



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: June 21, 2019

TO: City of San Diego Planning Commissioners

FROM: Firouzeh Tirandazi, Development Project Manager, DSD/Project Management Section, MS-501

SUBJECT: Planning Commission Meeting, June 27, 2019, Appeal of Hearing Officer's decision on April 3, 2019 – MPF 10110 Sorrento Valley, Project No. 585348; Revised Staff Recommendation

This memorandum serves to advise that on June 18, 2019, the City Council approved Marijuana Production Facility (MPF) 1028 Buenos, Project No. 585598. A total of 40 Conditional Use Permit (CUP) applications for MPFs have been approved with final decisions and no pending any appeals. Pursuant to SDMC Section 141.1004, no more than 40 MPFs may be permitted in the City of San Diego. Approval of the proposed MPF will exceed the limitation established by the City Ordinance. Therefore, City Staff can no longer make the necessary CUP findings (b), (c) and (d), and recommends the Planning Commission uphold the appeals, reverse the Hearing Officer's decision, and deny Conditional Use Permit No. 2196094.

Provided herewith is a revised resolution reflecting City Staff's current recommendation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Firouzeh Tirandazi".

Firouzeh Tirandazi
Development Project Manager

FT/ft

Attachments: 1. Revised Attachment 4 – Draft Resolution

cc: Deputy City Attorney
Planning Commission Secretary

PLANNING COMMISSION RESOLUTION NO. PC-XXXX
CONDITIONAL USE PERMIT NO. 2196094
MPF 10110 SORRENTO VALLEY - PROJECT NO. 585348

WHEREAS, HELF SORRENTO, LLC, a California Limited Liability Company, Owner, and SEAN ST. PETER, Permittee, filed an application with the City of San Diego for a permit to operate a Marijuana Production Facility within an existing one-story, 40,271 square-foot building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 2196094) on portions of a 12.04-acre site;

WHEREAS, the project site is located at 10110 Sorrento Valley Road, in the IL-3-1 Zone of the Torrey Pines Community Plan area;

WHEREAS, the project site is legally described as Acre Lot 3 of the Sorrento Lands and Townsite, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 483, filed in the Office of the County Recorder of San Diego County, February 9, 1888, more particularly described in Grant Deed Recorded June 12, 2016, as Document No. 2006-0413147, of official Records of the San Diego County Recorder's Office;

WHEREAS, on October 29, 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 and the Environmental Determination was appealed to City Council, and withdrawn on January 14, 2019;

Whereas, the appeal hearing was nevertheless required to be held because part of the Project is within the Coastal Overlay Zone, and the City Council heard and denied the appeal on March 12, 2019, pursuant to Resolution No. 312260;

**ATTACHMENT 4
(Revised)**

WHEREAS, on April 3, 2019, the Hearing Officer of the City of San Diego approved Conditional Use Permit No. 2196094 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on April 16, 2019 and April 17, 2019, appeals of the Hearing Officer's decision to approve Conditional Use Permit No. 2196094 were filed by Catharine Brown and Khoa Nguyen, respectively (Appeals);

WHEREAS, on June 18, 2019, City Council took final action approving the 40th Marijuana Production Facility, and no more than 40 Marijuana Production Facilities may be permitted per San Diego Municipal Code (SDMC) Section 141.1004;

WHEREAS, on June 27, 2019, the Planning Commission considered the Appeals and Conditional Use Permit No. 2196094 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, that it grants the Appeals, reverses the Hearing Officer's decision, and adopts the following written findings with respect to Conditional Use Permit No. 2196094:

A. CONDITIONAL USE PERMIT [SDMC Section 126.0305]

1. Findings for all Conditional Use Permits:

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

The proposed project is a request for a Conditional Use Permit to operate a Marijuana Production Facility (MPF) within an existing 40,271 square-foot, one-story building located at 10110 Sorrento Valley Road. The 12.04-acre project site is in the IL-3-1 Zone within the Torrey Pines Community Plan area. The project site is also located in the Coastal Overlay Zone (Appealable and Non-Appealable), MCAS Miramar Airport Land Use Compatibility Overlay Zone (Airport Influence Area - Review Area 1, Accident Potential

ATTACHMENT 4 (Revised)

Zone 2, Noise 60-65 CNEL), Federal Aviation Administration (FAA) Part 77 Noticing Area, Parking Impact Overlay Zone (Campus and Coastal), Special Flood Hazard Area (100-year Floodplain and 100-year Floodway), Transit Priority Area, and designated as Prime Industrial Land in the Economic Prosperity Element of the General Plan.

The project site is designated Prime Industrial Land in the Prosperity Element, and Industrial Employment by the Land Use and Community Planning Element, of the General Plan. The General Plan identifies a City-wide shortage of land suitable for manufacturing activities and a need to protect manufacturing land from non-manufacturing uses. The project site is designated Industrial per the Torrey Pines Community Plan. The Industrial designation is intended for manufacturing, research and development, laboratories, offices, industrial services, incubator industry and business uses, and support commercial and retail uses.

The proposed MPF, classified as an industrial use, is a compatible use for this location with a Conditional Use Permit and is consistent with the community plan, 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 project requests a CUP to operate an MPF within an existing 40,271 square-foot, one-story building located on a 12.04-acre project site at 10110 Sorrento Valley Road in the IL-3-1 Zone within the Torrey Pines Community Plan area.

MPFs are allowed in the IL-3-1 Zone of the Community Plan with a CUP. However, as of June 18, 2019, a total of 40 CUP applications for MPFs have been approved with final decisions and no pending any appeals. Pursuant to SDMC Section 141.1004, no more than 40 MPFs may be permitted in the City of San Diego. Approval of the proposed MPF will violate the regulations of the Land Development Code because it would exceed the limitation. Therefore, the proposed MPF will be detrimental to the public health, safety and welfare.

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

MPFs are allowed in the IL-3-1 Zone of the Community Plan with a CUP. As of June 18, 2019, a total of 40 CUP applications for MPFs have been approved with final decisions and no pending any appeals. Pursuant to SDMC Section 141.1004, no more than 40 MPFs may be permitted in the City of San Diego. Therefore, the proposed MPF does not comply with the regulations of the Land Development Code because 40 MPFs have been permitted and approval of this MPF would exceed the limitation.

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

The MPF is proposed within an existing one-story, 40,271 square-foot building located at 10110 Sorrento Valley Road. The 12.04-acre project site is in the IL-3-1 Zone within the Torrey Pines Community Plan. The project site is designated Industrial per the Torrey Pines Community Plan. The Industrial designation is intended for manufacturing, research and development, laboratories, offices, industrial services, incubator industry and business uses, and support commercial and retail uses. The IL Zones are intended to permit a range of uses, including non-industrial 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.

However, as of June 18, 2019, a total of 40 CUP applications for MPFs have been approved with final decisions and no pending any appeals. Pursuant to SDMC Section 141.1004, no more than 40 MPFs may be permitted in the City of San Diego. The proposed MPF will exceed the limitation established by the City Ordinance and is not an appropriate use at the proposed location.

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

BE IT FURTHER RESOLVED that the Appeals are granted, the Hearing Officer decision is reversed, and, based on the findings hereinbefore, Conditional Use Permit No. 2196094 is hereby DENIED by the Planning Commission to the referenced Owner/Permittee.

Firouzeh Tirandazi
Development Project Manager
Development Services

Adopted on: June 27, 2019

IO#: 24007556