



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: March 5, 2015 **REPORT NO.** PC-15-015

ATTENTION: Planning Commission, Agenda of March 12, 2015

SUBJECT: APPEAL OF A HEARING OFFICER'S DECISION TO GRANT A
CONDITIONAL USE PERMIT TO 3452 HANCOCK MMCC -
PROJECT NO. 368344, PROCESS 3

REFERENCE: Report to the Hearing Officer; Report No. HO-14-072 (Attachment 1-11).

**OWNER/
APPLICANT:** SINNER BROTHERS, INC. /
Adam Knopf

SUMMARY

Issue(s): Should the Planning Commission approve or deny an appeal of the Hearing Officer's decision to approve a Conditional Use Permit (CUP) to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate an 832 square foot tenant space within an existing 1,503 square foot, one-story building on a 0.15-acre site within the Midway/Pacific Highway Corridor Community Plan area?

Staff Recommendation(s): Deny the appeal and Uphold the Hearing Officer's decision to Approve Conditional Use Permit No. 1377388 with modified conditions.

Community Planning Group Recommendation: On July 2, 2014, the Midway Community Planning Group voted 8-0-1 to approve the project with conditions (Attachment 10).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15303, New Construction or Conversion of Small Structures. On August 27, 2014, a Notice of Right to Appeal (NORA) was posted. The opportunity to appeal the determination ended on September 11, 2014.

Fiscal Impact Statement: None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: None with this action.

BACKGROUND

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

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

The proposed project is a request for a Conditional Use Permit (CUP) to operate a MMCC in an 832 square foot tenant space within an existing 1,503 square foot, one-story building on a 0.15-acre site. The site is located at 3452 Hancock Street, south of Interstate 8, east of Hancock Street, north of Kurtz Street and west of Sherman Street. The site is in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area. The site contains an existing building constructed in 1959, per Building Permit No. A09820. The 832 square foot tenant space is currently being used as an office.

The business to the north of the site is Patriot (commercial services), to the west is Sinner Brothers (office), to the south is Euro Sport Collision Repair (auto repair) and to the east is Russell Pond Architecture (office). All of the surrounding parcels are in the IS-1-1 zone. The purpose of the IS zone is to provide for small-scale industrial activities within urbanized areas. It is intended that the IS zones permit a wide range of industrial and nonindustrial land uses to promote economic vitality and a neighborhood scale in development. The property development regulations of the IS zone are intended to accommodate the development of small and medium sized industrial and commercial activities by providing reduced lot area, landscaping, and parking requirements.

The site is designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. Most of the commercial uses have developed along the area's major streets which include: Sports Arena Boulevard, Midway Drive,

Camino del Rio South and Rosecrans Street. Additionally, this community portion contains little residential development. The proposed MMCC, classified as commercial services, is consistent with the community plan.

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

The City of San Diego's Development Services staff reviewed the 1,000 foot radius map and 1,000 foot spreadsheet exhibit provided by the applicant identifying all the existing uses. Staff determined that the proposed MMCC met all applicable development regulations, including the minimum distance requirements. The permit was conditioned to include all development restrictions in order to avoid adverse impacts upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area.

Public Hearing: On December 3, 2014, the Hearing Officer of the City of San Diego approved Conditional Use Permit No. 1377388 to allow the operation of a MMCC in a 832 square foot tenant space within an existing 1,503 square foot, one-story building on a 0.15-acre.

Subsequent to the Hearing Officer's granting of the CUP, the applicant has agreed to incorporate modified conditions into their permit as follows: 1) operable surveillance cameras and a metal detector to the satisfaction of the San Diego Police Department 2) the cameras shall have and use a recording device that maintains the records for a minimum of 30 days 3) an armed security guard to the extent the possession of a firearm by the security guard is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R § 478.11. Nothing herein shall be interpreted to require or allow a violation of federal firearms laws 4) the security guard is required to be on the premises 24 hours a day, seven days a week and 5) graffiti must be removed within 24 hours (Attachment 15, Conditions Number 16 & 20).

DISCUSSION

Appeal: Three appeals of the Hearing Officer's decision were filed. On December 16, Scott Chipman filed an appeal on the grounds of Findings Not Supported (Attachment 1). On December 17 Donna Jones filed an appeal on the grounds of Factual Error, Conflict with Matters, Findings not Supported and New Information (Attachment 2). On December 17, Dana Ganon filed an appeal on the grounds of Factual Error, Findings Not Supported and New Information (Attachment 3).

The summarized grounds for appeal and staff responses are as follows:

1. *Marijuana promotes loitering, smoking, unsafe drivers and robberies, putting the community at risk. Marijuana edibles are made to look like candy designed to appeal to young children. Manufacturing of edibles and hash oil manufacturing cause explosions and put the public safety at risk. There are minor oriented facilities within 1,000 feet.*

Staff Response: The City of San Diego adopted zoning regulations for MMCCs in compliance with Proposition 215 and Senate Bill 420, which allow the use of marijuana for medical purposes in the State of California.

A limit of four MMCCs per Council District (36 city-wide) was adopted in order to minimize the impact on the City and residential neighborhoods.

The MMCC CUP prohibits consultations by medical professionals on site, does not allow certain types of vending machines, requires interior and exterior lighting, operable cameras and a metal detector to the satisfaction of the San Diego Police Department, alarms, and an armed security guard (to the extent the possession of a firearm by the security guard is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R § 478.11.). The security guard shall be licensed by the State of California and be on the premises 24 hours a day, seven days a week. The security guard should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the records for a minimum of 30 days. Graffiti must be removed within 24 hours. Loitering and smoking on site is prohibited. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. The MMCC CUP is only valid for five years from date of issuance. The permit requires compliance with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation and requires fingerprinting and background checks of all responsible persons operating the MMCC. Additionally, the CUP may be revoked if determined to be in violation of the terms, conditions, lawful requirements, or provisions of the permit. The permit as conditioned will avoid adverse impacts upon the health, safety and general welfare of the community.

Edible products containing medical marijuana products and concentrates must comply with the packaging and labeling requirements of Chapter 4, Article 2, Division 15.

The City of San Diego's Development Services staff reviewed the 1,000 foot radius map and 1,000 foot spreadsheet exhibit provided by the applicant identifying all the existing uses. Staff determined that the proposed MMCC met all applicable development regulations, including the minimum distance requirements. Although there may be children present at nearby business, they do not meet the definition of minor-oriented facility. "Minor-oriented facility" means any after school program, teen center, club for boys and/or girls, children's theater, children's museum, or other establishment where the primary use is devoted to people under the age of 18. Primary use means the allowed use on a premises that *occupies a majority of the area of the premises*.

2. *Inaccurate legal description of property. The proposed MMCC is identified as being in a*

832 square foot tenant space within an existing, 1,503 square foot, one-story building on a 0.15-acre site. The staff report identifies the legal description as: Lots 37 and 38, Block 1 of the Resubdivision of Pueblo Lot 277, commonly known as Ascoff and Kelly's Subdivision, Map No. 578, on January 12, 1889. The correct legal description is Lots 37, 38, 39 & 40, Block 1 of the Resubdivision of Pueblo Lot 27. The site is four (4) lots, not two (2) as evidence shows that it has operated in common ownership. The project therefore should be re-noticed.

Staff Response: Lots 37, 38, 39, and 40 are all owned by the same entity. These four lots are all legal lots that have not been tied together by any subdivision mapping action, including a merger of parcels. A building was constructed in 1958 on lots 37 and 38 (Building Permit No. A09820 –Attachment 6) and a separate building was constructed in 1966 on lots 39 and 40 (Building Permit No. A32472 – Attachment 7). These two buildings are separate buildings that were constructed with 0-foot setbacks. The owner took possession of these four lots at the same time and the properties were conveyed under one grant deed. Common ownership of these four lots does not change the legal lot status of these lots. The owner is free to sell and convey these lots separately with the existing buildings across lot lines being the only issue. The proposed MMCC is limited to lots 37 and 38. Although the property owner also own lots 39 and 40, it does not change the project description as no development is proposed on lots 39 and 40. The project was correctly noticed.

3. *The MMCC CUP process is unfair. The MMCC Information Bulletin and Ordinance are unclear on the process and order of approval. Processing applications on an individual basis does not ensure the most appropriate locations are approved.*

Staff Response: MMCC CUP applications are processed on a first-come, first-served basis. The time order changes as the application goes through the review process, hearings and appeals. Throughout the review process issues are identified by the reviewers and applicants are expected to respond and resubmit revised plans. Some projects have more issues compared to others. The applications that resolve issues and resubmit revised plans expeditiously will be scheduled for a hearing faster than other applications regardless of initial submittal time order. Projects are scheduled for a public hearing once all issues are addressed, the environmental determination is made and the Notice of Right to Appeal (NORA) is posted. If the environmental determination is appealed, that project is scheduled for City Council. If the environmental determination is not appealed, the project is scheduled for Hearing Officer. If the Hearing Officer decision is appealed, the project is scheduled for Planning Commission. Staff provides the decision maker with a recommendation only. The final decision of approval or denial is made by the Hearing Officer, Planning Commission or City Council. This project addressed all issues and the NORA was posted. No appeal of the environmental determination was filed. The project was scheduled for Hearing Officer, the Hearing Officer approved it, an appeal was filed and subsequently the project is now before the Planning Commission. Presenting applications to a decision maker on an individual basis is consistent with the discretionary review process pursuant to the Land Development Code.

4. *The required property historical listing of occupants provided by the applicant is inaccurate.*

Staff Response: A Historical Review is required when proposed changes to the exterior of an existing building over 45 years old is proposed. A list of all previous occupants is required as part of the discretionary review process in order to assist in determining potential historic significance. A listing of occupants beyond the 1980s is not required, as it is not within a possible historic period and would not provide a basis for historic significance. The materials provided by the applicant were consistent with the submittal requirements, and satisfied the requirements for the historic review.

5. *The proposed project does not have a sidewalk which is required to provide safe access to pedestrians and required by the community plan.*

Staff Response: Hancock Street does have an existing 4.5-foot wide sidewalk, as encouraged by the Midway/Pacific Corridor Community plan. The proposed MMCC is located within an existing building that fronts both Hancock Street and Pickett Street. Pickett Street is a 20-foot wide named alley that provides parking and access to several businesses on that subject block. The proposed MMCC is providing eight (8) parking spaces and pedestrian access from the on-site parking area off of Pickett Street. A sidewalk cannot be constructed on Pickett Street as it is an alley.

6. *The applicant is currently affiliated or operating an illegal dispensary.*

Staff Response: Per SDMC Section §121.0311, a violation of the Land Development Code authorizes the City to withhold issuance of City permits for site specific applications. The proposed MMCC located at 3452 Hancock Street does not have an open Code Enforcement Violation. Staff has verified that the 832 square foot tenant space is currently being used as an office and not an unpermitted marijuana dispensary. Please refer to the letter from Gina M. Austin, Esq. (Attachment 16) regarding the applicants past affiliation with a dispensary.

Conclusion:

Both city staff and the Hearing Officer reviewed the proposed CUP, resolution/findings and determined the project consistent with the Midway/Pacific Highway Corridor Community Plan, Land Development Code regulations and the General Plan. The applicant has voluntarily agreed to additional safety conditions to avoid adverse impact upon the health, safety and general welfare of the community. Staff recommends the Planning Commission deny the appeal and uphold the Hearing Officer's decision with the modified conditions.

ALTERNATIVE

1. **Deny the appeal and Approve Conditional Use Permit No. 1377388, with modifications.**
2. **Approve the appeal and Deny Conditional Use Permit No. 1377388, if the findings**

required to approve the project cannot be affirmed.

Respectfully submitted,



Mike Westlake
Assistant Deputy Director
Development Services Department



Edith Gutierrez
Development Project Manager
Development Services Department

Attachments:

- 1-12 Report to the Hearing Officer – Report HO-14-072
- 13. Appeal Application, Scott Chipman
- 14. Appeal Application, Donna Jones
- 15. Appeal Application, Dana Ganon
- 16. Applicant response to appeals, Gina Austin
- 17. Building Permit No. A09820 (3452 Hancock Street)
- 18. Building Permit No. A32472 (3460 Hancock Street)
- 19. CUP Permit with Conditions
- 20. CUP Resolution with Findings



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: December 3, 2014

REPORT NO. HO-14-072

ATTENTION: Hearing Officer

SUBJECT: 3452 HANCOCK MMCC
PROJECT NUMBER: 368344

LOCATION: 3452 Hancock Street

APPLICANT: Adam Knopf

SUMMARY

Issue(s): Should the Hearing Officer approve a Conditional Use Permit to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in an 832 square foot tenant space within an existing, 1,503 square foot, one-story building on a 0.15-acre site within the Midway/Pacific Highway Corridor Community Plan area?

Staff Recommendation: APPROVE Conditional Use Permit No. 1377388.

Community Planning Group Recommendation: On July 2, 2014, the Midway Community Planning Group voted 8-0-1 to approve the project with conditions (Attachment 10).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15303, New Construction or Conversion of Small Structures (Attachment 8). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on August 27, 2014, the opportunity to appeal that determination ended on September 11, 2014.

BACKGROUND

In 1996, the people of the State of California passed Proposition 215, the Compassionate Use Act, which allows the use of marijuana for medical purposes when recommended by a physician and excludes the patient and the primary caregiver from criminal prosecution. In 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP) became law. The MMP requires the California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers

through a statewide identification card system, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. In 2008, the California Attorney General established guidelines for Medical Marijuana Collective Operations and allowed cities to adopt and enforce laws consistent with the MMP.

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The business to the north of the site is Patriot (commercial services), to the west is Sinner Brothers (office), to the south is Euro Sport Collision Repair (auto repair) and to the east is Russell Pond Architecture (office). All of the surrounding parcels are in the IS-1-1 zone. The purpose of the IS zone is to provide for small-scale industrial activities within urbanized areas. It is intended that the IS zones permit a wide range of industrial and nonindustrial land uses to promote economic vitality and a neighborhood scale in development. The property development regulations of the IS zone are intended to accommodate the development of small and medium sized industrial and commercial activities by providing reduced lot area, landscaping, and parking requirements.

The site is designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan (Attachment 3). The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. Most of the commercial uses have developed along the area's major streets which include: Sports Arena Boulevard, Midway Drive, Camino del Rio South and Rosecrans Street. Additionally, this community portion contains little residential development. The proposed MMCC, classified as commercial services, is consistent with the community plan.

DISCUSSION

The project site located at 3452 Hancock Street is on a 0.15-acre site. The proposed 832 square foot tenant space, within an existing 1,503 square foot one-story building, is currently being used as an office. The project proposes interior improvements that include a reception area, dispensary area, employee lounge, office and restroom. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code,

Electrical Code, Fire Code and all adopted referenced standards. No public improvements are proposed or required for the project site.

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

The City of San Diego Development Services staff has reviewed the 1,000 foot radius map (Attachment 6) and 1,000 foot spreadsheet exhibit (Attachment 7) provided by the applicant identifying all existing uses. Staff has determined that the proposed MMCC meets all applicable development regulations, including the minimum distance requirements. The permit has been conditioned to include all development restrictions in order to avoid adverse impacts upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area.

The Conditional Use Permit for the proposed MMCC may be approved if the Hearing Officer determines that the findings can be made. Staff has reviewed the proposed MMCC and has determined that it meets all applicable sections of the San Diego Municipal Code, Midway/Pacific Highway Corridor Community Plan and the General Plan. Staff is recommending that the Hearing Officer approve the project as proposed.

ALTERNATIVE

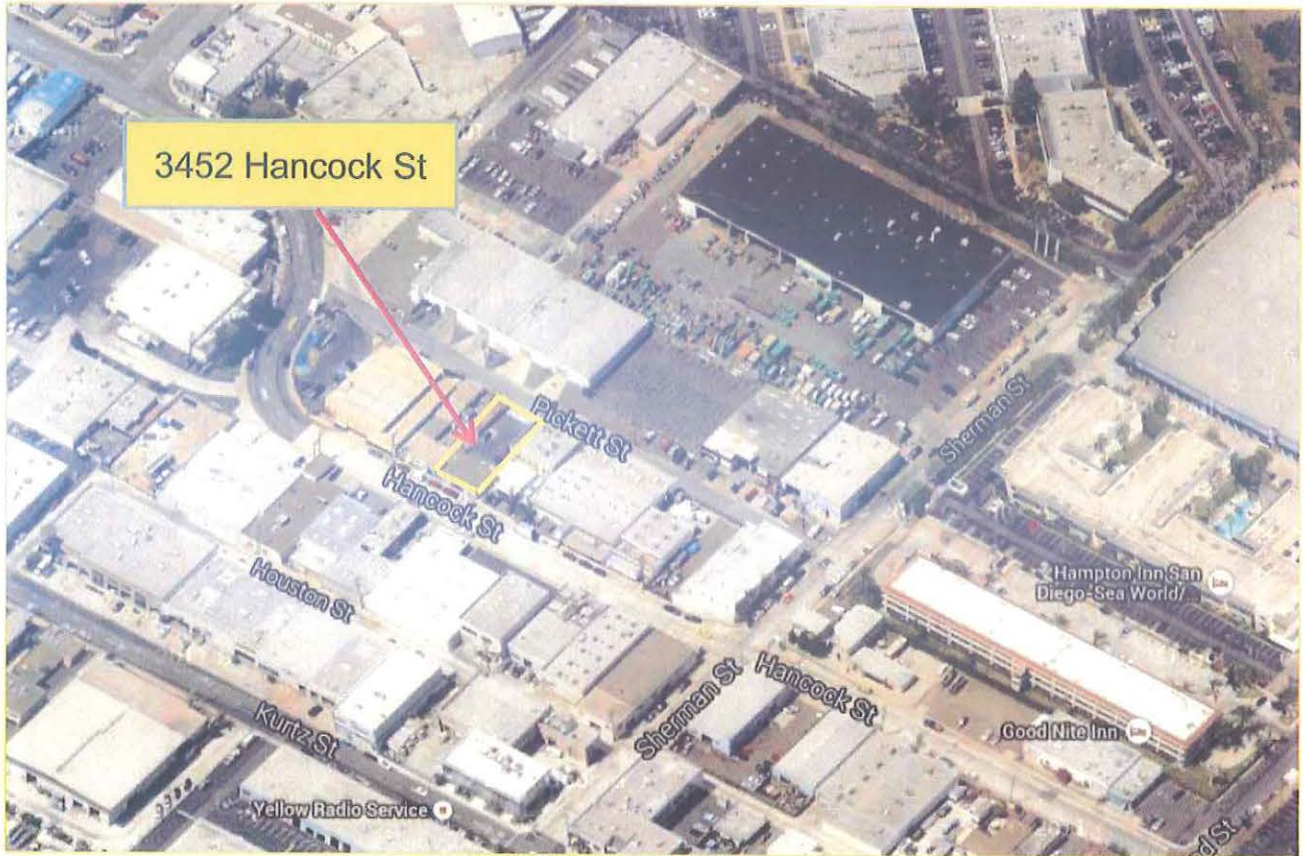
1. Approve Conditional Use Permit No. 1377388, with modifications.
2. Deny Conditional Use Permit No. 1377388, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,


Edith Gutierrez, Development Project Manager

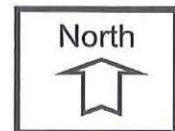
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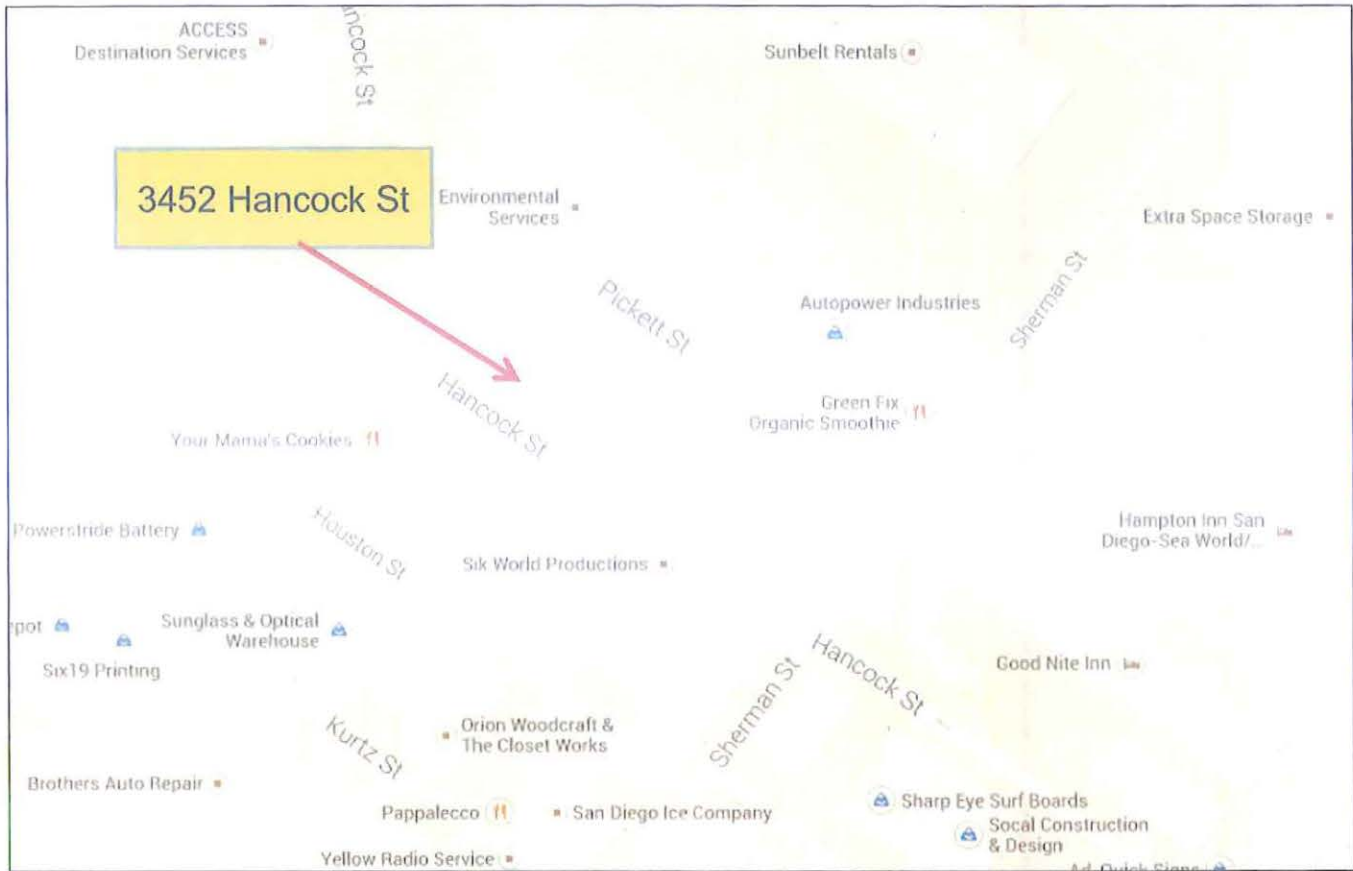
1. Aerial Photograph
2. Project Location Map
3. Community Plan Land Use Map
4. Draft Permit with Conditions
5. Draft Permit Resolution with Findings
6. 1000 Foot Radius Map
7. 1000 Foot Radius Map Spreadsheet
8. Notice of Right to Appeal Environmental Determination
9. Project Site Plan(s)
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement



Location Aerial Photo

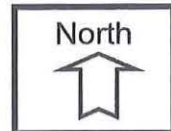
3452 HANCOCK MMCC – 3452 HANCOCK STREET
PROJECT NO. 368344

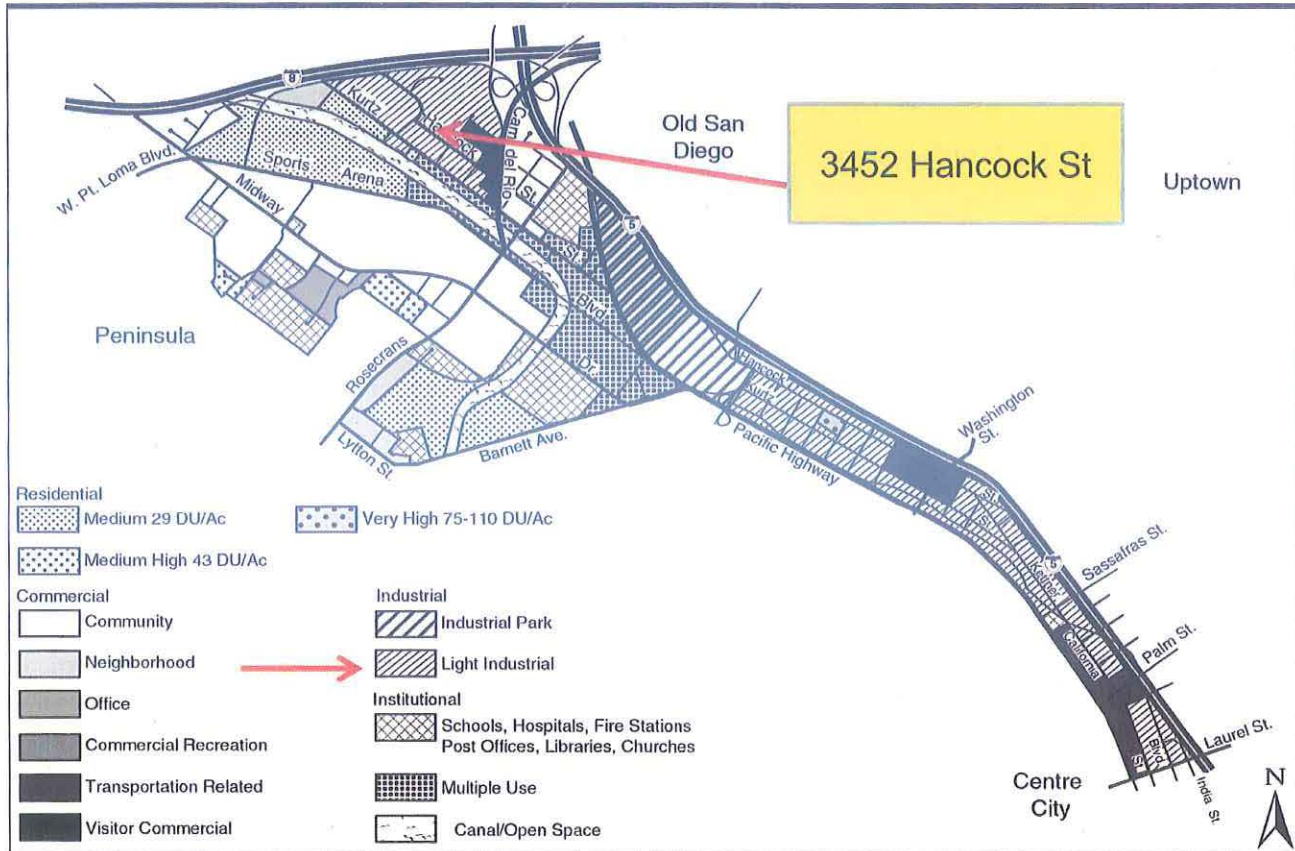




Project Location Map

3452 HANCOCK MMCC – 3452 HANCOCK STREET
PROJECT NO. 368344

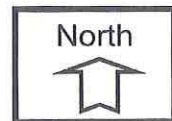




Land Use Map

3452 HANCOCK MMCC – 3452 HANCOCK STREET

PROJECT NO. 368344



ATTACHMENT 3

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

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004654

CONDITONAL USE PERMIT NO. 1377388
3452 HANCOCK - MMCC PROJECT NO. 368344
HEARING OFFICER

This Conditional Use Permit No. 1377388 is granted by the Hearing Officer of the City of San Diego to SINNER BROTHERS, INC, Owner and POINT LOMA PATIENTS CONSUMER COOPERATIVE, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 0.15-acre site is located at 3452 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area. The project site is legally described as: Lots 37 and 38, Block 1 of the Resubdivision of Pueblo Lot 277, commonly known as Ascoff and Kelly's Subdivision, Map No. 578, on January 12, 1889.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Medical Marijuana Consumer Cooperative (MMCC) and subject to the City's land use regulations described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 3, 2014, on file in the Development Services Department.

The project shall include:

- a. Operation of a Medical Marijuana Consumer Cooperative (MMCC) in an 832 square foot tenant space within an existing, 1,503 square foot, one-story building on a 0.15-acre site;
- b. Existing landscaping (planting, irrigation and landscape related improvements);
- c. Existing off-street parking;

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

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by _____.
2. This Conditional Use Permit [CUP] and corresponding use of this MMCC shall expire on _____.
3. In addition to the provisions of the law, the MMCC must comply with; Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 6 of the San Diego Municipal Code.
4. No construction, occupancy, or operation of any facility or improvement described herein shall commence, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department.
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
 - c. A MMCC Permit issued by the Development Services Department is approved for all responsible persons in accordance with SDMC, Section 42.1504.
5. While this Permit is in effect, the MMCC shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the MMCC and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

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

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

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

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

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

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

PLANNING/DESIGN REQUIREMENTS:

13. The use within the 832 square foot tenant space shall be limited to the MMCC and any use permitted in the IS-1-1 Zone.
14. Consultations by medical professionals shall not be a permitted accessory use at the MMCC.
15. Lighting shall be provided to illuminate the interior of the MMCC, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
16. Security shall include operable cameras, 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 should only be engaged in activities related to providing security for the facility, except on an incidental basis.
17. The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the MMCC in character size at least two inches in height.
18. The MMCC shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
19. The use of vending machines which allow access to medical marijuana except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this section and condition, a vending machine is any device which allows access to medical marijuana without a human intermediary.
20. The Owner/Permittee or operator shall maintain the MMCC, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed within 48 hours.
21. Medical marijuana shall not be consumed anywhere within the 0.15-acre site.
22. The Owner/Permittee or operator shall post anti-loitering signs near all entrances of the MMCC.
23. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Sign colors and typefaces are limited to two. Ground signs shall not be pole signs. A sign is required to be posted on the outside of the MMCC and shall only contain the name of the business.

TRANSPORTATION REQUIREMENTS:

24. No fewer than 8 parking spaces (including 1 van accessible space) shall be maintained on the property at all times in the approximate locations shown on Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.

POLICE DEPARTMENT RECOMMENDATION:

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

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on December 3, 2014 and Resolution No. HO-XXXX.

Conditional Use Permit No.1377388/PTS No. 368344

Date of Approval: December 3, 2014

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Edith Gutierrez
Development Project Manager

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

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

SINNER BROTHERS, INC
Owner

By _____
John Rickards
President

POINT LOMA PATIENTS CONSUMER
COOPERATIVE
Permittee

By _____
Adam Knopf
Permittee

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

HEARING OFFICER
RESOLUTION NO. HO-
CONDITONAL USE PERMIT NO. 1377388
3452 HANCOCK MMCC PROJECT NO. 368344

WHEREAS, SINNER BROTHERS, INC, Owner and POINT LOMA PATIENTS CONSUMER COOPERATIVE, Permittee, filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) in an 832 square foot tenant space within an existing, 1,503 square foot, one-story building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1377388), on portions of a 0.15-acre site;

WHEREAS, the project site is located at 3452 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area;

WHEREAS, the project site is legally described as Lots 37 and 38, Block 1 of the Resubdivision of Pueblo Lot 277, commonly known as Ascoff and Kelly's Subdivision, Map No. 578, on January 12, 1889;

WHEREAS, on December 3, 2014, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1377388 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on August 27, 2014, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures); and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

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

That the Hearing Officer adopts the following written Findings, dated December 3, 2014.

FINDINGS:

Conditional Use Permit Approval – Section §126.0305

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

The proposed project is a request for a Conditional Use Permit to operate in an 832 square foot tenant space within an existing, 1,503 square foot, one-story building. The 0.15-acre site is located at 3452 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area. All of the surrounding parcels are in the IS-1-1 zone.

The site is designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. Additionally, this community portion contains little residential development. The use to the north is commercial services, to the west and east is office and to the south is auto repair. The surrounding uses are allowed in the IS-1-1 Zone, are consistent with Light Industrial designation of the community plan and compatible uses with MMCCs.

The proposed MMCC, classified as commercial services is consistent with the community plan and therefore, will not adversely affect the applicable land use plan.

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

The proposed 832 square foot MMCC located at 3452 Hancock Street is within an existing one-story building. The existing tenant space is currently being used as an office. The project proposes interior improvements that include a reception area, dispensary area, employee lounge, office and restroom. The proposed improvements will require a ministerial building permit. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. No public improvements are proposed or required for the project site.

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

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

The project requires compliance with the development conditions in effect for the subject property as described in Conditional Use Permit No. 1377388. The Conditional Use Permit is valid for five years, however may be revoked if the use violates the terms, conditions, lawful requirements, or provisions of the permit.

The referenced regulations and conditions have been determined as necessary to avoid adverse impact upon the health, safety and general welfare of persons patronizing, residing or working within the

surrounding area and therefore, the proposed MMCC will not be detrimental to the public health, safety and welfare.

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

The proposed 832 square foot MMCC located at 3452 Hancock Street is within an existing one-story building on a 0.15-acre site. The site is in the IS-1-1 Zone and was developed in 1975 per Building Permit No. A09820. The building is currently being used as an office. The project proposes interior improvements to include reception area, dispensary area, employee lounge, office and restroom. The proposed improvements will require a ministerial building permit. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. No public improvements are proposed or required for the project site.

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

The existing one-story building was developed per approved Building Permit No. A09820. The proposed MMCC is consistent with the land use designation of Heavy Commercial. The proposed MMCC meets all development regulations, no deviations are requested, and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code. The proposed MMCC therefore complies with the regulations of the Land Development Code.

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

The proposed 832 square foot MMCC located at 3452 Hancock Street is within an existing one-story building on a 0.15-acre site. The site is in the IS-1-1 Zone and designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. Additionally, this community portion contains little residential development. The proposed MMCC, classified as commercial services, is consistent with the community plan.

MMCCs are allowed in the IS-1-1 Zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to comply with SDMC, section 141.0614 which requires a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition

to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

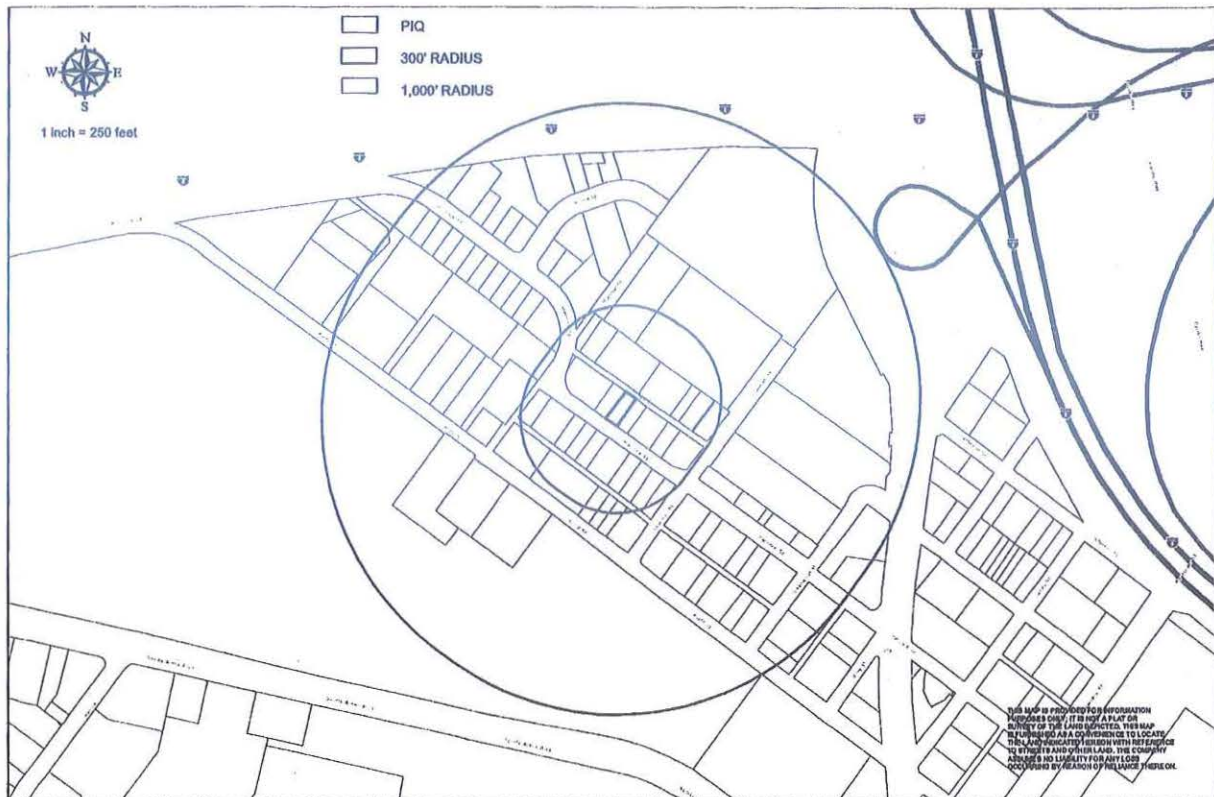
The San Diego Municipal code limits MMCCs to commercial and industrial zones and the number of MMCCs to only four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods. The use to the north of the site is commercial services, to the west and east is office and to the south is auto repair, all of which are allowed uses in the IS-1-1 Zone, consistent with Light Industrial designation of the community plan and compatible uses with MMCCs. Therefore, the proposed MMCC is an appropriate use at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1377388 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1377388, a copy of which is attached hereto and made a part hereof.

Edith Gutierrez
Development Project Manager
Development Services

Adopted on: December 3, 2014

Job Order No. 24004654



3452 Hancock St. - 1,000' Radius Table

Project Name: 3452 Hancock St. MMCC

Address: 3452 Hancock St., San Diego, CA 92110

Date: 06/25/14

Use	Address	Assessor Parcel No.	Business Name
Warehouse - Unverifiable	2830 Sherman St 32	441-581-03-00	
Retail	3220 Sports Arena Blvd	760-102-04-00	Pier 1 Imports
Furniture Store	3235 Hancock St	441-570-31-00	Midway Patio
Retail	3240 Sports Arena Blvd	760-102-05-00	Salvation Army
Retail	3250 Sports Arena Blvd	760-102-01-00	Dixieline
Custom Modular Exhibits	3280 Kurtz St	441-570-29-00	Exponents
Boat Repair	3302 Kurtz St	441-582-30-00	The Dingity Doctor
Lumber Yard	3303 Hancock St 3315	441-582-16-00	Dixieline
Car Shop	3304 Hancock St	441-581-21-00	Auto
Clothing Wholesale	3312 Kurtz St	441-582-31-00	The Padres Shops
Office, Business, Warehouse	3318 Hancock St	441-581-20-00	Seafood Packaging
Auto Shop	3320 Kurtz St	441-582-32-00	SCA Transmisison
Empty Lot	3325 Hancock St	441-582-14-00	N/A
Food Service - Unverifiable	3340 Sports Arena Blvd	760-102-70-00	
Workshop	3341 Hancock St	441-582-13-00	Socal Construction & Design
Custom Cabinets	3342 Kurtz St	441-582-33-00	R Harris Co.
Metal Workshops	3344 Kurtz St 3358	441-582-19-00	DCR
Retail, Music Venue	3350 Sports Arena Blvd	760-102-32-00	SOMA
Music Studio	3360 Sports Arena Blvd	760-102-32-00	Rock & Roll San Diego Studios
Auto	3351 Hancock St	441-582-12-00	Southwest Sales
Construction Company	3366 Kurtz St	441-582-20-00	ROEL
Auto/Smog	3375 Hancock St	441-582-11-00	JR San Diego
Retail - Unverifiable	3402 Kurtz St	441-582-21-00	
Cafe	3402 Kurtz St 3412	441-582-22-00	Pappalecco
Woodshop	3403 Hancock St	441-582-10-00	Jacobs Woodworks
Light Industrial, Offices - Unverifiable	3417 Hancock St	441-582-09-00	
Retail - Clothing	3419 Hancock St	441-582-08-00	SIK World Productions
Warehouse - Furniture	3420 Hancock St	441-581-15-00	Purosino Furniture
Offices	3421 Hancock St	441-582-38-00	Point Loma Embroidery
Towing / Auto Repair	3424 Pickett St	441-581-04-00	Autopower Industries
Auto Parts	3425 Hancock St	441-582-37-00	WPD (World Parts Depot)
Industrial, Warehouse	3430 Hancock St	441-581-14-00	Ultra Clean Fuel
Warehouse - Car Stereos	3430 Kurtz St	441-582-25-00	Street Noyz
Warehouse, Woodworking, Parking	3450 Kurtz St	441-582-36-00	Orion Woodcraft
Office, Architect	3442 Hancock St.	441-581-13-00	Russell Pond Architect
Offices, Metalworks	3452 Hancock St	441-581-12-00	Sinner Bros., Inc.
Offices, Metalworks	3460 Hancock St.	441-581-11-00	Sinner Bros., Inc.
Auto Shop	3455 Hancock St	441-582-05-00	Euro Sport Collision Repair
Light Industrial - Woodworking	3459 Hancock St	441-582-04-00	Otero's Custom Cabinets
Environmental SVC	3464 Pickett St	441-581-23-00	Patriot
Light Industrial	3465 Hancock St	441-582-03-00	Your Mama's Cookies
Auto Repair	3467 Kurtz St	441-330-11-00	Brothers
Vacant	3468 Hancock St	441-581-10-00	N/A
Government	3468 Hancock St	760-217-05-00	N/A
Warehouse - Seafood	3477 Hancock St	441-582-02-00	Better Halfshell
Retail, Warehouse - Equipment	3486 Kurtz St	441-582-29-00	Powerstride Battery, Best Coast Growers
Retail	3487 Kurtz St	441-330-12-00	Adult Depot
Retail, Estate Sales	3492 Pickett St	441-581-07-00	EF Whalen Co.

Towing	3495 Hancock St	441-582-01-00	Rescue Towing
Warehouse	3495 Kurtz St	441-330-01-00	Central Freight Lines
Candles	3501 Hancock St	441-340-22-00	Candles for Less
Retail, Offices	3502 Kurtz St	441-340-08-00	CA Corrections Dept.
Administrative Offices	3505 Hancock St	441-340-24-00	Seaworld
Food	3510 Hancock St 3520	441-530-64-00	Challenge Butter
Food Service	3511 Hancock St	441-340-23-00	Gate Gourmet
Office Buildings, Services	3515 Hancock St	441-530-51-00	Access, Richard Yen & Assoc., FMP
Office Buildings	3520 Kurtz St	441-340-30-00	Jobsite Supply Co.
Water Supply, Offices	3520 Kurtz St	441-340-31-00	Pure Water
Valley View Casino Center	3530 Sports Arena Blvd	760-245-08-00	Valley View Casino Center
Valley View Casino Center	3530 Sports Arena Blvd	760-245-11-00	Valley View Casino Center
Retail	3538 Hancock St	441-530-53-00	IEH Enviro. Eng. Lab
Towing	3540 Kurtz St	441-340-29-00	Wind&Sea Towing
Auto Sales, Parking	3550 Kurtz St	441-340-28-00	Quality Auto
Misc. Commercial - Art Center, MMA	3550 Sports Arena Blvd	760-245-07-00	
Body Shop	3556 Hancock St	441-530-52-00	Coachworks
Restaurant	3570 Sports Arena Blvd	760-245-10-00	Chic-Fil-A
Auto Body Shop	3571 Hancock St	441-530-47-00	Accurate Auto Body
Gas, Service Station	3580 Sports Arena Blvd	760-245-09-00	ARCO
Paper Shredding	3584 Hancock St	441-530-33-00	Total Secure
Offices, Warehouse, Wine Sales	3585 Hancock St	441-530-46-00	R&R Wine Marketing
Auto Shop	3597 Hancock St	441-530-45-00	Citywide Cycles
Warehouse - Unverifiable	3602 Kurtz St	441-340-05-01	
Warehouse, Retail - Furniture Sales	3602 Kurtz St	441-340-05-02	Consignment Classics Furniture
Warehouse - Unverifiable	3608 Kurtz St	441-340-10-01	
Warehouse - Unverifiable	3608 Kurtz St	441-340-10-02	
Cement Cutting	3610 Hancock St	441-530-66-00	Cement Cutting, Inc.
Light Industrial, Towing Yard	3620 Kurtz St	441-340-19-00	Advantage Towing
Surfboard Shop	3627 Hancock St	441-530-43-00	N/A
Surfboard Shop	3630 Hancock St	441-530-35-00	Plus One Surfboards
Workshop	3647 Hancock St	441-530-42-00	Construction Fence Rentals
Home Improvement, Marine Services	3650 Hancock St	760-102-02-00	Reconstruction Warehouse, Anchor Management Marine Service
Home Improvement, Boat Woodwork	3650 Hancock St 3660	441-530-62-00	Reconstruction Warehouse, Amador's Marine Woodworks
Boat Shop	3665 Hancock St	441-530-41-00	Traditional Boat Works
Roof Shop	3691 Hancock St	441-530-65-00	Eberhard Benton Roof Co.
Restaurant	3704 Rosecrans St	441-570-01-00	Denny's
Restaurant	3720 Camino Del Rio W	441-570-02-00	Cotixan
Brewery	3725 Greenwood St	441-570-30-00	Modern Times
Valley View Casino Center	3730 Sports Arena Blvd	760-102-06-00	
Cylinder head service, tropical decor	3760 Hancock St 3780	760-102-69-00	N/A
Vacant - Industrial	3801 Pickett St	441-530-22-00	N/A
Misc. Repair	3822 Sherman St	441-581-16-00	Calderon
Fish processing, smoothies	3826 Sherman St	441-581-01-00	5 Star, Green Fit
Rental Equipment	3860 Sherman St	441-540-13-00	Sunbelt Rentals
Food	3870 Houston St	441-540-14-00	Gate Gourmet
Hotel	3880 Greenwood St	441-540-21-00	Goodnight Inn
Self Storage	3883 Sherman St	441-540-24-00	Extra Space Storage
Hotel	3888 Greenwood St	441-540-23-00	Hampton Inn
Heating and air, Services, Offices	3910 Hicock St 3918	441-530-32-00	Guthrie & Sons, JH Renovations
Motorshop, car rentals	3950 Hicock St 3970	441-530-67-00	Lach Motorsports, Nexus
Computer offices	3970 Sherman St 3990	441-540-18-00	HP Engineering Services
Coffee	3990 Hicock St	441-530-28-00	David's Roasting Co.
Sports Equipment Rental	4009 Hicock St	441-530-56-00	SD Watersports Rentals

Service Shop	4009 Hicock St	441-530-63-00	Bumper Experts
Office, IT Services	4010 Hicock St	441-530-69-00	Sierra Blue Internet
RV Service Shop	4019 Hicock St	441-530-59-00	Marty Moores RV
Office	4020 Hicock St	441-530-68-00	S&F Motorsports
Printing	3481 Kurtz St.	441-582-29-00	Six 19 Printing
Recording Studio, Offices	3730 Greenwood St.	441-582-16-00	Yore Studio
Machine Shop, Auto	3740 Greenwood St.	441-582-16-00	Moore Performance
Offices	3317 Hancock St.	441-582-31-00	Lifehouse Recovery Connection
Processing Plant	3322 Hancock St.	441-582-32-00	JR Snyder
Surfboard Warehouse	3351 Hancock St	441-582-19-00	Sharpeye Surfboards
Cafe	3354 Hancock St.	441-582-12-00	Hancock St. Cafe
Offices	3356 Hancock St.	441-582-11-00	Socal Signs
Electrical company	3366 Hancock St.	441-582-20-00	Correia
Towing / Auto Repair	3428 Pickett	441-581-04-00	Dagos Towing & Auto Repair
Towing / Auto Repair	3418 Pickett	441-581-16-00	Dagos Towing & Auto Repair
Auto body shop	3569 Hancock St.	441-530-48-00	
Air Tools & Industrial	3574 Hancock St.	441-530-32-00	
Auto Products	3570 Hancock St.	441-530-32-00	Auto Beauty Products
Towing	3801 Hicock St.		Road 1



THE CITY OF SAN DIEGO

Date of Notice: August 27, 2014

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

**DEVELOPMENT SERVICES DEPARTMENT
SAP No. 24004654**

PROJECT NAME/NUMBER: 3452 Hancock MMCC/368344
COMMUNITY PLAN AREA: Midway/Pacific Highway Corridor Community Plan
COUNCIL DISTRICT: 2
LOCATION: The project is located at 3452 Hancock Street, San Diego, CA 92110

PROJECT DESCRIPTION: The proposed project is a request for a Conditional Use Permit (CUP) for a Medical Marijuana Consumer Cooperative (MMCC). The facility is proposing to operate in a 831 square foot suite in an existing 1,503 square foot building located at 3452 Hancock Street on a 0.15-acre site located within the Midway/Pacific Highway Community Plan Area; the site is designated Light Industrial. The project site is located in the IS-1-1 Zone, the Airport Influence Area for San Diego International Airport, the Part 77 Noticing Area, and the Coastal Height Limitation Overlay Zone.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Designated Staff

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

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego

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

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

On August 27, 2014, the City of San Diego made the above-referenced environmental determination

pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (September 11, 2014). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.

TECHNE
DESIGN + DEVELOPMENT
1315 PAUL HALL, SAN DIEGO, CA 92104
TEL: 619.594.1234 FAX: 619.594.1235

CONSULTANTS



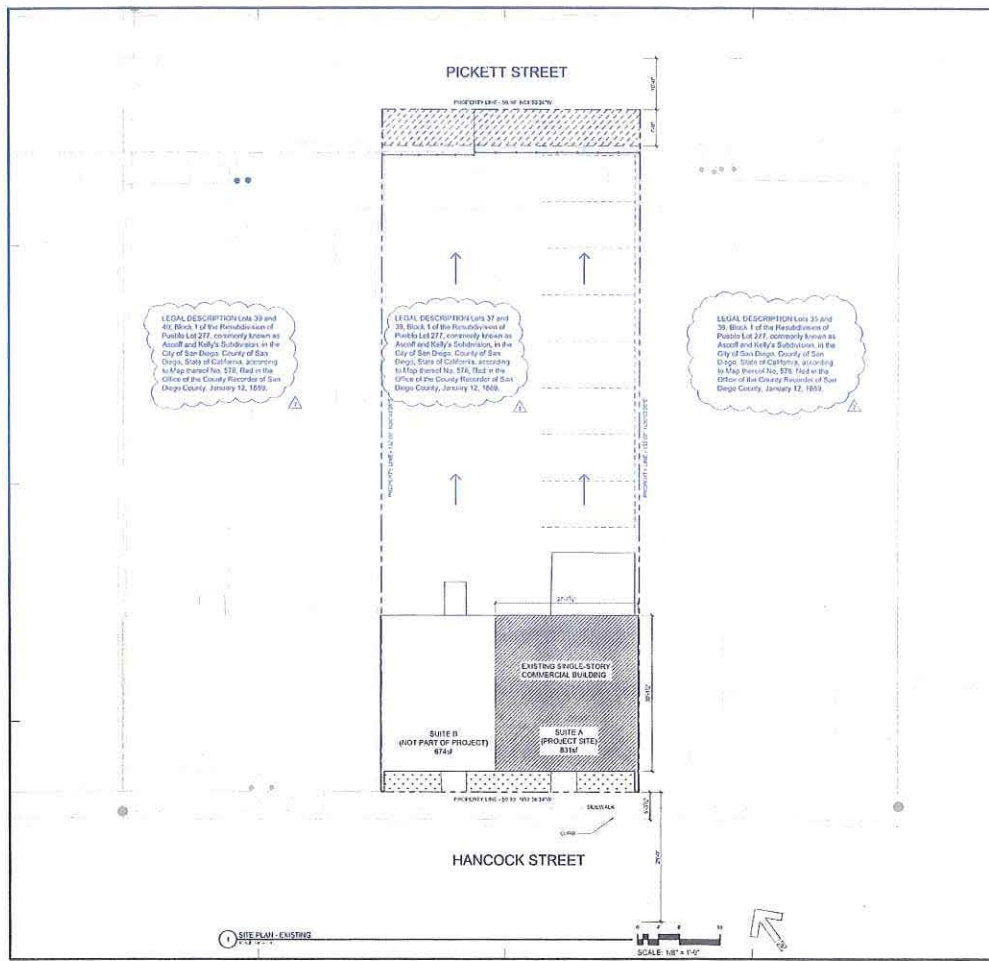
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San Diego, CA 92106

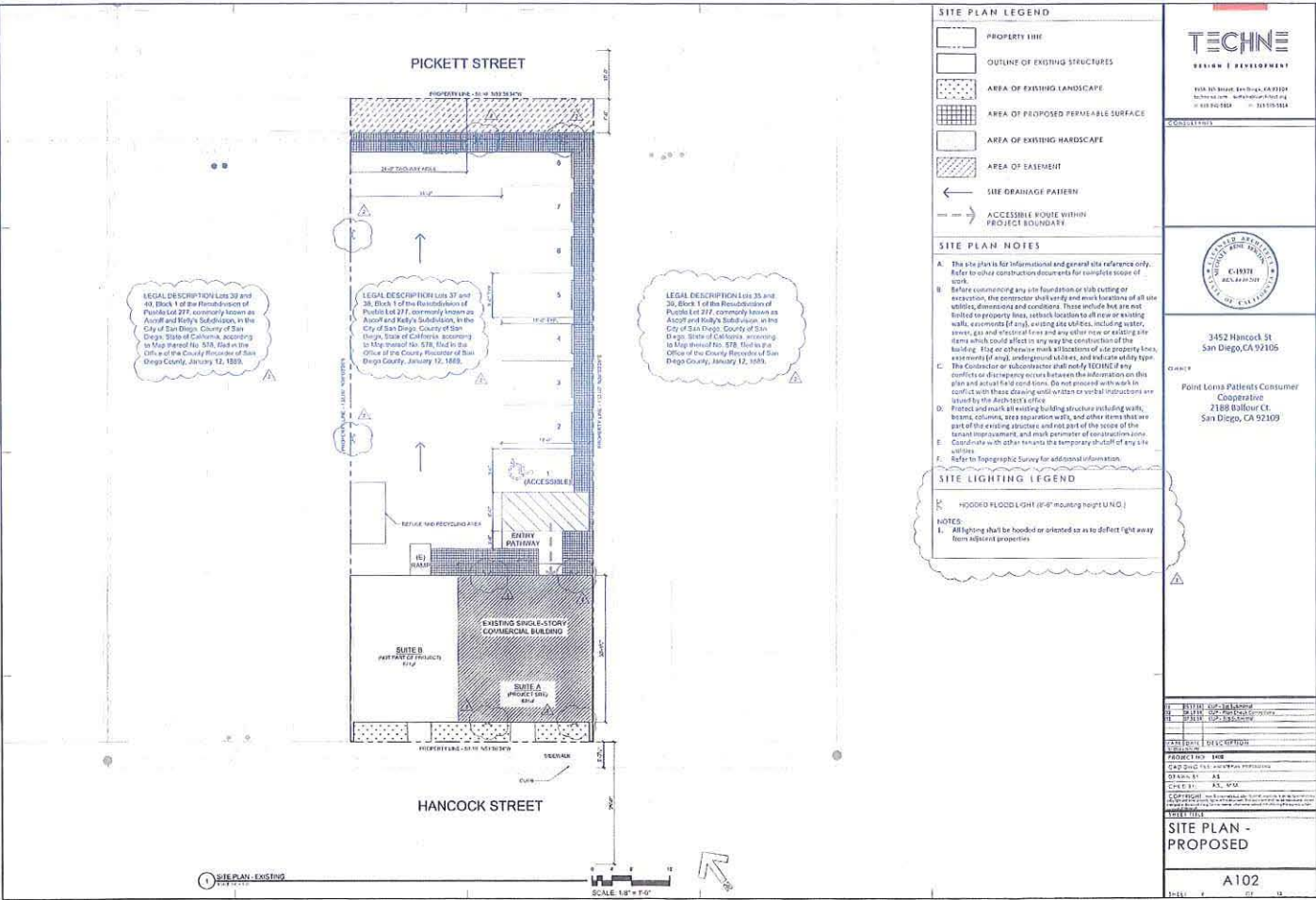
Point Loma Patients Consumer
Cooperative
2188 Ballmar Ct.
San Diego, CA 92109

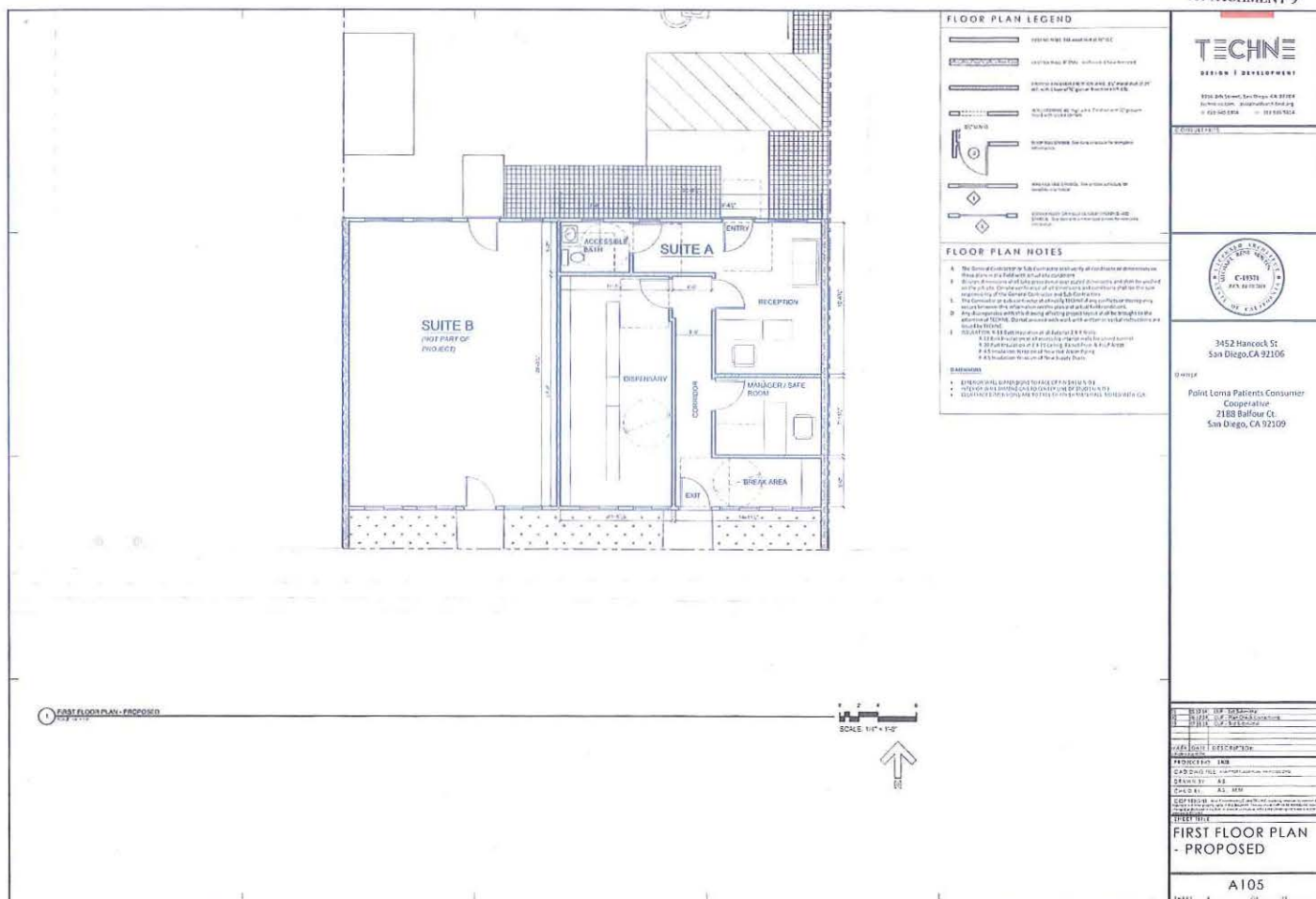
DATE	07/12/2010
BY	TECHNE
FOR	TECHNE
PROJECT NO.	1408
CAD FILE	1408.dwg
DATE	07/12/2010
BY	TECHNE
FOR	TECHNE

SITE PLAN - EXISTING
A101

- SITE PLAN LEGEND**
- PROPERTY LINE
 - OUTLINE OF EXISTING STRUCTURES
 - AREA OF EXISTING LANDSCAPE
 - AREA OF EXISTING
 - AREA OF EXISTING HARDSCAPE
 - SITE DRAINAGE PATTERN
- SITE PLAN NOTES**
- The site plan is for informational and general site reference only. Refer to other construction documents for complete scope of work.
 - Before commencing any site foundation or slab cutting or excavation, the contractor shall verify and mark locations of all site utilities, dimensions and conditions. These include but are not limited to property lines, setback locations for all new or existing walls, easements (if any), existing site utilities, including water, sewer, gas and electrical lines and any other new or existing site items which could affect in any way the construction of the building. Flag or otherwise mark all locations of site property lines, easements (if any), underground utilities, and existing utility rights.
 - The Contractor or subcontractor shall notify TECHNE if any conflicts or discrepancies occur between the information on this plan and actual field conditions. Do not proceed with work in conflict with these drawings and/or other instructions and issued by the Architect's office.
 - Protect and mark all existing building structures including walls, beams, columns, wire, ventilation walls, and other items that are part of the existing structure and not part of the scope of the proposed improvements, and mark perimeter of construction zone. Coordinate with other tenants the temporary shut-off of any site utilities.
 - Refer to Topographic Survey for additional information.









THE CITY OF SAN DIEGO

City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101

Community Planning Committee Distribution Form Part 2

Project Name: 3452 Hancock MMCC		Project Number: 368344	Distribution Date: 5-13-2014
Project Scope/Location: MIDWAY-PACIFIC HIGHWAY Conditional Use Permit (Process 3) for a Medical Marijuana Consumer Cooperative (MMCC) to operate in an 831 square foot suite within an existing 1,503 square foot building located at 3452 Hancock Street. The 0.15-acre site is located in the IS-1-1 zone within the Midway/North Bay Community Plan Area. Council District 2. Notice Card=1.			
Applicant Name: Abhay Schweitzer		Applicant Phone Number: (313) 595-5814	
Project Manager: Gutierrez, Edith	Phone Number: (619) 446-5147	Fax Number: (619) 446-5245	E-mail Address: EGutierrez@sandiego.gov
Committee Recommendations (To be completed for Initial Review):			
<input type="checkbox"/> Vote to Approve	Members Yes	Members No	Members Abstain
<input checked="" type="checkbox"/> Vote to Approve With Conditions Listed Below	8	0	1
<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: See attached sheet.			
NAME: <i>Melanie Nickel</i>		TITLE: <i>Chair</i>	
SIGNATURE: <i>Melanie Nickel</i>		DATE: <i>7-2-14</i>	
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	
If you do not receive a paper, Visit our web site at www.sandiego.gov/development-services . Upon request, this information is available in alternative formats for persons with disabilities.			

Midway Community Planning Group action on project # 368344, 3452 Hancock St.

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

Our approval is **CONDITIONAL**. The conditions are:

1. That the City does not find this business to be located within 1,000 square feet of any use designated as needing a minimum separation requirement.
2. That the City finds that this application meets all of the Medical Marijuana ordinance requirements.

Project Title: 3452 Hancock MMCC	Project No. (For City Use Only) 368344
--------------------------------------------	--------------------------------------------------

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

☒ Corporation
 ☐ Limited Liability -or-
 ☐ General) What State? CA
 Corporate Identification No. 60505128
☐ Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **Note:** The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. **Additional pages attached**
☐ Yes
☒ No

Corporate/Partnership Name (type or print): Sinner Brother, Inc. <hr/> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> Street Address: 3452 Hancock St. <hr/> City/State/Zip: San Diego, CA 92110 <hr/> Phone No: <u>(619) 683-2300</u> Fax No: <hr/> Name of Corporate Officer/Partner (type or print): John Rickards <hr/> Title (type or print): President <hr/> Signature : <u>John Rickards</u> Date: <u>4-23-14</u> <hr/> Corporate/Partnership Name (type or print): <hr/> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> Street Address: <hr/> City/State/Zip: <hr/> Phone No: Fax No: <hr/> Name of Corporate Officer/Partner (type or print): <hr/> Title (type or print): <hr/> Signature : Date: <hr/> Corporate/Partnership Name (type or print): <hr/> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> Street Address: <hr/> City/State/Zip: <hr/> Phone No: Fax No: <hr/> Name of Corporate Officer/Partner (type or print): <hr/> Title (type or print): <hr/> Signature : Date: <hr/> Corporate/Partnership Name (type or print): <hr/> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> Street Address: <hr/> City/State/Zip: <hr/> Phone No: Fax No: <hr/> Name of Corporate Officer/Partner (type or print): <hr/> Title (type or print): <hr/> Signature : Date:	Corporate/Partnership Name (type or print): <hr/> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> Street Address: <hr/> City/State/Zip: <hr/> Phone No: Fax No: <hr/> Name of Corporate Officer/Partner (type or print): <hr/> Title (type or print): <hr/> Signature : Date: <hr/> Corporate/Partnership Name (type or print): <hr/> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> Street Address: <hr/> City/State/Zip: <hr/> Phone No: Fax No: <hr/> Name of Corporate Officer/Partner (type or print): <hr/> Title (type or print): <hr/> Signature : Date: <hr/> Corporate/Partnership Name (type or print): <hr/> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> Street Address: <hr/> City/State/Zip: <hr/> Phone No: Fax No: <hr/> Name of Corporate Officer/Partner (type or print): <hr/> Title (type or print): <hr/> Signature : Date:
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Project Title:

3452 Hancock L. MCC

Project No. (For City Use Only)

368344

Part II - To be completed when property is held by a corporation or partnership**Legal Status (please check):**

☒ Corporation ☐ Limited Liability -or- ☐ General What State? CA Corporate Identification No. 8667898
☐ Partnership CALIFORNIA CONSUMER COOPERATIVE

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached ☐ Yes ☐ No

Corporate/Partnership Name (type or print):

Point Loma Patient Consumer Corp.

☐ Owner ☒ Tenant/Lessee

Street Address:

2188 BALFOUR CT.

City/State/Zip:

SAN DIEGO CA 92109

Phone No:

619-886-4251

Fax No:

Name of Corporate Officer/Partner (type or print):

ADAM KNOFF

Title (type or print):

Auth. Signer

Signature:

Date:

4/23/14

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:

Date:



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101

Development Permit/ Environmental Determination Appeal Application

FORM
DS-3031
OCTOBER 2012

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☒ Process Two Decision - Appeal to Planning Commission
☒ Process Three Decision - Appeal to Planning Commission
☐ Process Four Decision - Appeal to City Council
- ☐ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

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

Name:
Scott Chipman

E-mail Address:

Address: 2247 Emerald City: San Diego State: Ca Zip Code: 92109 Telephone: (619) 990-7480

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Sinner Brothers, Inc - 3452 Hancock - MMCC/368344

4. Project Information

Permit/Environmental Determination & Permit/Document No.:

Date of Decision/Determination:

City Project Manager:

Project #368344 - 3452 Hancock, San Diego

December 3, 2014

Edith Gutierrez

Decision (describe the permit/approval decision):

DSD approved the Conditional Use Permit for this Project

5. Grounds for Appeal (Please check all that apply)

- ☐ Factual Error
☐ Conflict with other matters
☒ Findings Not Supported
- ☐ New Information
☐ City-wide Significance (Process Four decisions only)

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.)

a) Loitering by the pot shop customers,

b) Smoking in front of the pot shop and in parking lot, either on property or in their cars and then driving away from facility

putting other drivers at risk.

c) Customers that smoke marijuana either on the property or in their cars and then drive away from the facility putting others at risk.

d) Potential robberies due to the cash and marijuana on site especially at night when no security guard is required by city ordinance.

e) Products that the applicant will be selling include brownies, cookies, and candies such as: "Pot Tarts", "Gummy Bears".

"Kronidike" and "Jolley Ranchers" "Reeses Peanut Butter Cups", "Kit Kat", and "York Peppermint Patties". These edibles are designed to appeal to young people in wrappers that appear to resemble their favorite treats but are instead marijuana infused.

f) Edibles manufactured within the facility are a risk to public safety. There have been at least 20 explosions of hash oil manufacturing is used to create edibles and for vaping devices.)

(see attached details of further responses to findings)

DEC 16 REC'D

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: December 16, 2014

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

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

DS-3031 (10-12)

Description of Grounds for Appeal of Project #368344 – 3452 Hancock Street
Hearing Date: December 3, 2014

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

Midway Planning Group was provided inadequate information by DSD in order to make an informed judgment about this operation.

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

The proposed development will be detrimental to the public health, safety, and welfare for the following reasons:

1. There are minor-oriented facilities (Chuck E. Cheese, Ultrazone Laser Tag, Kobies Swap and families with children attending concerts at the 3500 Sports Arena Blvd Valley View Casino)

In 2012, VVCC did 84 events, serving 383,307 guests. Of these 84 events, 46 were children/family events, serving 169,301 guests.

In 2013, VVCC did 80 events, serving 392,140 guests. Of these 80 events, 49 were children/family events, serving 193,085 guests.

In 2014, VVC has done 35 events, serving 186,340 guests. Of these 35 events, 20 were children/family events, serving 83,295 guests.

Another 30 children/family events are confirmed for the last 6 months of 2014 and we expect to serve another 125,000 guests.

Sockers Camp takes another 30 or so days throughout the summer and children attending.

2. Families, young people and children will be exposed to

- a) Loitering by the pot shop customers,
- b) Smoking in front of the pot shop and in the parking lot,
- c) Customers that smoke marijuana either on the property or in their cars and then drive away from the facility putting other drivers at risk.
- c) Marijuana smells permeating the adjoining businesses walls,
- d) Potential robberies due to the cash and marijuana crop on site especially at night when no security guard is required by the City's ordinance.
- e) Products that the applicant will be selling will include "edibles" which has been the cause of numerous poisonings in Emergency rooms. These products often are designed to appeal to young people in wrappers that appear to resemble their favorite treats; marijuana infused brownies, cookies, and candies such as; "Pot Tarts", "Gummy Bears", "KronDike" and : "Jolley Ranchers" "Reeses Peanut Butter Cups", "Kit Kat", and "York Peppermint Patties".
- f) Edibles manufactured within the facility are a risk to public safety. There have been at least 20 explosions of hash oil manufacturing labs (hash oil is used to create edibles and for vaping devices.)

2. With the pot shop located 3452 Hancock the impacts will be unavoidable and very visible.

3. Research by the San Diego's Center for Community Research – "Exploratory Analysis: Violent Crime and Property Crime Rates and Medical Marijuana Dispensaries by City of San Diego Census Tract" indicated that the average number of violent crimes and property crimes are greater in the city's census tracts with one or more pot storefronts compared with no pot storefronts. The marijuana storefront has potential for disrupting the public health and safety and welfare of the other small business tenants, their families, and their clientele.

4. *Crime report for this CUP. First 9 months reports 504 Crime Index per police arjis and 709 2013. 222 is the average so this neighborhood is considered high crime at 313% of the citywide average which is a potential threat to public health and safety and welfare of the small business owners/tenants, their families, and clientele.*

5. *The data from the County's Healthy Stores, Healthy Communities Project was compiled by SANDAG into 'Healthy Communities Atlas' and designates 'Communities of Concerns' and their associated crime. The census track that includes this marijuana storefront is a designated 'Community of Concern' and has the highest rates of property crime and violent crime associated with it. See maps, pages 38 & 39, of this report attached.*

6. *The proposed pot shop location will exacerbate the problems for residents and neighboring businesses and their patrons.*

According to assertions from potential MMCC operators expectations for daily customers may be 90 or more customers per day. The demand for available parking will compromise the ability of other nearby businesses to accommodate their clients, customers, and patrons.

Finding Number 3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

As described above the proposed development is in violation of the spirit of the CUP which requires 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor oriented facilities, because there are many children coming and going from this location.

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

This is a very inappropriate location for a pot shop because the high traffic this facility will generate as well as the aforementioned factors that may precipitate crime while exposing children and adults in treatment to unnecessary risk factors that might compromise their treatment and recovery. It will be visible and obtrusive to the flow of commerce and/or non-profit facilities potentially affecting their very livelihood, and the safety, and quality of life for the small business owners/tenants, their families and customers.

The small business owners/tenants have expressed their concern that their liability insurance will increase because of the dangerous business environment, for example robberies, that a marijuana storefront will create for them.

Attachments:

1. Letter from Ernie Hahn, II, General Mgr, Valley View Casino Center dated June 23, 2014
2. Page 310 of ARJIS – Total Part 1 Crime and Part 2 Arrest for Census Tract 85.11
3. Pages 38 and 39 of SANDAG's 'Healthy Communities Atlas' which was created for the County's Live Well Initiative.
4. Dangers Associated with Manufacturing Honey Oil (also known as hash oil), Western States Information Network Special Bulletin, pg 1.

Hearing for 3990 Hicock Street October 29, 2014

1. Crime report for this CUP. First 9 months reports 504 Crime Index per police arjis and 709 2013. 222 is the average so this neighborhood is considered high crime at 313% of the citywide average
2. Share crime mapping report for last 6 months
3. Ernest Hahn II – GM at Valley View Casino Center (Sports Arena)

In 2012, VVCC did 84 events, serving 383,307 guests. Of these 84 events, 46 were children/family events, serving 169,301 guests.

In 2013, VVCC did 80 events, serving 392,140 guests. Of these 80 events, 49 were children/family events, serving 193,085 guests.

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Another 30 children/family events are confirmed for the last 6 months of 2014 and we expect to serve another 125,000 guests.

Sockers Camp takes another 30 or so days throughout the summer and children attending.

4. Environmental CEQA exemption
5. Building is 4245 square feet. What are the plans for the rest of the building
6. Paul Britvar is permittee; Bradley Wright – Owner. Mr. Britvar is also the permittee on several other MMCC applications. His phone number shows an area code – 970 which is Area code 970 is an area code serving the state of **Colorado**. It covers Aspen, Vail, Durango, **Grand Junction**, Fort Collins, Estes Park and most of the western and northern parts of **Colorado**. It split from area code 303 on April 2, 1995.
7. Ms. Gutierrez assured me I was on the notice for the hearing and yet I have never received any notices for either of the 2 hearings conducted. I wonder about the noticing process. Have the neighboring businesses truly been notified about this business that want s to locate in their neighborhood? Has the Planning group received the CEQA determination? Have copies of letters from these opposed to the project been presented?

Section 15303. New Construction or Conversion of Small Structures.

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.
- (b) A duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.
- (c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.
- (d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.
- (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.
- (f) An accessory steam sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

[Back to the Top](#)



June 23, 2014

Edith Gutierrez
CITY OF SAN DIEGO
Development Services
1222 First Avenue
San Diego, CA 92101

Dear Ms. Gutierrez:

In the Development Services review of the first two applications for Medical Marijuana Cooperatives, specifically, 3430 Hancock St. and 3570-3572 Hancock St., it is noted as a 'Major Issue' that both projects are located within 1,000ft. of minor-oriented facilities (Chuck E. Cheese's, Ultrazone Laser Tag & potentially Rock & Roll San Diego) and the City staff is recommending denial of the applications because the projects do not meet the minimum separation requirement. Due to the number of child/family events we do and the number of guests served, as well as Kobey's Swap Meet, which operates every weekend of the year (156 total days), we feel that our venue & property falls within the definition of minor-oriented facilities. We also have concern that both are located on a thoroughfare that many of our guests will drive past to get to our venue.

I've attached the CUP requirements.

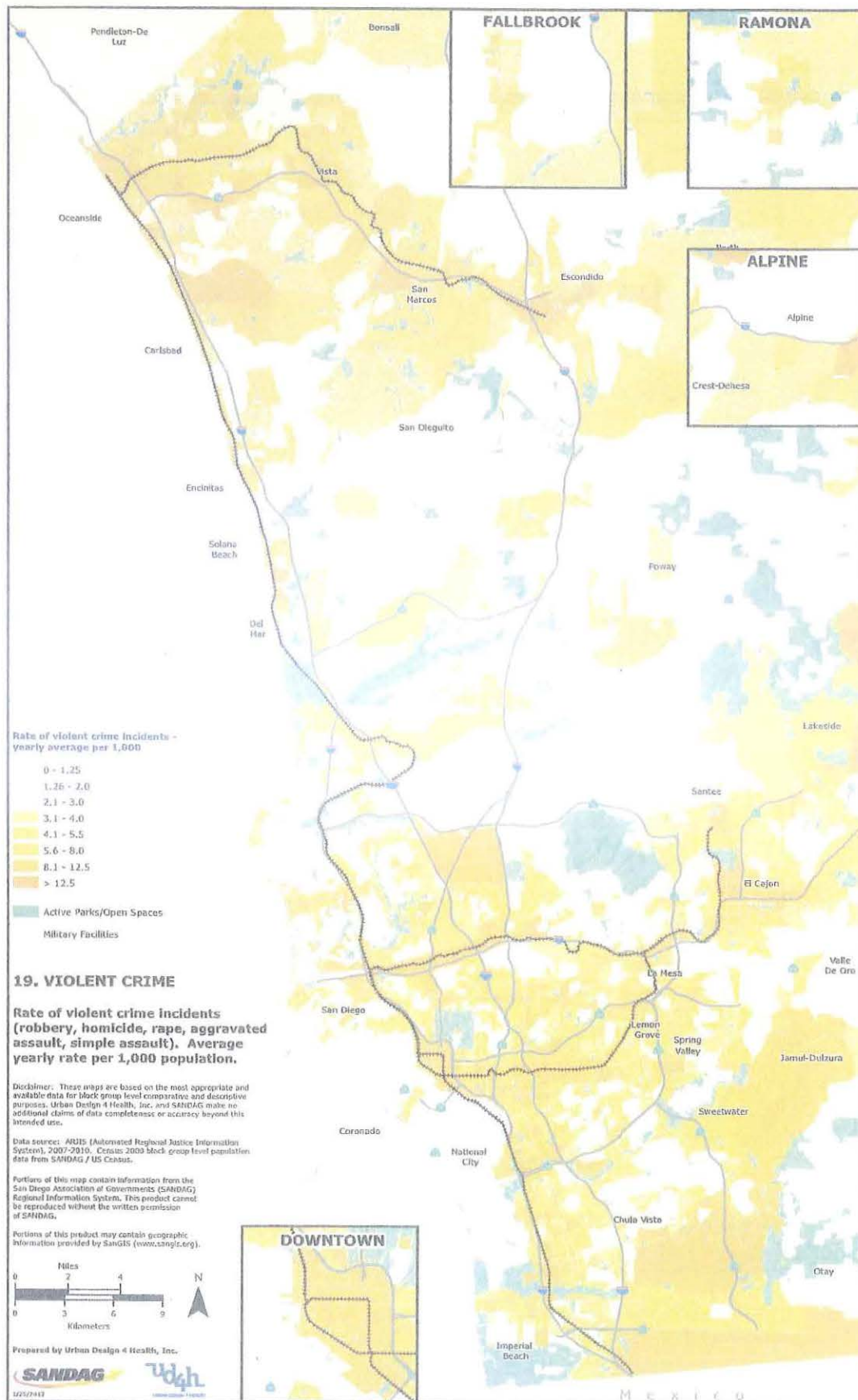
In 2012, VVCC did 84 events, serving 383,307 guests. Of these 84 events, 46 were children/family events, serving 169,301 guests.

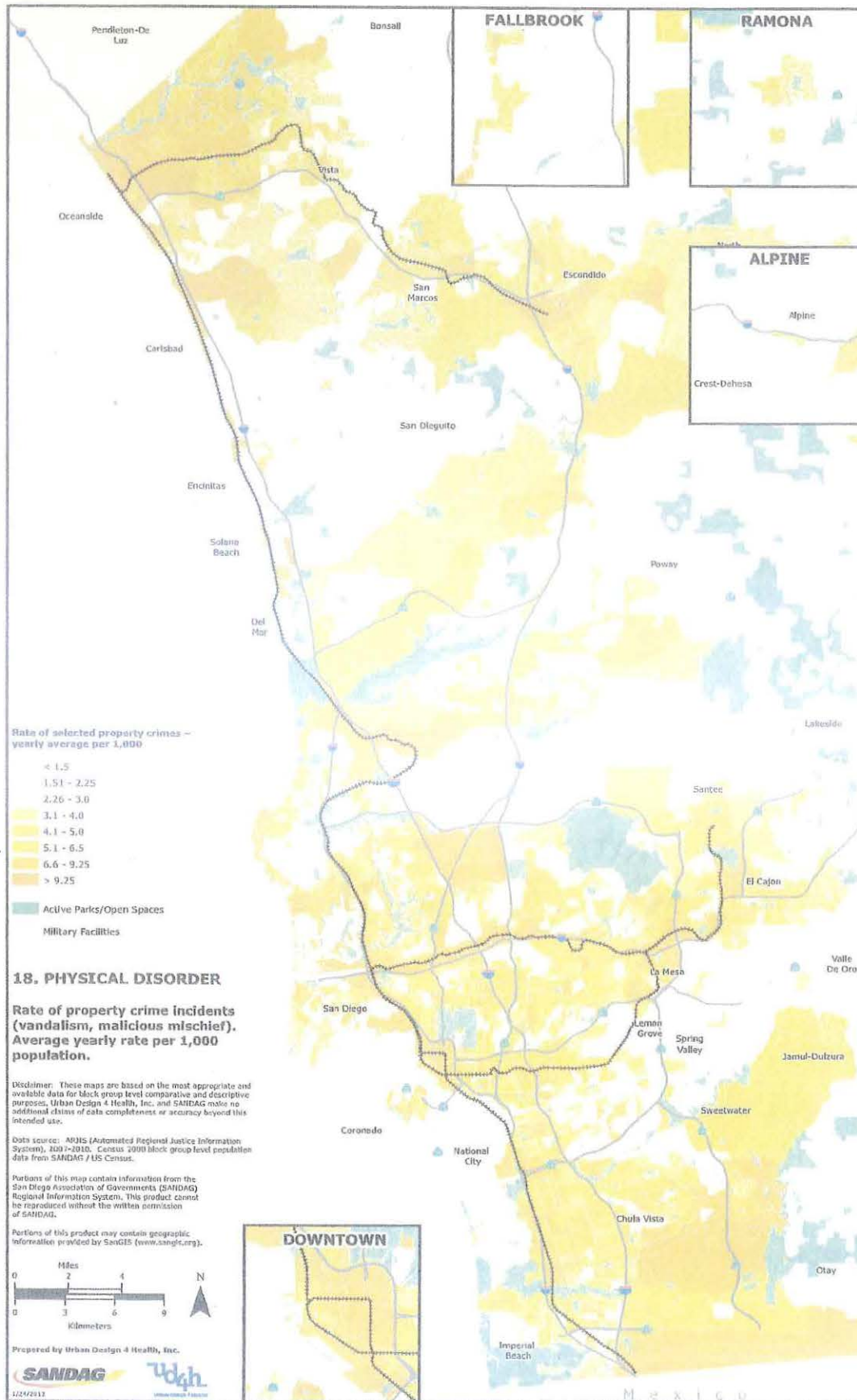
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THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: December 3, 2014

REPORT NO. HO-14-072

ATTENTION: Hearing Officer

SUBJECT: 3452 HANCOCK MMCC
PROJECT NUMBER: 368344

LOCATION: 3452 Hancock Street

APPLICANT: Adam Knopf

SUMMARY

Issue(s): Should the Hearing Officer approve a Conditional Use Permit to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in an 832 square foot tenant space within an existing, 1,503 square foot, one-story building on a 0.15-acre site within the Midway/Pacific Highway Corridor Community Plan area?

Staff Recommendation: APPROVE Conditional Use Permit No. 1377388.

Community Planning Group Recommendation: On July 2, 2014, the Midway Community Planning Group voted 8-0-1 to approve the project with conditions (Attachment 10).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15303, New Construction or Conversion of Small Structures (Attachment 8). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on August 27, 2014, the opportunity to appeal that determination ended on September 11, 2014.

BACKGROUND

In 1996, the people of the State of California passed Proposition 215, the Compassionate Use Act, which allows the use of marijuana for medical purposes when recommended by a physician and excludes the patient and the primary caregiver from criminal prosecution. In 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP) became law. The MMP requires the California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers

 THE CITY OF SAN DIEGO	City of San Diego Development Services 1222 First Ave. 3rd Floor San Diego, CA 92101	Development Permit/ Environmental Determination Appeal Application	FORM DS-3031 OCTOBER 2012
------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------	------------------------------------------

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☒ Process Three Decision - Appeal to Planning Commission
☐ Process Four Decision - Appeal to City Council
- ☐ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

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

Name: Donna D. Jones Address: 501 W. Broadway, 19th Floor City: San Diego	E-mail Address: djones@sheppardmullin.com State: CA Zip Code: 92101 Telephone: (619) 338-6500
---------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

3452 Hancock MMCC - Project No. 368344.

4. Project Information

Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination:	City Project Manager:
CUP No. 1377388	December 3, 2014	Edith Gutierrez

Decision (describe the permit/approval decision):

Conditional approval by the Hearing Officer.

5. Grounds for Appeal (Please check all that apply)

- ☒ Factual Error
☒ Conflict with other matters
☒ Findings Not Supported
- ☒ New Information
☐ City-wide Significance (Process Four decisions only)

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.)

1. Factual Error. The statements or evidence relied upon by the decision maker when approving the CUP were inaccurate.

2. Findings Not Supported. The decision maker's stated findings to approve the CUP are not supported by the information provided to the decision maker.

3. Conflicts. The decision to approve the CUP is in conflict with land use plans and the Municipal Code and/or a City Council policy.

4. New Information. New information is available now that was not previously available.

RECEIVED

DEC 17 REC'D

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: December 17, 2014

Donna D. Jones, Esq., Attorney for

MMCC Applicant 3430 Hancock St.

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

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.

SheppardMullin

December 17, 2014

619.338.6524 direct
djones@sheppardmullin.com

File Number:

VIA HAND DELIVERY

Development Services
City of San Diego
1222 First Ave., 3rd Floor
San Diego, CA 92101

Re: Process Three Appeal

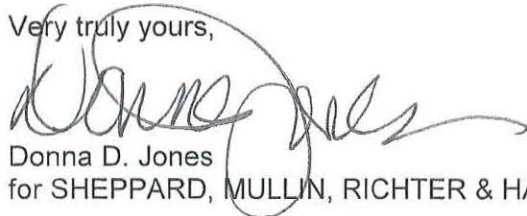
Dear Sir or Madam:

Enclosed please find the completed Form DS-3031 to appeal a Process Three approval of a CUP for 3452 Hancock's MMCC, Project No. 368344.

I and my client, D&D Cooperative, qualify as Interested Parties given that we submitted a letter to the Hearing Office for the CUP hearing and I spoke at that hearing regarding my concerns about the location and permit application.

While we understand that you may need to *schedule* the hearing before the Planning Commission within 30 days, we respectfully request that the hearing be scheduled for a date that would allow the close-in-time, competing applications to be heard that same day, given the factors referenced in the letter provided to the City on December 2, 2014, a copy of which is enclosed along with the Appeal Application.

Very truly yours,



Donna D. Jones
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Encl.: Form DS-3031
Copy of December 2, 2014 Letter to Hearing Officer regarding 3452 Hancock application



Sheppard, Mullin, Richter & Hampton LLP
501 West Broadway, 19th Floor
San Diego, California 92101-3598
619.338.6500 main
619.234.3815 fax
www.sheppardmullin.com

619.338.6524 direct
djones@sheppardmullin.com

December 2, 2014

File Number: 39WE-197581

VIA HAND DELIVERY

Hearing Officer
City of San Diego
1222 First Avenue, MS 301
San Diego, CA 92101-4101

Re: 3452 Hancock Street, Project No. 368344

Dear Hearing Officer:

Sheppard, Mullin, Richter & Hampton LLP, in conjunction with Jessica McElfresh, Esq., represents D&D Cooperative ("D&D") in seeking a conditional use permit ("CUP") to operate a Medical Marijuana Consumer Cooperative ("MMCC" or "Cooperative") to be located at 3430 Hancock Street, San Diego, California 92110.

As you know, Ordinance No. 20356 ("MMCC Ordinance" or "Ordinance") provides that no more than four Cooperatives are permitted in each City of San Diego ("City") Council District, and none can be within 1000 feet of another. (SDMC § 141.0614.) Currently, some Council Districts, including District 2, have a dozen or more MMCC CUP applicants and many of them are within 1000 feet of another MMCC CUP applicant. Most MMCC CUP applicants submitted on the same day, April 24, 2014. The MMCC Ordinance, its accompanying staff report (Staff Report No. PC-13-134), and Development Services Department Information Bulletin 170 on "How to Apply for a CUP – Medical Marijuana Consumer Cooperative" ("IB-170") are all silent on the order in which the City should process MMCC CUP applications received simultaneously or in close time proximity to one another.

Similarly, the City's June 3, 2014 news release announcing the order of the applications (with D&D first in District 2) stated that the order of applications at that time did not guarantee the order in which the applications would be approved, but did not provide guidance on any other order that would be used to approve the CUP's.

In the absence of any clear procedures for the order of approval, public policy and good land use planning practices would suggest that when there are four or more applications of which only one can be chosen, and all of which have been submitted and processed in a timely manner pursuant to City regulations, the neighborhood, the community and indeed the City as a whole would be best served by ensuring that all of the competing applications receive a full and fair hearing and that the City be in a position to select the application that best meets the City's and the neighborhood's needs. If instead the first through the process is the one chosen by



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default, without the decision-maker having the opportunity to hear the merits of the other competing applications, it not only denies due process to those applicants but, just as importantly, deprives the City of its ability to have the totality of available information before it in making an important land use decision.

Hearing each of the applications submitted on the same day that lie within 1,000 feet of one another seems the best way to address the inequities caused by the arbitrary nature of the Ordinance's requirements and the necessarily somewhat arbitrary nature of the permit review process. At a minimum, should you decide to proceed on 3452 Hancock's application today, and given that any decision on this application or the competing applications now on appeal to the City Council will certainly be appealed to the Planning Commission, all such appeals should be heard by Planning Commission on the same day.

A. The Process Being Followed Is Inequitable.

The City initially made representations that MMCC CUP applications would be considered in the order of the First Submittal to the City, leading applicants to camp out to be first in line. For reasons unknown, the City changed its position and it was then understood that the order would be Full Submittal. Information Bulletin 170 described the process the City would follow for MMCC applications and, for Step Three: Full Submittal, it states that "Full Submittals will be placed on a list based on the completed date and time," then, once the application has been determined to meet all rules, policies and procedures, scheduled for hearing. That ordering makes sense because up through Full Submittal there were few variables and the process was essentially ministerial – assuring that the site map, public notice package and similar types of documents were provided. After that time the permit processing becomes much more arbitrary, depending on the various conditions at the site and many other factors.

Then, on June 3, 2014, the City's news release stated that that the order of filing did not guarantee the order in which the applications would be approved, without specifying what would be used to order the applications. The re-calculation of the in-line order of the applicants has been less than predictable and transparent. Moreover, D&D was forced to take time to adequately respond to the City's issues regarding parking (when a copy of the parking agreement between the property and the City was already in the City files), minor oriented facilities (where the City's interpretation has changed), width of sidewalk as impacted by a power pole (where the City for 3452 Hancock appears to address the situation via permit conditions versus requiring the problem be solved during the permit review process), etc.

The order in which applicants come up for hearing is "life or death" based on the Ordinance's prohibitions of dispensaries within 1,000 feet of one another and the limited zones in which applications for dispensaries can be filed, and yet rather than basing the order on the more straightforward First to Full Submittal the City is now using first through the process, when that process depends on a number of variables, many of which are outside of the applicant's control. This randomness has created confusion and unpredictable and inequitable outcomes for the applicants, and should not be the basis of sound decision-making by the City.



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For example, despite being the first MMCC CUP application filing with the City, D&D's application has been moved to a later position in the queue in large part because in the first assessment letter from the Development Services Department ("DSD") dated June 9, 2014, DSD indicated there were possibly three minor-oriented facilities located within 1,000 feet of 3430 Hancock Street (Chuck E. Cheese, UltraZone Laser Tag, and Rock and Roll San Diego) as well as Mission Bay Park. The City ultimately determined that those surrounding uses were in fact not minor oriented facilities and that Mission Bay Park was not located within the 1,000 foot radius. Had the City made that determination at the outset, D&D could have re-submitted its application more quickly and maintained its position as the first filing in the queue.

Given that any application in District 2 is certain to be appealed to the Planning Commission, at a minimum, all of the appealed applicants that are within 1,000 feet of one another and that were initially submitted on the same day should be heard at the same Planning Commission hearing.

B. Failure to Consider Each Council District's MMCC CUP Application on the Merits, at the Same Time Will Have Inequitable Results.

Because the MMCC Ordinance is a newly enacted ordinance, the process must ensure that that all applicants are treated equally and on even footing. Applications should not be considered in a vacuum. To do so would result in a number of issues.

First and foremost, processing completed applications on an individual basis does not ensure that the most appropriate applications are approved. Considering a lone applicant without reviewing the remainder of the application pool risks denying the City a better situated and more appropriate Cooperative. A number of issues must be examined when reviewing a Cooperative application in order to make the required CUP findings, as well as meet the requirements under the MMCC Ordinance. This includes, but is not limited to, suitability of the buildings proposed to house the Cooperative, owner and operator's criminal and professional background, whether the applicant has previously or is currently operating an MMCC cooperative in violation of the City's rules and regulations, physical onsite restrictions (i.e., access/egress, traffic circulation, ADA compliance, convenience and configuration of parking, security camera visibility), and the appropriateness of the physical location in the context of the surrounding neighborhood and uses. By not considering all the applicants simultaneously, especially when all of the applicants submitted applications approximately on the same day, and promptly responded to the City's requests for more information while the City's interpretations of important issues relating to the permits changed during the process, would lead to an inequitable result that denies the City and the community surrounding the facility the opportunity to have the most compatible and compliant Cooperative in operation.

Second, merely approving the first four applicants that make it through the application process (and now the hearing process) is arbitrary and capricious, especially given the additional requirement that no Cooperative can be within 1,000 feet of another. The decision is even more inequitable given that approving one Cooperative automatically means denying the others that are within 1,000 feet. It is unfair to disadvantage a more desirable application based on an arbitrary review process subject to many factors that were largely not within the



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applicant's control when the applications were all filed on the same day and re-submittals were done promptly.

In this case, D&D's proposed Cooperative located at 3430 Hancock Street is a desirable application because the facility provides a safe, secure, accessible, and convenient space for patients. The facility is spacious enough and provides ample parking to manage the influx of patients, is well-lit and has strategic indoor and outdoor locations for mounting security cameras capable of tracking inflow and outflow of people from a wide-angle. In addition, the facility's entire front sidewalk is akin to a curb-cut ramp, which provides ADA-compliant access and egress that nearby competing applicants cannot offer. Notably, the facility's sidewalk is wide enough to accommodate wheelchairs, whereas nearby competing applicants (e.g., 3452 Hancock Street and 3460 Hancock Street) have sidewalks that are encumbered by telephone poles with pathways as narrow as 35 inches. The convenience and configuration of the facility's parking allows patients to easily and safely access the Cooperative. Some parking, including handicap spaces, are located at the front of the building, and additional parking spaces are located immediately behind the building.

C. The Fact Applicants Currently Operate or Are Affiliated with Dispensaries which Are Operating Illegally, in Violation of the City's Municipal Code, Should Be Taken into Consideration in Deciding whether to Grant a CUP.

It would be in the City's best interest not to allow the owners or affiliates of the approximately 70 known illegal medical marijuana dispensaries currently operating in the City to usurp the system by competing with other MMCC CUP applicants seeking to establish legitimate operations.

The applicant for an MMCC at 3452 Hancock St. is Mr. Adam Knopf. Mr. Knopf is listed as the contact person for "Point Loma Patient Assn," website <http://Pointlomapatients.com>, telephone number (619) 226-2308. (See FaceBook add for "Point Loma Patient Assn," attached as **Exhibit A**.) According to an advertisement and map in *Culture Finder*, telephone number (619) 226-2308 is in fact the telephone number for the Point Loma Patients Association, at 2830 Lytton Street. (Culture Finder advertisement, attached as **Exhibit B**.) The attached article from *SDNews.com* also mentions Point Loma Patients Association, aka 3452 Hancock, which is proposed to be operated by Mr. Knopf. Citing "Weedmaps" online, the article references several cooperatives operating illegally in the Point Loma-Ocean Beach area, including the Point Loma Patients Association on Rosecrans and Lytton streets. (See Aug. 28, 2014 *SDNews.com* article headlined "City's plan to uproot illegal pot shops is a slow, arduous process," attached as **Exhibit C**.) Point Loma Patients Association is still outwardly open and operating – in direct violation of the City's rules and regulations. According to their advertisement on weedmaps.com, the Point Loma Patients Association continues to operate in San Diego with the same telephone number. (See excerpt from the Point Loma Patients Association advertisement on <https://weedmaps.com>, accessed Dec. 2, 2014 at 4:00 p.m., attached as **Exhibit D**.)

The applicant for 3452 Hancock has clearly shown that it is not interested in playing by the rules by illegally operating a dispensary in open defiance of the City's rules. The fact that



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this application was the only one whose CEQA determination was not appealed of the competing applications that were filed after the Notice of Right to Appeal was posted for 3452 Hancock strongly suggests that this applicant also had a hand in appealing its competitors to obtain a competitive advantage. An operator that defies the City's rules and regulations and also misuses them for their own advantage does not seem like the ideal choice among the competing applicants to be granted the one and only available CUP.

To consider the 3452 Hancock application, and potentially approve it, before a determination as to the applicant's illegal activity would benefit the offending applicant and disadvantage the remaining law-abiding applicants. Approving an applicant with a history of breaking the medical marijuana laws established by the City sets bad precedence and may convince other Cooperative owners that the laws do not apply. Additionally, if it is proven that the lone applicant is operating an illegal dispensary, the City has no reason to believe that the illegal dispensary will be subsequently closed in response to the approval of the legal MMCC or that the applicant will adhere to the strict requirements set forth in the MMCC Ordinance in the future.

The intent of the City Council is to "identify those City departments that will be responsible for issuing a permit to medical marijuana cooperatives under the 'public safety' ordinance and enforcing its provisions," and to "direct the Mayor to have the Neighborhood Code Compliance Department investigate illegal dispensaries and take action to enforce the law." (Resolution Number R-308124, A Resolution of the Council of the City of San Diego Regarding Medical Marijuana Regulation and Enforcement, dated May 10, 2013. Attachment A, p. 3.) The enforcement of the MMCC Ordinance can best be carried out if done in cooperation with local law enforcement, the Office of the City Attorney, and the City Attorney's Code Enforcement Unit, which have been strenuously working for years – and at great expense – to shut down illegal dispensaries. ("Closing down illegally operating medical marijuana dispensaries is time consuming and often involves months of litigation." District 2 Councilman Ed Harris, quoted in SDNews.com, August 28, 2014.) The City can best promote the rights of medical cannabis patients by ensuring a model of legally compliant Cooperatives, and not by rewarding the habitual violators who have been wasting the City's resources.

In 2009, the City Council established a Medical Marijuana Task Force to advise it on guidelines for the structure and operation of Cooperatives and police department enforcement regarding medical marijuana. The Task Force, in turn, recommended that the City closely regulate Cooperatives in order to ensure that patients have safe access to their lawfully recommended medicine and prevent against the dangers attendant to unregulated or otherwise illegitimate operators. (Task Force Report to the City Council, Report No. 09-165, p. 1.) In this case, the "otherwise illegitimate operators" that have historically profited from the trade should not be permitted to belatedly game the system and now be considered for a legitimate CUP. Consistent with the letter and spirit of the MMCC Ordinance to remove the profit motive from medical cannabis dispensaries, the City should not reward offending applicants and penalize law-abiding applicants, but rather the City should consider the MMCC CUP applications on the merits for the benefit of the community and the patients who rely on safe access to lawful Cooperatives. (Ordinance No. 20356 Preamble, p. 2 of 20.)

SheppardMullin

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In this case, D&D is a desirable application because the applicant does not have a history of illegitimate operations as many other applicants in District 2. D&D is committed to providing medical cannabis patients safe access to medical marijuana. This commitment is grounded in the applicant's personal experiences with family members who were the beneficiaries of medical cannabis during their battle with cancer. The applicant has witnessed firsthand the benefits medical cannabis can provide to patients suffering from chronic pain and other debilitating conditions.

For the reasons stated above, and due to the initial glut of MMCC applications received following the adoption of the MMCC Ordinance, the City should take the unprecedented, and non-reoccurring, opportunity to consider the applicants together and strictly on their merits. It should do so for the benefit of each respective neighborhood and for the benefit of its citizens who now rely, or may in the future rely, on medical cannabis.

This is an opportunity for the City to take the lead in promoting the rights of the community and of patients who may benefit from medical cannabis by selecting the very best Cooperatives possible – and not those who by virtue of expedience, accident, or arbitrariness have been placed at the front of the line. The City would be better served by considering the merits of each prospective MMCC application, rather than its order in line pursuant to a less than clear, orderly, and transparent review process.

Very truly yours,


Donna D. Jones

Donna D. Jones
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Enclosures

cc: Mayor Faulconer
Council President Gloria
City Councilmembers
Robert Vacchi

SMRH:435094460.5

EXHIBIT A

dit View History Bookmarks Tools Window Help

nia Tax Pa... (3) Pinterest Workspace Webmail The Best Silver Prices! cellar coin - Google Se... Scripps - Surf Report a... Point Loma Patient Assn point loma patients ass... Google

ebook.com/profile.php?id=100001232079456&...=about§ion=contact-info

Search for people, places and things

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VOTE

Point Loma Patient Assn

Add Friend Message

Timeline About Photos Friends 2 Mutual More

About

To see what she shares with friends, send her a friend request.

You and Point Loma have 2 mutual friends

Overview

Work and Education

Places She's Lived

Contact and Basic Info

Family and Relationships

Details About Point Loma

Life Events

CONTACT INFORMATION

Phones (619) 226-2308 Work

Website http://Pointlomapatient.com

BASIC INFORMATION

Birthday April 20, 1973

Political Views Adam Knopf

Photos

Photos of Point Loma Point Loma's Photos Albums

Sponsored

Wista
wista.com
See how your videos can drive more business

Enter Now To Be The Best.
LOFT.com
Need a mid-term makeover?
You could win a \$1,000 LOFT
Gift Card to refresh your style for.

Q St

EXHIBIT B

CULTURE *finder*

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Venue Name or Category

Search near an address, city, or zip here



Sort by: Select Field

Region: All

Category: All



All # A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

Mari-Medic4780-A Mission Bay Dr.
San Diego

Map It

Point Loma Patients Association2830 Lytton
(619) 226-2308

Map It

Raw Smoke Shop1551 N. Magnolia Ave
Suite 101
El Cajon
(619) 258-0605

Map It

Closed

167.93 mi

0.00 out of 5
0 votes

Open

168.9 mi

0.00 out of 5
0 votes

Open

181.44 mi

0.00 out of 5
0 votes

EXHIBIT C

City's plan to uproot illegal pot shops is a slow, arduous process

[print](#)

City's plan to uproot illegal pot shops is a slow, arduous process

by [DAVE SCHWAB](#)

08.28.14 - 02:28 pm

Even with a new city medical marijuana ordinance in place and applications pending for licensed cooperatives in the Peninsula, a number of pre-existing, unlicensed dispensaries continue to fly under the radar.

Weedmap online lists about a half-dozen cooperatives currently operating in the Point Loma-Ocean Beach area, including Cloud 9 Co Op on West Point Loma Boulevard, Point Loma Patients Association on Rosecrans and Lytton streets, Starbuds Inc. on Midway Drive, Happy High Herbs on Newport Avenue and Super Max on Newport Avenue.

A matter of continuing frustration for local residents and legislators alike, District 2 City Councilman Ed Harris said recently that of 63 illegal medical dispensaries operating citywide, 17 are in the beach areas he represents.

Harris said shutting down unpermitted medical-marijuana dispensaries is not an easy task, however.

"Closing down illegally operating medical marijuana dispensaries is time consuming and often involves months of litigation," he said. "There is a great deal of money to be made in this business, and often dispensary owners do whatever they can to remain open. That said, I am confident the City Attorney's Office will get all of these shut down."

Meanwhile, Harris said, "I have asked city staff to report on their efforts to close down these dispensaries during the Public Safety and Livable Neighborhoods Council Committee meeting on [Thursday] Sept. 18 in order to make the process more open and transparent to the public."

Neighborhood Code Enforcement and the City Attorney's Office are actively working to close illegal dispensary storefronts.

"The San Diego Police Department's (SDPD's) Drug Abatement Response Team (DART) and narcotic teams work with the city attorney's Code Enforcement Unit and city code inspectors to address illegal medical marijuana dispensaries in the city of San Diego operating in violation of zoning laws," said SDPD media services spokesman Lt. Kevin Mayer. "Once an illegal dispensary has been identified, code inspectors contact the dispensary operator and property owner, notifying them they are illegally operating. If the dispensary refuses to close down, a civil injunction can be obtained. If the dispensary continues to operate after the injunction is obtained, the SDPD will assist in enforcing the court order. Members of the community are encouraged to contact the police department if they believe a business is operating illegally."

City's plan to uproot illegal pot shops is a slow, arduous process

It's been 17 years since California's Compassionate Use Act was approved by state voters and legitimized medical-marijuana use.

The city's new dispensary ordinance, passed earlier this year, amends the land-development code and the local coastal program to add medical marijuana consumer cooperatives as a new, separately regulated land use.

Problems with enforcing regulations governing medical marijuana dispensaries include overlapping state and federal jurisdictions. The process has also taken so long that many residents are unsure of what the rules are exactly and where — and to whom — they apply.

"I thought the cooperatives were zoned out of OB," said Denny Knox, executive director of the Ocean Beach MainStreet Association, the community's business improvement district. "Didn't the City Council designate just a few places to have pot shops and OB wasn't on the list?"

"The last time we had pot stores in OB, we ended up with seven of them — pretty overwhelming," said Knox. "It wasn't the best of situations. We only have one legitimate pharmacy, and then we needed seven pot stores? It seemed odd at best.

"People don't like to believe that lots of pot stores lead to other drug availability in the neighborhood," she said. "That was definitely our experience. The stores also brought a lot of travelers into town looking to get high at the beach. There seemed to be a lot of drug activity in the alleys when all the pot stores were open. There were lots of cars driving in the alleys getting packages from individuals standing behind buildings. Sort of like a drive-thru, but not."

Pro-marijuana dispensary spokesman Eugene Davidovich of the Alliance for Responsible Medicinal Access (ARMA) characterized the notion that medical marijuana patients are drug addicts as "ignorant, insulting and flies in the face of much evidence to the contrary."

Saying the claim that cannabis has medicinal benefits for relief of symptoms like tremors, seizures and nausea "is simply no longer in dispute," Davidovich said. "What we need now is to ensure San Diego patients are able to go to well-regulated cooperatives for their medicine.

"Because there are currently no licensed cooperatives in the city, patients have no choice but to go to an unlicensed shop," he said. "This issue underscores exactly why ARMA advocates for good, sensible regulations. Once there are licensed cooperatives in the city, there will be no more need for patients to go to the unlicensed facilities."

Davidovich said cooperatives that are compliant with the new, strict laws will be great neighbors "both because of the rules and the level of difficulty and investment needed to secure a permit. These will not be fly-by-night operations, rather they will more resemble pharmacies and will not be unwelcome in their

City's plan to uproot illegal pot shops is a slow, arduous process

communities.

"ARMA urges the public to embrace the process and regulations that will result in well-operated, licensed dispensaries as the best hope for seeing the less-scrupulous operators close up shop, either by city code enforcement action or by virtue of the fact that permitted cooperatives have a market advantage," said Davidovich. "Research has shown that regulations help to protect safe, responsible access for patients to their medicine and reduce crime and complaints in neighborhoods."

APPLICANTS FOR LEGAL DISPENSARIES CONTINUE TO LINE UP FOR APPROVAL IN MIDWAY DISTRICT

There are presently 38 applications citywide for new proposed legally permitted medical-marijuana dispensaries under a new ordinance adopted earlier this year.

That ordinance allows conditional approval for a maximum of four dispensaries in any of the nine City Council districts, said Edith Gutierrez of the city's Development Services Department.

Of those legal dispensary applications, 18 — or nearly half — are in City Council District 2, which includes the beach areas from Point Loma and Ocean Beach north to Mission Beach and Pacific Beach.

There are no applications in districts 1, 4, 5 and 9. Council District 3 (Gloria) has two applicants, District 6 has nine, District 7 has four and District 8 has five.

"Applications are processed on a first-come, first-served basis," said Gutierrez.

The new city ordinance allows medical marijuana dispensaries in industrially zoned areas. They are not allowed within 1,000 feet of churches, public parks, schools, child-care centers, city libraries, minor-oriented facilities, residential-care facilities or other medical-marijuana consumer cooperatives.

An initial deposit of \$8,000 is required by the city of all marijuana medical-dispensary applicants.

In 1996, California voters passed Proposition 215, making it the first state in the union to allow for the medical use of marijuana. Since then, 19 more states and the District of Columbia have enacted similar laws.

In two states, Colorado and Washington, the sale and possession of marijuana is legal for both medical and recreational use. However, the U.S. Supreme Court has ruled that the federal government has a right to regulate and criminalize cannabis. Also, if the cannabis is called "medical cannabis," the federal law still has priority.

At the federal level, marijuana remains classified as a Schedule I substance under the Controlled Substances Act. Schedule I substances are considered to have a

City's plan to uproot illegal pot shops is a slow, arduous process

high potential for dependency and no accepted medical use, making distribution of marijuana a federal offense.

In October 2009, the Obama administration sent a memo to federal prosecutors encouraging them not to prosecute people who distribute marijuana for medical purposes in accordance with state law.

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EXHIBIT D

<https://weedmaps.com/dispensaries/point-loma-patient-assn-free-8th-for-first-time-patients-4#description>
 Accessed Tuesday, December 2, 2014 at 4:00 P.M.

[More Info](#)
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Dispensaries




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POINT LOMA PATIENT Assn Mission Valley




POINT LOMA PATIENT Assn Mission Valley

Medical Dispensaries / Central San Diego (185,094 hits)

Photos Videos

Open for 5 hours and 17 minutes
 4.9(177 reviews)



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 Accessed Tuesday, December 2, 2014 at 4:00 P.M.



All Photos

Announcement

****NEW ORGANIC, VEGAN, RAW AND
 GLUTEN FREE Meal replacement bars****

New Patients Please Call 2 Hours Before Closing
 Hours

Delivery (M-Sat 10-9 Sun 10-7)
 (619) 226-2308

Available Here

Hours & Info

SUNDAY	10:00am - 7:00pm
MONDAY	10:00am - 9:00pm
TUESDAY	10:00am - 9:00pm
WEDNESDAY	10:00am - 9:00pm
THURSDAY	10:00am - 9:00pm
FRIDAY	10:00am - 9:00pm
SATURDAY	10:00am - 9:00pm
WEBSITE	www.pointlomapatientss.com
EMAIL	POINTLOMAFA@GMAIL.COM
PHONE	(619) 226-2308
SOCIAL	
MEMBER	February 14th, 2012
SINCE	

<https://weedmaps.com/dispensaries/point-loma-patient-assn-free-8th-for-first-time-patients-4#description>
 Accessed Tuesday, December 2, 2014 at 4:00 P.M.

WeedMenu Description

Point Loma Patient Assn. is San Diego's Premier Delivery Service and home of the TOKYO OG!!! We have high testing, top shelf Meds all day every day!!! We offer phenomenal deals for all patients daily and First Time Patients get a FREE 1/8th of our house strain!!! We deliver to Greater San Diego! \$60 dollar minimum donation for delivery. Free delivery within 15 miles of us, and \$10 delivery 15-20 miles out. (20+ miles call for availability). Free Top Shelf Joint or Edible (\$10 value) for a review left!!! "CALL FOR OUR DAILY SPECIALS"

Point Loma Patient Association, established in 2009, is a non profit San Diego Medical Marijuana Co-Op Delivery Service. We offer an extensive menu of high quality, high testing (THC & CBD), Organic MMJ for all budgets. We are also known and highly rated for our professionalism, extensive knowledge, and extreme discretion. As a member to member co-op, PLPA is full-heartedly dedicated to providing our members with the perfect medication for their needs and budget, delivering promptly, swiftly, and with a smile. We accept ALL credit cards and have awesome first time patient deals. Our menu is very extensive, backed up by test results (Provided by SC Labs) posted directly to our site, includes: flowers, concentrates, edibles, vape pens and more. We offer a rad patient Loyalty Card, which will give patients a free \$50 1/8th after receiving 10 punches on said card. (\$60 minimum donation applies with card). Members also receive a free edible (\$10 value) if they place an order on their Birthday. 10% discount (on full price menu items, does not apply to sales and specials) for Veterans (with Vet papers).

Verification Process: There are two easy ways to sign up and get verified as a patient here. One, you can snap a photo of your Original Recommendation and CA ID with your phone and email both, along with your phone number and current delivery address, to Pointlomapa@gmail.com and we will verify you, get you signed up, and call you to take your order. Or two, you can call us with your recommendation and ID handy and we can take the info over the phone along with your order and verify you once we hang up and before we send your order out. If you are a new patient, we encourage you to give us a call or email us at least 2 hours before closing to guarantee same day delivery. When the driver gets there, they will take a picture of your ORIGINAL recommendation and CALIFORNIA ID (or proof of residency along with a photo ID) so we can put it on file.

"WE RESERVE THE RIGHT TO REFUSE SERVICE TO ANYONE AT ANYTIME!!!!"



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101

THE CITY OF SAN DIEGO

Development Permit/ Environmental Determination Appeal Application

FORM
DS-3031
OCTOBER 2012

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☒ Process Three Decision - Appeal to Planning Commission
☐ Process Four Decision - Appeal to City Council
☐ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

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

Name:
Kurtz Street Cooperative

E-mail Address:
tim@tdmlawfirm.com

Address:
3486 Kurtz St, Suite 102

City:
San Diego

State: CA Zip Code: 92110 Telephone: (310) 849-2904

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

3452 Hancock MMCC/368344

4. Project Information

Permit/Environmental Determination & Permit/Document No.:

Date of Decision/Determination:

City Project Manager:

Project Number 368344

12/3/14

Edith Gutierrez

Decision (describe the permit/approval decision):
Hearing officer approval of MMCC CUP

5. Grounds for Appeal (Please check all that apply)

- ☒ Factual Error
☐ Conflict with other matters
☒ Findings Not Supported
☒ New Information
☐ City-wide Significance (Process Four decisions only)

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.)

Applicant supplied inaccurate information about their property and project in the application process as illustrated in the attached documents.

RECEIVED

DEC 17 REC'D

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:

Dana Gagnon
DANA GAGNON

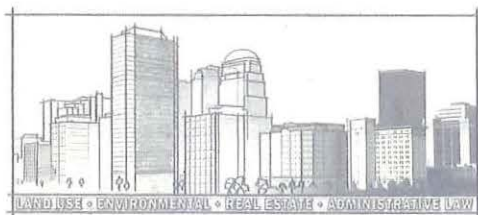
Date: 12/17/14

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

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

DS-3031 (10-12)



TIMOTHY D. MARTIN, ESQ.
LAW OFFICES OF TIMOTHY D. MARTIN
 177 South Beverly Drive
 Beverly Hills, CA 90212
 (310) 849-2904
 tim@tdmlawfirm.com

December 17, 2014

VIA HAND DELIVERY

City of San Diego
 City Planning Commission
 122 First Ave., 5th Floor
 San Diego, CA 92101

Re: Appeal of Hearing Officer Decision Approving Condition Use Permit for 3452
Hancock MMCC; Project No. 368344 (the "Project")
[Proposed] Conditional Use Permit No. 1377388

Dear Chairperson Golba and Honorable Members of the Planning Commission:

The following comments are being submitted on behalf of the Kurtz Street Cooperative, Inc. ("KSC"), as part of its appeal to the City Planning Commission of the December 3, 2014 decision by the Hearing Officer to approve a Conditional Use Permit ("CUP") for the above-referenced Project, and are expressly intended to become part of the administrative record for the Project. This letter is intended to supplement KSC's December 3, 2014 comment letter that was submitted to the Hearing Officer at the public hearing for the Project ("Letter to the Hearing Officer" - attached hereto as Exhibit "A" and incorporated in its entirety by this reference). Accordingly, KSC constitutes an "interested person" as that term is defined in the City of San Diego's Municipal Code ("Code") §113.0103.

As is discussed immediately below, good grounds exist for this appeal, namely that the Hearing Officer's decision was based on factual errors, and that the findings underpinning the Project's CUP are not supported by the factual record. See Code §112.0506(c)(1) and (3). Accordingly, the Planning Commission should grant KSC's appeal and REVERSE the Hearing Officer's decision to grant a CUP for the Project. Failure to do so will leave the City vulnerable to judicial reversal as the Hearing Officer's decision constitutes prejudicial abuse of discretion under Code of Civil Procedure §1094.5.

I. The Project Application and The Staff Report Recommending Approval of the Project Were Based On Materially Erroneous and Misleading Information

As detailed in the Letter to the Hearing Officer, KSC's own investigation of the facts and circumstances pertaining to the Project have revealed that the information submitted to the City by the

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Applicant regarding the real property upon which the Project will operate, as well as information submitted regarding property use and occupancy history and current status, was clearly erroneous and inaccurate. Unfortunately, City staff relied upon this erroneous and misleading information in their preparation of the Staff Report for the Project (REPORT NO. H0-14-072) (the "Report"), and also in the CUP Resolution and other pertinent Project review documents, and did not perform any independent review to verify the accuracy of this information.

By relying upon and repeating various factual errors and inaccuracies regarding the Project and the Project site, the Report and other Project documents were and are fatally flawed. Notwithstanding his receipt of this critical information at the December 3, 2014 hearing, the Hearing Officer failed to consider these issues, and approved the CUP for the Project on December 3, 2014. Thus, the Hearing Officer's decision was based on factual errors, and the findings underpinning the Project's CUP are not supported by relevant facts.

KSC's Letter to the Hearing Officer identified the following errors and misleading information underpinning the Project's approval:

- The Project Applicant Submitted Inaccurate Property Information:

Specifically, the Report states that the Project will operate out of an "832 square foot tenant space within an existing, 1,503 square foot, one-story building on a 0.15-acre site within the Midway/Pacific Highway Corridor Community Plan area." It also sets forth the purported legal description of the real property upon which the Project will be situated as only consisting of "Lots 37 and 38, Block 1 of the Resubdivision of Pueblo Lot 277, commonly known as Ascoff and Kelly's Subdivision."

In contrast, property ownership records reveal that the real property upon which the Project intends to operate is, in fact, twice the size (i.e., area) as the real property described above, as it consists of four (4) equally sized lots (not just the two (2) lots erroneously claimed by the Applicant), which consist of "Lots 37, 38, 39 and 40 of Block 1 of the Resubdivision of Pueblo Lot 277."

Additionally, property records indisputably establish that a manufacturing company called the Sinner Brothers has owned this entire property (consisting of all four lots #37-#40) continually since June 1993, and have not sold or otherwise conveyed title to any portion of that property. Also, title information contained in the City's file for the Project establishes that these four (4) lots have been owned in common since at least 1959.

Thus, it is indisputable that accurate property information, including ownership history, was not disclosed by the Applicant to the City, nor was it reflected in the Report or other Project documents prepared by the City.

- Accurate Property Information Must be Provided by the Applicant During the CUP process:

A project applicant is required to provide the City with accurate information regarding the real property upon which the proposed project is to operate, including, but not limited to, accurate information regarding property lines, property description(s), chain of title and occupancy and use history. See, e.g., Land Development Manual, Section 4-Page 8 (January 2014). Receipt by the City of accurate property information from the applicant, preferably at the beginning of the process, is critical to

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allow City staff and decision makers to properly evaluate and characterize a proposed project. Failure to do so undermines the City's ability to ensure compliance with Code requirements, including the mandate that a Medical Marijuana Consumer Cooperative is located more than 1,000 feet from various enumerated sensitive uses per Code §141.0614.

- Property Consists of Four Lots Under Common Ownership and Operation For Decades

As noted above, the Project property consists of four (4) lots (Lots 37-40), which have been operated in common under prior ownership since at least 1993, and probably for much longer. Overwhelming evidence shows that the Sinner Brothers have operated their corporate headquarters and main manufacturing facility at these four (4) lots for many years. For example, the Sinner Brothers' website provides the public with the company's location as "3452 Hancock Street, San Diego, CA 92110." This is the same address shown on the Report to constitute the Project site and address for the Project. Additionally, the Sinner Brothers' website confirms that it has operated its headquarters and metal production facility at this same location for many years. (www.sinnerbrothers.com – See Exhibit 2 to Letter to the Hearing Officer). While Lots 37 and 38 are commonly identified as "3452 Hancock St.," and Lots 39 and 40 are commonly identified as "3460 Hancock St.," it is absolutely clear that these four lots comprise one unified property, which has been commonly owned and operated for decades.

Recent photographs corroborate that these four lots continue to the present day to house common structures and improvements, and shows that the entirety of this property is commonly operated. A photograph of the property frontage confirms that a single existing, one-story building was constructed along the entire Hancock St. frontage across all four lots, and is clearly attached at the common boundary of Lots 38 and 39 (See Letter to the Hearing Officer, Exhibit 3). City records indicate that this building was constructed across all four Lots in or about 1958. Thus, it is clearly erroneous for the Applicant and the City to characterize the building as only running across Lots 37 and 38, and only comprising 1,503 square feet. The reality is that this building runs across all four lots and is approximately 3,000 square feet in area.

The rear photograph also establishes that the four lots are still being commonly operated as one property. In particular, this photo shows that all the offsite parking for the four lots are situated exclusively on Lots 37 and 38. As the photograph establishes, the rear portions of Lots 39 and 40 are being used to house a shipping container that has been used as permanent structure for years. Also, the photograph shows that additional structures have been constructed in the rear areas of Lots 39 and 40 that were not shown on the original building permit Site Plan, and are in lieu of the required parking area for the Sinner Brothers business operation. (Letter to the Hearing Officer, Exhibit 4). Thus, unless the shipping container and other unpermitted structures are removed, and the offsite parking area for Lots 39 and 40 restored, the Sinner Brothers will by necessity have to continue to use the offsite parking area of Lots 37 and 38 in order to operate its ongoing business.

None of this information was disclosed to the Hearing Officer or the public generally by the Applicant or by City staff. To the contrary, it appears that a concerted attempt has been made by the Applicant to avoid providing a full and accurate property description. Rather than accurately disclosing that the Hancock MMCC would be operating as a leased premises within a four lot light industrial operated and owned by the Sinner Brothers (with a shared parking lot, common building along Hancock St., etc.), the Applicant has, for reasons unknown, attempted to mischaracterize the property upon which

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it proposed to operate its MMCC.¹ One possible explanation for these inaccuracies is that the Applicant is attempting to shield the Sinner Brothers from scrutiny, including the likelihood that its property contains one or more unpermitted structures, and may not otherwise comply with Code requirements.

Regardless of the reasons, it is clear that the Applicant has provided the City with inaccurate property information, and that the City has relied on same. Given that the City has inappropriately relied upon this inaccurate factual information, and has utilized in its recitation of Findings which purport to factual underpin the Hearing Officer's decision to approve the CUP for the Project, the Planning Commission must reverse this flawed decision in light of applicable Code mandated CUP approval standards, and operative state law applicable to proper local decision making.

- Applicant Failed to Provide Accurate Information Regarding the Property's Historical Uses and Prior Occupancy:

First, as discussed above, it is clear that the Sinner Brothers' continuing operations will require use of the parking areas in the rear of Lots 37 and 38. This fact was not disclosed by the Applicant or discussed whatsoever in the Report or other City documents. To the contrary, the Report incorporates inaccurate information obtained from the Applicant that erroneously depicts Lots 39 and 40 as a completely separate property with no legal or operational connection to Lots 37 and 38.

Second, during the Project's development review by City staff, the Applicant was directed to provide a "list of occupants" that must "account for all years and all addresses from the time of construction (1958) to present." Specifically, the Applicant was instructed by City staff to "Present the occupants in list form, accounting for all years. The subject building is a multi-unit building- the list of occupants must also account for each unit. For years in which the property or the units within are not listed or vacant, note this on the list." (Letter to the Hearing Officer, Exhibit 5).

In response, the Applicant submitted to the City a table entitled "Directory Listing of Occupants" claiming that it was providing "all occupants for this address." Even a cursory review of this list reveals it to be substantially incomplete and inaccurate. The Applicant claims that the 3452 premises was "vacant" from 1972-4, and that for the period 1975-80/84 "no information [is] available." No subsequent entry is provided, and the Applicant makes no attempt to provide the City with any occupancy information after the early 1980s. (Letter to Hearing Officer, Exhibit 6).

This lack of occupancy information is inaccurate and incomplete, particularly in light of the information discussed above establishing that the Sinner Brothers have operated on and at the entire four lot property since 1993. As noted, the Sinner Brother website lists 3452 Hancock St. as the location of their headquarters and manufacturing facility, as well as their mailing address. Similarly, the Office of the City Treasurer lists the Sinner Brothers as being located at 3452 Hancock Street (Letter to the Hearing Officer, Exhibit 7). Thus, as we explained in the Letter to the Hearing Officer, it is virtually certain that 3452 Hancock St. has been occupied by the Sinner Brothers for most of, if not all, the time since 1993. However, this information was omitted from the Applicant's list of former occupants.

These omissions likely constitute a purposeful attempt by the Applicant to shield the Sinner

¹ For example, the Site Plan (Attachment 9 to the Report) depicts the western property line as the boundary between Lots 38 and 39, and gives no indication whatsoever that the four lots are, in fact, a commonly owned and operated facility, and have been so for many years.

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Brothers' and its industrial operations from scrutiny. According to its website, the Sinner Brothers operates a "foundry" at the four lots, and performs other light industrial operations thereon. While these activities by the Sinner Brothers may be legal, they should have been disclosed by the Applicant, and evaluated and discussed by the City as part of the CUP application review process. Additionally, the City erroneously characterizes the nature of the Sinner Brothers operations as "office" use (Report, pg. 2), with no mention that it conducts light industrial operations on all four lots, including the operation of a "foundry."

These issues were clearly explained to the Hearing Officer at the December 3, 2014 hearing, but were essentially ignored by the Hearing Officer. Since the true operational and occupancy history of these four lots (37-40) were not disclosed by either the Applicant or the City, it is clear that the Report based its recommendation for CUP approval to the Hearing Officer on erroneous and inaccurate information. Accordingly, the Hearing Officer's December 3, 2014 approval of the Project's CUP is based on factual errors, and sets forth findings that are not supported by the Project's true factual record. Code §112.0506(c)(1) and (3). This constitutes prejudicial abuse of discretion under CCP §1094.5.

- Inaccurate and Misleading Property Information Renders the City's Notice Defective:

As described above, a multitude of information provided by both the Applicant and the City regarding the Project property and its use history is erroneous, inaccurate and misleading. As a result, KSC strongly believes that the most appropriate course of action at this time is for the Planning Commission to REVERSE the Hearing Officer's approval of the CUP and to DENY the Project completely. However, to the extent that the Planning Commission intends to provide the Applicant with an opportunity to cure these significant factual deficiencies, it must, at a minimum, require that new notices be issued that provide the public with factually accurate information regarding the nature of the Project and the property upon which it is to operate. To do otherwise would prevent the interested public from having an opportunity to be heard in regards to expressing comments, concerns, etc. regarding the merits of the Project in light of an accurately described Project and Project site.

The re-noticing of the Project must include, among other things, a new notice regarding the City's environmental determination for the Project, as well as new notice for any subsequent approval hearing, if any. These original notices erroneously describe the Project site as consisting of a 1,503 square foot building on a 0.15 acre site. As explained above, this information is inaccurate. In reality, the building within which the Project is to operate is an approximately 3,000 square foot building, and the real property upon which it will be situated is approximately 0.3 acres in area. The inaccurate information provided to the public renders these prior notices defective and they must be reissued to reflect accurate site information. Failure to revise these documents, with full notice provided to the public pursuant to Code requirements, will render the Project's CUP process invalid and will leave it vulnerable to unfavorable judicial scrutiny and reversal.

II. Project's Lack of a Sidewalk to Main Entrance Constitutes a Fatal Defect

KSC is also extremely concerned that the Project does not provide a sidewalk providing safe pedestrian access to the main entrance for MMCC members and staff. The only public entrance for the Project will be from the rear of the property on Pickett Street (See Report, Attachment 9 – Site Plans). Pickett Street is a narrow street – essentially equivalent to an alley – that does not have a public sidewalk. As a consequence, Pickett Street simply cannot, as a practical matter, provide pedestrians with a safe route from which to gain access to, and leave the Project. Also, given that at least some of

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the MMCC clients are physically impaired or challenged, the absence of a sidewalk to and from the MMCC may create undue challenges to the very population the City's MMCC Ordinance was intended to serve. This issue was ignored by the City in its Report and other Project documents.

KSC notes with concern that the current community plan for Midway/Pacific Highway emphasizes making the area more accessible for pedestrians, and stresses the need for more sidewalks. (The draft update of the community plan for this area discusses the same need for safe pedestrian access/sidewalks at length.) Therefore, any project seeking City in Midway/Pacific Highway that provides no sidewalk conflicts with the community plan, and must be denied on that basis. In this case, it is even more paramount that MMCC members be provided with a Code compliant sidewalk that provides them with safe, easy pedestrian access, given the impaired health of many of its members.

Additionally, KSC strongly questions whether the Project site can be properly deemed to comply with the federal American with Disabilities Act ("ADA") (42 U.S.C. §12101 et seq.), given the glaring lack of sidewalk access to its main entrance on Pickett Street? For example, how does a MMCC patient in a wheelchair gain access to the Project without having to utilize the middle of the very narrow Pickett Street for up to 200 feet or more? There appears to be a very real safety risk to persons with disabilities from vehicles driving up and down Pickett Street, given that this is the only means of ingress and egress to the Project's entrance/exit. This issue, along with the likely ADA compliance problems, appears to have been completely ignored by City staff and the Hearing Officer.

In light of this glaring flaw in the Project, the Hearing Officer's approval of the Project, along with the City's complete lack of discussion of this issue, constitutes prejudicial abuse of discretion and must be REVERSED by the Planning Commission.

III. The City's MMCC Approval Process is Being Implemented in a Fundamentally Unfair Manner

KSC also has profound concerns about the essential procedural unfairness that permeates the City's entire MMCC approval process, particularly in the Midway/Pacific Highway area. Simply put, the City has failed to prescribe and/or to implement a clear set of procedures regarding the order of approval for the multiple competing MMCC CUP applications in this area. The randomness and capriciousness of the City's process has created considerable confusion among applicants, and has led to unpredictable and inequitable outcomes for these applicants, including KSC. This process simply has not been implemented in a clear, rational manner, and cannot be the basis of sound decision-making by the City. As a consequence, the City runs the serious risk of unfairly denying KSC's CUP application, while approving a less worthy competitor, due to process variables that were entirely outside of its control (e.g., the City's CEQA exemption determination and a competitor's appeal to the City Council of same).

In the absence of any clear procedures for MMCC order of approval, public policy and good land use planning practices suggest that the neighborhood, the community and the City as a whole would be best served by ensuring that all of the competing MMCC applications receive a full and fair hearing, which would allow the City an opportunity to select the application that best meets the City's and the neighborhood's needs, in light of operative legal standards. If instead the "first applicant through the process" is the one chosen by default, without the City decision-maker having the opportunity to evaluate the merits of the other competing MMCC applications (and weigh their relative merits), it not only denies due process to those applicants but, just as importantly, deprives the City of its ability to

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have the totality of available information before it in making an important land use decision.

KSC understands that this issue was extensively briefed in letters submitted by other applicants to the Hearing Officer on or in advance of the December 3, 2014 hearing, and now constitutes part of the administrative record for the Project (and has been adequately preserved as an issue for appeal). Unfortunately, the Hearing Officer appears to have totally ignored this compelling information, and simply dodged the issue of fundamental unfairness permeating the City's approval process when he approved the CUP for the Project. KSC urges the City Planning Commission to evaluate these concerns carefully, and to ultimately ensure that the City implements a fair, rational and transparent MMCC approval process for this area, and for the City a whole.

We thank you for your careful consideration of these important points, and urge you to grant KSC's appeal and to REVERSE the Hearing Officer's approval of the CUP for the Project.

Please let us know if you have any questions or comments.

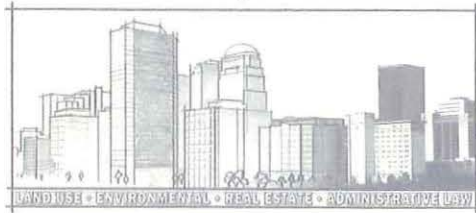
Sincerely,



TIMOTHY D. MARTIN, ESQ. for
LAW OFFICES OF TIMOTHY D. MARTIN

TDM:pf
Enclosure

Exhibit A



TIMOTHY D. MARTIN, ESQ.
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December 3, 2014

VIA HAND DELIVERY

Hearing Officer
 City of San Diego

Re: 3452 Hancock MMCC; Project No. 368344 (the "Project")
[Proposed] Conditional Use Permit No. 1377388

Dear Hearing Officer:

The following comments are being submitted on behalf of the Kurtz Street Cooperative, Inc., and are expressly intended to become part of the administrative record for the above-referenced Project. The Kurtz Street Cooperative, Inc. constitutes an "interested person" as that term is defined in the City of San Diego's Municipal Code ("Code") §113.0103. Accordingly, the Kurtz Street Cooperative, Inc. intends to preserve its rights as an "interested person" to appeal to the City Planning Commission any decision made by the Hearing Office regarding the Project, to the extent that such a decision relies upon evidence that is erroneous or otherwise inaccurate. Code §112.0506(c)(1)

As is discussed immediately below, good grounds exist to DENY the Applicant's request for issuance of a Conditional Use Permit ("CUP") for the Project. Specifically, information submitted to the City by the Applicant regarding the real property upon which the Project will operate, as well as submitted information regarding property use and occupancy, is clearly erroneous and inaccurate. Unfortunately, City staff has relied upon this erroneous, inaccurate and/or incomplete property information in their preparation of the Staff Report for the Project (REPORT NO. H0-14-072) (the "Report"), and also in the proposed CUP Resolution and other pertinent review and approval documentation. By relying upon and repeating various factual errors and inaccuracies regarding the Project and the Project site, the Report and other Project documents are flawed, as they have the strong potential to mislead City decision makers and the public generally.

I. Inaccurate Property Description

A. Accurate Property Information Required

The process for obtaining a CUP, including the information that must be submitted by a project applicant, is prescribed in detail in the Code, as well as in City guidance (e.g., the Land Development Manual). Among other things, an applicant is required to provide the City during the application review

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process with accurate information regarding the real property upon which the proposed project is to operate, including, but not limited to, accurate information regarding property lines, property description(s), chain of title and occupancy and use history. See, e.g., Land Development Manual, Section 4-Page 8 (January 2014). Receipt by the City of accurate property information from the applicant, preferably at the beginning of the process, is critical to allow City staff and decision makers to properly evaluate and characterize a proposed project. For example, without an accurate property description, the City's ability to ensure that a proposed project meets locational and sensitive use restrictions will be severely compromised. See e.g., Code §141.0614 (mandating a 1,000 foot separation between a MMCC and enumerated sensitive uses).

Additionally, without accurate property information, any public notice given by the City (or by an applicant) regarding a proposed project would be defective. A notice that sets forth erroneous property information has the strong potential to mislead the public, as it would make it difficult, if not impossible, for members of the public to determine the appropriate level of their participation in the CUP approval process.

B. Applicant Submitted Inaccurate Property Information

Here, the Project Applicant provided the City with an inaccurate description of the real property upon which it proposes to operate. Unfortunately, the City has incorporated this inaccurate description in its Report, as well as in other project documents. Specifically, the Report states that the Project will operate out of an "832 square foot tenant space within an existing, 1,503 square foot, one-story building on a 0.15-acre site within the Midway/Pacific Highway Corridor Community Plan area." The Report also sets forth the purported legal description of the real property upon which the Project will be situated as follows (Report, Attachment 9 – Site Plan):

Lots 37 and 38, Block 1 of the Resubdivision of Pueblo Lot 277, commonly known as Ascoff and Kelly's Subdivision, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 578, filed in the Office of the County Recorder of San Diego County, January 12, 1889.

In contrast, property ownership records in the City's possession (i.e., contained in the Project's file) reveal that the real property upon which the Project intends to operate is, in fact, twice the size (i.e., area) as the real property described above, as it consists of four (4) equally sized lots, not just the two (2) lots erroneously claimed by the Applicant.

The Grant Deed conveying this larger real property to its current owner establishes that in June 1993, "Craig Neil Butler and Dixie Ann Butler, Husband and Wife and James Seman and Patricia Lynn Butler Husband and Wife and Peter S. Butler an Unmarried Man" granted to the "Sinner Brothers, Inc., a California Corporation" the following real property (Doc. No. 1993-0486328, Recorded on: 29-Jul-1993) (Grant Deed attached hereto as Exhibit 1):

Lots 37, 38, 39 and 40 of Block 1 of the Resubdivision of Pueblo Lot 277, commonly known as Ascoff and Kelly's Subdivision, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 578, filed in the Office of the County Recorder of San Diego County, January 12, 1889.

This information, in light of other publically available information sources, makes it clear that the Sinner Brothers have owned this entire property consisting of four (4) lots (37-40) continually since June 1993, and have not sold or otherwise conveyed title to any portion of that property. Additionally,

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title information contained in the City's file for the Project establishes that these four (4) lots have been owned in common since at least 1959.

C. Property Consists of Four Lots and Have Been (And Still Are) Under Common Ownership and Operation

Additionally, these four (4) lots have been operated in common under prior ownership since at least 1993, and probably for much longer. Overwhelming evidence establishes that the Sinner Brothers have operated their corporate headquarters and main manufacturing facility at these four (4) lots for many years. For example, the Sinner Brothers' website provides the public with the company's location as "3452 Hancock Street, San Diego, CA 92110." This is the same address as the Project site. Additionally, the Sinner Brothers' website confirms that it has operated its headquarters and metal production facility at this same location for many years. (www.sinnerbrothers.com – 11/20/14 Printout of the Home Page of the Sinner Brothers' website is attached hereto as Exhibit 2). Thus, while Lots 37 and 38 are commonly identified as "3452 Hancock St." and Lots 39 and 40 are commonly identified as "3460 Hancock St.," it is absolutely clear that these four lots comprise one unified property, which has been commonly owned and commonly operated for many years.

Photographs taken on November 24, 2014 corroborate that these four lots continue to house common structures and improvements, and establish that the entirety of this property is commonly operated. The photograph taken from the front of the property confirms that a single existing, one-story building was constructed along the entire Hancock St. frontage across all four lots, and is clearly attached at the common boundary of Lots 38 and 39 (Photo attached hereto as Exhibit 3). City records indicate that this building was constructed across all four Lots in or about 1958. Thus, it is erroneous for the Applicant and the City to characterize the building as only running across Lots 37 and 38, and only comprising 1,503 square feet. The reality is that this building runs across all four lots and is approximately 3,000 square feet in area.

The rear photograph also strongly supports our contention that the four lots are still being commonly operated as one property. In particular, the photograph shows that all the offsite parking for the four lots are situated exclusively on Lots 37 and 38. As the photograph establishes, the rear portions of Lots 39 and 40 are being used to house a shipping container that has been used as permanent structure for years. Also, the photograph shows that additional structures have been constructed in the rear areas of Lots 39 and 40 that were not shown on the original building permit Site Plan, and are in lieu of the required parking area for the Sinner Brothers business operation. (Photo attached hereto as Exhibit 4). Thus, it is clear that, unless the shipping container and other unpermitted structures are removed, and the offsite parking area for Lots 39 and 40 restored, the Sinner Brothers will by necessity have to continue to use the offsite parking area of Lots 37 and 38 in order to operate its ongoing business.

None of this information was disclosed to the Hearing Officer or the public generally by the Applicant or by City staff. To the contrary, it appears that a concerted attempt has been made by the Applicant to avoid providing a full and accurate property description. Rather than accurately disclose that the Hancock MMCC would be operating as a leased premises within a four lot property owned and operated by an ongoing light industrial business operated and owned by the Sinner Brothers (with a shared parking lot, common building along Hancock St., etc.), the Applicant has, for reasons unknown attempted to mischaracterize the property upon which it proposed to operate its MMCC. For example, the Site Plan (Attachment 9 to the Report) depicts the western property line as the boundary between Lots 38 and 39, and gives no indication whatsoever that the four lots are, in fact, a commonly owned and

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operated facility, and have been so for many years. One possible explanation for these inaccuracies is that the Applicant is attempting to shield the Sinner Brothers from scrutiny. While our investigation into these matters is ongoing, we believe it likely that the Sinner Brothers' property contains one or more unpermitted structures and may not comply with the Code in other respects.

Regardless of the motivation, whether purposeful or inadvertent, it is clear that the Applicant has provided the City with inaccurate property information. Given that the City has inappropriately relied upon this inaccurate factual information, and as a result has provided the public with an erroneous basis by which to evaluate the Project, the Hearing Officer must DENY the Project on that basis pursuant to the approval standards prescribed by the Code.

II. Erroneous and Incomplete Property Use and Occupancy Information

In addition to an inaccurate property description, as discussed above, the Applicant's failure to provide accurate information regarding the historical uses and prior occupancy of the property compounds the deficiencies of the Project's CUP review process.

First, as established above, it is clear that the Sinner Brothers' continuing operations will require use of the parking areas in the rear of Lots 37 and 38. This was not disclosed by the Applicant or discussed whatsoever in the Report or other City review documents. To the contrary, the Report incorporates inaccurate information obtained from the Applicant that erroneously depicts Lots 39 and 40 as a completely separate property with no legal or operational connection to Lots 37 and 38.

Second, during the Project's development review by City staff, the Applicant was directed to provide a "list of occupants" that must "account for all years and all addresses from the time of construction (1958) to present." Specifically, the Applicant was instructed by City staff to "Present the occupants in list form, accounting for all years. The subject building is a multi-unit building- the list of occupants must also account for each unit. For years in which the property or the units within are not listed or vacant, note this on the list." (Cycle Issues prepared by Reviewer Camille Pekarek attached hereto as Exhibit 5).

In response, the Applicant submitted to the City a table entitled "Directory Listing of Occupants" claiming that it was providing "all occupants for this address." Even a cursory review of this list reveals it to be substantially incomplete and inaccurate. The Applicant claims that the 3452 premises was "vacant" from 1972-4, and that for the period 1975-80/84 "no information [is] available." No subsequent entry is provided, and the Applicant makes no attempt to provide the City with any occupancy information after the early 1980s. (Directory Listing Occupants attached hereto as Exhibit 6).

This lack of occupancy information is inaccurate and incomplete, particularly in light of the information discussed above regarding the Sinner Brothers operating at the entire four lot property since 1993. As we noted, the Sinner Brother website lists 3452 Hancock St. as the location of their headquarters and manufacturing facility, as well as their mailing address. Similarly, the Office of the City Treasurer lists the Sinner Brothers as being located at 3452 Hancock Street (Copy of Printout of Office of the City Treasurer attached hereto as Exhibit 7). Thus, it is virtually certain that 3452 Hancock St. has been occupied by the Sinner Brothers for most of, if not all, the time since 1993. However, this information was omitted from the Applicant's list of former occupants.

As with the property information discussed above, we question whether this represents a

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purposeful attempt by the Applicant to shield the Sinner Brothers from scrutiny. According to its website, the Sinner Brothers operates a "foundry" at the four lots, and performs other light industrial operations thereon. While these activities by the Sinner Brothers may be legal, they should have been disclosed by the Applicant, and evaluated and discussed by the City as part of the CUP application review process. Additionally, the City erroneously characterizes the nature of the Sinner Brothers operations as "office" use (Report, pg. 2), with no mention that it conducts light industrial operations on all four lots, including the operation of a "foundry."

Given that it is clear that the true operational and occupancy history of these four lots (37-40) were not disclosed by either the Applicant or the City, and that the Report bases its recommendation on erroneous and inaccurate information, the Project's CUP review process is patently deficient. Accordingly, the Hearing Officer must DENY the Project on that basis.

III. To the Extent that the Hearing Officer Provides the Applicant With an Opportunity Cure These Information Deficiencies, New Notices Must Be Issued That Provide the Public With Accurate Property and Project Information

As described in Sections I and II above, information provided by both the Applicant and the City regarding the property and property uses is erroneous, inaccurate and misleading. As a result, we believe that the most appropriate course of action is for the Hearing Officer to DENY the CUP request. However, to the extent that the Hearing Officer provides the Applicant with an Opportunity to cure these significant factual deficiencies, the City must require that new notices be issued that provide the public with factually accurate information regarding the nature of the Project and the property upon which it is to operate. To do otherwise would prevent the interested public from having an opportunity to be heard in regards to expressing comments, concerns, etc. regarding the merits of the Project in light of an accurately described Project and Project site.

The renoticing of the Project must include, among other things, a new Notice of Right to Appeal Environmental Determination, which was originally issued on or about August 27, 2014. This original Notice erroneously described the Project site as consisting of a 1,503 square foot building on a 0.15 acre site. As explained above, this information is inaccurate. In reality, the building within which the Project is to operate is an approximately 3,000 square foot building, and the real property upon which it will be situated is approximately 0.3 acres in area. The inaccurate information provided to the public renders the August 27, 2014 Notice defective and must be reissued to reflect the accurate site information. Additionally, as a substantive matter, an accurate depiction of the Project site may later the City's determination regarding the appropriate CEQA exemption to apply to the Project, if any.

Similarly, assuming the Applicant is allowed to resubmit all of its site plans, maps, property descriptions, etc., and the City subsequently revises all of the Project's CUP documentation (including, but not limited to a new Report and a new proposed CUP resolution (Attachment 5)) to reflect this accurate information, the City must renotice all of these documents to provide the public with a full opportunity to provide comments regarding the merits of the Project. Failure to revise these documents, with full notice provided to the public pursuant to Code requirements, will render the Project's CUP process invalid and will leave it vulnerable to reversal by the Planning Commission.

We thank you for your careful consideration of these important points, and urge you to DENY

December 3, 2014 Letter to the Hearing Officer

the CUP for the Project. Please let us know if you have any questions or comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim D. Martin".

TIMOTHY D. MARTIN, ESQ. for
LAW OFFICES OF TIMOTHY D. MARTIN

TDM:pf
Enclosures

1.4

EXHIBIT**1****1993 Grant Deed to Sinner Brothers, Inc.**78 DOC # 1993-0486328
29 JUL - 1993 08:00 AMRECORDING REQUESTED BY:
Chicago Title Company

CHICAGO TITLE COMPANY

When Recorded Mail To:
Sinner Brothers, Inc.
3459 Hancock Street
San Diego, CA 92110Escrow No. 7835
Title Order No. 949611OFFICE REC'D
SAN DIEGO COUNTY RECORDER'S OFFICE
ANGELLE EVANS, COUNTY RECORDER
FEE: 4.00
FEE: 2.00
FEE: 1.00
FEE: 2.00
FEE: 440.50

SPACE ABOVE THIS LINE FOR RECORDER'S USE

441-581-12

GRANT DEED

THE UNDERSIGNED GRANTOR(s) DECLARE(s)

DOCUMENTARY TRANSFER TAX IS \$ 412.50 CITY TAX \$ 0.00

- ☒ computed on full value of property conveyed, or
☐ computed on full value less value of liens or encumbrances remaining
at time of sale,
☒ Unincorporated area ☐ City of

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged.

CRAIG NEIL BUTLER and DIXIE ANN BUTLER, HUSBAND AND WIFE AND JAMES SEMAN AND PATRICIA LYNN
BUTLER HUSBAND AND WIFE and PETER S. BUTLER, an unmarried manhereby GRANT(s) to
SINNER BROTHERS, INC., a California Corporation

the following described real property in the City of San Diego

County of San Diego State of California

Lots 37, 38, 39, and 40, Block 1 of the Resubdivision of Pueblo Lot 277, commonly known as Ascoff and Kelly's
Subdivision, in the City of San Diego County of San Diego, State of California, according to Map thereof No. 578,
filed in the Office of the County Recorder of San Diego County, January 12, 1889.

DATED June 10, 1993

STATE OF CALIFORNIA
COUNTY OF WASHINGTONON June 15, 1993
Tracie J. Pattersonbefore me,
personally appeared

Craig Neil Butler
Patricia Lynn Butler
Peter S. Butler

11/20/2014

SINNER BROTHERS - Contact Us

SINNER BROTHERS
3452 Hancock Street
San Diego, CA 92110
United States
ph: 619-683-2300
fax: 619-683-2323
sinnerbrothers@aol.com

- [Home](#)
- [History](#)
- [Mission Statement](#)
- [Foundry](#)
- [Contact Us](#)
- [Español](#)
- [Video](#)
- [Audio Gallery](#)
- [Catalog](#)
- [Anchors](#)
- [Plates](#)
- [Slides](#)
- [#1 Fastener](#)
- [#2 Marble Fastener](#)
- [Adj Marble Fast](#)
- [#1 Specialty Fast](#)
- [Mod Syst](#)
- [#5 Marble Fast](#)
- [Niche Fastener](#)
- [Spin-A-Lock](#)
- [Niche Vases](#)
- [Rosettes](#)

EXHIBIT**2**

**Printout of the Home Page of
the Sinner Brothers' website**

Contact Us

Please feel free to contact us for any questions.

3452 Hancock Street

San Diego, CA 92110

Tel: 619-683-2300

Fax: 619-683-2323

11/20/2014

SINNER BROTHERS - Contact Us

sinnerbrothers@aol.com

We are conveniently located near the 5 freeway and the 8 freeway, call us if you need directions to our facility.



[get driving directions](#)

EXHIBIT 2

Printout of the Home Page
of the Sinner Brothers'
website

Contact us through this page or you may contact us via Telephone or Fax.

Thank you

Copyright 2010 SINNER BROTHERS. All rights reserved.

[Web Hosting by Yahoo!](#)

Website creation [OC's Notary Public](#)

SINNER BROTHERS
3452 Hancock Street
San Diego, CA 92110
United States
ph: 619-683-2300
fax: 619-683-2323
sinnerbrothers@aol.com

[close](#)

•
•
•

11/20/2014

SINNER BROTHERS - Contact Us

EXHIBIT

2

**Printout of the Home Page of
the Sinner Brothers' website**



EXHIBIT

3

Color Photograph of Front of Project Site

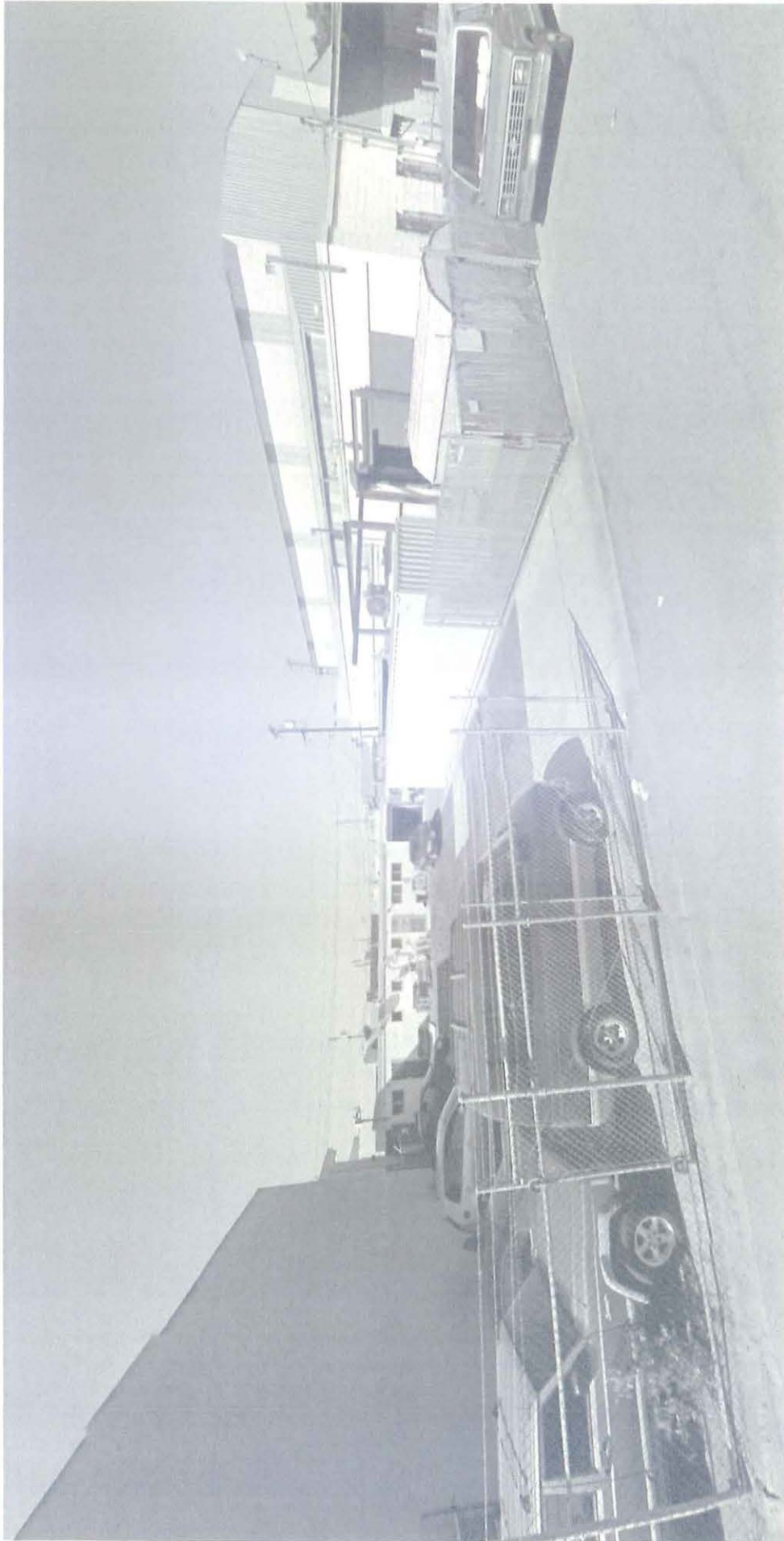


EXHIBIT
4

Color Photograph of Back

Cycle Issues



THE CITY OF SAN DIEGO
Development Services

1222 First Avenue, San Diego, CA 92101-4154

7/23/14 12:00

Page 8 of 8

L64A-003A

Review Information

Cycle Type: 6 Submitted (Multi-Discipline) Submitted: 06/27/2014 Deemed Complete on 06/27/2014
 Reviewing Discipline: Plan-Historic Cycle Distributed: 06/27/2014
 Reviewer: Pekarek, Camille Assigned: 07/01/2014
 (619) 236-7173 Started: 07/03/2014
 CLPekarek@sandiego.gov Review Due: 07/14/2014
 Hours of Review: 0.50 Completed: 07/14/2014 COMPLETED ON TIME
 Next Review Method: Submitted (Multi-Discipline) Closed: 07/23/2014

- The review due date was changed to 07/17/2014 from 07/17/2014 per agreement with customer.
- The reviewer has indicated they want to review this project again. Reason chosen by the reviewer: Partial Response to Cmmts/Regs.
- We request a 3rd complete submittal for Plan-Historic on this project as: Submitted (Multi-Discipline).
- The reviewer has requested more documents be submitted.
- Your project still has 5 outstanding review issues with Plan-Historic (3 of which are new issues).
- Last month Plan-Historic performed 254 reviews, 92.5% were on-time, and 95.9% were on projects at less than < 3 complete submittals.

5-28-2014

Cleared?	Issue Num	Issue Text
<input type="checkbox"/>	8	Staff cannot make a determination with the information provided please provide the following documents: (From Cycle 3)
<input type="checkbox"/>	9	Discretionary projects are required to submit all documentation identified in Information Bulletin 580, Section II.D. Please review the Bulletin and provide all documentation not provided with this submittal, including: (1) written description of any alterations including dates & the architect/builder associated with the alterations; (2) Notice of Completion; (3) Chain of Title (note: deed copies do not satisfy this requirement); (4) City Directory listing of occupants; (5) Historic photographs; and (6) Sanborn Maps. (From Cycle 3)
<input checked="" type="checkbox"/>	10	A copy of the Assessor's Building Record must be provided. This document is available at the County Assessor's Office and includes information such as the date of construction, materials, date of alterations, and a dimensioned footprint of the building and subsequent additions. The owner's written consent is required in order to obtain this document from the County. (From Cycle 3)
<input checked="" type="checkbox"/>	11	Note: The required written description of alterations to the building should include an interpretation of permit history. Documents submitted for this review state that there are no apparent alterations, however copies of permits provided suggest alterations to windows, doors, and the roof have occurred - please clarify. (From Cycle 3)

7-14-2014

Cleared?	Issue Num	Issue Text
<input type="checkbox"/>	12	Portions of Cycle Issue 9 have not been addressed in this submittal. Outstanding requirements include the (1) Chain of Title, and (2) directory listing of occupants. (New Issue)
<input type="checkbox"/>	13	(1) As noted in Information Bulletin 580 (http://www.sandiego.gov/development-services/pdf/industry/infobulletin/ib580.pdf), deed copies do not satisfy this requirement. The Chain of Title must be presented in tabular format, listing a seller and buyer with a date for each conveyance. (New Issue)
<input type="checkbox"/>	14	(2) The list of occupants must account for all years and all addresses from the time of construction (1958) to present. The copies of directory pages provided in this submittal do not satisfy this requirement. There are no dates listed to indicate when the individuals or businesses occupied the property. Present the occupants in list form, accounting for all years. The subject building is a multi-unit building - the list of occupants must also account for each unit. For years in which the property or the units within are not listed or vacant, note this on the list. (New Issue)

EXHIBIT
5

Cycle Issues
prepared by
Reviewer
Camille
Pekarek

For questions regarding the 'Plan-Historic' review, please call Camille Pekarek at (619) 236-7173. Project Nbr: 368344 / Cycle: 6

CYCLE ISSUES RESPONSES

PROJECT: 3452 Hancock MMCC

DATE: Thursday, July 31, 2014

CITY OF SAN DIEGO PROJECT #: 368344

REVIEW DISCIPLINE: LDR-Planning

6. See attached letter from Andy Lambert PE, certifying separation distance.
7. See attached letter from our legal counsel.
9. Cleared.
10. Cleared.
11. Cleared.
12. Cleared.
13. Cleared.
14. Cleared.
15. Cleared.
16. Cleared.
17. Cleared.
18. Cleared.
19. Cleared.
20. Cleared.
30. See response to Issue # 7 (same issue)
32. See additional condition regarding LEED certification. Sheet G002, Conditions for MMCC CUP, item 21. See additional condition regarding electric vehicle charging station, Sheet G002, Conditions for MMCC CUP, item 22.
33. No additional conditions regarding "business plan".
36. You are welcome.

DPH

REVIEW DISCIPLINE: LDR- Environmental

1. Cleared
2. Acknowledged
3. Addressed in this submittal.
4. Acknowledged
5. Ok.

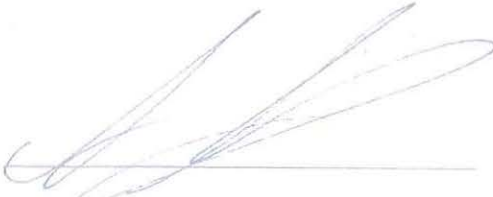
EXHIBIT

6

**Applicant's Directory Listing
Occupants**

REVIEW DISCIPLINE: Plan-Historic

8. Acknowledged
9. Acknowledged
10. Cleared
11. Cleared
12. Ok
13. See attached Chain of Title in tabular format as requested.
14. See attached Directory Listing of Occupants in tabular format as requested. List shows all occupants for this address (multiple occupants in some cases). There are no individual suites listed for this address for any of the years where it was listed.



Abhay Schweitzer Assoc AIA
Principal

EXHIBIT

6

Applicant's Directory Listing Occupants

11/20/2014

Office of the City Treasurer | City of San Diego

THE CITY OF
SAN DIEGO

Office of the City Treasurer

San Diego Business Lookup

The Business Lookup search lists most businesses that hold an active Business Tax Certificate. This information is "self-reported" by businesses operating within the City of San Diego. The City is unable to guarantee the accuracy or timeliness of the data. To facilitate quick responses, query results are limited to a maximum of 100.

If you are unable to locate a business through this look-up service, please call the Office of the City Treasurer's Business Tax Division at (619) 615-1500 Monday through Friday, 8:00am to 5:00pm (PST).

To access a current listing of all businesses registered or a list of businesses registered in the previous month with this office, visit the [Business Listings](#) web page. The listings are updated the first business day of each month.

Search for a Business									
Business Name:									
<small>Business Owner</small>									
First Name:			Last Name:			Entity Name:			
<small>Business Address</small>									
Street No: 3452		Pre-Dir:		Street Name: hancock		Suffix:			
Apt/Suite:		PO Box:		City:		Zip:			
<input type="button" value="Search"/> <input type="button" value="Reset"/>									
Search Results • 1 item									
Acct #	CBA Name	Address	Owner Name	Business Phone	Start Dt	Exp Dt	NAICS	Description	
1974004558	SINNER BROS INC	3452 HANCOCK ST, SAN DIEGO CA 92110-4306	SINNER BROS INC	619 683-2300	07/01/1974	06/30/2015	44413	HARDWARE STORES	

[Download Search Results](#)

EXHIBIT

7

Copy of Printout of Office of the City Treasurer

Austin Legal Group

LAWYERS
3990 OLD TOWN AVE, STE A-112
SAN DIEGO, CA 92110

LICENSED IN CALIFORNIA & HAWAII
TELEPHONE
(619) 924-9600

FACSIMILE
(619) 881-0045

Writer's Email:
gaustin@austinlegalgroup.com

January 14, 2015

City of San Diego
City Planning Commission
122 First Ave., 5th Floor
San Diego, CA 92101

Re: Appeal of Hearing Officer Decision Approving Conditional Use Permit for
Project No. 368344

Dear Members of the Planning Commission:

The purpose of this letter is to provide additional information in support of the application for a conditional use permit submitted by Point Loma Patients Cooperative ("Applicant") in light of the appeals filed by D&D Cooperative, Scott Chipman, and Kurtz Street Cooperative. As explained in more detail below, the appeals are without merit and the Applicant requests the Planning Commission uphold the Hearing Officer's determination and grant the conditional use permit because the statements and evidence relied upon by the hearing officer were accurate and all the requisite findings can be made.

A. The Project Application Was Not Based On Materially Erroneous and Misleading Information

The General Application submitted to the City by Point Loma Patients Cooperative identifies the Legal Description as "Lot Nos. 37, 38, Block 1, Resub. PL 277, Aschoff & Kellys Sub., Map No 578." (See Exhibit A.) Mr. Martin, on behalf of Appellant Dana Gagnon and Kurtz Street Cooperative, contends that "the real property upon which the Project intends to operate...consists of four(4) equally sized lots (not just the two (2) lots erroneously claimed by the Applicant[.])" Contrary to Appellant's assertions, lots 37, 38, 39 and 40 have never constituted a single property and common ownership does not in-and-of-itself create a single property or change the legal description.

A search of property records reveals that the subject lots were subdivided in 1889. (See Exhibit B for the original subdivision Map No. 578). In 1961, due to the common ownership of Lots 37 and 38 and the separate common ownership of Lots 39 and 40, the assessor's office created two tax parcels¹ (See Master Property Record for Lots 37, 38 attached as Exhibit C-1 and

¹ Per conversation with John K. at County Recorder Mapping Division.

Planning Commission
Page 2

Lots 29, 40 attached as Exhibit C-2 and early property deeds attached as Exhibit C-3.) These tax parcels are reflected on the first tax assessor map for this area. (See Exhibit D.) Contrary to Mr. Martin's assertions, the subject lots were not under common ownership in 1959 and do not appear to have come under common ownership until around 1966 for a short period of time and then again in 1993. However, common ownership alone is irrelevant to the property ownership and the construct of "merger".

Merger of two or more parcels into a single parcel can be achieved either voluntarily by the property owner or involuntary by operation of law. Property records show, and the current owner affirms, that the subject parcels have not been voluntarily merged. Thus, the only way all 4 lots could have been merged into one single property, as claimed by Mr. Martin, would have been by operation of law. As explained in more detail below, no merger has occurred by operation of law with regard to lots 37, 38, 39, and 40.

California added merger provisions to its Subdivision Map Act ("SMA") in or around 1973.² The effect of this legislation was to formally do away with the notion that parcels automatically merge by virtue of common ownership and establish a scheme by which parcels would be merged, under certain limited circumstances.³ In 1983 and 1984, California amended the SMA to require local agencies to record notices of merger for any parcels they deemed as merged before January 1, 1984.⁴ Pursuant to these amendments, no parcel purportedly merged prior to January 1, 1984 shall be considered still merged, unless a notice of merger was recorded prior to January 1, 1986.⁵ No notice of merger was filed by January 1, 1986 for the property represented by lots 37 and 38 or the property represented by lots 39 and 40. Therefore, 4 lots shall not be deemed merged because of anything that happened prior to January 1, 1984, including common ownership.

Since 1983, the merger provisions in the SMA have provided "the sole and exclusive authority for local agency initiated merger of contiguous parcels." After January 1, 1984, parcels could be merged only in accordance with the specific merger provisions of the SMA, which require, *inter alia*, notice to the parcel owner⁶ and a notice of merger to be filed with the recorder in the county in which the parcels are situated⁷. Common ownership and/or operation alone are insufficient for merger.⁸ As there is no notice of merger on record for any of the subject parcels,

² See former § 66424.2 and current § 66451.10 et seq. of the SMA. See also *Morehart v. County of Santa Barbara*, 7 Cal.4th 725 (1994); *Gomes v. County of Mendocino*, 37 Cal.App.4th 977 (1995); *Moore v. Board of Sup'rs of Mendocino County*, 122 Cal.App.4th 883 (2004).

³ *Id.*

⁴ See §§ 66451.30 and 66451.19 of SMA. See also *Morehart v. County of Santa Barbara*, 7 Cal.4th 725 (1994); *Gomes v. County of Mendocino*, 37 Cal.App.4th 977 (1995); *Moore v. Board of Sup'rs of Mendocino County*, 122 Cal.App.4th 883 (2004).

⁵ *Id.*

⁶ See § 66451.11 of the SMA.

⁷ See § 66451.12 of the SMA.

⁸ See *Lakeview Meadows Ranch v. County of Santa Clara*, 27 Cal.App.4th 593 (1994); *Moore v. Board of Sup'rs of Mendocino County*, 122 Cal.App.4th 883 (2004); *Morehart v. County of Santa Barbara*, 7 Cal.4th 725 (1994); *Stell v. Jay Hales Development Co.*, 11 Cal.App.4th 1214 (1992).

there cannot have been a merger of the parcels as Appellant claims. It should be noted, the fact that the four lots (two tax parcels) were transferred to the Sinner Brothers, the current owner, by a single deed does not change the forgoing analysis.⁹

Because the subject parcels could not have been involuntarily merged and have not been voluntarily merged, Appellant's assertions that the four subject lots constitute a single property are completely without merit and should not be considered in determining whether the appeal should be granted. The information previously submitted by Applicant in this matter was and is correct and no factual error exists to be appealed.

B. The Project's Lack of Sidewalk is Consistent with the General and Specific Plan

Mr. Martin also suggests that the lack of sidewalk is a fatal defect of the project. Mr. Martin contends that the lack of sidewalk is inconsistent with the community plan for Midway/Pacific Highway and questions whether the project is compliant with the American with Disabilities Act.

Contrary to Mr. Martin's assertions, the lack of sidewalk is not inconsistent with the community plan. The Midway/Pacific Highway community plan seeks to "establish an interconnecting system of sidewalks throughout the community." It does not create a sidewalk mandate. Further, the Property fronts Hancock and there is a sidewalk on the Hancock side of the Property. The entrance is proposed off of Picket Street. Picket Street is actually a 20' alley. The community plan does not suggest that there should be sidewalks in alleys and City staff did not request the Applicant include a sidewalk. None-the-less, the Applicant is not opposed to adding a sidewalk to the project and would do so upon the City's request.

The lack of a sidewalk is not grounds to sustain the appeal.

C. This is an improper forum to review the City's MMCC Approval Process Or The Ordinance Generally

Ms. Donna Jones, on behalf of D&D Cooperative (MMCC Applicant 3430 Hancock St.) suggests that Ordinance No. 20356 ("MMCC Ordinance") and the accompanying staff report (Staff Report No. PC-13-134) are fundamentally flawed because there are no clear procedures for the order of approval when multiple "MMCC CUP applications [are] received simultaneously or in close time proximity to one another." Ms. Jones continues that approving the first four applications in a district "does not ensure that the most appropriate applications are approved." Similarly, Mr. Martin's letter of December 17, 2014 argues that "the City has failed to prescribe and/or to implement a clear set of procedures regarding the order of approval for multiple competing MMCC CUP applications in this area.

⁹ See *Lakeview Meadows Ranch v. County of Santa Clara*, 27 Cal.App.4th 593 at 619 (1994).

Ms. Jones and Mr. Marin are apparently concerned that their clients will be excluded from obtaining a CUP if the instant CUP for 3452 Hancock is granted because D&D's Cooperative located at 3430 Hancock and the Kurtz Street Cooperative located at 3486 Kurtz Street are within 1000 feet. It is unlikely that this same argument would be made by Mr. Martin or Ms. Jones if one of their client's applications was the first application to be approved by the Hearing Officer. Moreover, this City's process is consistent with other City ordinances that proscribe separation distances (e.g. adult book stores.) As Ms. Jones points out, "the City's June 3, 2014 news release announcing the order of the applications (with D&D first in District 2) stated that the order of applications at the time did not guarantee the order in which the applications would be approved." The process here is the same as with any other development project - the applicant assumes the risks and costs associated with an application for a discretionary permit until the permit is issued.

The Applicant not only disagrees with Appellant D&D's assertions that the City's process for granting MMCUPs is fundamentally unfair, but also contends that Appellant's appeal as to this issue is untimely and barred by the statute of limitations contained in CA Gov. Code § 65009 ("Section 65009" hereafter). Therefore, the City should disregard all arguments in all appeals by any Appellant that pertain to the adoption of the medical marijuana ordinances, their fairness, or the processes related thereto.

Section 65009 of the Government Code was enacted "to provide certainty for property owners and local governments regarding decisions" relating to land use planning and zoning and provides for a shortened statute of limitations to bring actions relating the same.¹⁰ Pursuant to Section 65009, all actions or proceedings to attack, review, set aside, void, or annul the adoption or amendment of an ordinance must be commenced within 90 days from the date of adoption or amendment. The City passed its medical marijuana ordinances on February 25, 2014, which went into effect 30 days later.¹¹ The adoption of the medical marijuana ordinance is well past the 90 day statute of limitations contained in Section 65009 and, thus, all Appellants are barred from appealing Applicant's application on the basis of fairness or content of the medical marijuana ordinances.

Similarly, the Appeal filed by Mr. Chipman is an exposition on his beliefs regarding the harms of marijuana. The CUP approval process is neither the time nor the forum for discussions on the benefits of marijuana. Further, as explained above, his arguments are designed to address the validity of the ordinance which is barred by the statute of limitations.

As none of the information submitted by the Appellants creates a factual error, new information, conflict, or unsupported findings, the Appellants contentions are not grounds to sustain the appeal.

D. *The Applicant Is Not Currently Operating or Affiliated with a Dispensary*

¹⁰ CA Gov. Code § 65009(a)(3). See also, *Travis v. County of Santa Cruz*, 33 Cal.4th 757 (2004).

¹¹ See CA GOV. Code § 36937 (ordinances take effect 30 days after final passage)

Planning Commission
Page 5

In her letter of December 2, 2014, Ms. Jones argues that Mr. Knopf is affiliated with Point Loma Patients Association and that Point Loma Patients Association is a dispensary currently operating in the City of San Diego in violation of the zoning ordinance. Ms. Jones, however, is misinformed.

It is important to clarify that Point Loma Patients Association, while similar in name, is NOT the Applicant. The Applicant is Point Loma Patients Cooperative a completely separate and distinct legal entity with no affiliation to Point Loma Patients Association.

Further, Mr. Knopf has made no secret that he was affiliated with Point Loma Patients Association *prior* to the adoption of the current ordinance in April 2014. Prior to April 2014 the City of San Diego did not have an express ban on dispensaries and the zoning code was vague and ambiguous. Mr. Knopf, however, resigned from Point Loma Patients Association prior to the adoption of the current ordinance and is not operating a dispensary. As Mr. Knopf has no affiliation with Point Loma Patients Association he has no ability to affect its operations or remove his information from its website.

While the Applicant agrees with Ms. Jones that the "City can best promote the rights of medical cannabis patients by ensuring a model of legally compliant Cooperatives" it would be improper for the Planning Commission to deny a conditional use permit to Point Loma Patients Cooperative based upon the alleged illegal operations of a 3rd party. Mr. Knopf is not affiliated with the 3rd party and is not a "habitual violator" or "an applicant with a history of breaking the medical marijuana laws established by the City" as Ms. Jones would like the Commission to believe. Further, the Applicant and the Property owner both contend that this Property location has never been utilized by a cooperative. The ordinance itself provides no language for denial of an application due to an applicant's prior affiliation with a cooperative and it would be an abuse of discretion for the Planning Commission to deny this Application based upon such.

* * *

For the reasons stated above, Point Loma Patients Cooperative, respectfully requests that the Planning Commission deny the appeals and affirm the hearing officer's determination and grant the requested Conditional Use Permit.

Sincerely,

AUSTIN LEGAL GROUP, APC

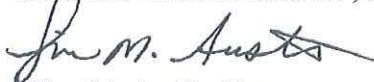

Gina M. Austin, Esq.

EXHIBIT A

 <p>City of San Diego Development Services 1222 First Ave., MS-302 San Diego, CA 92101 (619) 446-5000</p> <p>THE CITY OF SAN DIEGO</p>	FORM DS-3032 AUGUST 2013	
	<h1>General Application</h1>	

1. Approval Type: *Separate electrical, plumbing and/or mechanical permits are required for projects other than single-family residences or duplexes* ☐ Electrical/Plumbing/Mechanical ☐ Sign ☐ Structure ☐ Grading ☐ Public Right-of-Way ☐ Subdivision ☐ Demolition/Removal ☐ Development Approval ☐ Vesting Tentative Map ☐ Tentative Map ☐ Map Waiver ☒ Other: CUP

2. Project Address/Location: *Include Building or Suite No.*
3452 Hancock Street, San Diego, CA 92110

Project Title: 3452 Hancock MMCC

Project No.: For City Use Only 368344

Legal Description: *(Lot, Block, Subdivision Name & Map Number)*
Lot Nos. 37,38, Block 1, Resub. PL 277, Aschoff & Kellys Sub., Map No. 578

Assessor's Parcel Number: 441-581-12-00

Existing Use: ☐ House/Duplex ☐ Condominium/Apartment/Townhouse ☒ Commercial/Non-Residential ☐ Vacant Land

Proposed Use: ☐ House/Duplex ☐ Condominium/Apartment/Townhouse ☒ Commercial/Non-Residential ☐ Vacant Land

Project Description:
Conditional Use Permit for a Medical Marijuana Consumer Cooperative. Approximately 831 SF tenant improvement and parking lot striping.

3. Property Owner/Lessee Tenant Name: *Check one* ☐ Owner ☒ Lessee or Tenant Telephone: (619) 886-4251 Fax: (858) 230-6139

Point Loma Patients Consumer Cooperative

Address: 2188 Balfour Ct. **City:** San Diego **State:** CA **Zip Code:** 92109 **E-mail Address:** adamearth73@gmail.com

4. Permit Holder Name - This is the property owner, person, or entity that is granted authority by the property owner to be responsible for scheduling inspections, receiving notices of failed inspections, permit expirations or revocation hearings, and who has the right to cancel the approval (in addition to the property owner). SDMC Section 113.0103.

Name: Point Loma Patients Consumer Cooperative **Telephone:** (619) 886-4251 **Fax:** (858) 230-6139

Address: 2188 Balfour Ct. **City:** San Diego **State:** CA **Zip Code:** 92109 **E-mail Address:** adamearth73@gmail.com

5. Licensed Design Professional (if required): (check one) ☒ Architect ☐ Engineer **License No.:** C-19371

Name: Michael R. Morton **Telephone:** (619) 857-8144 **Fax:**

Address: 3956 30th Street **City:** San Diego **State:** CA **Zip Code:** 92104 **E-mail Address:** abhay@techno-us.com

6. Historical Resources/Lead Hazard Prevention and Control (not required for roof mounted electric-photovoltaic permits, deferred fire approvals, or completion of expired permit approvals) -

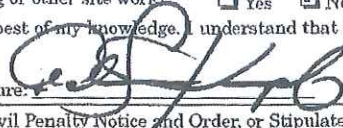
a. Year constructed for all structures on project site: 01/01/1959

b. HRB Site # and/or historic district if property is designated or in a historic district (if none write N/A): N/A

c. Does the project include any permanent or temporary alterations or impacts to the exterior (cutting-patching-access-repair, roof repair or replacement, windows added-removed-repaired-replaced, etc)? ☒ Yes ☐ No

d. Does the project include any foundation repair, digging, trenching or other site work? ☒ Yes ☐ No

I certify that the information above is correct and accurate to the best of my knowledge. I understand that the project will be distributed/reviewed based on the information provided.

Print Name: Adam Knopf **Signature:**  **Date:** 04/23/2014

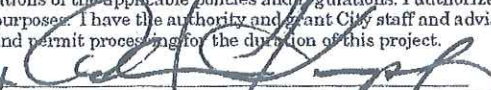
7. Notice of Violation - If you have received a Notice of Violation, Civil Penalty Notice and Order, or Stipulated Judgment, a copy must be provided at the time of project submittal. Is there an active code enforcement violation case on this site? ☒ No ☐ Yes, copy attached

8. Applicant Name: *Check one* ☐ Property Owner ☐ Authorized Agent of Property Owner ☒ Other Person per M.C. Section 112.0102

Point Loma Patients Consumer Cooperative **Telephone:** (619) 886-4251 **Fax:** (858) 230-6139

Address: 2188 Balfour Ct. **City:** San Diego **State:** CA **Zip Code:** 92109 **E-mail Address:** adamearth73@gmail.com

Applicant's Signature: I certify that I have read this application and state that the above information is correct, and that I am the property owner, authorized agent of the property owner, or other person having a legal right, interest, or entitlement to the use of the property that is the subject of this application (Municipal Code Section 112.0102). I understand that the applicant is responsible for knowing and complying with the governing policies and regulations applicable to the proposed development or permit. The City is not liable for any damages or loss resulting from the actual or alleged failure to inform the applicant of any applicable laws or regulations, including before or during final inspections. City approval of a permit application, including all related plans and documents, is not a grant of approval to violate any applicable policy or regulation, nor does it constitute a waiver by the City to pursue any remedy, which may be available to enforce and correct violations of the applicable policies and regulations. I authorize representatives of the city to enter the above-identified property for inspection purposes. I have the authority and grant City staff and advisory bodies the right to make copies of any plans or reports submitted for review and permit processing for the duration of this project.

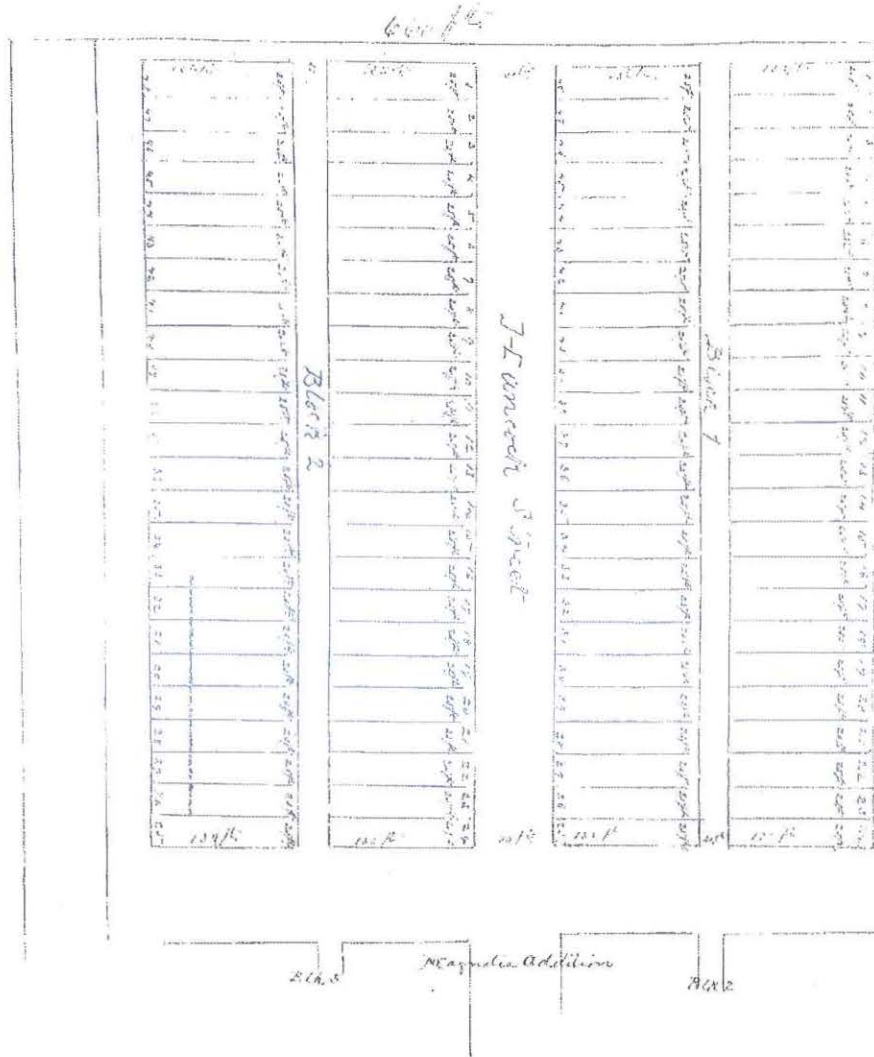
Signature:  **Date:** 04/23/2014

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

DS-3032 (08-13)

EXHIBIT B

Map
 12th 1889, at 14th Avenue P.M.
 S. & H. Wright
 County Recorder
 by J. C. Council & Deputy



12. Addition
 12th 1889
 Survey by
 J. C. Council
 12th 1889
 County Recorder
 by J. C. Council & Deputy

578

EXHIBIT C-1

[illegible]

EXHIBIT C-2

MASTER PROPERTY RECORD										TAX CODE AREA		MAP PARCEL NO.	
ASSESSOR'S DEPARTMENT, COUNTY OF SAN DIEGO, CALIFORNIA										801-8001		442 092 3	
REFERENCE	DATE	LAND	IMPROVEMENTS BLDGS., ETC.	TREES-VINES	FIXTURES	PERSONAL PROPERTY	EXEMPTIONS	NET TOTAL	SOLVENT CREDITS	TAX SALE	REMARKS GROSS REFERENCE NO. UNITS		
1960		1330	2200			-0-							
1962								3530					
1965		2620	2120			-0-					619 R & T		
1967		2620	2870			-0-					619 R & T		
1968		2620	3370			-0-					619 R & T		
		3010	3370			-0-					619 R & T		

DATE	TRANS. NO.	ADDRESS	OWNER	ADDRESS
1960	6769		Butler, C.F. & Lila B. (H/W) (T/G) & Butler, C.G. & Katheryne C. (JT) & Butler, Lyle W. & Marylyn F. (JT)	C/o Lyle Butler, 1635 Rosecrans, San Diego 6, Calif.
1962	15955 (1)	5280 1 V	Ames, George P. & Ruthylene (JT)	45-996 Ames, Indio, Calif. 1 V
1962	15779	-	Butler, Katheryne C. & Katheryne C. (JT)	76 C.G. Butler, P.O. Box 6524, San Diego 6, Calif. X P.O. Box 6524, San Diego 6, Calif.
1966	3466	38180	Butler, C.F. & Lila B. (H/W) (T/G)	1635 Rosecrans St., San Diego, CA 92106

EXHIBIT C-3

Book 7627
pg 235

BOOK 7627 PAGE 235

PLACE INTERNAL REVENUE STAMPS IN THIS SPACE

GRANT DEED

ISSUED BY UNION TITLE INSURANCE AND TRUST COMPANY

Alta L. R. S. 5

To: C. P. BUTLER and LILA B. BUTLER, husband and wife as tenants in common;
C. O. BUTLER and KATHERINE C. BUTLER, husband and wife as joint tenants;
and LYLE W. BUTLER and MARYLYN F. BUTLER, husband and wife as joint tenants

FOR A VALUABLE CONSIDERATION do hereby

GRANT to C. O. BUTLER and KATHERINE C. BUTLER, husband and wife as Joint Tenants,

the real property in the City of San Diego, County of San Diego,
State of California, described as:

Lots Thirty-seven (37) and Thirty-eight (38) in Block One (1)
of the Subdivision of Pueblo Lot 277, commonly known as
Acacia & Kelly's Subdivision, according to Map thereof
No. 375, filed in the office of the County Recorder of San
Diego County January 13, 1889.

Dated: April 25, 1959

Lila B. Butler
C. O. Butler

Katherine C. Butler
Marylyn F. Butler

State of California }
County of San Diego } S.S.

On April 25th, 1959
before me, the undersigned Notary Public in and for said
County and State personally appeared C. P. Butler,
Lila B. Butler, C. O. Butler,
Katherine C. Butler, Lyle W. Butler,
and Marylyn F. Butler

known to me to be the persons whose names are
subscribed to the within instrument and acknowledged that
they executed the same.

Witness my hand and official seal.
(Seal)
Notary Public in and for said County and State.
Expires April 18, 1961

After recording, mail to:
Mr. C. O. Butler
P.O. Box 6574, San Diego 6, California

SPACE BELOW FOR RECORDER'S USE ONLY

82973

DOCUMENT NO. 82973
RECORDED AT REQUEST OF
Butler Realty
APR 27 1959
AT 37 MINUTES PAST 10
BOOK 7627 PAGE 235
SAN DIEGO COUNTY, CALIFORNIA
ROGER M. HOWE, COUNTY RECORDER

mm 2.00

EXHIBIT C-3

PLANNING COMMISSION APPEAL PROJECT 368344

EXHIBIT D

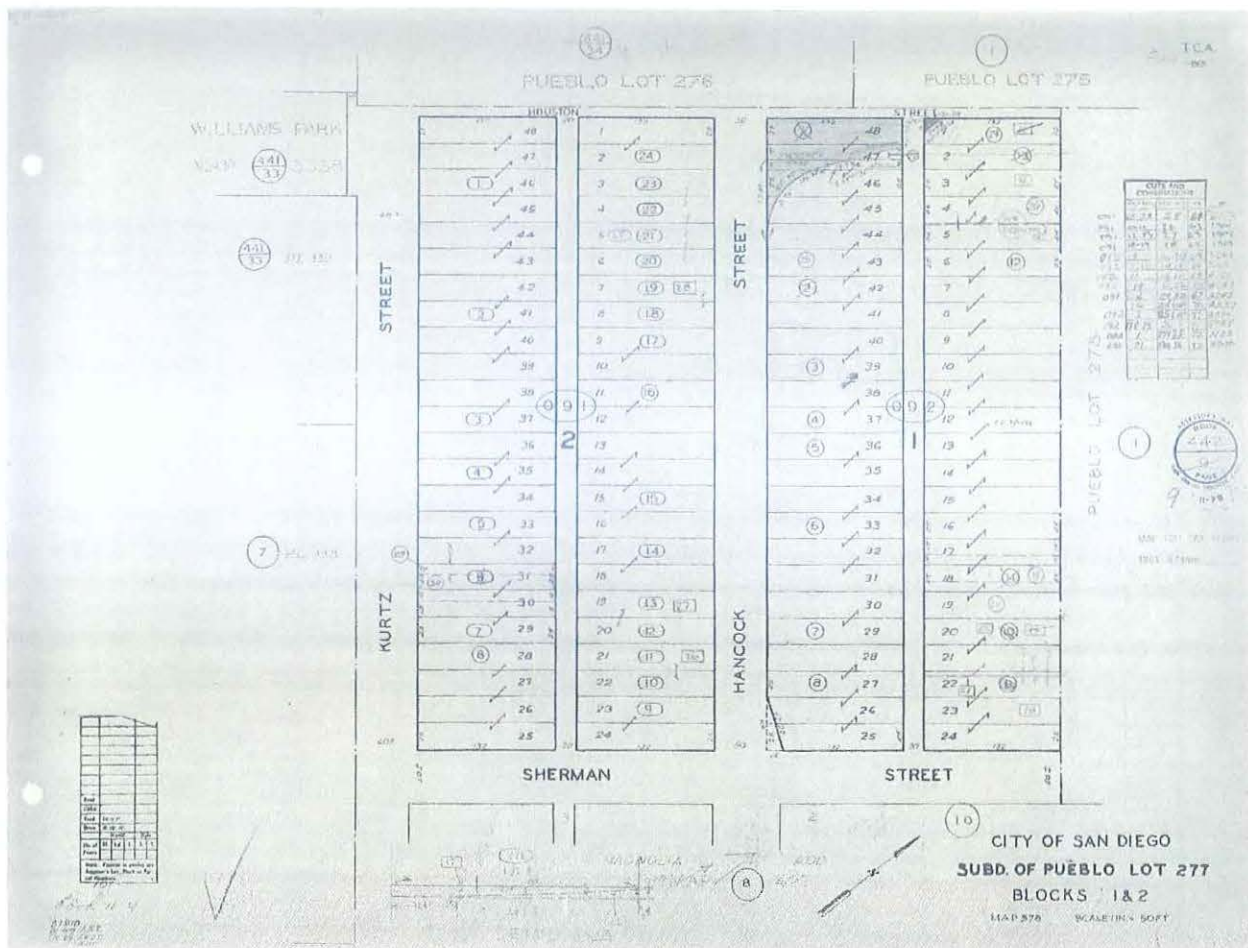


EXHIBIT D
PLANNING COMMISSION APPEAL PROJECT NO. 368344

Building Permit ApplicationAPPLICANT FILL
INSIDE HEAVY LINESPLAN FILE
NUMBER

4483-A

BUILDING
PERMIT
NUMBER

OWNER'S NAME <u>C.P. BUTLER</u>	
MAIL ADDRESS <u>1635 ROSSCORN</u>	TEL. NO.
CITY <u>S.D. C.</u>	<u>AC-2-0555</u>
ARCHITECT or ENGINEER <u>R.C. DORLAND</u>	
STREET ADDRESS <u>1635 ROSSCORN</u>	TEL. NO.
STATE LICENSE NO.	<u>AC-2-7111</u>
BUILDING CONTRACTOR	
STREET ADDRESS	TEL. NO.
CITY	
STATE LICENSE NO.	

JOB DESCRIPTION

LEGAL DESCRIPTION: (Attach Metes & Bounds, if Necessary)

LOT 37-38 BLOCK 1 TRACT TR. 277BUILDING ADDRESS HANCOCK STNEW ☒ ALTER ☐ DEMOLISH ☐
ADD ☐ REPAIR ☐ MOVE ☐RESIDENTIAL ☐ NUMBER OF ☐ NUMBER OF
NON-RESIDENTIAL ☒ STORIES 1 DWELLING UNITSCOUNTY SANITATION DISTRICT PRIVATE DISPOSAL APPROVAL
RECEIPT NO.**STATEMENT OF PROPOSED USE**OFFICE & SHOP

I hereby acknowledge that I have read this application; that the information given is correct and that I am the owner, or the duly authorized agent of the owner. I agree to comply with city and state laws regulating construction; and in doing the work authorized thereby, no person will be employed in violation of the Labor Code of the State of California relating to Workmen's Compensation Insurance.

SIGNATURE OF OWNER or AGENT C.P. Butler

ADDRESS

EVIDENCE OF AGENCY NOTED
PLOT PLAN CHECK & APPROVAL
HEALTH DEPT. APPROVAL Not required - R.C.

JOB ADDRESS <u>3452 Hancock</u>		BUILDING PERMIT NUMBER <u>189320</u>
SIDE YARD <input type="checkbox"/>	SET BACK <input type="checkbox"/>	REAR YARD <input type="checkbox"/>
USE ZONE <u>M-1</u>	MAP NO. <u>269</u>	VACANT SITE YES <input type="checkbox"/> NO <input type="checkbox"/>
BLS CODE <u>016</u>	ECONOMIC LOCATION EA. LBD. TAX	CENSUS TRACT <u>N-67</u>
BUILDING AREA <u>1500</u>	LOT AREA	VARIANCE NO.
Encroachment Yes <input type="checkbox"/>	PERMIT NUMBER <u>189320</u>	ST. GRADE CHECK <input checked="" type="checkbox"/>
Permit Req'd. No <input checked="" type="checkbox"/>	CLEARANCE	CHECKED BY: <u>me</u>
METER SIZE <u>5/8</u>	REQUESTED METER LOCATION	EXISTING <input type="checkbox"/> CENTER LINE <input type="checkbox"/> OTHER <input type="checkbox"/>
TYPE OF CONNECTION <u>NEW</u>	BOOK <u>5</u> PAGE <u>547</u>	VERIFIED BY: <u>me</u>
FIRE ZONE <u>1 2 3</u>	Type of Construction <u>IV</u>	STREET IMPROVED YES <input type="checkbox"/> NO <input type="checkbox"/>
SPECIAL INSPECTOR REQ'D. YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	OCCUPANCY GROUP <u>A B C D E F G H I J</u>	
PLAN CHECKED BY <u>me</u>	PLAN CHECK RECEIPT NO. <u>69541</u>	
BUILDING VALUATION <u>\$750.00</u>	<u>9400.00</u>	
BUILDING PERMIT FEE <u>\$38.00</u>	<u>\$42.00</u>	
LESS PLAN-CHECK FEE <u>\$12.00</u>		
AMOUNT DUE <u>\$162.50</u>		

ATTENTION:

THIS PERMIT AUTHORIZES ONLY THE WORK NOTED

INSPECTION DEPARTMENT



CITY OF SAN DIEGO

APPLICATION APPROVAL

THIS PERMIT DOES NOT BECOME VALID UNTIL SIGNED BY THE DIRECTOR OF BUILDING INSPECTION, OR HIS DEPUTY; AND FEES ARE PAID, AND RECEIPT IS ACKNOWLEDGED IN SPACE PROVIDED.

By: meDate: 10/16/58

INSPECTOR

INSPECTION APPROVALS

A09896

INSPECTION	DATE	INSPECTOR
1 SETBACK & YARDS		
2 PEDESTRIAN PROTECTION		
3 SOIL, FOUNDATION TRENCHES & REINFORCING		
4 FRAME		
5 REINFORCING STEEL	12-7-58	P.W. 1st d. 11' out road
6 ROOFING		
7 FIREPLACE & CHIMNEY		
8 AREA SEPARATION		
9 STAIRWAYS, STAIRS & LATH		
10 STANDARDS & REINFORCING		
11 LATH		
12 OCCUPANCY SEPARATION		
13 FIRE DOORS & WINDOWS		
14 EXISTING HARDWARE & LATH		
15 SETBACK WITH CORNER LATH		
16 FINAL	2-2-59 JH	
DA P		

Building Permit Application				APPLICANT PRL INSIDE HEAVY LINES		PARCEL NO.	PLAN FILE NUMBER	PERMIT NUMBER
OWNER	NAME (OR NAME OF BUSINESS)			JOB ADDRESS				
	CORNELIUS P. BUTLER			3460 HANCOCK ST				
ARCHITECT	MAILING ADDRESS (NUMBER) (STREET)			SIDE YARD (INT.)	SIDE YARD (SY.)	SET BACK	AV. OF BIK.	REAR YARD
	1635 ROSECRANS			0	0	0	0	0
CONTRACTOR	CITY			USE ZONE	MAP NUMBER	VACANT SITE		
	SAN DIEGO, CALIF.			M-1	214-1704	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
JOB LOCATION	NAME			LOT AREA	SQ. FT.	ALLOWED LOT COVERAGE	TOTAL LOT AREA COVERED	SQ. FT.
	WALTER W. SEEDERS							
PROPOSED WORK	ADDRESS (NUMBER) (STREET)			B.L.S. CODE	CENSUS TRACT	VARIANCE NUMBER	CURB TO P.L.	
	1635 ROSECRANS			1P	N-67		F. S.	
PROPOSED WORK	CITY			ENCROACHMENT PERMIT REQ'D.	PERMIT NUMBER	STREET IMPROVED	GRADE CHECK	
	SAN DIEGO, CALIF.			<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
PROPOSED WORK	NAME			METER SIZE	SERVICE SIZE	CLEARANCE	CHECKED BY	
	WALTER W. SEEDERS			1 1/2			Existing Mfg	
PROPOSED WORK	ADDRESS (NUMBER) (STREET)			REMARKS				
	1635 ROSECRANS							
PROPOSED WORK	CITY			NO. OF ADDITIONAL CONNECTIONS REQUIRED	TYPE CONNECTION		VERIFIED BY	
	SAN DIEGO, CALIF.			224-8275	Existing		Mfg	
PROPOSED WORK	STATE LICENSE NUMBER			CLASS. NO.	CITY LICENSE NUMBER			
	135419			B-1	32852			
PROPOSED WORK	LOT	BLOCK	SUBDIVISION	PRE ZONE	TYPE OF CONST.	OCCUP. GROUP	TOTAL FLOOR AREA	
	39240	1	RESUB-TRAC 101	3	L-N	F-2	600	
PROPOSED WORK	JOB ADDRESS			SPECIAL INSPECTOR REQ'D. FOR		BUILDING AREA	PLAN CHECKED BY	
	3460 HANCOCK ST.			<input type="checkbox"/> CONCRETE <input type="checkbox"/> MASONRY		600	W. Brant	
PROPOSED WORK	CONDITION OF SOIL AT JOB SITE			<input type="checkbox"/> WELDING <input type="checkbox"/> PILE DRIVING		NUMBER OF STORIES	PLAN CHECK RECEIPT NO.	
	<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> COMPACTED FILL <input type="checkbox"/> LOOSE FILL			<input type="checkbox"/> OTHER		1	47772	
PROPOSED WORK	WORK TO BE DONE			BUILDING VALUATION	NO. OF BLOCS.	PER/BLOCS.	TOTAL	
	CONSTRUCT. MASONRY BUILDING					8815	39001	
PROPOSED WORK	PROPOSED USE			BUILDING PERMIT FEE	FUND & ACCOUNT		15.00	
	WAREHOUSING AND CHEM. TREATING			LESS PLAN CHECK FEE		7.50	15.00	
PROPOSED WORK	<input checked="" type="checkbox"/> NEW	<input type="checkbox"/> MOVE	<input type="checkbox"/> ALTER	SUB-TOTAL	100		15.00	
	<input type="checkbox"/> ADD	<input type="checkbox"/> DEMOLISH	<input type="checkbox"/> REPAIR	SEWER PERMIT FEE	100	2.50		
PROPOSED WORK	NUMBER OF DWELLING UNITS			SEWER FEE	506			
	<input type="checkbox"/> RESIDENTIAL <input checked="" type="checkbox"/> NON-RESIDENTIAL				7743			
PROPOSED WORK	I hereby acknowledge that I have read this application; that the information given is correct; and that I am the owner, or the duly authorized agent of the owner. I agree to comply with city and state laws regulating construction; and in doing the work authorized thereby, no person will be employed in violation of the Labor Code of the State of California relating to Workmen's Compensation Insurance.			WATER FEE	500			
					7908			
PROPOSED WORK	SIGNATURE (OWNER OR AGENT)			ATTENTION	TOTAL FEES DUE			
	Walter W. Seeders			THIS PERMIT AUTHORIZES ONLY THE WORK NOTED	15.00			
PROPOSED WORK	AGENT FOR:			INSPECTION DEPARTMENT	APPLICATION APPROVAL			
	CORNELIUS P. BUTLER				THIS PERMIT DOES NOT BECOME VALID UNTIL SIGNED BY THE DIRECTOR OF BUILDING INSPECTION, OR HIS DEPUTY; AND FEES ARE PAID, AND RECEIPT IS ACKNOWLEDGED IN SPACE PROVIDED.			
PROPOSED WORK	ADDRESS			CITY OF SAN DIEGO	SIGNATURE OF DEPT. OF INSP. DEPUTY			
	1635 ROSECRANS				M. Reed			
PROPOSED WORK	COUNTY SANITATION DISTRICT RECEIPT NO.			DATE	4/18/66			
	PRIVATE DISPOSAL APPROVAL				FORM IN-258 (4-66)			
PROPOSED WORK	HEALTH DEPT. APPROVAL			INSPECTOR				
	PLOT PLAN CHECK & APPROV							
PROPOSED WORK	LOT SPLIT DATE							

[illegible]

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

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004654

CONDITONAL USE PERMIT NO. 1377388
3452 HANCOCK - MMCC PROJECT NO. 368344
PLANNING COMMISSION

This Conditional Use Permit No. 1377388 is granted by the Planning Commission of the City of San Diego to SINNER BROTHERS, INC, Owner and POINT LOMA PATIENTS CONSUMER COOPERATIVE, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 0.15-acre site is located at 3452 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area. The project site is legally described as: Lots 37 and 38, Block 1 of the Resubdivision of Pueblo Lot 277, commonly known as Ascoff and Kelly's Subdivision, Map No. 578, January 12, 1889.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Medical Marijuana Consumer Cooperative (MMCC) and subject to the City's land use regulations described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated March 12, 2015, on file in the Development Services Department.

The project shall include:

- a. Operation of a Medical Marijuana Consumer Cooperative (MMCC) in an 832 square foot tenant space within an existing, 1,503 square foot, one-story building on a 0.15-acre site;
- b. Existing landscaping (planting, irrigation and landscape related improvements);
- c. Existing off-street parking;

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

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by March 12, 2018.
2. This Conditional Use Permit [CUP] and corresponding use of this MMCC shall expire on March 12, 2020.
3. In addition to the provisions of the law, the MMCC must comply with; Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 6 of the San Diego Municipal Code.
4. No construction, occupancy, or operation of any facility or improvement described herein shall commence, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department.
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
 - c. A MMCC Permit issued by the Development Services Department is approved for all responsible persons in accordance with SDMC, Section 42.1504.
5. While this Permit is in effect, the MMCC shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the MMCC and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

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

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

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

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

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

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

PLANNING/DESIGN REQUIREMENTS:

13. The use within the 832 square foot tenant space shall be limited to the MMCC and any use permitted in the IS-1-1 Zone.
14. Consultations by medical professionals shall not be a permitted accessory use at the MMCC.
15. Lighting shall be provided to illuminate the interior of the MMCC, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
16. Security shall include operable cameras and a metal detector to the satisfaction of the San Diego Police Department, alarms, and an armed security guard to the extent the possession of a firearm by the security guard is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R § 478.11. Nothing herein shall be interpreted to require or allow a violation of federal firearms laws. The security guard shall be licensed by the State of California and be on the premises 24 hours a day, seven days a week. The security guard should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the records for a minimum of 30 days.
17. The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the MMCC in character size at least two inches in height.
18. The MMCC shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
19. The use of vending machines which allow access to medical marijuana except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this section and condition, a vending machine is any device which allows access to medical marijuana without a human intermediary.
20. The Owner/Permittee or operator shall maintain the MMCC, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed within 24 hours.
21. Medical marijuana shall not be consumed anywhere within the 0.15-acre site.
22. The Owner/Permittee or operator shall post anti-loitering signs near all entrances of the MMCC.
23. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Sign colors and typefaces are limited to two. Ground signs shall not be pole signs. A sign is required to be posted on the outside of the MMCC and shall only contain the name of the business.

TRANSPORTATION REQUIREMENTS:

24. No fewer than 8 parking spaces (including 1 van accessible space) shall be maintained on the property at all times in the approximate locations shown on Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.

POLICE DEPARTMENT RECOMMENDATION:

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

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on March 12, 2015 and Resolution No. PC-XXXX.

Conditional Use Permit No.1377388/PTS No. 368344

Date of Approval: March 12, 2015

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Edith Gutierrez
Development Project Manager

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

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

SINNER BROTHERS, INC
Owner

By _____
John Rickards
President

POINT LOMA PATIENTS CONSUMER
COOPERATIVE
Permittee

By _____
Adam Knopf
Permittee

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

PLANNING COMMISSION
RESOLUTION NO. PC-
CONDITONAL USE PERMIT NO. 1377388
3452 HANCOCK MMCC PROJECT NO. 368344

WHEREAS, SINNER BROTHERS, INC, Owner and POINT LOMA PATIENTS CONSUMER COOPERATIVE, Permittee, filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) in an 832 square foot tenant space within an existing, 1,503 square foot, one-story building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1377388), on portions of a 0.15-acre site;

WHEREAS, the project site is located at 3452 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area;

WHEREAS, the project site is legally described as Lots 37 and 38, Block 1 of the Resubdivision of Pueblo Lot 277, commonly known as Ascoff and Kelly's Subdivision, Map No. 578, on January 12, 1889;

WHEREAS, on March 12, 2015, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 1377388 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on August 27, 2014, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures); and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

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

That the Planning Commission adopts the following written Findings, dated March 12, 2015.

FINDINGS:

Conditional Use Permit Approval – Section §126.0305

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

The proposed project is a request for a Conditional Use Permit to operate in an 832 square foot tenant space within an existing, 1,503 square foot, one-story building. The 0.15-acre site is located at 3452 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal

Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area. All of the surrounding parcels are in the IS-1-1 zone.

The site is designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. Additionally, this community portion contains little residential development. The use to the north is commercial services, to the west and east is office and to the south is auto repair. The surrounding uses are allowed in the IS-1-1 Zone, are consistent with Light Industrial designation of the community plan and compatible uses with MMCCs.

The proposed MMCC, classified as commercial services is consistent with the community plan and therefore, will not adversely affect the applicable land use plan.

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

The proposed 832 square foot MMCC located at 3452 Hancock Street is within an existing one-story building. The existing tenant space is currently being used as an office. The project proposes interior improvements that include a reception area, dispensary area, employee lounge, office and restroom. The proposed improvements will require a ministerial building permit. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. No public improvements are proposed or required for the project site.

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

MMCCs are restricted to four per Council District, 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. MMCCs require compliance with San Diego Municipal Code (SDMC), section 141.0614 which require a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, operable cameras and a metal detector to the satisfaction of the San Diego Police Department, alarms, and an armed security guard (to the extent the possession of a firearm by the security guard is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R § 478.11.). The security guard shall be licensed by the State of California and be on the premises 24 hours a day, seven days a week. The security guard should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the records for a minimum of 30 days. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCC's must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The project requires compliance with the development conditions in effect for the subject property as described in Conditional Use Permit No. 1377388. The Conditional Use Permit is valid for five years,

however may be revoked if the use violates the terms, conditions, lawful requirements, or provisions of the permit.

The referenced regulations and conditions have been determined as necessary to avoid adverse impact upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area and therefore, the proposed MMCC will not be detrimental to the public health, safety and welfare.

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

The proposed 832 square foot MMCC located at 3452 Hancock Street is within an existing one-story building on a 0.15-acre site. The site is in the IS-1-1 Zone and was developed in 1975 per Building Permit No. A09820. The building is currently being used as an office. The project proposes interior improvements to include reception area, dispensary area, employee lounge, office and restroom. The proposed improvements will require a ministerial building permit. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. No public improvements are proposed or required for the project site.

MMCCs are allowed in the IS-1-1 Zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to comply with SDMC, section 141.0614 which requires a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, operable cameras and a metal detector to the satisfaction of the San Diego Police Department, alarms, and an armed security guard (to the extent the possession of a firearm by the security guard is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R § 478.11.). The security guard shall be licensed by the State of California and be on the premises 24 hours a day, seven days a week. The security guard should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the records for a minimum of 30 days. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCC's must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The existing one-story building was developed per approved Building Permit No. A09820. The proposed MMCC is consistent with the land use designation of Heavy Commercial. The proposed MMCC meets all development regulations, no deviations are requested, and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code. The proposed MMCC therefore complies with the regulations of the Land Development Code.

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

The proposed 832 square foot MMCC located at 3452 Hancock Street is within an existing one-story building on a 0.15-acre site. The site is in the IS-1-1 Zone and designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount

stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. Additionally, this community portion contains little residential development. The proposed MMCC, classified as commercial services, is consistent with the community plan.

MMCCs are allowed in the IS-1-1 Zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to comply with SDMC, section 141.0614 which requires a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, operable cameras and a metal detector to the satisfaction of the San Diego Police Department, alarms, and an armed security guard (to the extent the possession of a firearm by the security guard is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R § 478.11.). The security guard shall be licensed by the State of California and be on the premises 24 hours a day, seven days a week. The security guard should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the records for a minimum of 30 days. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCC's must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The San Diego Municipal code limits MMCCs to commercial and industrial zones and the number of MMCCs to only four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods. The use to the north of the site is commercial services, to the west and east is office and to the south is auto repair, all of which are allowed uses in the IS-1-1 Zone, consistent with Light Industrial designation of the community plan and compatible uses with MMCCs. Therefore, the proposed MMCC is an appropriate use at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 1377388 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1377388, a copy of which is attached hereto and made a part hereof.

Edith Gutierrez
Development Project Manager
Development Services

Adopted on: March 12, 2015

Job Order No. 24004654