path of travel as the most direct route around these barriers, the distance is greater than 1,000 feet (Report No. HO-19-016, Attachments 10 and 11). The requested deviations to the aforementioned separation requirements are appropriate at this location to allow an in-fill development and increase employment opportunities within the San Diego Promise Zone, while maintaining adequate distance between the MPF relative to the school, church and residential use consistent with the purpose and intent of the SDMC. On February 20, 2019, the Hearing Officer considered CUP No. 2068128 and NDP No. 2246456 pursuant to the Land Development Code and adopted the required findings, as set forth in SDMC Sections 126.0305, 126.0404(a) and (f), and 126.0505(a) to approve the project with the requested deviations.



RS Industries Appeal Issue 1: "New Information. New information is available to the applicant or the interested person that was not available through that person's reasonable efforts or due diligence at the time of the decision."

Staff Response: City Staff cannot respond to this appeal issue as the appellant has not identified any new information that was not available at the time of the decision.

RS Industries Appeal Issue No. 2: "Findings Not Supported. The decision maker's stated findings to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker."

Staff Response: On February 20, 2019, the Hearing Officer considered CUP No. 2068128 and NDP No. 2246456 pursuant to the Land Development Code and adopted the required findings, as set forth in SDMC Sections 126.0305, 126.0404(a) and (f), and 126.0505(a) to approve the CUP and NDP. The appellant has not provided any evidence as to how the stated findings to approve the CUP and NDP are not supported by the information provided to the decision maker.

RS Industries Appeal Issue No. 3: "Conflicts. The decision to approve, conditionally approve, or deny the permit, map, or other matter is in conflict with a land use plan, a City Council policy, or the Municipal Code."

Staff Response: The appellant has not provided any evidence as to how the Hearing Officer's decision on the subject application conflicts with a land use plan, a City Council policy, or the Municipal Code.

As detailed in the Report to the Hearing Officer No. HO-19-016, the project site is designated 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 manufacturing land from non-manufacturing uses. Furthermore, the project site is designated Light Industrial within the Southeastern San Diego Community Plan. The Light Industrial designation allows a wide variety of industrial uses, such as light manufacturing, research and development uses, and other industrial uses such as storage and distribution and transportation terminals. The IL Zones are intended to permit a range of uses, including nonindustrial uses in some instances. Specifically, the IL-3-1 Zone allows a mix of light industrial, office, and commercial uses. The proposed MPF, classified as an industrial use, is consistent with the underlying zone and land use designation.

MPFs also require compliance with [SDMC section 141.1004](#), which restricts the maximum number of MPFs to forty City-wide, and requires a 1,000-foot separation, measured between property lines, from specified uses. MPFs also have a minimum distance requirement of 100 feet from a residential zone. The project complies with the regulations of the Land Development Code except where deviations are allowed with an NDP pursuant to SDMC Section 143.0920. The project includes three deviations pertaining to separation requirements. Although the project site is located within 100 feet of residentially zoned property, the distance between the proposed MPF and the closest residentially zoned property developed with a residential use is greater than 100 feet.

As explained above, where natural topographical barriers and constructed barriers such as freeways or flood control channels exist, the separation of distance can be measured as the most direct route around the barrier in a manner that establishes direct access pursuant SDMC Section 113.0225. The existing private property, fences and buildings do not constitute significant barriers such as a freeway or flood control channel. However, they would impede direct physical access between the MPF and the church and the school. The distance between the MPF and the school, and between the MPF and the church would be more than 1,000 feet if measured via a path of travel that establishes direct access between these uses. The requested deviations are appropriate at this location as the project contributes to in-fill development and increasing employment opportunities within the San Diego Promise Zone while maintaining adequate distance between the MPF relative to school, church and residential use thereby meeting the purpose and intent of the SDMC.

RS Industries Appeal Issue No. 4: "The Site Plans do not demonstrate that the project includes an enclosed garage for distribution purposes, contrary to State Law."

Staff Response: The SDMC does not require an enclosed garage for distribution purposes. SDMC Section 141.1004 requires all operations, including equipment and storage, to be conducted indoors within a secured structure. As required by the SDMC, the MPF operations and associated equipment and storage are located within the existing building. Distribution of cannabis products will include the transfer of finished products into a secured loading zone, and then into a transport vehicle. MPFs are required to obtain the necessary State licenses to conduct their business, which may require additional modifications and construction permits.

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. Staff has provided draft findings (Attachment 5) to support the proposed development and draft conditions of approval (Attachment 6). Staff is recommending the Planning Commission deny the appeals and approve the project as presented.

ALTERNATIVES

1. Deny the appeals, affirm the Hearing Officer's decision, and approve Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456, with modifications.
2. Uphold the appeals, reverse the Hearing Officer's decision, and deny the Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



PJ Fitzgerald
Assistant Deputy Director
Development Services Department



Firouzeh Tirandazi
Development Project Manager
Development Services Department

LOWE/FT

Attachments:

1. Report to the Hearing Officer No. HO-19-016
2. Khoa Nguyen Appeal
3. Greenspoon Marder LLP c/o Kelley Hayes Appeal
4. RS Industries Appeal
5. Draft Permit Resolution with Findings
6. Draft Permit with Conditions
7. Site Photographs



THE CITY OF SAN DIEGO

Report to the Hearing Officer

DATE ISSUED: February 12, 2019 REPORT NO. HO-19-016

HEARING DATE: February 20, 2019

SUBJECT: MPF 3279 NATIONAL AVENUE, Process Three Decision

PROJECT NUMBER: [585635](#)

OWNER/APPLICANT: Aaron Magagna

SUMMARY

Issue: Should the Hearing Officer approve a Marijuana Production Facility within an existing 3,390 square-foot building located at 3279 National Avenue, within the Southeastern San Diego Community Plan area?

Staff Recommendations:

1. Approve Conditional Use Permit No. 2068128; and
2. Approve Neighborhood Development Permit No. 2246456.

Community Planning Group Recommendation: On November 19, 2018, the Southeastern San Diego Planning Group voted 5-1-0 to recommend approval of the project with "two recommendations of adding conditions for a 24-hour, 7-day-per-week security guard and extra exterior lighting above what the City requires to prevent the building from being a target of thieves" (Attachment 8).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA section 15301, Existing Facilities (Attachment 7). The environmental exemption determination for this project was made on October 11, 2018, and the opportunity to appeal that determination ended October 25, 2018. Two appeals of the environmental determination were previously filed. The appeals were withdrawn on January 7, 2019 and January 8, 2019. The scope of the subject hearing only includes the project, and not the environmental determination.

BACKGROUND

The 0.16-acre project site is located at 3279 National Avenue in the IL-3-1 Zone, the Transit Priority Area Overlay Zone, Special Flood Hazard Area (100-year Floodplain), and the San Diego Promise

Zone within the Southeastern San Diego Community Plan area (Attachment 1). The subject application was submitted to the City's Affordable, Infill Housing and Sustainable Buildings Expedite Program (Expedite Program) on November 16, 2017 and is in conformance with the criteria of the Expedite Program. The project is a request for a Conditional Use Permit pursuant to [San Diego Municipal Code \(SDMC\) Section 126.0303](#) to allow the operation of a Marijuana Production Facility (MPF) within an existing 3,390 square-foot building. A Neighborhood Development Permit is required in accordance with [SDMC Section 143.0920](#) to allow the requested deviations from the required 100-foot separation from a residential zone, and the required 1,000-foot separation from a school and a church as set forth in [SDMC Section 141.1004](#), subject to findings set forth in [SDMC Section 126.0404\(a\) and \(f\)](#), and [Section 126.0505\(a\)](#), and the supplemental finding(s) as applicable.

The existing building was constructed in 1962. It is currently occupied by a medical marijuana cultivation facility, which has been operating pursuant to Business Tax Certificate and Zoning Use Certificate issued for an "Indoor Medical Marijuana Cultivation Facility" on August 15, 2016; Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility.

[Ordinance No. O-20859](#) adopted by City Council October 17, 2017, effective November 17, 2017, established the MPF use and included a provision that a MPF with an approved Zoning Use Certificate and a Business Tax Certificate, issued before January 31, 2017, shall have 24 months from the date of final passage of this ordinance in which to cease use or obtain required permits. As required by Ordinance No. O-20859, the subject application has been submitted to allow the operation of a MPF at this location, including the cultivation of both medicinal and recreational marijuana.

The site is located within an urbanized community designated Light Industrial within the Southeastern San Diego Community Plan (Attachment 2). Properties to the north are designated Light Industrial and Neighborhood Mixed Use-Low (15-29 dwelling units/acre (du/ac)), zoned IL-3-1 and CN-1-3 and developed with multi-family residential use and commercial establishments. Properties to the south are designated Residential – Low Medium (10-14 du/ac) and Light Industrial, zoned RM-1-1 and IL-3-1 and developed with industrial and residential uses. The undeveloped property immediately to the east is designated Light Industrial and zoned IL-3-1. Property immediately to the west is designated Neighborhood Mixed Use-Low (15-29 du/ac), zoned CN-1-3, and was previously occupied by a metal finishing company, Southern California Plating Company (Attachments 2 and 4).

The project site is designated 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 manufacturing land from non-manufacturing uses. The Southeastern San Diego Community Plan Light Industrial designation allows a wide variety of industrial uses, such as light manufacturing, research and development uses, and other industrial uses such as storage and distribution and transportation terminals. Multi-tenant industrial uses and corporate headquarters office uses are permitted. All other office or commercial uses should be accessory to the primary industrial uses. The IL Zones are intended to permit a range of uses, including nonindustrial uses in some instances. Specifically, the IL-3-1 Zone allows a mix of light industrial, office, and commercial uses. The proposed MPF, classified as an industrial use, is consistent with the underlying industrial zone and land use designation.

DISCUSSIONProject Description:

The project proposes to operate a MPF within an existing 3,390-square-foot building with requested deviations from the development regulations pertaining to separation requirements. The structure is a two story, flat roof building, consisting of a 450-square-foot upper floor with the main entrance off National Avenue, and a 2,940-square-foot, lower floor, with additional access provided via the alley. Operations will consist of marijuana cultivation and distribution. No interior improvements are proposed. As explained above, all interior improvements for the marijuana cultivation facility were recently permitted in conformance with the California Building Code, Mechanical Code, Electrical Code, and Fire Code. As required by Ordinance No. O-20859, the subject application has been submitted to allow the operation of a MPF at this location, including the cultivation of both medicinal and recreational marijuana. The project Exterior improvements include improvement of project frontage along National Avenue, with curb, gutter, noncontiguous sidewalk, and reconstruction of one driveway consistent with current City Standards. Additionally, the project satisfies the required parking for the use by providing five off-street parking spaces, including one American Disabilities Act (ADA) accessible space, and two motorcycle spaces.

Separation Requirement and Requested Deviations:

MPFs are restricted to forty City-wide, within light and heavy industrial zones. MPFs require compliance with [SDMC Section 141.1004](#), which require a 1,000-foot separation, measured between property lines, from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. MPFs also require a minimum distance of 100 feet from a residential zone. Pursuant to SDMC Section 113.0225(c), where a natural topographical barrier or constructed barrier exists, distance can be measured as the most direct route around the barrier in a manner that establishes direct access.

City staff has reviewed the 1,000-foot radius map and 1,000-foot spreadsheet exhibit provided by the applicant identifying all existing uses. The proposed MPF is within 100 feet of a residential zone, and within 1,000 feet of a school and a church. As an infill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915, and in accordance with SDMC Section 143.0920, may request deviations from development standards with a Process Two, Neighborhood Development Permit. The project is requesting three deviations from the separation requirements relative to residential zone, a church, and a school.

Properties located south of the project site across the alley, and to the west, are zoned RM-1-1. The residential zoned property located within 100 feet of the MPF, located at 3284 Newton Avenue, consists of five parcels and is partially occupied by an industrial use, with the remaining sloping parcels undeveloped. Three of these parcels are very narrow with steep slopes that would preclude residential development. The fourth parcel to the east is split zoned RM-1-1 and IL-3-1, and the fifth parcel is zoned IL-3-1. All parcels are subject of an active code enforcement action pursuant to a Notice of Violation issued in 2013 for unpermitted structures, illegal storage of building materials, wood, steel, heavy equipment, vehicles and other miscellaneous items. Although the project site is located within 100 feet of a residentially zoned property, the use on the premises is an industrial use, not a residential use. Furthermore, the other parcels are unlikely to be developed due to

existing topographic site constraints. The closest residential zoned property that is developed with a residential use, located at 3250 Newton Avenue, is approximately 128 feet from the proposed MPF, with distance measured property line to property line (Attachment 9).

The project site is approximately 760 feet from Iglesia Puerto Seguro church, located at 840 S. Gregory, measured property line to property line. Per the SDMC, measuring distance may take into consideration natural topographical barriers and constructed barriers that would impede direct physical access between the uses. Specifically mentioned are freeways and flood control channels. In such cases, the separation of distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. However, ambiguity in the regulations exist as only two constructed barrier types are mentioned. Other types of barriers that would also impede direct physical access include private property, fences, homes and other structures that would need to be navigated around to establish direct access. These barriers currently exist, and the path of travel establishing direct access between the proposed MPF and the Iglesia Puerto Seguro Church would be more than 1,000 feet, approximately a .2-mile distance, or 1,056 linear feet (Attachment 10).

The proposed MPF is also located approximately 800 feet from Rodriguez Elementary School located at 825 S. 31st Street, with distance measured property line to property line. As in the case of the church, private property and structures exist that would impede direct physical access between the MPF and the school. A path of travel around such barriers that establishes direct access between the proposed MPF and the school would be over 1,000 feet, approximately a .4-mile distance, or 2,112 linear feet (Attachment 11).

When measuring distance between the MPF and the church, and between the MPF and the school, via a path of travel as the most direct route around existing physical and constructed barriers, the distances between the uses are greater than 1,000 linear feet. Additionally, although the site is located within 100 feet of residential zoned property, the existing use is an industrial use with the closest residential use more than 100 feet away with distance measured property line to property line. The requested deviations to the aforementioned separation requirements are appropriate at this location to allow an infill development and increase employment opportunities within the San Diego Promise Zone, while maintaining adequate distance between the MPF relative to the school, church and residential use consistent with the purpose and intent of the SDMC.

Operational and Security Requirements:

The proposed MPF is subject to specific operational and security requirements as set forth in SDMC Section 141.1004. 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. MPFs must also comply with SDMC Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation. The facility is also subject to State of California statutes and regulations.

Community Planning Group Recommendation:

The Southeastern San Diego Planning Group recommendation to approve the project is conditioned upon the project provide a 24-hour, 7-day-per-week security guard and extra exterior lighting above

Community Planning Group Recommendation:

The Southeastern San Diego Planning Group recommendation to approve the project is conditioned upon the project provide a 24-hour, 7-day-per-week security guard and extra exterior lighting above what the City requires. The project has been conditioned to provide lighting and a security guard during business hours in accordance with the SDMC Section 141.1004.

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. Staff has provided draft findings (Attachment 5) to support the proposed development and draft conditions of approval (Attachment 6). Staff is recommending the Hearing Officer approve the project as presented.

ALTERNATIVES

1. Approve Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456, with modifications.
2. Deny Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456, if the findings required to approve the project cannot be affirmed.

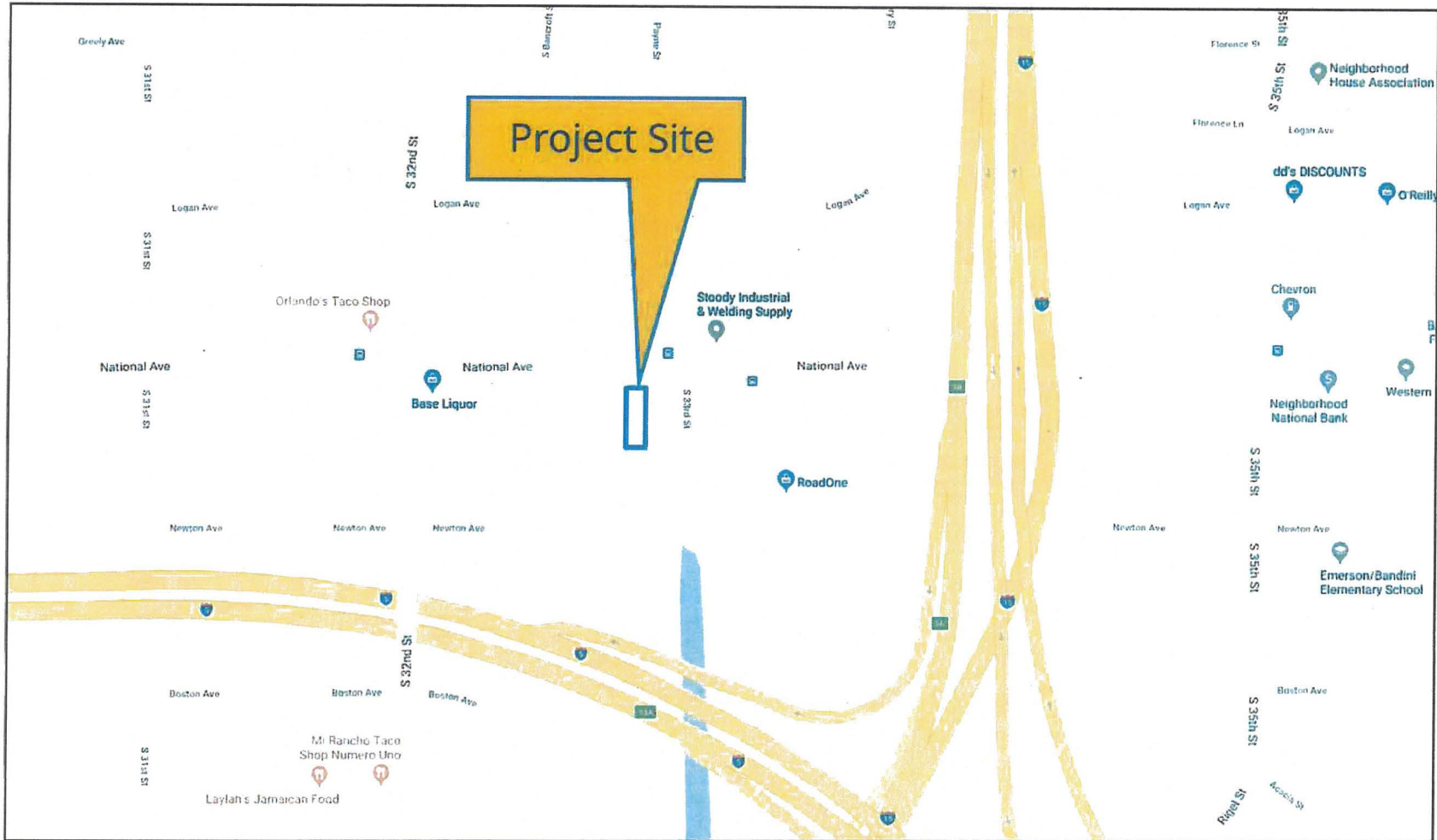
Respectfully submitted,



Firouzeh Tirandazi
Development Project Manager

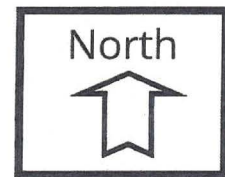
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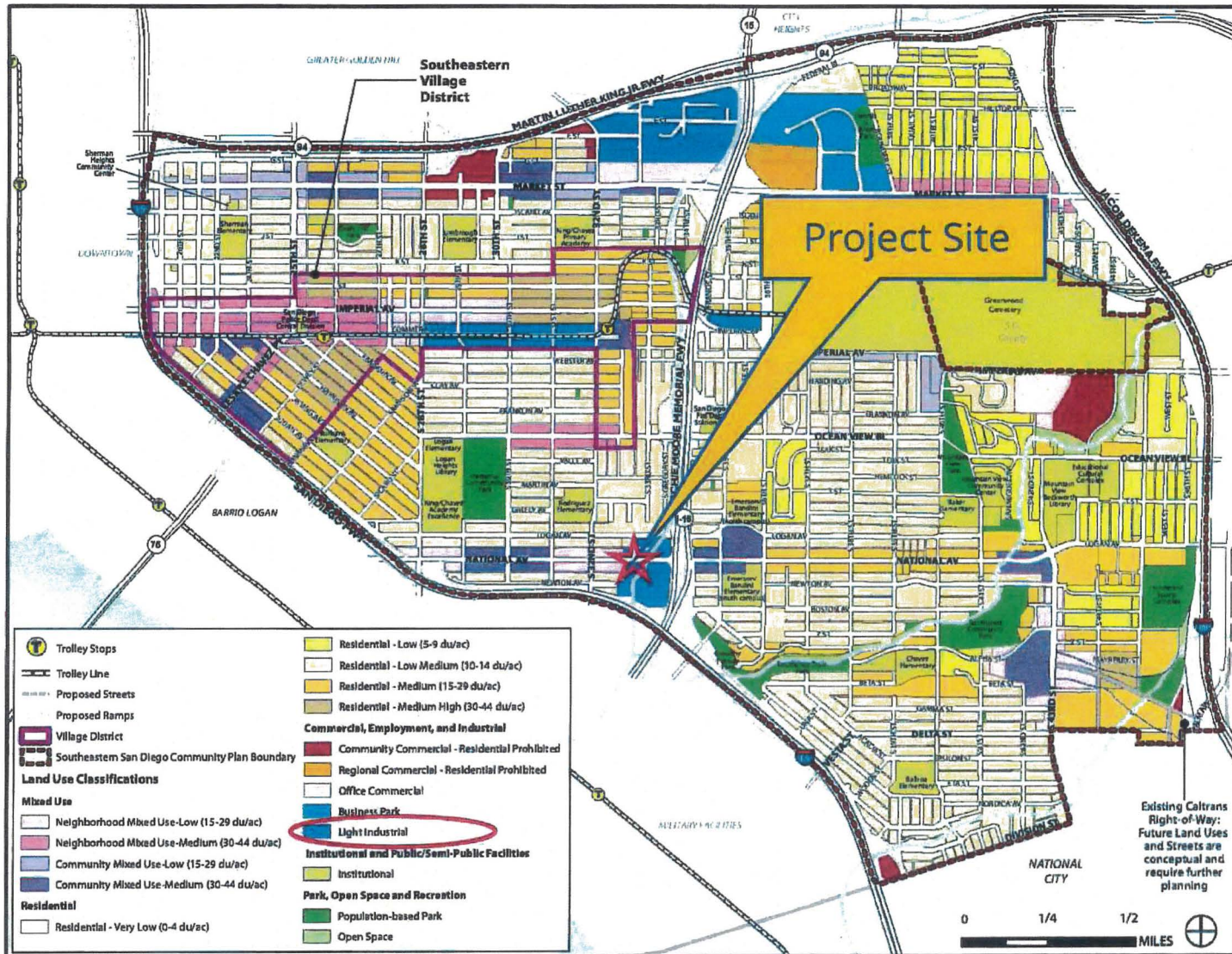
1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Zoning Map
5. Draft Resolution with Findings
6. Draft Permit with Conditions
7. Environmental Exemption
8. Community Planning Group Recommendation
9. Separation Exhibit – Residential Zone
10. Separation Exhibit – Iglesia Puerto Seguro Church
11. Separation Exhibit - Rodriguez Elementary School
12. Ownership Disclosure Statement
13. Project Plans



Project Location Map

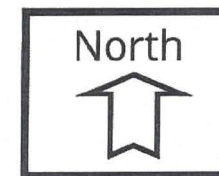
MPF 3279 National Ave / 3279 National Avenue
PROJECT NO. 585635





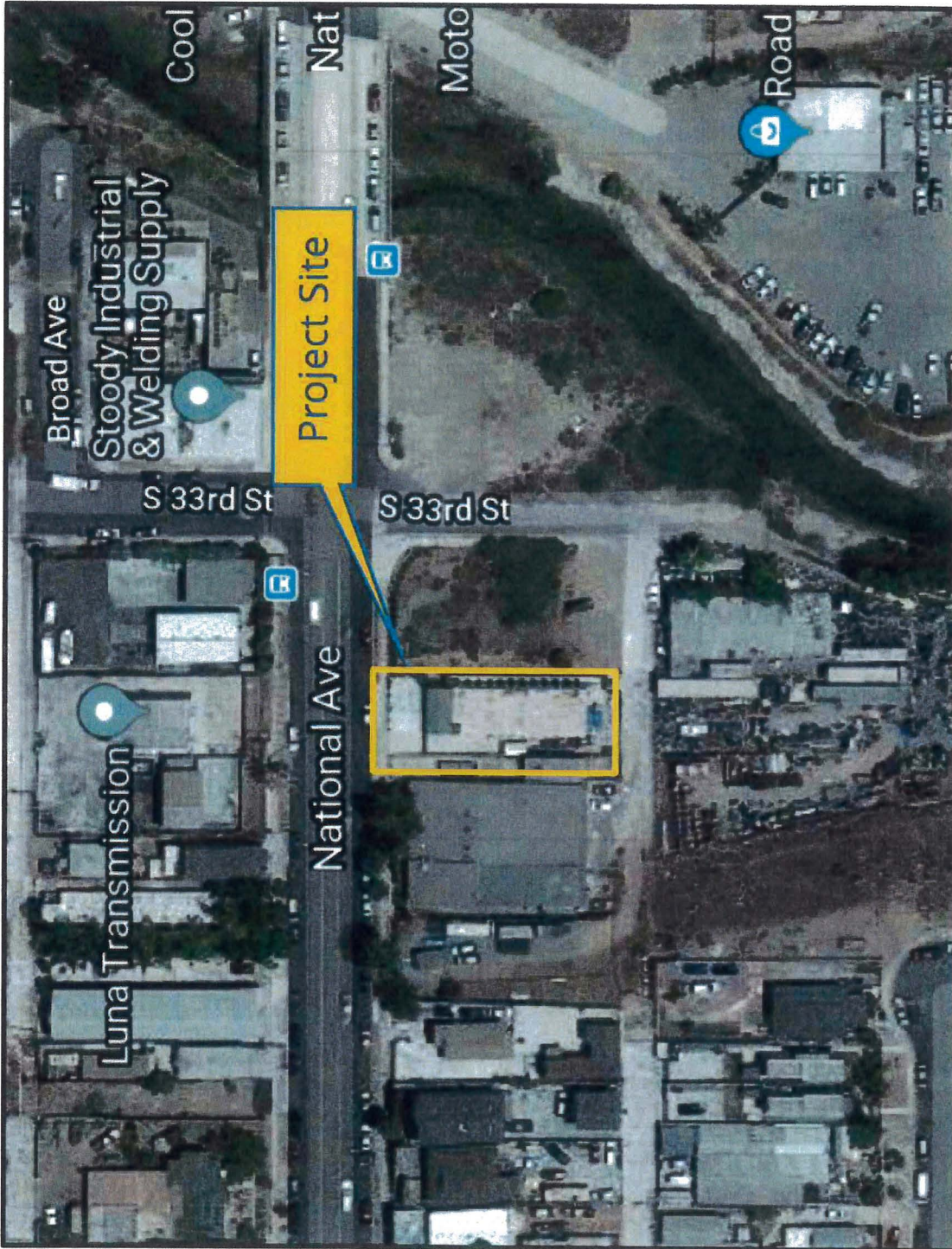
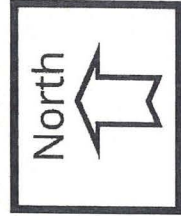
Land Use Map

MPF 3279 National Ave / 3279 National Avenue
PROJECT NO. 585635



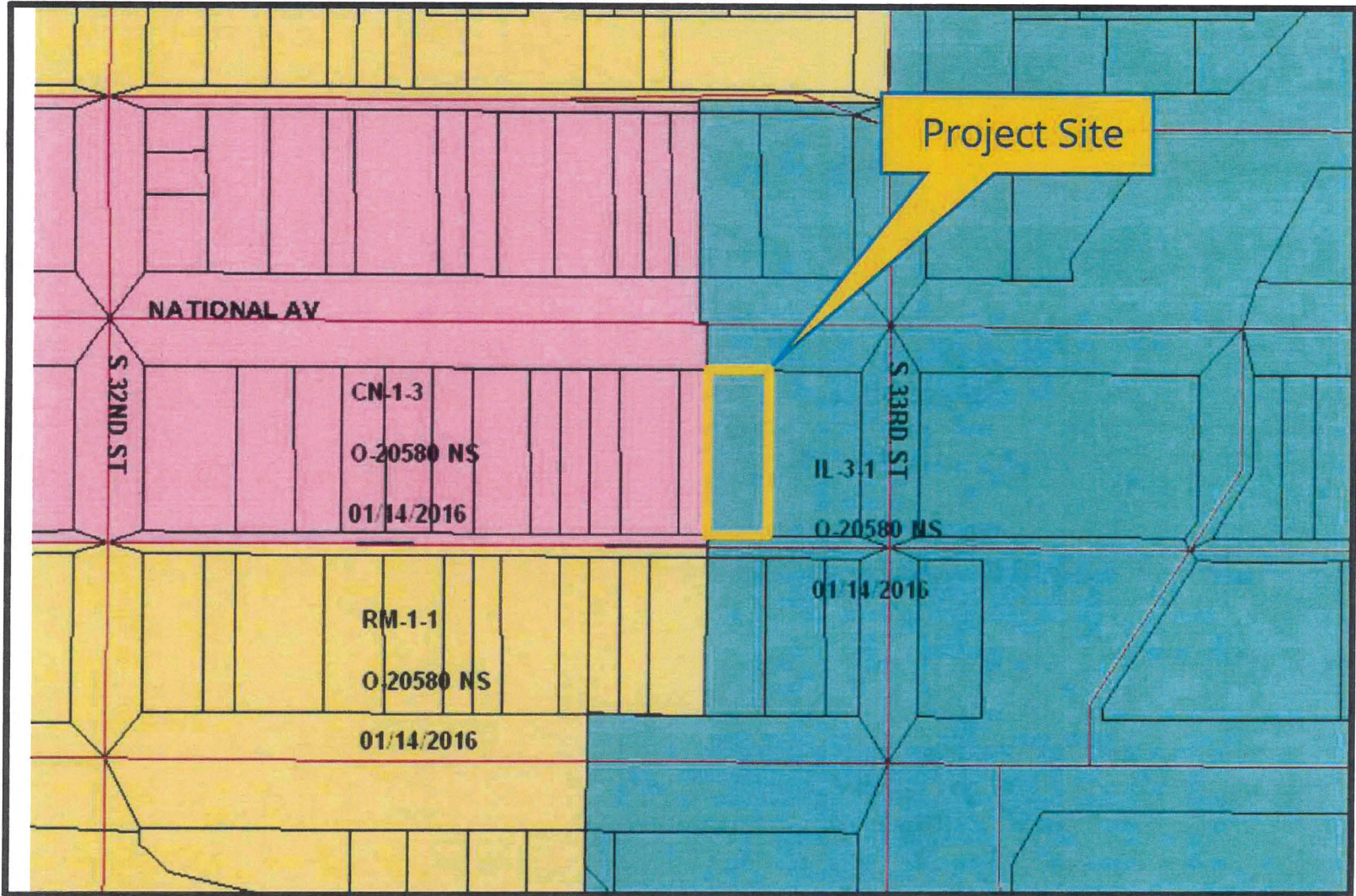
ATTACHMENT 2

ATTACHMENT 1



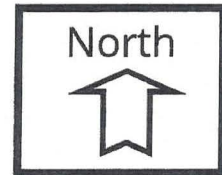
Aerial Photo
MPF 3279 National Ave / 3279 National Avenue
PROJECT NO. 585635





Zoning Map

MPF 3279 National Ave / 3279 National Avenue
 PROJECT NO. 585635



**HEARING OFFICER RESOLUTION NO. HO-XXXX
CONDITIONAL USE PERMIT NO. 2068128 AND
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 2246456
MPF 3279 NATIONAL AVENUE - PROJECT NO. 585635**

WHEREAS, AARON MAGAGNA, Owner/Permittee, filed an application with the City of San Diego for a permit to operate a Marijuana Production Facility (MPF) within an existing 3,390-square-foot building with requested deviations from the development regulations pertaining to separation requirements (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 2068128 and 2246456 on portions of a 0.16-acre site;

WHEREAS, the project site is located at 3279 National Avenue, within the Transit Priority Area Overlay Zone, Special Flood Hazard Area (100-year Floodplain), and the San Diego Promise Zone within the Southeastern San Diego Community Plan area;

WHEREAS, the project site is legally described as Lots 28 and 29, in Block 287 of Seaman and Choate's Addition, Map No. 223, filed in the Office of the county Recorder of San Diego County, September 10, 1886;

WHEREAS, on October 11, 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 15301, Existing Facilities, and the Environmental Determination was appealed to City Council, which appeals were withdrawn on January 7, 2019 and January 8, 2019.

WHEREAS, on February 20, 2019, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456 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. 2068128 and Neighborhood Development Permit No. 2246456:

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 project is a request for a Conditional Use Permit and Neighborhood Development Permit to allow the operation of a MPF within an existing 3,390-square-foot building located at 3279 National Avenue. The project also requests deviations from the 100-foot separation requirement from the residential zone, and the 1,000-foot separation requirement from a church and a school, as set forth in San Diego Municipal Code Section 141.1004, pursuant to SDMC Section 143.0920. The 0.16-acre project site is located in the IL-3-1 Zone, the Transit Priority Area Overlay Zone, Special Flood Hazard Area (100-year Floodplain), and the San Diego Promise Zone within the Southeastern San Diego Community Plan area.

The existing building was constructed in 1962. It is currently occupied by a medical marijuana cultivation facility, which has been operating pursuant to Business Tax Certificate and Zoning Use Certificate issued for an "Indoor Medical Marijuana Cultivation Facility" on August 15, 2016; Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility.

Ordinance No. O-20859 adopted by City Council October 17, 2017, effective November 17, 2017, established the MPF use and included a provision that a MPF with an approved Zoning Use Certificate and a Business Tax Certificate, issued before January 31, 2017, shall have 24 months from the date of final passage of this ordinance in which to cease use or obtain required permits. As required by Ordinance No. O-20859, the subject application has been submitted to allow the operation of a MPF at this location, including the cultivation of both medicinal and recreational marijuana. No interior improvements are proposed. All interior improvements necessary to establish the marijuana cultivation use at this location have been permitted in conformance with the California Building Code, Mechanical Code, Electrical Code, and Fire Code.

The project site is designated 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 manufacturing land from non-manufacturing uses. The Southeastern San Diego Community Plan Light Industrial designation allows a wide variety of industrial uses, such as light manufacturing,

research and development uses, and other industrial uses such as storage, distribution and transportation terminals, multi-tenant industrial uses and corporate headquarters office uses. The IL Zones are intended to permit a range of uses, including nonindustrial uses in some instances. Specifically, the IL-3-1 Zone allows a mix of light industrial, office, and commercial uses. The proposed MPF, classified as an industrial use, is a compatible use for this location with a Conditional Use Permit and Neighborhood Development Permit, and is consistent with the underlying industrial zone and community plan land use designation, and therefore 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 development will not be detrimental to the public's health, safety and welfare because 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.

The project proposes to operate a MPF within an existing 3,390-square-foot building with requested deviations from the development regulations pertaining to separation requirements. The structure is a two story, flat roof building, consisting of a 450-square-foot upper floor with the main entrance off National Avenue, and a 2,940-square-foot, lower floor with additional access provided via the alley. Operations will consist of marijuana cultivation and distribution. No interior improvements are proposed. All interior improvements for the marijuana cultivation facility were previously permitted in conformance with the California Building Code, Mechanical Code, Electrical Code, and Fire Code pursuant to Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility.

The project exterior improvements include improvement of project frontage along National Avenue, with curb, gutter, noncontiguous sidewalk, and reconstruction of one driveway consistent with current City Standards to the satisfaction of the City Engineer. Additionally, the project satisfies the required parking for the use by providing five off-street parking spaces, including one American Disabilities Act (ADA) accessible space, and two motorcycle spaces.

MPFs are restricted to forty City-wide, within light and heavy industrial zones. MPFs require compliance with San Diego Municipal Code (SDMC) section 141.1004, which require a 1,000-foot separation, measured between property lines, from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. MPFs also have a minimum distance requirement of 100 feet from a residential zone. Pursuant to SDMC Section 113.0225(c), where a natural topographical barrier or constructed barrier exists,

distance can be measured as the most direct route around the barrier in a manner that establishes direct access. The project is requesting three deviations from the separation requirements from residential zones, churches and schools.

Although the project site is located within 100 feet of residentially zoned parcels, the use on the premises is an industrial use, not a residential use, and the undeveloped portions that are zoned residential are unlikely to be developed due the steep slopes and topographic site constraints. The closest residential zoned property that is developed with a residential use, located at 3250 Newton Avenue, is approximately 125 feet from the MPF, with distance measured property line to property line.

The project site is also located approximately 760 feet from a church located at 840 S. Gregory, and approximately 800 feet from Rodriguez Elementary School located at 825 S. 31st Street. Per the SDMC, measuring distance for marijuana production facilities shall take into consideration natural topographical barriers and constructed barriers that would impede direct physical access between the uses such as freeways or flood control channels. In such cases, the separation of distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. Although not as substantial as a freeway or flood control channel, existing private property, fences, and buildings are barriers that would impede direct physical access and would need to be navigated around to establish direct access between the uses. When measuring distance between the proposed MPF and the subject church, and between the proposed MPF and the subject school, via a path of travel as the most direct route around these existing barriers, the distances between these uses are greater than 1,000 feet. The requested deviations to the aforementioned separation requirements are appropriate at this location and meet the purpose and intent of the regulations by maintaining adequate distance between the MPF relative to the school, church and residential uses.

The proposed MPF is subject to specific operational requirements as set forth in SDMC section 141.1004, including security requirements, such as 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. MPFs must also comply with SDMC Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation. The proposed project will be required to comply with the development conditions as described in Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456. The permit will be valid for five years and may be revoked if the Owner/Permittee violates the terms, conditions, lawful requirements, or provisions of the Permit.

Furthermore, this project has been reviewed pursuant to the California Environmental Quality Act, and the environmental analysis did not find any significant impacts to the public health and safety. Based on the above analysis, the proposed development would not 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.**

The project proposes to operate a MPF within an existing 3,390-square-foot building constructed in 1962. The project site is located in the IL-3-1 Zone, within the Southeastern San Diego Community Plan area. The structure is a two story, flat roof building, consisting of a 450-square-foot upper floor with the main entrance off National Avenue, and a 2,940-square-foot, lower floor, with additional access provided via the alley. The building is currently occupied by a medical marijuana cultivation facility, which has been operating pursuant to Business Tax Certificate and Zoning Use Certificate issued for an "Indoor Medical Marijuana Cultivation Facility" on August 15, 2016; Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility.

Ordinance No. O-20859 adopted by City Council October 17, 2017, effective November 17, 2017, established the MPF use and included a provision that a MPF with an approved Zoning Use Certificate and a Business Tax Certificate, issued before January 31, 2017, shall have 24 months from the date of final passage of this ordinance in which to cease use or obtain required permits. As required by Ordinance No. O-20859, the subject application has been submitted to allow the operation of a MPF at this location, including the cultivation of both medicinal and recreational marijuana. Operations will consist of marijuana cultivation and distribution. No interior improvements are proposed. All interior improvements necessary to establish the marijuana cultivation use at this location have been permitted in conformance with the California Building Code, Mechanical Code, Electrical Code, and Fire Code.

The project exterior improvements include improvement of project frontage along National Avenue, with curb, gutter, noncontiguous sidewalk, and reconstruction of one driveway consistent with current City Standards. Additionally, the project satisfies the required parking for the use by providing five off-street parking spaces, including one American Disabilities Act (ADA) accessible space, and two motorcycle spaces.

MPFs are allowed in the IL-3-1 Zone with a Conditional Use Permit. The proposed use requires compliance with SDMC section 141.1004 and Chapter 4, Article 2, Division 15. Security measures, expressed as conditions in the permit, includes 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. Furthermore, SDMC section 141.1004 requires a 1,000-foot separation, measured between property lines, from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone.

The project complies with the regulations of the Land Development Code except where deviations are allowed through the Neighborhood Development Permit pursuant to SDMC Section 143.0920. The project is requesting three deviations from the separation requirements from residential zones, churches, and schools. Although the project site is

located within 100 feet of residentially zoned parcels, the use on the premises is an industrial use, not a residential use, and the undeveloped portions that are zoned residential are unlikely to be developed due the steep slopes and topographic site constraints. The closest residential zoned property that is developed with a residential use, located at 3250 Newton Avenue, is approximately 125 feet from the MPF, with distance measured property line to property line.

The project site is also located approximately 760 feet from a church located at 840 S. Gregory, and approximately 800 feet from Rodriguez Elementary School located at 825 S. 31st Street. Per the SDMC, measuring distance for marijuana production facilities shall take into consideration natural topographical barriers and constructed barriers that would impede direct physical access between the uses such as freeways or flood control channels. In such cases, the separation of distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. Although not as substantial as a freeway or flood control channel, existing private property, fences, and buildings are barriers that would impede direct physical access and would need to be navigated around to establish direct access between the uses. When measuring distance between the proposed MPF and the subject church, and between the proposed MPF and the subject school, via a path of travel as the most direct route around these existing barriers, the distances between these uses are greater than 1,000 feet. The requested deviations to the aforementioned separation requirements meet the purpose and intent of the regulations by maintaining adequate distance between the MPF relative to the school, church and residential zone.

As an in-fill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915 and contributes towards in-fill development and increasing employment opportunities within the San Diego Promise Zone. The proposed MPF complies with all land development regulations relevant for the site and the use, except where deviations are allowed through the Neighborhood Development Permit pursuant to SDMC Section 143.0920. Therefore, the proposed development will comply with the applicable regulations of the Land Development code, including any allowable deviations pursuant to the Land Development Code.

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

The MPF is proposed within an existing 3,390-square-foot building located at 3279 National Avenue. The building is currently occupied by a medical marijuana cultivation facility, which has been operating pursuant to Business Tax Certificate and Zoning Use Certificate issued for an "Indoor Medical Marijuana Cultivation Facility" on August 15, 2016; Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility.

The project site is in the IL-3-1 Zone of the Southeastern San Diego Community Plan area. The project site is designated 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 manufacturing land from non-manufacturing uses. The Southeastern San Diego Community Plan Light Industrial designation allows a wide variety of industrial uses, such as light manufacturing, research and development uses, and other industrial uses such as storage, distribution and transportation terminals, multi-tenant industrial uses and corporate headquarters office uses.

The IL Zones are intended to permit a range of uses, including non-industrial uses in some instances. The purpose and intent of the IL-3-1 Zone is to accommodate a range of industrial and manufacturing activities in designated areas to promote balanced land use and provide flexibility in the design of new and redeveloped industrial projects, while assuring high quality development and protecting land for industrial uses and limiting nonindustrial uses. The development standards of this zone are intended to encourage sound industrial development by providing an attractive environment free from adverse impacts associated with some heavy industrial uses. Specifically, the IL-3-1 Zone allows a mix of light industrial, office, and commercial uses.

MPFs require compliance with San Diego Municipal Code (SDMC) section 141.1004, which require a 1,000-foot separation, measured between property lines, from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. MPFs are also required to maintain a distance of 100 feet from a residential zone. Pursuant to SDMC Section 113.0225(c) where a natural topographical barrier or constructed barrier exists, distance can be measured as the most direct route around the barrier in a manner that establishes direct access. The project is requesting three deviations from the separation requirements from residential zones, churches and schools.

Although the project site is located within 100 feet of residentially zoned parcels, the use on the premises is an industrial use, not a residential use, and the undeveloped portions that are zoned residential are unlikely to be developed due the steep slopes and topographic site constraints. The closest residential zoned property that is developed with a residential use, located at 3250 Newton Avenue, is approximately 125 feet away from the MPF, with distance measured property line to property line.

The project site is also located approximately 760 feet from a church located at 840 S. Gregory, and approximately 800 feet from Rodriguez Elementary School located at 825 S. 31st Street. Per the SDMC, measuring distance for marijuana production facilities shall take into consideration natural topographical barriers and constructed barriers that would impede direct physical access between the uses such as freeways or flood control channels. In such cases, the separation of distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. Although not as substantial as a freeway or flood control channel, existing private property, fences, and buildings are barriers that would impede direct physical access and would need to be navigated around to establish direct access between the uses. When measuring

distance between the proposed MPF and the subject church, and between the proposed MPF and the subject school, via a path of travel as the most direct route around these existing barriers, the distances between these uses are greater than 1,000 feet. The requested deviations to the aforementioned separation requirements meet the purpose and intent of the regulations by maintaining adequate distance between the MPF relative to the school, church and residential zone.

The proposed MPF, classified as an industrial use, is consistent with the Light Industrial designation of the Southeastern San Diego Community Plan, and is a compatible use for this location with a Conditional Use Permit and Neighborhood Development Permit. The proposed MPF complies with all land development regulations relevant for the site and the use, except where deviations are allowed through the Neighborhood Development Permit pursuant to SDMC Section 143.0920. As an in-fill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915 and contributes towards in-fill development and increasing employment opportunities within the San Diego Promise Zone. Therefore, the proposed MPF is an appropriate use at the proposed location.

B. NEIGHBORHOOD DEVELOPMENT PERMIT [SDMC SECTION 126.0404(a)]

1. Findings for all Neighborhood Development Permits:

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

As outlined in CUP Finding (A)(1)(a) listed above, the proposed development will not adversely affect the applicable land use plan.

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

As outlined in CUP Finding (A)(1)(b) listed above, the proposed development will not be detrimental to the public health, safety, and welfare.

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

As outlined in CUP Finding (A)(1)(c) listed above, the requested deviations are appropriate at this location and meet the purpose and intent of the regulations by maintaining adequate distance between the MPF relative to the school, church and residential uses. As an in-fill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915 and contributes towards in-fill development and increasing employment opportunities within the San Diego Promise Zone. Therefore, the proposed development will comply with the

applicable regulations of the Land Development code, including any allowable deviations pursuant to the Land Development Code.

2. **Supplemental Findings – Affordable Housing, In-Fill Projects, or Sustainable Buildings [SDMC Section 126.0404(f)]**

a. **The development will materially assist in accomplishing the goal of providing affordable, in-fill projects, or sustainable buildings opportunities; and**

The project proposes to operate a MPF within an existing 3,390-square-foot building constructed in 1962. The project site is located in the IL-3-1 Zone, within the Southeastern San Diego Community Plan area and the San Diego Promise Zone. The building is currently occupied by a medical marijuana cultivation facility, which has been operating pursuant to Business Tax Certificate and Zoning Use Certificate issued for an "Indoor Medical Marijuana Cultivation Facility" on August 15, 2016; Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility. As required by Ordinance No. O-20859, the subject application has been submitted to allow the operation of a MPF at this location, including the cultivation of both medicinal and recreational marijuana. Prior to this use, the building had been vacant.

As an in-fill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915. The development materially assists in accomplishing the goal of providing an in-fill project, preserve and protect valuable manufacturing land from non-manufacturing uses, and increase light industrial employment opportunities in the community consistent with the goals and objectives of the San Diego General Plan and the Southeastern San Diego Community Plan.

b. **Any proposed deviations are appropriate for the proposed location.**

MPFs require compliance with SDMC section 141.1004, which require a 1,000-foot separation measured between property lines, from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. MPFs are also required to maintain a distance of 100 feet from a residential zone. Pursuant to SDMC Section 113.0225(c), where a natural topographical barrier or constructed barrier exists, distance can be measured as the most direct route around the barrier in a manner that establishes direct access. The project is requesting three deviations from the separation requirements from residential zones, churches and schools.

Although the project site is located within 100 feet of residentially zoned parcels, the use on the premises is an industrial use, not a residential use, and the undeveloped portions that are zoned residential are unlikely to be developed due the steep slopes and topographic site constraints. The closest residential zoned property that is developed

with a residential use, located at 3250 Newton Avenue, is approximately 125 feet from the MPF, with distance measured property line to property line.

The project site is also located approximately 760 feet from a church located at 840 S. Gregory, and approximately 800 feet from Rodriguez Elementary School located at 825 S. 31st Street. Per the SDMC, measuring distance for marijuana production facilities shall take into consideration natural topographical barriers and constructed barriers that would impede direct physical access between the uses such as freeways or flood control channels. In such cases, the separation of distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. Although not as substantial as a freeway or flood control channel, existing private property, fences, and buildings are barriers that would impede direct physical access and would need to be navigated around to establish direct access between the uses. When measuring distance between the proposed MPF and the subject church, and between the proposed MPF and the subject school, via a path of travel as the most direct route around these existing barriers, the distances between these uses are greater than 1,000 feet. The requested deviations to the aforementioned separation requirements meet the purpose and intent of the regulations by maintaining adequate distance between the MPF relative to the school, church and residential zone.

The requested deviations to the aforementioned separation requirements are appropriate at this location to allow an in-fill development and increase employment opportunities within the San Diego Promise Zone, while maintaining adequate distance between the MPF relative to the school, church and residential use consistent with the purpose and intent of the SDMC.

C. SITE DEVELOPMENT PERMIT [SDMC SECTION 126.0504]

1. Findings for all Site Development Permits:

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

As outlined in CUP Finding (A)(1)(a) listed above, the proposed development will not adversely affect the applicable land use plan.

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

As outlined in CUP Finding (A)(1)(b) listed above, the proposed development will not be detrimental to the public health, safety, and welfare.

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

As outlined in CUP Finding (A)(1)(c) listed above, the requested deviations are appropriate at this location and meet the purpose and intent of the regulations by

maintaining adequate distance between the MPF relative to the school, church and residential uses. As an in-fill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915 and contributes towards in-fill development and increasing employment opportunities within the San Diego Promise Zone. Therefore, the proposed development will comply with the applicable regulations of the Land Development code, including any allowable deviations pursuant to the Land Development Code.

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. 2068128 and Neighborhood Development Permit No. 2246456 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 2068128 and 2246456, a copy of which is attached hereto and made a part hereof.

Firouzeh Tirandazi
Development Project Manager
Development Services

Adopted on: February 20, 2019

IO#: 24007605

**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: 24007605

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**CONDITIONAL USE PERMIT NO. 2068128 AND
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 2246456
MPF 3279 NATIONAL AVENUE - PROJECT NO. 585635**

Hearing Officer

This Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456, collectively "Permit", is granted by the Hearing Officer of the City of San Diego to Aaron Magagna, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0305 and 126.0404. The 0.16-acre site is located at 3279 National Avenue, within the Transit Priority Area Overlay Zone, Special Flood Hazard Area (100-year Floodplain), and the San Diego Promise Zone within the Southeastern San Diego Community Plan area. The project site is legally described as: Lots 28 and 29, in Block 287 of Seaman and Choate's Addition, Map No. 223, filed in the Office of the county Recorder of San Diego County, September 10, 1886.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Marijuana Production Facility within an existing 3,390-square-foot building with requested deviations from the development regulations pertaining to separation requirements, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"], dated February 20, 2019, on file in the Development Services Department.

The project shall include:

- a. Operation of a Marijuana Production Facility within an existing 3,390-square-foot building consisting of 450-square-foot, upper floor, and 2,940-square-foot, lower floor. The operation shall include requirements consistent with State of California statutes and the California Departments of Food and Agriculture, Consumer Affairs and Public Health regulations;
- b. The Marijuana Production Facility operations include cannabis cultivation and distribution;
- c. Approval of the following three deviations:

1. Allow the Marijuana Production Facility within approximately 800 feet, measured property line to property line, from a school, Rodriguez Elementary School located at 825 S. 31st Street, where 1,000 feet is required;
 2. Allow the Marijuana Production Facility within approximately 760 feet, measured property line to property line, from a church, Iglesia Puerto Seguro located at 840 S. Gregory, where 1,000 feet is required; and
 3. Allow the Marijuana Production Facility within approximately 15 feet of a residential zone, measured property line to property line, where 100 feet is required.
- d. Off-street parking; and
- 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 March 7, 2022.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on March 7, 2024. Upon expiration of this Permit, the facilities and improvements described herein, excluding any public improvements, shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.
3. 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.
4. 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.

5. 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.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. 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.).
8. The Owner/Permittee shall secure all necessary construction 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.
9. 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.
10. 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.

11. 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.

ENGINEERING REQUIREMENTS:

12. Prior to the issuance of the first Marijuana Production Permit pursuant to SDMC Chapter 4, Article 2, Division 15, the Owner/Permittee shall assure, by permit and bond, the construction of a new 30-foot driveway per current City Standards, adjacent to the site on National Avenue, satisfactory to the City Engineer.

13. Prior to the issuance of the first Marijuana Production Permit pursuant to SDMC Chapter 4, Article 2, Division 15, the Owner/Permittee shall assure, by permit and bond, the reconstruction of existing curb and gutter per current City Standards, adjacent to the site on National Avenue, satisfactory to the City Engineer.

14. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate Construction Best Management Practices (BMPs) necessary to comply with current City of San Diego Storm Water Standards Manual and with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications, satisfactory to the City Engineer.

15. 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 Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

TRANSPORTATION REQUIREMENTS:

16. Prior to the issuance of the first Marijuana Production Permit pursuant to SDMC Chapter 4, Article 2, Division 15, the Owner/Permittee shall record a joint use driveway/mutual access agreement in favor of the project and the adjacent property (APN 550-161-1100), to the satisfaction of the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

17. All automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

18. A maximum of 5 employees shall be allowed on-site at any given time to correspond to the 5 provided parking spaces for the project.

19. All operations shall be conducted indoors within a secured structure. All equipment and storage shall be also located within a secure structure.
20. Lighting shall be provided to illuminate the immediate surrounding area of the facility, including parking lots and adjoining sidewalks. Lighting shall be hooded or oriented to deflect light away from adjacent properties.
21. Security 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.
22. The name and emergency contact telephone number of an operator or manager shall be posted outside the marijuana production facility in a location visible to the public from the public right-of-way in character size at least two inches in height. The permittee shall provide this contact information to the San Diego Police Department. The operator or manager shall also be available 24 hours a day to address public nuisance complaints and interact with local, state, and federal law enforcement authorities. Other than the contact information, a marijuana production facility shall limit signage on the exterior of the property visible from the public right-of-way to the address.
23. A permit shall be obtained as required pursuant to SDMC Chapter 4, Article 2, Division 15.
24. The retail sale of marijuana and marijuana products shall only be conducted by a marijuana outlet in accordance with SDMC Section 141.0504. A marijuana production facility is prohibited from providing marijuana and marijuana products to any person other than another marijuana production facility, a testing lab, or a marijuana outlet.
25. The marijuana production facility, adjacent public sidewalks, and areas under the control of the marijuana production facility shall be maintained free of litter and graffiti at all times.
26. The marijuana production facility shall provide daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.
27. The Owner/Permittee shall provide a sufficient odor absorbing ventilation and exhaust system capable of minimizing excessive or offensive odors emanating outside of the permitted facility, to the satisfaction of the Development Services Department.

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.

ATTACHMENT 1
ATTACHMENT 6

- 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 February 20, 2019 by Resolution No. HO-XXXX.

Permit Type/PTS Approval No.: CUP No. 2068128 and NDP No.2246456
Date of Approval: February 20, 2019

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Firouzeh Tirandazi
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.

AARON MAGAGNA
Owner

By _____
Aaron Magagna

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

NOTICE OF EXEMPTION

(Check one or both)

TO: Recorder/County Clerk
P.O. Box 1750, MS A-33
1600 Pacific Hwy, Room 260
San Diego, CA 92101-2422

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 TITLE/ No.: **MPF 3279 National / 585635**

STATE CLEARINGHOUSE NO.: *Not Applicable*

PROJECT LOCATION-SPECIFIC: 3279 National Avenue, San Diego, CA

PROJECT LOCATION-CITY/COUNTY: San Diego/San Diego

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: The project is a request for a CONDITIONAL USE PERMIT (CUP) and NEIGHBORHOOD DEVELOPMENT PERMIT for a Marijuana Production Facility to operate within 3,390-square-foot two-story building. The facility was operating under a Business Tax Certificate obtained. Project operations would include the cultivating and distribution of cannabis to State of California licensed outlets. Allowable deviations from development regulations are being requested pertaining to separation requirements. The project site is located within the Promise Zone and is in conformance with the criteria of the Affordable/In-fill Housing and Sustainable Buildings Expedite Program. The 0.16-acre (7,000-square-foot) site is located at 3279 National Avenue. The parcel is designated Light Industrial and zoned IL-3-1 within Southeastern San Diego Community Plan. Additionally, the project site is located within the Affordable Housing Parking Demand Overlay (High), the Promise Zone Overlay, and the Transit Priority Areas Overlay. (LEGAL DESCRIPTION: Lot 28, Block 287, Map No. 223, Seaman & Choates Addition).

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Aaron Magagna, 6425 Caminito Listo, San Diego, CA 92111, (619) 405-0298.

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))
- CATEGORICAL EXEMPTION: 15301 (Existing Facilities)
- STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT: The City of San Diego conducted an environmental review that determined that the project would not have the potential for causing a significant effect on the environment in that the project meets the criteria set forth in CEQA Section 15301 which allows for the operation, repair, maintenance, permitting, licensing, or minor alteration of existing facilities (public or private) involving negligible or no expansion of use beyond that existing at the time determination. Furthermore, the exceptions listed in CEQA Section 15300.2 would not apply.

LEAD AGENCY CONTACT PERSON: E. Shearer-Nguyen


TELEPHONE: (619) 446-5369

**ATTACHMENT 1
ATTACHMENT 7**

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.




SIGNATURE/TITLE

Senior Planner

October 26, 2018
DATE

- CHECK ONE:
- SIGNED BY LEAD AGENCY
 - SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:

Page 4	City of San Diego · Information Bulletin 620	August 2018	
	City of San Diego Development Services 1222 First Ave., MS-302 San Diego, CA 92101	<h2 style="margin:0;">Community Planning Committee Distribution Form Part 2</h2>	
	Project Name: MPF 3279 National Avenue, Conditional Use Permit Project Number: 585635 Distribution Date: 11/21/18		
Project Scope/Location: Conditional Use Permit for a Marijuana Production Facility to operate within an existing 3,390-square-foot building. The 0.16-acre site is located at 3279 National Avenue within the IL 3-1 base zone, Transit Priority Area, and Special Flood Hazard Area (100-year flood plain), within the Southeastern San Diego Community Plan area and Council District 8. The project is located in the Promise Zone in conformance with the criteria of the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.			
Applicant Name: Aaron Magagna		Applicant Phone Number: 6194050298	
Project Manager: Firouzeh Tirandazi		Phone Number: (619)446-5325 Email Address: FTirandazi@sandiego.gov	
Committee Recommendations (to be completed for Initial Review): SSDPG supports the CUP with the three deviations.			
<input type="checkbox"/> Vote to Approve	Members Yes	Members No	Members Abstain
<input checked="" type="checkbox"/> Vote to Approve With Conditions Listed Below	5	1	0
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Deny	Members Yes	Members No	Members Abstain
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)			<input type="checkbox"/> Continued
CONDITIONS: Two recommendations of adding conditions for a 24-hour, 7-day-per-week security guard and extra exterior lighting above what the City requires to prevent the building from being a target of thieves.			
NAME: Steven Veach		TITLE: SSDPC Chair	
SIGNATURE: <i>Steve Veach</i>		DATE: 11/21/18	
Attach Additional Pages if Necessary.		Please return to: Project Management Division City of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101	

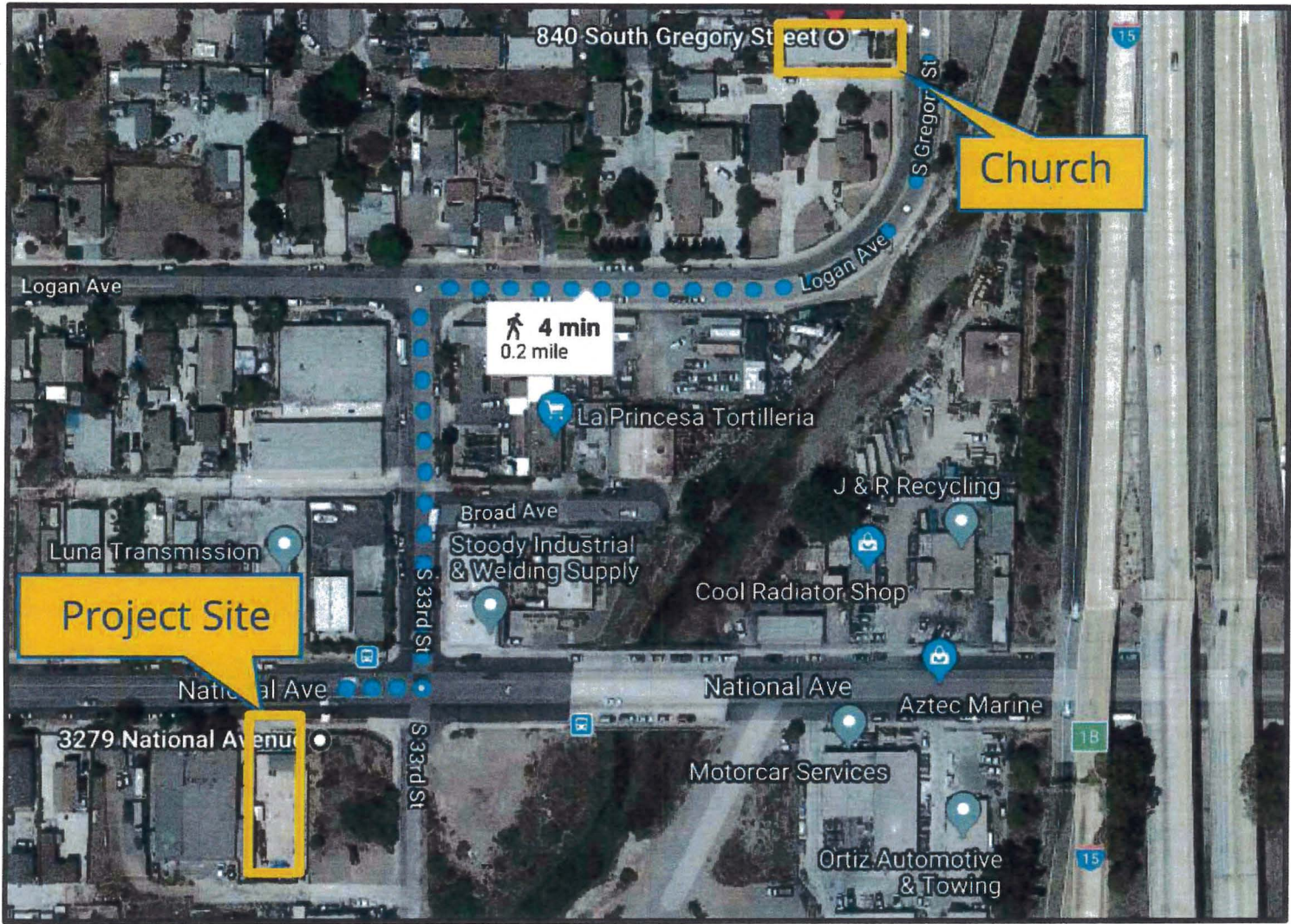
Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services.
 Upon request, this information is available in alternative formats for persons with disabilities.



Separation Exhibit - Residential Zone

MPF 3279 National Ave / 3279 National Avenue
 PROJECT NO. 585635

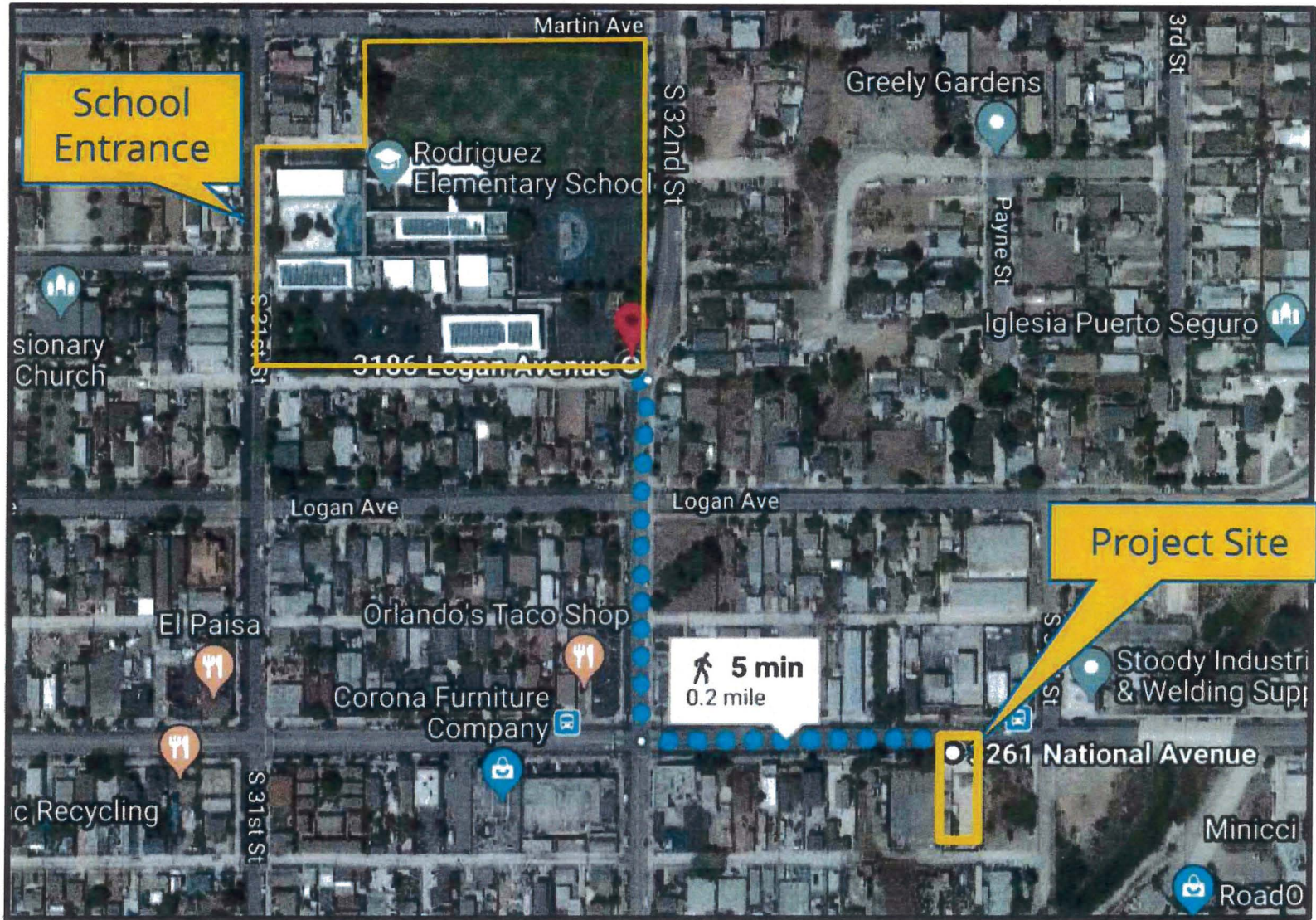




Separation Exhibit – Iglesia Puerto Seguro Church

MPF 3279 National Ave / 3279 National Avenue
 PROJECT NO. 585635





Separation Exhibit - Rodriguez Elementary School

MPF 3279 National Ave / 3279 National Avenue
 PROJECT NO. 585635





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: NATIONAL AVE. MPF **Project No. For City Use Only:** 585635
Project Address: 3279 NATIONAL AVE., S.D. CA 92113

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

Corporation Limited Liability -or- General - What State? _____ Corporate Identification No. _____
 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: AARON MAGAGNA Owner Tenant/Lessee Successor Agency
Street Address: 6425 CAMINITO LISTO
City: SAN DIEGO State: CA Zip: 92111
Phone No.: 619-405-0298 Fax No.: _____ Email: aaronmagagna@gmail.com
Signature: [Signature] Date: 11-09-2017
Additional pages Attached: Yes No

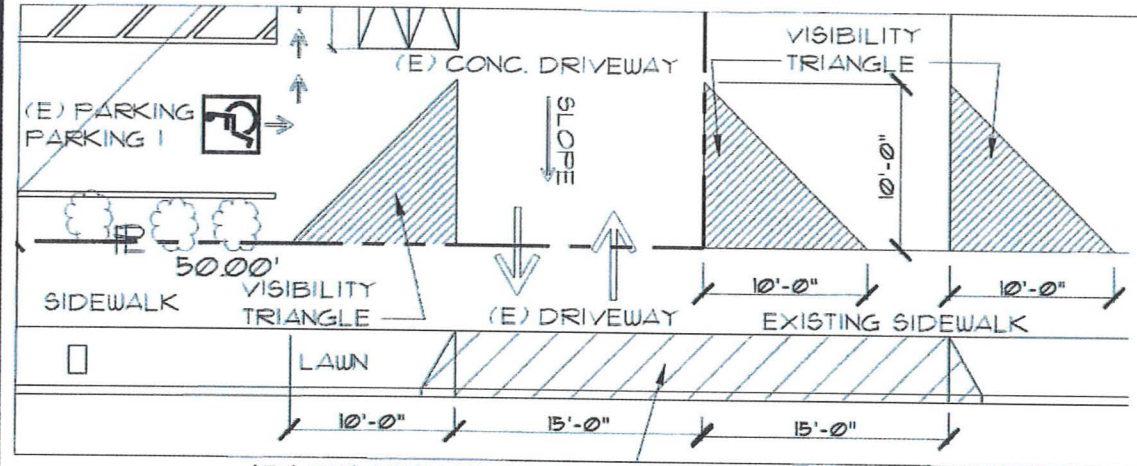
Applicant

Name of Individual: AARON MAGAGNA Owner Tenant/Lessee Successor Agency
Street Address: 6425 CAMINITO LISTO
City: SAN DIEGO State: CA Zip: 92111
Phone No.: 619-4050298 Fax No.: _____ Email: aaronmagagna@gmail.com
Signature: [Signature] Date: 11-09-2017
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

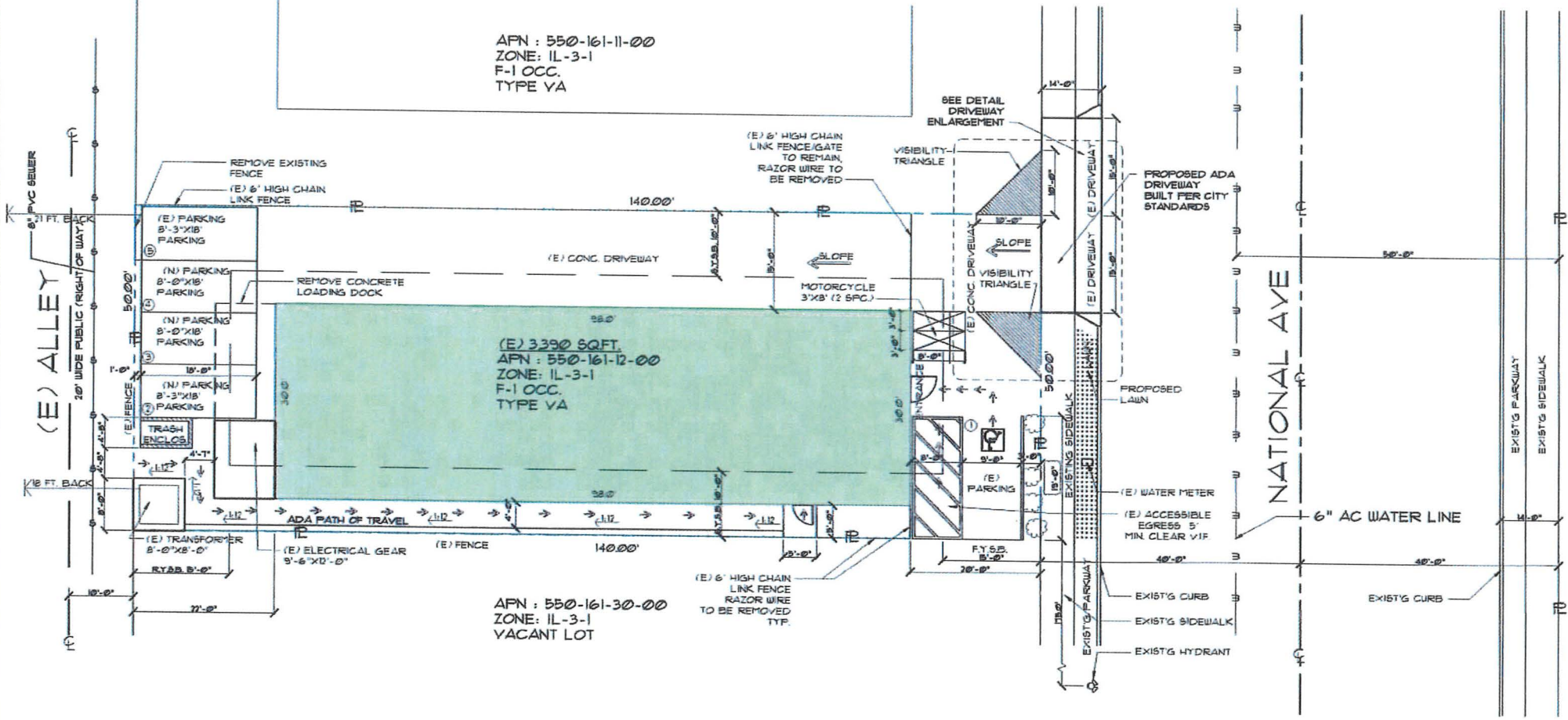
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Upon request, this information is available in alternative formats for persons with disabilities.



ADA DRIVEWAY TO BE BUILT PER CITY STANDARDS
 NO OBJECTS HIGHER THAN 24 INCHES WILL BE PROPOSED IN THE VISIBILITY AREAS.
DRIVEWAY ENLARGEMENT
 SCALE: 1" = 5'-0"

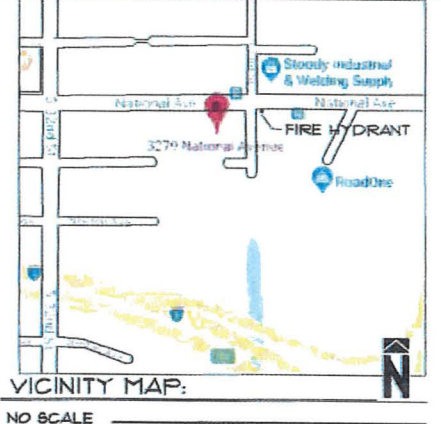
SITE PLAN NOTE:

- A. TRANSIT STOP: EXISTING BUS STOP IS 110 FT. AWAY FROM THE PROPERTY
- B. VISIBILITY TRIANGLE: NO PERMITS INCLUDING LANDSCAPING OR SOLID WALL WITHIN THE VISIBILITY AREA SHALL EXCEED 24" HIGH.
- C. 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. # REQUIRED.
- D. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, THE OWNER/ PERMITTEE SHALL ASSURE, BY PERMIT AND BOND, THE CONSTRUCTION OF A NEW 30 FT DRIVEWAY PER CURRENT CITY STANDARDS, ADJACENT TO THE SITE ON NATIONAL AVENUE, SATISFACTORY TO THE CITY ENGINEER.
- E. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, THE OWNER/ PERMITTEE SHALL ASSURE, BY PERMIT AND BOND, TO RECONSTRUCT EXISTING CURB WITH CURRENT CITY STANDARD CURB AND GUTTER, ADJACENT TO THE SITE ON NATIONAL AVENUE, SATISFACTORY TO THE CITY ENGINEER.
- F. PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMIT, THE OWNER/ PERMITTEE SHALL INCORPORATE CONSTRUCTION AND PERMANENT STORM WATER BEST MANAGEMENT PRACTICES NECESSARY TO COMPLY WITH CURRENT CITY OF SAN DIEGO STORM WATER STANDARDS MANUAL AND WITH CHAPTER 4, ARTICLE 2, DIVISION 1 (GRADING REGULATIONS) OF THE SDMC, INTO THE CONSTRUCTION PLANS OR SPECIFICATIONS, SATISFACTORY TO THE CITY ENGINEER.
- G. 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 PART 2 CONSTRUCTION BMP STANDARDS CHAPTER 4 OF THE CITY'S STORM WATER STANDARDS.
- H. NO PERMANENT STRUCTURE IS ALLOWED WITHIN THE EASEMENT LIMITS.
- I. **NO GRADING IS PROPOSED FOR THIS PROJECT.**
- J. NO EXTERIOR CHANGES PROPOSED.
- K. NO EXISTING OR PROPOSED EASEMENTS.
- L. THE FACILITY SHALL PROVIDE A CARBON AIR FILTER VENTILATION AND EXHAUST SYSTEM CAPABLE OF ELIMINATING EXCESSIVE OR OFFENSIVE ODORS CAUSING DISCOMFORT OR ANNOYANCE TO ANY REASONABLE PERSON OF NORMAL SENSITIVITIES STANDING OUTSIDE OF THE STRUCTURAL ENVELOPE OF THE PERMITTED FACILITY IN COMPLIANCE WITH SDMC SECTION 142.0110.
- M. CURB, GUTTER & SIDEWALK AT DRIVEWAY SHALL BE UPGRADED PER CURRENT CITY STANDARDS.
- N. ANYTHING OTHER THAN STANDARD LAWN IN THE SOIL WILL REQUIRE AN ENCROACHMENT MAINTENANCE REMOVAL AGREEMENT (EMRA). RIGHT OF WAY TO BE PLANTED WITH LAWN.
- O. RAZOR WIRE TO BE REMOVED FROM FENCES.



PLOT PLAN
 SCALE: 1" = 10'-0"

NOTE:
 THIS PROJECT AND ALL WORK SHALL COMPLY WITH THE FOLLOWING:
 20% CALIFORNIA BUILDING CODE (CBC)
 CALIFORNIA RESIDENTIAL CODE (CRC)
 CALIFORNIA MECHANICAL CODE (CMC)
 CALIFORNIA PLUMBING CODE (CPC)
 CALIFORNIA FIRE CODE (CFC)
 20% CALIFORNIA ELECTRICAL CODE (CEC)
 20% CALIFORNIA ENERGY CODE
 20% CALIFORNIA GREEN BUILDING STANDARD CODE (CALGREEN)
 AND ALL APPLICABLE CITIES OF SAN DIEGO CODES AND ORDINANCES.



SITE DATA:

ZONE:	(IL-3-1)
OVERLAY ZONES:	PROMISE ZONE, FLOOD PLAN (FF100), AND TRANSIT PRIORITY AREA.
EXISTING OCCUPANCY:	F1
EXISTING USE:	F1 MARIJUANA PRODUCTION FACILITY
PROPOSED USE:	F1
PROPOSED OCCUPANCY:	F1 MARIJUANA PRODUCTION FACILITY
YEAR BUILT:	1967
SITE ADDRESS:	3279 NATIONAL AVE., SAN DIEGO, CA. 92113
LOT SIZE:	1,600 SQFT.
PAVING AREA:	3,910 SQFT.
LANDSCAPE AREA:	150 SQFT.
BUILDING AREA:	
FIRST FLOOR:	2,940 SQFT.
SECOND FLOOR:	450 SQFT.
TOTAL:	3,390 SQFT.
EXISTING FAR:	40
LOT COVERAGE:	42%
TYPE OF CONSTRUCTION:	V-A NO SPRINKLERS
NUMBER OF STORIES:	2
CITY IMPROVEMENT PLAN NUMBERS:	10664-D-D, 0504-2-D
SETBACK:	
FRONT:	15'
SIDES:	10'
REAR YARD:	15'

PARKING TABLE:

PARKING STALL MINIMUM REQUIREMENT:	TYPICAL STALL: 8'-0" WIDE X 15'-0" LONG
1 VAN SPACE REQUIRED W/ 1 PROVIDED	9'-0" WIDE X 15'-0" LONG
2 MOTORCYCLE PARKING SPACES REQUIRED	W/ 2 PROVIDED.
3'-0" WIDE X 8'-0" LONG	
PARKING REQUIREMENT:	(1) SPACE PER EMPLOYEE (5) EMPLOYEES
	(5) SPACES PROVIDED

SCOPE OF WORK:
 A CONDITIONAL USE PERMIT FOR A LEGALLY PERMITTED MARIJUANA CULTIVATION BUSINESS INTO A LEGALLY OPERATED MARIJUANA PRODUCTION FACILITY, 3390 SQ. FT.
NO CONSTRUCTION OR IMPROVEMENTS TO OUT SIDE OF BUILDING.

SHEET INDEX:
 P - PLOT PLAN
 A-1 - FLOOR PLAN

LEGAL DESCRIPTION:
 APN No. 550-161-1200
 LOT 28, BLK 281
 MAP 223, SEAMAN & CHOATES ADDITION
 SITE ADDRESS: 3279 NATIONAL AVE.
 SAN DIEGO, CA. 92113

OWNER:
 AARON MAGAGNA
 3279 NATIONAL AVE. SAN DIEGO, CA. 92113
 PHONE: (619) 405-0298

TENANT:
 NATIONAL AVE. M.P.F.

CONSULTANT:
 AUSTIN & ASSOCIATES
 ALAN LLOYD AUSTIN
 1622 PIONEER WAY
 EL CAJON, CA. 92020
 619-440-3624

REVISIONS	BY
5-8-18	MJC
07-12-18	MJC
08-14-18	MJC

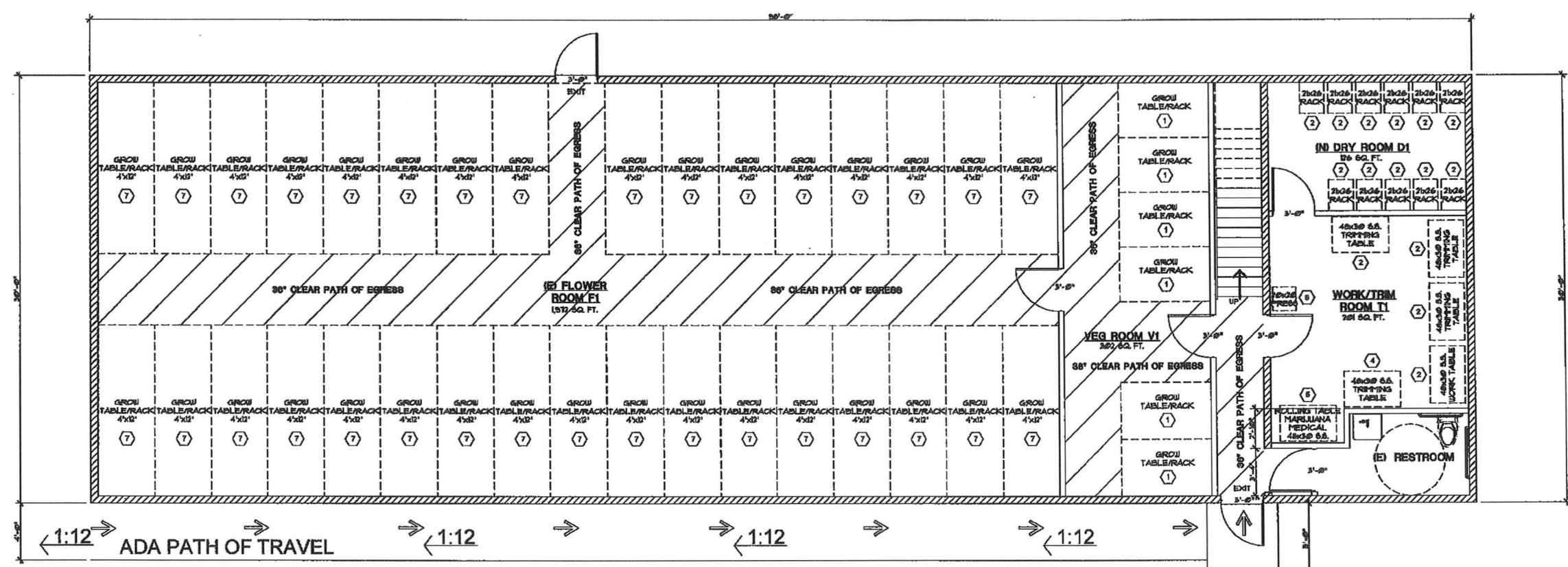
NATIONAL AVE. M.P.F.
 3279 NATIONAL AVE., SAN DIEGO, CA. 92113

AUSTIN & ASSOCIATES
 ALAN LLOYD AUSTIN
 1622 PIONEER WAY EL CAJON CA. 92020
 RESIDENTIAL & COMMERCIAL PLANNING AND DESIGN
 MEMBER: AMERICAN INSTITUTE OF BUILDING DESIGN
 Ph. (619) 440-3624

DESIGN BY:	MJC
CHECKED BY:	ALA
DATE:	-11-
SCALE:	AS NOTED
	200 1/2"

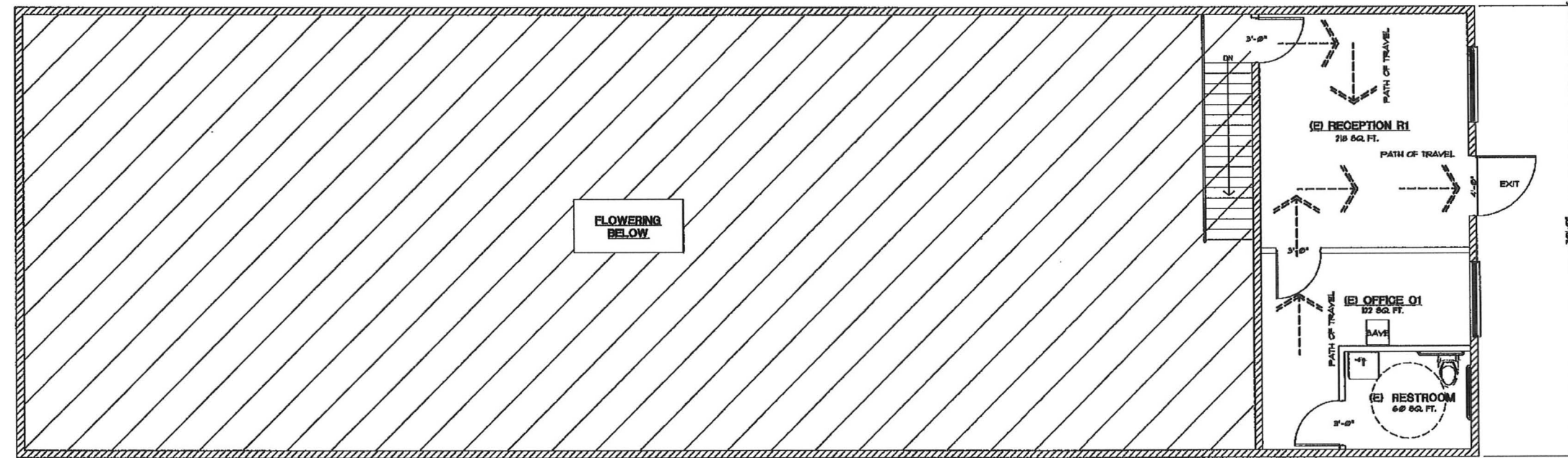
PROJECT
 # 585635

REVISIONS	BY
05-08-18	MJC
07-12-18	MJC
08-14-18	MJC



FLOOR PLAN ALLEY LEVEL

FLOWERING	F1	=	1,972	SQ. FT.
VEGETATION	V1	=	302	SQ. FT.
TRIM	T1	=	201	SQ. FT.
DRY	D1	=	126	SQ. FT.
OFFICE	O1	=	122	SQ. FT.
RECEPTION	R1	=	218	SQ. FT.



FLOOR PLAN STREET LEVEL, NATIONAL AVE.

WALL LEGEND:

- 2x4 STUDS @ 16" O.C., NEW WALLS
- EXISTING 8" CMU WALLS

BUILDING AREA (NATIONAL AVE) = 450 SQ. FT.
 FLOOR PLAN (ALLEY LEVEL) = 2,940 SQ. FT.
 TOTAL = 3,390 SQ. FT.

NATIONAL AVE. M.P.F.

3279 NATIONAL AVE., SAN DIEGO, CA. 92113

AUSTIN & ASSOCIATES
 ALAN LLOYD AUSTIN
 Ph: (619) 440-3824



1822 PIONEER WAY EL CAJON CA. 92020
 RESIDENTIAL & COMMERCIAL PLANNING AND DESIGN
 MEMBER, AMERICAN INSTITUTE OF BUILDING DESIGN

DESIGNED BY:	MJC
CHECKED BY:	ALA
DATE:	-17
SCALE:	AS NOTED
DATE:	2/29/18

A-1

PROJECT # 585635

	City of San Diego Development Services 1222 First Ave., MS-302 San Diego, CA 92101	Development Permit/ Environmental Determination Appeal Application	FORM DS-3031 November 2017
---	---	---	--

In order to assure your appeal application is successfully accepted and processed, you must read and understand Information Bulletin 505, "Development Permits/Environmental Determination Appeal Procedure."

1. Type of Appeal: Appeal of the Project
 Appeal of the Environmental Determination

2. Appellant: Please check one Applicant Officially recognized Planning Committee "Interested Person"
(Per M.C. Sec. 113.0103)

Name:		E-mail:			
Khoa Nguyen		khoa@rathmiller.com			
Address:	City:	State:	Zip Code:	Telephone:	
525 B Street, Suite 1410	San Diego	CA	92101	619.550.6037	

3. Project Name:
 MPF 3279 National Avenue, Project No. 585635

4. Project Information	Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination	City Project Manager:
	Conditional Use Permit No. 2068128; NDP No. 2246456	2/9/2019	Firouzeh Tirandazi

Decision(Describe the permit/approval decision):
 Approval by Hearing Officer to approve Conditional Use Permit for a marijuana production facility.

5. Ground for Appeal(Please check all that apply):

<input type="checkbox"/> Factual Error	<input type="checkbox"/> New Information
<input type="checkbox"/> Conflict with other matters	<input type="checkbox"/> City-wide Significance (Process Four decisions only)
<input checked="" type="checkbox"/> Findings Not Supported	

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

RECEIVED
 MAR - 6 2019
 DEVELOPMENT SERVICES

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:  Date: 3/5/2019

Note: Faxed appeals are not accepted.

MPF 3279 National Avenue, Project No. 585635

DESCRIPTION OF GROUNDS FOR APPEAL:

Findings Not Supported. The Hearing Officer's stated finding to approve is not supported by the information that was provided to the Hearing Officer. It is widely known that Marijuana Production Facilities produce strong odors. The applicant has not sufficiently demonstrated that their marijuana production facility will not produce odors that will be detrimental to surrounding businesses and to the public.

ATTACHMENT 1 – GROUNDS FOR APPEAL

Appeal of Hearing Officer Decision Re: 3279 National Avenue - MPF 585635

- **New Information.** New information is available to the applicant or the interested person that was not available through that person's reasonable efforts or due diligence at the time of the decision.
- **Findings Not Supported.** The decision maker's stated findings to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker.
- **Conflicts.** The decision to approve, conditionally approve, or deny the permit, map, or other matter is in conflict with a land use plan, a City Council policy, or the Municipal Code.
- **The Site Plans do not demonstrate that the project includes an enclosed garage for distribution purposes, contrary to State Law.**

PLANNING COMMISSION RESOLUTION NO. PC-XXXX
CONDITIONAL USE PERMIT NO. 2068128 AND
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 2246456
MPF 3279 NATIONAL AVENUE - PROJECT NO. 585635

WHEREAS, AARON MAGAGNA, Owner/Permittee, filed an application with the City of San Diego for a permit to operate a Marijuana Production Facility (MPF) within an existing 3,390-square-foot building with requested deviations from the development regulations pertaining to separation requirements (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 2068128 and 2246456) on portions of a 0.16-acre site;

WHEREAS, the project site is located at 3279 National Avenue, within the Transit Priority Area Overlay Zone, Special Flood Hazard Area (100-year Floodplain), and the San Diego Promise Zone within the Southeastern San Diego Community Plan area;

WHEREAS, the project site is legally described as Lots 28 and 29, in Block 287 of Seaman and Choate's Addition, Map No. 223, filed in the Office of the county Recorder of San Diego County, September 10, 1886;

WHEREAS, on October 11, 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 15301, Existing Facilities, and the Environmental Determination was appealed to City Council, which appeals were withdrawn on January 7, 2019 and January 8, 2019, making the Environmental Determination final;

WHEREAS, on February 20, 2019, the Hearing Officer of the City of San Diego approved Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on March 6, 2019 appeals of the Hearing Officer's decision to approve Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456 were filed by Khoa Nguyen, Kelley Hayes of Greenspoon Marder LLP, and RS Industries (Appeals);

WHEREAS, June 6, 2019, the Planning Commission considered the Appeals and Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456 pursuant to the Land Development Code of the City of San Diego, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the Planning Commission having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

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

That the Planning Commission denies the Appeals, affirms the Hearing Officer's decision, and adopts the following written findings, dated June 6, 2019:

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 project is a request for a Conditional Use Permit and Neighborhood Development Permit to allow the operation of a MPF within an existing 3,390-square-foot building located at 3279 National Avenue. The project also requests deviations from the 100-foot separation requirement from the residential zone, and the 1,000-foot separation requirement from a church and a school, as set forth in San Diego Municipal Code Section 141.1004, pursuant to SDMC Section 143.0920. The 0.16-acre project site is located in the IL-3-1 Zone, the Transit Priority Area Overlay Zone, Special Flood Hazard Area (100-year Floodplain), and the San Diego Promise Zone within the Southeastern San Diego Community Plan area.

The existing building was constructed in 1962. It is currently occupied by a medical marijuana cultivation facility, which has been operating pursuant to Business Tax Certificate and Zoning Use Certificate issued for an "Indoor Medical Marijuana Cultivation Facility" on August 15, 2016; Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility.

Ordinance No. O-20859 adopted by City Council October 17, 2017, effective November 17, 2017, established the MPF use and included a provision that a MPF with an approved Zoning Use Certificate and a Business Tax Certificate, issued before January 31, 2017, shall have 24 months from the date of final passage of this ordinance in which to cease use or obtain required permits. As required by Ordinance No. O-20859, the subject application has been submitted to allow the operation of a MPF at this location, including the cultivation of both medicinal and recreational marijuana. No interior improvements are proposed. All interior improvements for the marijuana cultivation facility were permitted in conformance with the California Building Code, Mechanical Code, Electrical Code, and Fire Code in effect at the time of permit issuance. The proposed MPF will be required to obtain a change of use/occupancy building permit to establish the MPF use consistent with all California Codes and Regulations in effect at the time of building permit, satisfactory to the Building Official.

The project site is designated 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 manufacturing land from non-manufacturing uses. The Southeastern San Diego Community Plan Light Industrial designation allows a wide variety of industrial uses, such as light manufacturing, research and development uses, and other industrial uses such as storage, distribution and transportation terminals, multi-tenant industrial uses and corporate headquarters office uses. The IL Zones are intended to permit a range of uses, including nonindustrial uses in some instances. Specifically, the IL-3-1 Zone allows a mix of light industrial, office, and commercial uses. The proposed MPF, classified as an industrial use, is a compatible use for this location with a Conditional Use Permit and Neighborhood Development Permit, and is consistent with the underlying industrial zone and community plan land use designation, and therefore 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 development will not be detrimental to the public's health, safety and welfare because 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.

The project proposes to operate a MPF within an existing 3,390-square-foot building with requested deviations from the development regulations pertaining to separation requirements. The structure is a two story, flat roof building, consisting of a 450-square-foot upper floor with the main entrance off National Avenue, and a 2,940-square-foot, lower floor, with additional access provided via the alley. Operations will consist of marijuana cultivation and distribution. No interior improvements are proposed. All interior improvements for the marijuana cultivation facility were previously permitted in conformance with the California Building Code, Mechanical Code, Electrical Code, and

Fire Code pursuant to Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility. The proposed MPF will be required to obtain a change of use/occupancy building permit to establish the MPF use consistent with all California Codes and Regulations in effect at the time of building permit, satisfactory to the Building Official.

The project exterior improvements include improvement of project frontage along National Avenue, with curb, gutter, noncontiguous sidewalk, and reconstruction of one driveway consistent with current City Standards to the satisfaction of the City Engineer. Additionally, the project satisfies the required parking for the use by providing five off-street parking spaces, including one American Disabilities Act (ADA) accessible space, and two motorcycle spaces.

MPFs are restricted to forty City-wide, within light and heavy industrial zones. MPFs require compliance with San Diego Municipal Code (SDMC) section 141.1004, which require a 1,000-foot separation, measured between property lines, from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. MPFs also have a minimum distance requirement of 100 feet from a residential zone. Pursuant to SDMC Section 113.0225(c), where a natural topographical barrier or constructed barrier exists, distance can be measured as the most direct route around the barrier in a manner that establishes direct access. The project is requesting three deviations from the separation requirements from residential zones, churches and schools.

Although the project site is located within 100 feet of residentially zoned parcels, the use on the premises is an industrial use, not a residential use, and the undeveloped portions that are zoned residential are unlikely to be developed due the steep slopes and topographic site constraints. The closest residential zoned property that is developed with a residential use, located at 3250 Newton Avenue, is approximately 125 feet from the MPF, with distance measured property line to property line.

The project site is also located approximately 760 feet from a church located at 840 S. Gregory, and approximately 800 feet from Rodriguez Elementary School located at 825 S. 31st Street. Per the SDMC, measuring distance for marijuana production facilities shall take into consideration natural topographical barriers, and constructed barriers such as freeways or flood control channels, that would impede direct physical access between the uses. In such cases, the separation of distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. The existing private properties, fences and buildings do not constitute significant barriers such as a freeway or flood control channel. However, they are barriers that would impede direct physical access and would need to be navigated around to establish direct access between the uses. When measuring distance between the proposed MPF and the subject church, and between the proposed MPF and the subject school, via a path of travel as the most direct route around these existing barriers, the distances between these uses are greater than 1,000 feet. The requested deviations to the aforementioned separation requirements

are appropriate at this location and meet the purpose and intent of the regulations by maintaining adequate distance between the MPF relative to the school, church and residential uses.

The proposed MPF is subject to specific operational requirements as set forth in SDMC section 141.1004, including security requirements, such as 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. MPFs must also comply with SDMC Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation. The proposed project will be required to comply with the development conditions as described in Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456. The permit will be valid for five years and may be revoked if the Owner/Permittee violates the terms, conditions, lawful requirements, or provisions of the Permit.

Furthermore, this project has been reviewed pursuant to the California Environmental Quality Act, and the environmental analysis did not find any significant impacts to the public health and safety. Based on the above analysis, the proposed development would not 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.

The project proposes to operate a MPF within an existing 3,390-square-foot building constructed in 1962. The project site is located in the IL-3-1 Zone, within the Southeastern San Diego Community Plan area. The structure is a two story, flat roof building, consisting of a 450-square-foot upper floor with the main entrance off National Avenue, and a 2,940-square-foot, lower floor, with additional access provided via the alley. The building is currently occupied by a medical marijuana cultivation facility, which has been operating pursuant to Business Tax Certificate and Zoning Use Certificate issued for an "Indoor Medical Marijuana Cultivation Facility" on August 15, 2016; Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility.

Ordinance No. O-20859 adopted by City Council October 17, 2017, effective November 17, 2017, established the MPF use and included a provision that a MPF with an approved Zoning Use Certificate and a Business Tax Certificate, issued before January 31, 2017, shall have 24 months from the date of final passage of this ordinance in which to cease use or obtain required permits. As required by Ordinance No. O-20859, the subject application has been submitted to allow the operation of a MPF at this location, including the cultivation of both medicinal and recreational marijuana. Operations will consist of marijuana cultivation and distribution. No interior improvements are proposed. All interior improvements for the marijuana cultivation facility were previously permitted in conformance with the California Building Code, Mechanical Code, Electrical Code, and Fire Code in effect at the time of permit issuance. The proposed MPF will be required to

obtain a change of use/occupancy building permit to establish the MPF use consistent with all California Codes and Regulations in effect at the time of building permit, satisfactory to the Building Official.

The project exterior improvements include improvement of project frontage along National Avenue, with curb, gutter, noncontiguous sidewalk, and reconstruction of one driveway consistent with current City Standards. Additionally, the project satisfies the required parking for the use by providing five off-street parking spaces, including one American Disabilities Act (ADA) accessible space, and two motorcycle spaces.

MPFs are allowed in the IL-3-1 Zone with a Conditional Use Permit. The proposed use requires compliance with SDMC section 141.1004 and Chapter 4, Article 2, Division 15. Security measures, expressed as conditions in the permit, includes 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. Furthermore, SDMC section 141.1004 requires a 1,000-foot separation, measured between property lines, from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone.

The project complies with the regulations of the Land Development Code except where deviations are allowed through the Neighborhood Development Permit pursuant to SDMC Section 143.0920. The project is requesting three deviations from the separation requirements from residential zones, churches, and schools. Although the project site is located within 100 feet of residentially zoned parcels, the use on the premises is an industrial use, not a residential use, and the undeveloped portions that are zoned residential are unlikely to be developed due the steep slopes and topographic site constraints. The closest residential zoned property that is developed with a residential use, located at 3250 Newton Avenue, is approximately 125 feet from the MPF, with distance measured property line to property line.

The project site is also located approximately 760 feet from a church located at 840 S. Gregory, and approximately 800 feet from Rodriguez Elementary School located at 825 S. 31st Street. Per the SDMC, measuring distance for marijuana production facilities shall take into consideration natural topographical barriers, and constructed barriers such as freeways or flood control channels, that would impede direct physical access between the uses. In such cases, the separation of distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. The existing private properties, fences and buildings do not constitute significant barriers such as a freeway or flood control channel. However, they are barriers that would impede direct physical access and would need to be navigated around to establish direct access between the uses. When measuring distance between the proposed MPF and the subject church, and between the proposed MPF and the subject school, via a path of travel as the most direct route around these existing barriers, the distances between these uses are greater than 1,000 feet. The requested deviations to the aforementioned separation requirements meet the purpose and intent of the regulations by maintaining adequate distance

between the MPF relative to the school, church and residential zone.

As an in-fill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915 and contributes towards in-fill development and increasing employment opportunities within the San Diego Promise Zone. The proposed MPF complies with all land development regulations relevant for the site and the use, except where deviations are allowed through the Neighborhood Development Permit pursuant to SDMC Section 143.0920. Therefore, the proposed development will comply with the applicable regulations of the Land Development code, including any allowable deviations pursuant to the Land Development Code.

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

The MPF is proposed within an existing 3,390-square-foot building located at 3279 National Avenue. The building is currently occupied by a medical marijuana cultivation facility, which has been operating pursuant to Business Tax Certificate and Zoning Use Certificate issued for an "Indoor Medical Marijuana Cultivation Facility" on August 15, 2016; Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility.

The project site is in the IL-3-1 Zone of the Southeastern San Diego Community Plan area. The project site is designated 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 manufacturing land from non-manufacturing uses. The Southeastern San Diego Community Plan Light Industrial designation allows a wide variety of industrial uses, such as light manufacturing, research and development uses, and other industrial uses such as storage, distribution and transportation terminals, multi-tenant industrial uses and corporate headquarters office uses.

The IL Zones are intended to permit a range of uses, including non-industrial uses in some instances. The purpose and intent of the IL-3-1 Zone is to accommodate a range of industrial and manufacturing activities in designated areas to promote balanced land use and provide flexibility in the design of new and redeveloped industrial projects, while assuring high quality development and protecting land for industrial uses and limiting nonindustrial uses. The development standards of this zone are intended to encourage sound industrial development by providing an attractive environment free from adverse impacts associated with some heavy industrial uses. Specifically, the IL-3-1 Zone allows a mix of light industrial, office, and commercial uses.

MPFs require compliance with San Diego Municipal Code (SDMC) section 141.1004, which require a 1,000-foot separation, measured between property lines, from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. MPFs are also required to

maintain a distance of 100 feet from a residential zone. Pursuant to SDMC Section 113.0225(c), where a natural topographical barrier or constructed barrier exists, distance can be measured as the most direct route around the barrier in a manner that establishes direct access. The project is requesting three deviations from the separation requirements from residential zones, churches and schools.

Although the project site is located within 100 feet of residentially zoned parcels, the use on the premises is an industrial use, not a residential use, and the undeveloped portions that are zoned residential are unlikely to be developed due the steep slopes and topographic site constraints. The closest residential zoned property that is developed with a residential use, located at 3250 Newton Avenue, is approximately 125 feet away from the MPF, with distance measured property line to property line.

The project site is also located approximately 760 feet from a church located at 840 S. Gregory, and approximately 800 feet from Rodriguez Elementary School located at 825 S. 31st Street. Per the SDMC, measuring distance for marijuana production facilities shall take into consideration natural topographical barriers, and constructed barriers such as freeways or flood control channels, that would impede direct physical access between the uses. In such cases, the separation of distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. The existing private properties, fences and buildings do not constitute significant barriers such as a freeway or flood control channel. However, they are barriers that would impede direct physical access and would need to be navigated around to establish direct access between the uses. When measuring distance between the proposed MPF and the subject church, and between the proposed MPF and the subject school, via a path of travel as the most direct route around these existing barriers, the distances between these uses are greater than 1,000 feet. The requested deviations to the aforementioned separation requirements meet the purpose and intent of the regulations by maintaining adequate distance between the MPF relative to the school, church and residential zone.

The proposed MPF, classified as an industrial use, is consistent with the Light Industrial designation of the Southeastern San Diego Community Plan, and is a compatible use for this location with a Conditional Use Permit and Neighborhood Development Permit. The proposed MPF complies with all land development regulations relevant for the site and the use, except where deviations are allowed through the Neighborhood Development Permit pursuant to SDMC Section 143.0920. As an in-fill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915 and contributes towards in-fill development and increasing employment opportunities within the San Diego Promise Zone. Therefore, the proposed MPF is an appropriate use at the proposed location.

B. NEIGHBORHOOD DEVELOPMENT PERMIT [SDMC SECTION 126.0404(a)]

1. Findings for all Neighborhood Development Permits:

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

As outlined in CUP Finding (A)(1)(a) listed above, the proposed development will not adversely affect the applicable land use plan.

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

As outlined in CUP Finding (A)(1)(b) listed above, the proposed development will not be detrimental to the public health, safety, and welfare.

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

As outlined in CUP Finding (A)(1)(c) listed above, the requested deviations are appropriate at this location and meet the purpose and intent of the regulations by maintaining adequate distance between the MPF relative to the school, church and residential uses. As an in-fill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915 and contributes towards in-fill development and increasing employment opportunities within the San Diego Promise Zone. Therefore, the proposed development will comply with the applicable regulations of the Land Development code, including any allowable deviations pursuant to the Land Development Code.

2. Supplemental Findings – Affordable Housing, In-Fill Projects, or Sustainable Buildings [SDMC Section 126.0404(f)]

a. The development will materially assist in accomplishing the goal of providing affordable, in-fill projects, or sustainable buildings opportunities; and

The project proposes to operate a MPF within an existing 3,390-square-foot building constructed in 1962. The project site is located in the IL-3-1 Zone, within the Southeastern San Diego Community Plan area and the San Diego Promise Zone. The building is currently occupied by a medical marijuana cultivation facility, which has been operating pursuant to Business Tax Certificate and Zoning Use Certificate issued for an "Indoor Medical Marijuana Cultivation Facility" on August 15, 2016; Building Permit No. 1878426 issued on March 1, 2017 for the change of occupancy from "storage use" to "factory" to be used as a Medical Marijuana Cultivation Facility; and Building Permit No. 1928455 issued on April 20, 2017 for the interior remodel of an existing medical marijuana cultivation facility. As required by Ordinance No. O-20859, the subject application has been submitted to allow the operation of a MPF at this location, including the cultivation of both medicinal and recreational marijuana. Prior to this use, the building had been vacant.

As an in-fill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915. The development materially assists in accomplishing the goal of providing an in-fill project, preserve and

protect valuable manufacturing land from non-manufacturing uses, and increase light industrial employment opportunities in the community consistent with the goals and objectives of the San Diego General Plan and the Southeastern San Diego Community Plan.

b. Any proposed deviations are appropriate for the proposed location.

The proposed MPF, classified as an industrial use, is consistent with the Light Industrial designation of the Southeastern San Diego Community Plan, and is a compatible use for this location with a Conditional Use Permit and Neighborhood Development Permit. The proposed MPF complies with all land development regulations relevant for the site and the use, except where deviations are allowed through the Neighborhood Development Permit pursuant to SDMC Section 143.0920. As an in-fill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915 and contributes towards in-fill development and increasing employment opportunities within the San Diego Promise Zone.

MPFs require compliance with SDMC section 141.1004, which require a 1,000-foot separation, measured between property lines, from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. MPFs are also required to maintain a distance of 100 feet from a residential zone. Pursuant to SDMC Section 113.0225(c), where a natural topographical barrier or constructed barrier exists, distance can be measured as the most direct route around the barrier in a manner that establishes direct access. The project is requesting three deviations from the separation requirements from residential zones, churches and schools.

Although the project site is located within 100 feet of residentially zoned parcels, the use on the premises is an industrial use, not a residential use, and the undeveloped portions that are zoned residential are unlikely to be developed due the steep slopes and topographic site constraints. The closest residential zoned property that is developed with a residential use, located at 3250 Newton Avenue, is approximately 125 feet from the MPF, with distance measured property line to property line.

The project site is also located approximately 760 feet from a church located at 840 S. Gregory, and approximately 800 feet from Rodriguez Elementary School located at 825 S. 31st Street. Per the SDMC, measuring distance for marijuana production facilities shall take into consideration natural topographical barriers, and constructed barriers such as freeways or flood control channels, that would impede direct physical access between the uses. In such cases, the separation of distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. The existing private properties, fences and buildings do not constitute significant barriers such as a freeway or flood control channel. However, they are barriers that would impede direct physical access and would need to be navigated around to establish direct access between the uses. When measuring distance between the proposed MPF and the subject church, and between the proposed MPF and the subject school, via a path of travel as the most direct route around these existing barriers, the distances between these uses are greater than

1,000 feet. The requested deviations to the aforementioned separation requirements meet the purpose and intent of the regulations by maintaining adequate distance between the MPF relative to the school, church and residential zone.

Based on the above, the requested deviations to the aforementioned separation requirements are appropriate at this location to allow an in-fill development and increase employment opportunities within the San Diego Promise Zone, while maintaining adequate distance between the MPF relative to the school, church and residential use consistent with the purpose and intent of the SDMC.

C. SUPPLEMENTAL FINDINGS - SDMC SECTION 126.0505, PURSUANT TO SDMC SECTION 143.0920(a)

1. Findings

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

As outlined in CUP Finding (A)(1)(a) listed above, the proposed development will not adversely affect the applicable land use plan.

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

As outlined in CUP Finding (A)(1)(b) listed above, the proposed development will not be detrimental to the public health, safety, and welfare.

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

As outlined in CUP Finding (A)(1)(c) listed above, the requested deviations are appropriate at this location and meet the purpose and intent of the regulations by maintaining adequate distance between the MPF relative to the school, church and residential uses. As an in-fill development located within the San Diego Promise Zone, the project meets the criteria for Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations set forth in SDMC Section 143.0915 and contributes towards in-fill development and increasing employment opportunities within the San Diego Promise Zone. Therefore, the proposed development will comply with the applicable regulations of the Land Development code, including any allowable deviations pursuant to the Land Development Code.

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 the Appeals are denied, the Hearing Officer decision is affirmed, and that based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 2068128 and 2246456, a copy of which is attached hereto and made a part hereof.

Firouzeh Tirandazi
Development Project Manager
Development Services

Adopted on: June 6, 2019

IO#: 24007605

DRAFT

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: 24007605

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 2068128 AND
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 2246456
MPF 3279 NATIONAL AVENUE - PROJECT NO. 585635
PLANNING COMMISSION

This Conditional Use Permit No. 2068128 and Neighborhood Development Permit No. 2246456, collectively "Permit", is granted by the Planning Commission of the City of San Diego to Aaron Magagna, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0305 and 126.0404. The 0.16-acre site is located at 3279 National Avenue, within the Transit Priority Area Overlay Zone, Special Flood Hazard Area (100-year Floodplain), and the San Diego Promise Zone within the Southeastern San Diego Community Plan area. The project site is legally described as: Lots 28 and 29, in Block 287 of Seaman and Choate's Addition, Map No. 223, filed in the Office of the county Recorder of San Diego County, September 10, 1886.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Marijuana Production Facility within an existing 3,390-square-foot building with requested deviations from the development regulations pertaining to separation requirements, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 6, 2019, on file in the Development Services Department.

The project shall include:

- a. Operation of a Marijuana Production Facility within an existing 3,390-square-foot building consisting of 450-square-foot, upper floor, and 2,940-square-foot, lower floor. The operation shall include requirements consistent with State of California statutes and the California Departments of Food and Agriculture, Consumer Affairs and Public Health regulations;
- b. The Marijuana Production Facility operations include cannabis cultivation and distribution;
- c. Approval of the following three deviations:

1. Allow the Marijuana Production Facility within approximately 800 feet, measured property line to property line, from a school, Rodriguez Elementary School located at 825 S. 31st Street, where 1,000 feet is required;
 2. Allow the Marijuana Production Facility within approximately 760 feet, measured property line to property line, from a church, Iglesia Puerto Seguro located at 840 S. Gregory, where 1,000 feet is required; and
 3. Allow the Marijuana Production Facility within approximately 15 feet of a residential zone, measured property line to property line, where 100 feet is required.
- d. Off-street parking; and
- 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 6, 2022.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on June 6, 2024. Upon expiration of this Permit, the facilities and improvements described herein, excluding any public improvements, shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.
3. 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.
4. 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.

5. 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.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. 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.).
8. The Owner/Permittee shall secure all necessary construction 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.
9. 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.
10. 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.

11. 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.

BUILDING OFFICIAL REQUIREMENTS:

12. Prior to the commencement of operations granted by this Permit, the Owner/Permittee shall obtain a change of use/occupancy building permit consistent with all California Codes and Regulations in effect at the time of building permit, satisfactory to the Building Official.

ENGINEERING REQUIREMENTS:

13. Prior to the issuance of the first Marijuana Production Permit pursuant to SDMC Chapter 4, Article 2, Division 15, the Owner/Permittee shall assure, by permit and bond, the construction of a new 30-foot driveway per current City Standards, adjacent to the site on National Avenue, satisfactory to the City Engineer.

14. Prior to the issuance of the first Marijuana Production Permit pursuant to SDMC Chapter 4, Article 2, Division 15, the Owner/Permittee shall assure, by permit and bond, the reconstruction of existing curb and gutter per current City Standards, adjacent to the site on National Avenue, satisfactory to the City Engineer.

15. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate Construction Best Management Practices (BMPs) necessary to comply with current City of San Diego Storm Water Standards Manual and with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications, satisfactory to the City Engineer.

16. 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 Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

TRANSPORTATION REQUIREMENTS:

17. Prior to the issuance of the first Marijuana Production Permit pursuant to SDMC Chapter 4, Article 2, Division 15, the Owner/Permittee shall record a joint use driveway/mutual access agreement in favor of the project and the adjacent property (APN 550-161-1100), to the satisfaction of the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

18. All automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for

any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

19. A maximum of 5 employees shall be allowed on-site at any given time to correspond to the 5 provided parking spaces for the project.
20. All operations shall be conducted indoors within a secured structure. All equipment and storage shall be also located within a secure structure.
21. Lighting shall be provided to illuminate the immediate surrounding area of the facility, including parking lots and adjoining sidewalks. Lighting shall be hooded or oriented to deflect light away from adjacent properties.
22. Security 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.
23. The name and emergency contact telephone number of an operator or manager shall be posted outside the marijuana production facility in a location visible to the public from the public right-of-way in character size at least two inches in height. The permittee shall provide this contact information to the San Diego Police Department. The operator or manager shall also be available 24 hours a day to address public nuisance complaints and interact with local, state, and federal law enforcement authorities. Other than the contact information, a marijuana production facility shall limit signage on the exterior of the property visible from the public right-of-way to the address.
24. A permit shall be obtained as required pursuant to SDMC Chapter 4, Article 2, Division 15.
25. The retail sale of marijuana and marijuana products shall only be conducted by a marijuana outlet in accordance with SDMC Section 141.0504. A marijuana production facility is prohibited from providing marijuana and marijuana products to any person other than another marijuana production facility, a testing lab, or a marijuana outlet.
26. The marijuana production facility, adjacent public sidewalks, and areas under the control of the marijuana production facility shall be maintained free of litter and graffiti at all times.
27. The marijuana production facility shall provide daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.
28. The Owner/Permittee shall provide a sufficient odor absorbing ventilation and exhaust system capable of minimizing excessive or offensive odors emanating outside of the permitted facility, to the satisfaction of the Development Services Department.

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 Planning Commission of the City of San Diego on June 6, 2019 by Resolution No. PC-XXXX.

Permit Type/PTS Approval No.: CUP No. 2068128 and NDP No.2246456

Date of Approval: June 6, 2019

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Firouzeh Tirandazi
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.

AARON MAGAGNA
Owner/Permittee

By _____
Aaron Magagna

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



Site Photograph 1

MPF 3279 National Ave - Project No. 585635
3279 National Avenue



Site Photograph 2

MPF 3279 National Ave - Project No. 585635

3279 National Avenue





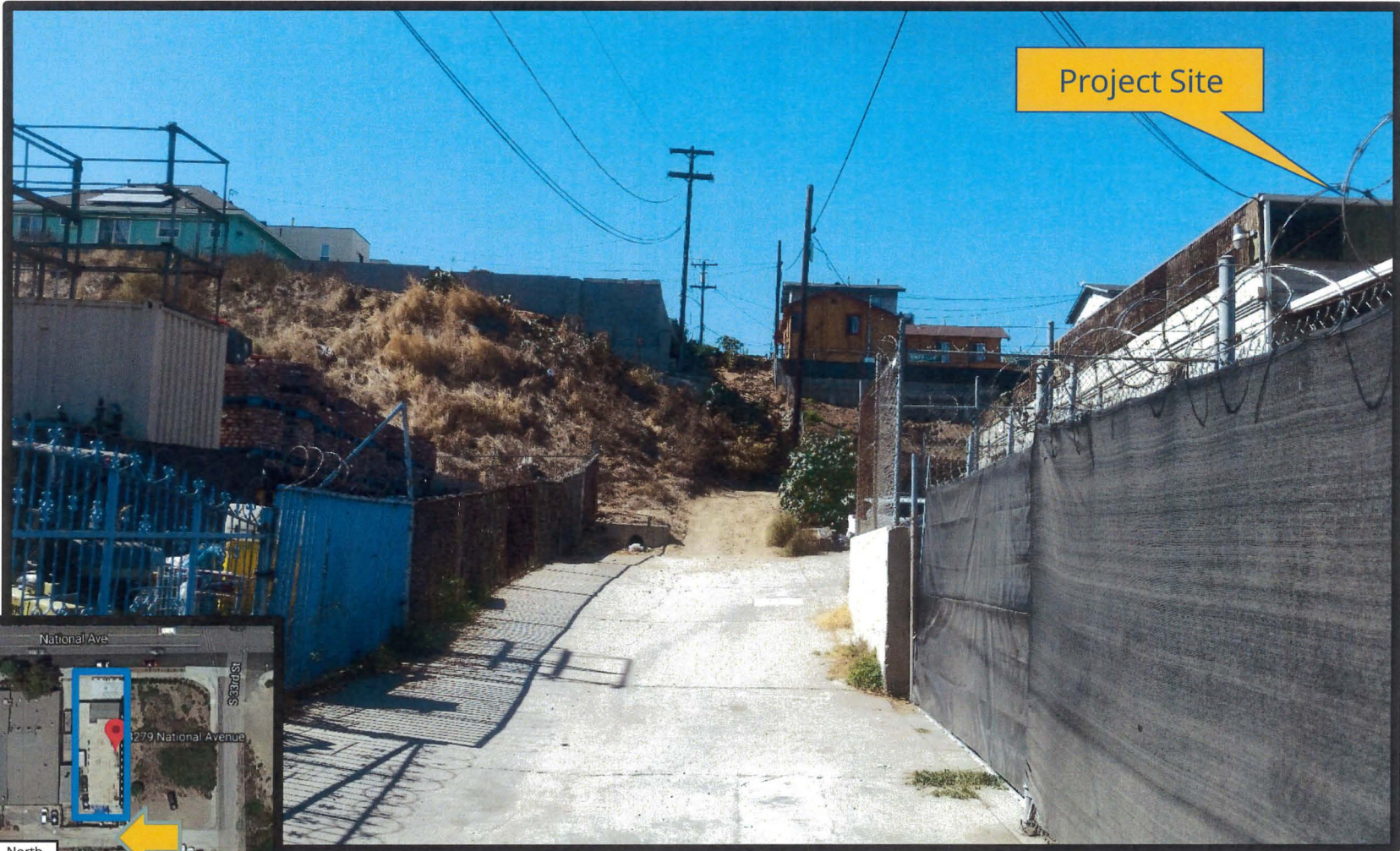
Site Photograph 3

MPF 3279 National Ave - Project No. 585635
3279 National Avenue



Site Photograph 4

MPF 3279 National Ave - Project No. 585635
3279 National Avenue



Site Photograph 5

MPF 3279 National Ave - Project No. 585635
3279 National Avenue



Site Photograph 6

MPF 3279 National Ave - Project No. 585635
3279 National Avenue



Site Photograph 7

MPF 3279 National Ave - Project No. 585635
3279 National Avenue



Project Site



Site Photograph 8

MPF 3279 National Ave - Project No. 585635
3279 National Avenue



Site Photograph 9

MPF 3279 National Ave - Project No. 585635
3279 National Avenue



Site Photograph 10

MPF 3279 National Ave - Project No. 585635

3279 National Avenue





Site Photograph 11

MPF 3279 National Ave - Project No. 585635
3279 National Avenue



Site Photograph 12

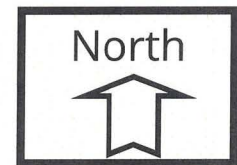
MPF 3279 National Ave - Project No. 585635
3279 National Avenue





Site Photograph 13

MPF 3279 National Ave - Project No. 585635
3279 National Avenue





Site Photograph 14
MPF 3279 National Ave - Project No. 585635
3279 National Avenue