



THE CITY OF SAN DIEGO

## REPORT TO THE PLANNING COMMISSION

**DATE ISSUED:** May 20, 2015 **REPORT NO.** PC-15-054

**ATTENTION:** Planning Commission, Agenda of May 28, 2015

**SUBJECT:** APPEAL OF THE HEARING OFFICER'S DECISION TO APPROVE  
A CONDITIONAL USE PERMIT FOR 3225 BEAN STREET  
MMCC - PROJECT NO. 368324 (PROCESS 3).

**REFERENCE:** Report to the Hearing Officer; Report No. HO-15-030 (Attachment 1-11).

**OWNER/  
APPLICANT:** FLOYD & OPAL BENTLEY TRUST /  
Matthew Feinstein

### SUMMARY

**Issue:** 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 in a 2,426 square-foot building on a 0.21-acre site within the Midway/Pacific Highway Corridor Community Plan area?

**Staff Recommendation:** Uphold the appeal and Reverse the Hearing Officer's decision to Approve Conditional Use Permit No. 1293933.

**Community Planning Group Recommendation:** On July 9, 2014, the Midway Community Planning Group voted 5-3-0 to recommend approval of 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 September 16, 2014 (Attachment 8). An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on January 13, 2015.

**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 a 2,426 building located at 3225 Bean Street.

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.

## **New Information:**

### **Playground - Washington Street Skate Park**

Washington Street Stake Park, located at Washington Street and Pacific Highway, is a playground as defined by the SDMC, and is located within 1,000 feet of the project site. Staff was aware of the site during the initial review process, however determined that it did not qualify as a park, minor-oriented facility, or playground. Staff understood that Washington Stake Park was not a playground since it is located within the city public right-of-way, on property owned by the State of California. However, recent information from the State of California, has confirmed that the City of San Diego owns the land. The site, therefore, qualifies as a playground, as it is city owned and, contains play or athletic equipment used by persons less than 18 years old.

## **Hearing Officer March 25, 2015:**

Staff determined that the proposed MMCC met all applicable development regulations, including

the minimum distance requirements and recommended approval of the project. The Hearing Officer agreed with staff and approved the project.

Based on new information obtained, subsequent to the Hearing Officer's decision of approval, the project site does not meet the minimum separation requirement of the SDMC.

## **DISCUSSION**

**Appeal:** An appeal of the Hearing Officer's decision was filed on April 6, 2015 by George P. Diaz on the grounds of Factual Error, Conflict with other matters, Findings not supported, and New Information (Attachment 11). Two appeals were filed on April 7, 2015. The first was filed by Carol Carpenter on the grounds of Factual Error, Findings not supported and New Information (Attachment 12) and the second by Scott Chipman on the grounds of Findings not supported (Attachment 13).

The appellant's summarized grounds for appeal issues and staff responses are as follows:

### **Appeal Issues:**

1. *Washington Street Skate Park is within 1,000 feet of this site. This site is a public park and or playground. This park was not identified on the 1,000-foot spreadsheet identifying all uses, was not included in the Hearing Officer report and omission of the park/playground would cause irreparable damages to other District 2 applicants that have properly cleared all issues.*

**Staff Response:** At the hearing of March 25, 2015, staff explained to the Hearing Officer that Washington Stake Park was not designated as a park and was not a playground, as it was located within the city public right-of-way, on property owned by the State of California. Subsequent to the hearing, staff obtained documentation substantiating that the skate park is located on land relinquished to the City of San Diego in 1967 by the State of California.

2. *The 3225 Bean Street application does not meet the findings.*

**Staff Response:** Based on new information obtained subsequent to the Hearing Officer's decision of approval, the project site does not meet the minimum separation requirement of the SDMC, as it is located within 1,000 feet of a playground. See revised findings in draft permit resolution (Attachment 16).

3. *The MMCC CUP process lacks a fair and equitable process.*

**Staff Response:** The MMCC Ordinance does not provide guidelines on how to process competing applications, and therefore, staff has managed all MMCC applications on a first-come, first-served basis. The processing 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 are scheduled for a hearing faster than other applications regardless of initial submittal 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. The CUP process is consistent with discretionary review process pursuant to the Land Development Code.

4. *The Bean Street application offers no parking or landscaping as the structure is grandfathered.*

Staff Response: This site located at 3225 Bean Street is 9,021 square feet (0.21-acres). SDMC Section 142.0540(a) allows exemptions to the parking regulations for commercial uses on lots less than 10,000 square feet in size. This site, which does not have alley access, is not required to provide off-street parking. SDMC Section 142.0410 does not require landscaping for existing structures with no proposed exterior modifications. The site is required to provide public improvements including; curb, gutter and sidewalk, along the project frontage on Bean Street. A curb ramp, located adjacent to the project site at the intersection of Bean Street and Pacific Highway Frontage Road, is required along with reconstruction of the existing curb inlet. On-street parking will be available along Bean Street fronting the property.

5. *Bean Street will operate as “Medbox” and ultimately sublease the space thus supplying vending machine marijuana.*

Staff Response: The MMCC CUP entitlement is for the premises. The responsible persons associated with the MMCC can change. The CUP includes the following condition, “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,” (Attachment 4, Condition No. 19).

6. *The applicant was allowed to submit a deficient application and the Information Bulletin 170 changed eliminating strict compliance with the minimum submittal requirements and placement on a list based on completed date and time.*

Staff Response: The MMCC Ordinance does not provide guidelines on how to process competing applications, and therefore staff has managed all MMCC applications on a first-come, first served basis. The processing 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 are scheduled for a hearing faster than other applications, regardless of their initial submittal order. MMCC Information Bulletin (IB) 170 was originally published March 2014. Due to the expected competitiveness of applications, staff included language indicating that incomplete submittals would not be accepted and that staff would post a list of all MMCC applications on the Development

Services Department (DSD) website. In July 2014, IB 170 was revised. The revised bulletin eliminated reference to incomplete submittal applications and posting of MMCC applications on the website. The revised bulletin did not give any applications in Council District 2 an unfair advantage as those applications were submitted and accepted between April 24 and May 9, prior to the July 2014 revision.

7. *Lack of qualitative review fails to adequately address what is most beneficial to a neighborhood and city when permits are limited.*

The Land Development Manual provides established requirements for the submittal of applications, including the identification of required fees and deposits. Qualitative review to select the most beneficial project is not part of the permit submittal criteria.

Staff Response:

8. *The City of Malibu went through a similar process with MMCC applications that were based on merit rather than order of submittal or posting on the agenda.*

Staff Response: The City of San Diego did not adopt an ordinance similar to that of the City of Malibu.

9. *Adequate public safety measures are not planned nor within the ordinance.*

Staff Response: The CUP permit (Attachment 4) contains the following required conditions to ensure the public, health, safety and welfare of the community: 1) No consultations by medical professionals on site; 2) no vending machines without a human intermediary; 3) interior and exterior lighting; 4) surveillance camera; 5) alarm; 6) security guard during hours of operation; 7) no loitering; 8) no smoking on site; 9) hours of operation from 7:00 a.m. to 9:00 p.m. seven days a week; 10) permit expires in five years; 11) compliance with Chapter 4, Article 2, Division 15; and 12) MMCC permit (fingerprinting and background checks of all responsible persons).

10. *Site appears to not have ADA accessibility.*

Staff Response: Compliance with Americans with Disabilities (ADA) requirements will be ensured during the ministerial building permit process.

11. *The community planning group did not approve this location.*

Staff Response: The community planning group vote is a recommendation only. The various levels of City decision making authority for development permits are set forth in the San Diego Municipal Code, Chapter 11.

**Conclusion:**

Staff is recommending denial of the project as it fails to meet the SDMC's minimum separation requirement prohibiting MMCCs from operating within 1,000 feet of another MMCC. The

proposed MMCC is not consistent with the SDMC's purpose and intent to protect public safety, does not comply with the regulations of the Land Development Code and is not located at an appropriate location.

Respectfully submitted,



Mike Westlake  
Assistant Deputy Director  
Development Services Department



Edith Gutierrez  
Development Project Manager  
Development Services Department

Attachments:

- 1-11 Report to the Hearing Officer – Report HO-15-030
- 12. Appeal Application, George P. Diaz
- 13. Appeal Application, Carol Carpenter
- 14. Appeal Application, Scott Chipman
- 15. Draft Permit Resolution with Findings



THE CITY OF SAN DIEGO

## REPORT TO THE HEARING OFFICER

HEARING DATE: March 25, 2015

REPORT NO. HO-15-030

ATTENTION: Hearing Officer

SUBJECT: 3225 BEAN STREET MMCC  
PROJECT NUMBER: 368324

LOCATION: 3225 Bean Street

APPLICANT: Matthew Feinstein

### SUMMARY

Issue(s): Should the Hearing Officer approve a Conditional Use Permit to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in a 2,426 square foot building within the Midway/Pacific Highway Corridor Community Plan Area?

Staff Recommendation: APPROVE Conditional Use Permit No. 1293933.

(NOTE: There are two competing MMCCs within 1,000 feet of each other on today's docket. The Hearing Officer can approve only one of these MMCC's pursuant to the San Diego Municipal Code's 1,000 foot minimum distance separation requirement).

Community Planning Group Recommendation: On July 9, 2014, the Midway Community Planning Group voted 5-3-0 to approve the project with the 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 September 16, 2014 (Attachment 8). An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on January 13, 2015. The scope of the subject hearing only includes the project, and not the environmental determination.

### 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). MMCC's are allowed with a Conditional Use Permit, Process 3, Hearing Officer Decision. A limit of four MMCC's per Council District (36 city-wide) was adopted in order to minimize the impact on the City and residential neighborhoods.

This proposed project is a request for a Conditional Use Permit (CUP) to operate a MMCC in an existing 2,426 square foot building on a 0.21-acre site. The MMCC site is located at 3225 Bean Street, southwest of Interstate 5, northeast of Pacific Highway and north of W. Laurel Street (Attachment 2). 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 was developed with a one-story building in 1960 per Building Permit No. A34341.

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. This community portion contains little residential development. The adjacent parcels to the MMCC are in the IS-1-1 zone and the existing uses are consistent with the Light Industrial designation of the community plan. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit within this community plan.

## DISCUSSION

The project site located at 3225 Bean Street is a 0.21-acre site developed with a 2,426 square foot one-story building which is currently being used as commercial services. The MMCC proposes interior improvements that include a reception area, lobby, dispensary, storage, office and restroom. Public improvement include; new gutter and sidewalk, curb return and new standard curb ramp, reconstruction of the existing curb inlet on Pacific Highway and Encroachment Maintenance and Removal Agreement for the retaining wall located within the Public right-of-way.

MMCC's 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, MMCC's 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 for the tenant/facility space and directly adjacent area. 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, 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 the 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 and the applicant has willingly proposed additional conditions in order to avoid adverse impacts upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area.

### CONCLUSION

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

### ALTERNATIVE

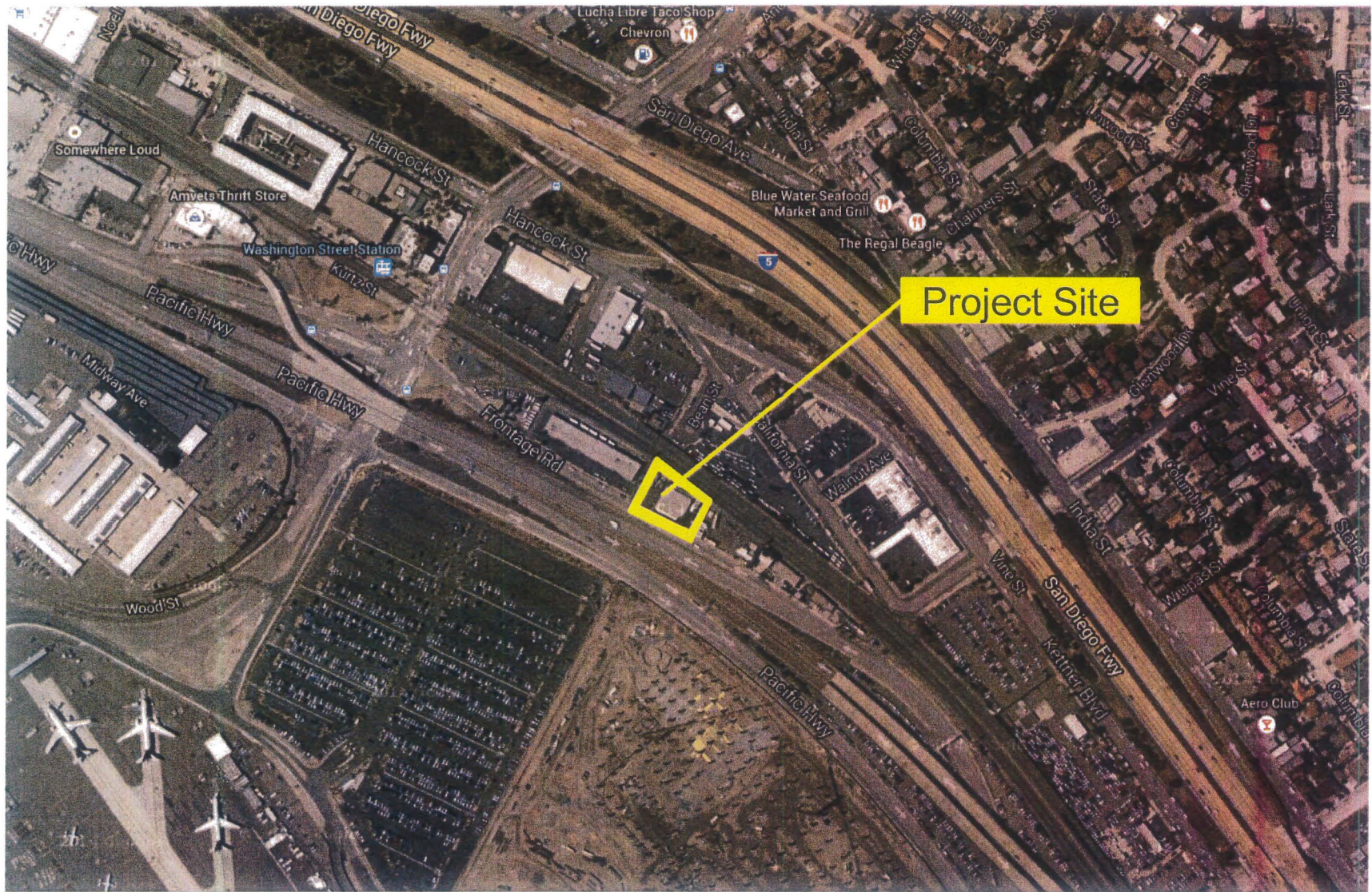
1. Approve Conditional Use Permit No. 1293933, with modifications.
2. Deny Conditional Use Permit No. 1293933, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

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

Attachments:

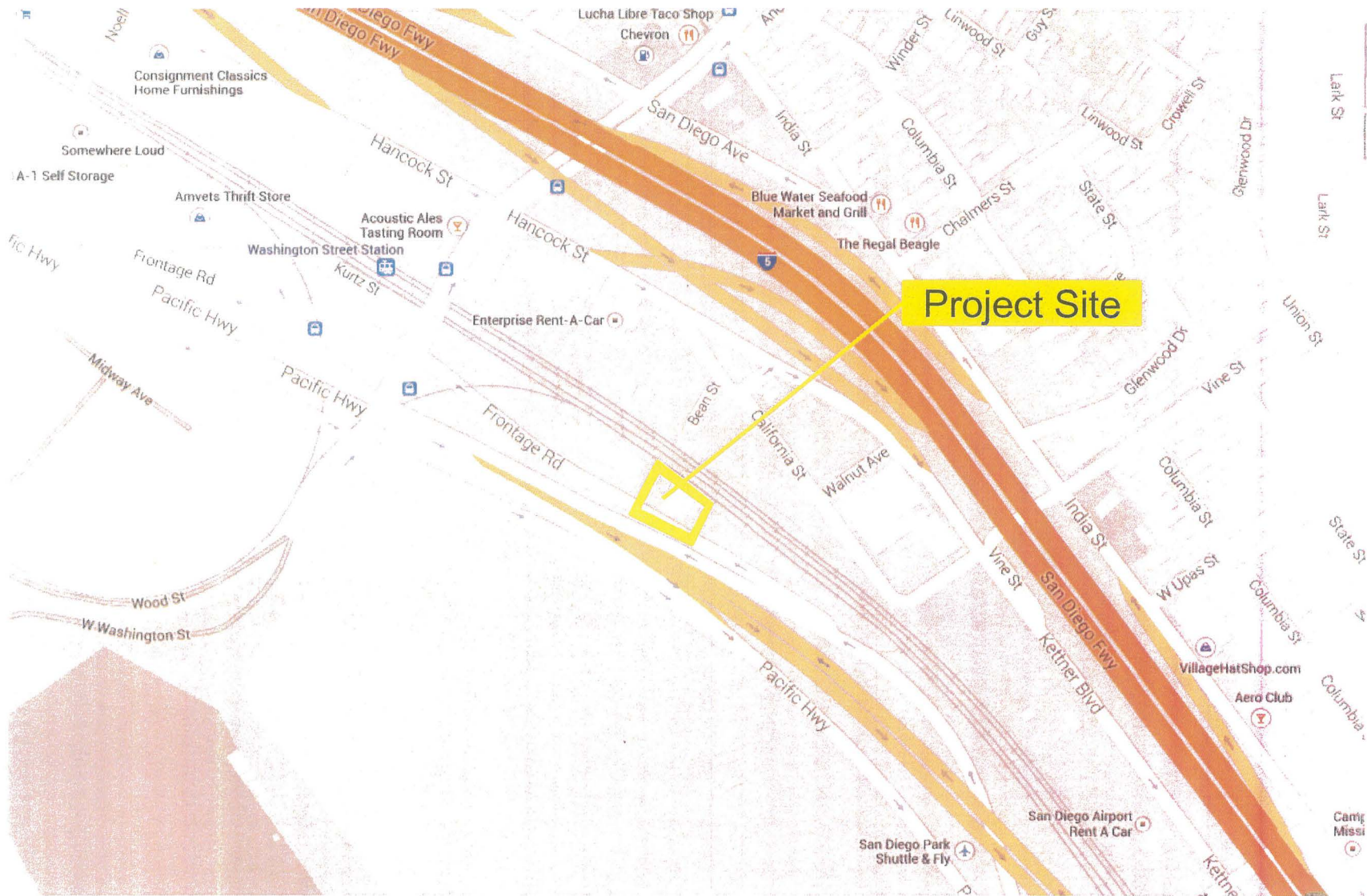
1. Aerial Photograph
2. Project Location Map
3. Community Plan Land Use Map
4. Draft Permit with Conditions
5. Draft Permit Resolution with Findings
6. 1000 Foot Radius Map
7. 1000 Foot Radius Map Spreadsheet
8. Notice of Right to Appeal
9. Project Site Plan(s)
10. Community Planning Group Recommendation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



## Location Aerial Photo

**3225 BEAN STREET MMCC- 3225 Bean Street**  
**PROJECT NO. 368324**





## Project Location Map

**3225 BEAN STREET MMCC- 3225 Bean Street**  
**PROJECT NO. 368324**





**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: 24004650

**CONDITIONAL USE PERMIT NO. 1293933**  
**3225 BEAN STREET MMCC- PROJECT NO. 368324**  
**HEARING OFFICER**

This Conditional Use Permit No. 1293933 is granted by the Hearing Officer of the City of San Diego to THE FLOYD AND OPAL BENTLEY TRUST, Owner and MATTHEW FEINSTEIN, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 0.21-acre site is located at 3225 Bean 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: Right of Way Lots 135 and 136 of Middletown, Map made by J.E. Jackson, October 30, 1962 as File No. 186107.

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 25, 2015, on file in the Development Services Department.

The project shall include:

- a. Operation of a Medical Marijuana Consumer Cooperative (MMCC) within an existing 2,426 square foot building on a 0.21- acre site;
- b. Existing landscaping (planting, irrigation and landscape related improvements);
- c. 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 April 10, 2018.
2. This Conditional Use Permit [CUP] and corresponding use of this MMCC shall expire on April 10, 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 2,426 square foot building 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 0.21-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.

#### **ENGINEERING REQUIREMENTS:**

24. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the installation of City standard curb, gutter and sidewalk, along the project frontage on Bean Street, satisfactory to the City Engineer.
25. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of new curb return and new City standard curb ramp, located adjacent

to the project site at the intersection of Bean Street and Pacific Highway Frontage Road, satisfactory to the City Engineer.

26. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of the existing curb inlet, on Pacific Highway Frontage Road, satisfactory to the City Engineer.

27. Prior to the issuance of any building permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement for the retaining wall located within Pacific Highway Frontage Road right-of-way, satisfactory to the City Engineer.

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

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

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

#### **TRANSPORTATION REQUIREMENTS:**

31. SDMC Section 142.0540(a) and Table 142-05H allow exemptions to the parking regulation for commercial uses on lots less than 10,000 SF in size that existed prior to January 1, 2000. Such lots without alley access would not have any parking requirements. 3225 Bean Street MMCC project will provide public improvements, with on-street parking along its frontage.

#### **POLICE DEPARTMENT RECOMMENDATION:**

32. 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 March 25, 2015 and Resolution No. HO-XXXX.

Conditional Use Permit No.1293933/PTS No. 368324  
Date of Approval: March 25, 2015

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

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

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

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

THE FLOYD AND OPAL BENTLEY TRUST  
Owner

By \_\_\_\_\_  
Floyd J. Bentley  
Trustee

THE FLOYD AND OPAL BENTLEY TRUST  
Owner

By \_\_\_\_\_  
Opal V. Bentley  
Trustee

MATTHEW FEINSTEIN  
Permittee

By \_\_\_\_\_  
Matthew Feinstein  
Permittee

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

HEARING OFFICER  
RESOLUTION NO. HO-  
CONDITIONAL USE PERMIT NO. 1293933  
**3225 BEAN STREET MMCC- PROJECT NO. 368324**

WHEREAS, GREENFIRLED FAMILY TRUST, THE FLOYD AND OPAL BENTLEY TRUST, Owner and MATTHEW FEINSTEIN, Permittee, filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) within an existing 2,426 square foot building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1293933), on portions of a 0.21-acre site;

WHEREAS, the project site is located at 3225 Bean 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 Right of Way Lots 135 and 136 of Middletown, Map made by J.E. Jackson, October 30, 1962 as File No. 186107;

WHEREAS, on March 25, 2015, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1293933 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on September 16, 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 the Environmental Determination was appealed to City Council, which heard and denied the appeal on January 13, 2015 pursuant to Resolution No. 309471;

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 March 25, 2015.

FINDINGS:

**Conditional Use Permit Approval – Section §126.0305**

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

The proposed project is a request for a Conditional Use Permit to operate within an existing 2,426 square foot building. The 0.21-acre site is located at 3225 Bean 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 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. This community portion contains little residential development. All of the surrounding parcels are in the IS-1-1 zone and the existing uses are consistent with the Light Industrial designation of the community plan. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit and is consistent with the community plan, therefore will not adversely affect the applicable land use plan.

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

The proposed 2,426 square foot MMCC located at 3225 Bean Street is within an existing one-story building. The existing tenant space is currently being used as commercial services (garage door company). The project proposes interior improvements that include a reception area, lobby, dispensary, storage, 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. The site requires the following public improvement; gutter and sidewalk along Bean Street, new curb return and curb ramp at the intersection of Bean Street and Pacific Highway Frontage Road, the reconstruction of the existing curb inlet on Pacific Highway Frontage Road, and a Encroachment Maintenance and Removal Agreement for the retaining wall located within Pacific Highway Frontage Road right-of-way.

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. 1293933. 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 2,426 square foot building located at 3225 Bean Street is within an existing one-story building on a 0.21-acre site. The site is in the IS-1-1 Zone and was developed in 1960 per Building Permit No. A34341. The building is currently being used as commercial services (garage door company). The project proposes interior improvements that include a reception area, lobby, dispensary, storage, office and restroom. Public improvement include; new gutter and sidewalk, curb return and new standard curb ramp, reconstruction of the existing curb inlet on Pacific Highway and Encroachment Maintenance and Removal Agreement for the retaining wall located within the Public right-of-way.

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 proposed MMCC is consistent with the land use designation of Light Industrial. The proposed MMCC meets all development regulations, no deviations are requested, and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code. The proposed MMCC therefore complies with the regulations of the Land Development Code.

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

The proposed 2,426 square foot MMCC located at 3225 Bean Street is within an existing one-story building on a 0.21-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 proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit. Therefore, the proposed MMCC is an appropriate use at the proposed location.

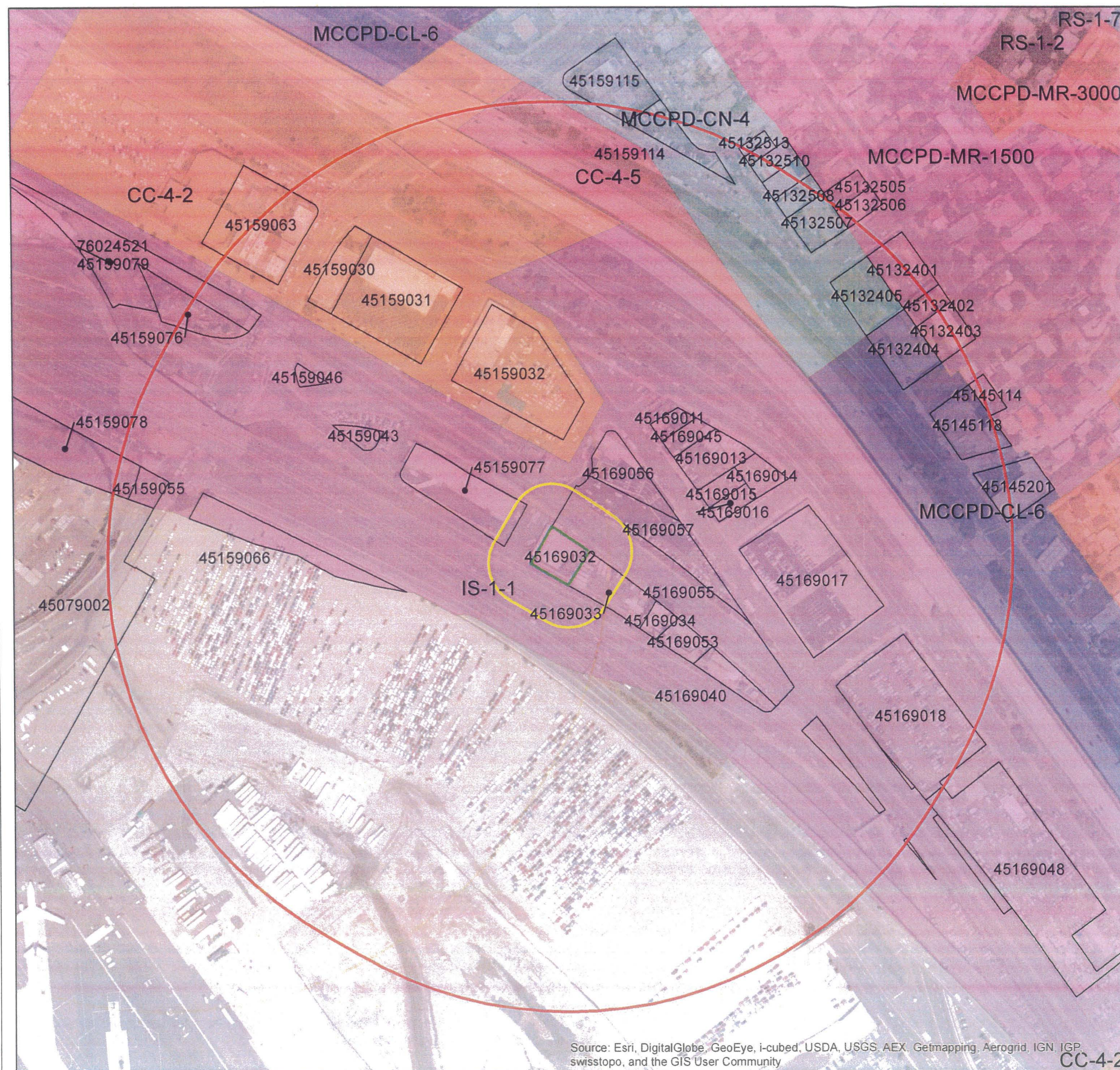
BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1293933 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1293933, a copy of which is attached hereto and made a part hereof.

---

Edith Gutierrez  
Development Project Manager  
Development Services

Adopted on: March 25, 2015

Job Order No. 24004650



# 1000 FOOT RADIUS MAP

## 3225 BEAN STREET - MMCC



There is no Residential Zone  
within 100 feet of  
3225 Bean Street  
APN: 451-690-32  
PTS: 368324



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

CC-4-2

## 1000-Foot Radius Map Spreadsheet

Project Name: 3225 Bean Street - MMCC-CUP

3225 Bean Street, San Diego, CA

Address: 92101

Date:

4/28/2014

Use	Address	Assessor Parcel No.	Business Name
UNZONED/OTHER	1600 HENDERSON AVE 238 92140-5001	4507900200	INFORMATION NOT AVAILABLE
5 - 15 UNITS GENERIC	1737 CHALMERS 92103-4768	4513240100	N/A
MISC PROFESSIONAL	1737 CHALMERS 92103-4768	4513240100	REAL ARCHITECT
DUPLEX - GENERIC	3620 COLUMBIA ST 92103-4728	4513240200	N/A
5 - 15 UNITS GENERIC	3602 COLUMBIA ST 92103-4728	4513240300	N/A
COMMERCIAL	3615 INDIA ST 92103-4770	4513240400	TIM MANTOANI PHOTOGRAPHY
COMMERCIAL	3615 INDIA ST 92103-4770	4513240400	MARSHALL WILLIAMS PHOTOGRAPHY
PHOTO FINISHING	3617 INDIA ST 92103	4513240400	GIANT PHOTO SERVICE
AUTO AGENCY	3617 INDIA ST 92103	4513240400	GP MOTORCYCLES
COMBINATION COMMERCIAL/RESIDENTIAL BUILDING	3625 INDIA ST 92103	4513240500	N/A
SINGLE FAMILY RESIDENCE - GENERIC	3662 COLUMBIA ST 92103-4751	4513250500	N/A
DUPLEX - GENERIC	3652 COLUMBIA ST 92103-4772	4513250600	N/A
DENTIST	3659 INDIA ST 200 92103-4767	4513250700	DENTISTRY OF OLD TOWN
MISC PROFESSIONAL	3659 INDIA ST 200 92103-4767	4513250700	GULF CONSTRUCTION USA LLC
MISC PROFESSIONAL	3659 INDIA ST 200 92103-4767	4513250700	PEXIS INVESTIGATIONS
CAFE	3659 INDIA ST 200 92103-4767	4513250700	THE REGAL BEAGLE
CAFE	3667 INDIA ST 92103-4749	4513250800	BLUE WATER SEAFOOD
GENERIC COMMERCIAL OFFICE/RETAIL 1-3 STORIES	3675 INDIA ST 92103-4749	4513250900	EL INDIO SHOPS INC
2 - 4 UNITS - GENERIC	3683 INDIA ST 92103-4749	4513251000	N/A
GENERIC COMMERCIAL OFFICE/RETAIL 1-3 STORIES	3695 INDIA ST 92103	4513251200	EL INDIO SHOPS
FLORIST SHOP	3695 INDIA ST 92103	4513251200	STAR FLOWER
GENERIC RESTAURANT/NIGHT CLUB/TAVERN	3697 INDIA ST 92103-4749	4513251300	INFORMATION NOT AVAILABLE
DUPLEX - GENERIC	1717 W WALNUT AVE 92103-4747	4514511400	N/A
PRINTERS - GRAPHICS	1949 W WALNUT ST 92103	4514511400	RUSH PRESS
CEMENT MANUFACTURER	1949 W WALNUT ST 92103	4514511400	SINAK CORPORATION
AUTO REPAIR SHOP	3615 INDIA ST SAN DIEGO	4514511800	GP MOTORCYCLES SERVICE
CARS - USED	3585 INDIA ST 92103-4750	4514511800	CONVOY MOTORS INC
MISCELLANEOUS ASSOC	3555 INDIA ST 92103-4775	4514520100	MEALS ON WHEELS GREATER SAN DIEGO INC
BAKERY	3555 INDIA ST 92103-4775	4514520100	GIBALDIS ITALIAN BREAD
MISC PROFESSIONAL	1747 HANCOCK ST 92101-1130	4515903000	ROAD REBEL ENTERTAINMENT TOURING INC
CAFE	1735 HANCOCK ST 92101-1118	4515903100	FIFTY SEVEN DEGREES INC
AUTO-RENTAL	1691 HANCOCK ST 92101-1109	4515903200	ENTERPRISE RENT A CAR CO OF LOS ANGELES
APPLIANCES-RETAIL	1691 HANCOCK ST 92101-1109	4515903200	APPLIANCE ALLEY
GENERIC COMMERCIAL OFFICE/RETAIL 1-3 STORIES	3705 PACIFIC HWY 92110-2021	4515904300	INFORMATION NOT AVAILABLE
MISCELLANEOUS AGENCY	3698 PACIFIC HWY 92110	4515904300	ALLIED AVIATION FUELING INC
MISC PROFESSIONAL	3690 PACIFIC HWY 92110	4515904300	HARRIS CORP GCSD
MISC PROFESSIONAL	3690 PACIFIC HWY 92110	4515904300	MISSION SUPPORT
VACANT INDUSTRIAL	INFORMATION NOT AVAILABLE	4515904600	INFORMATION NOT AVAILABLE
UNZONED/OTHER	INFORMATION NOT AVAILABLE	4515905500	INFORMATION NOT AVAILABLE
GENERIC-4 AND MORE STORY OFFICE BUILDING	2120 W WASHINGTON ST 92110-2052	4515906300	INFORMATION NOT AVAILABLE
COMMERCIAL	2150 W WASHINGTON ST 92110	4515906300	BARTNETT PAUL
ARCHITECT&ENGINEER	2150 W WASHINGTON ST 92110	4515906300	THE MILLER HULL PARTNERSHIP LLP
ARCHITECT&ENGINEER	2150 W WASHINGTON ST 92110	4515906300	KORNBERG & ASSOCIATES INC
UNZONED/OTHER	PACIFIC HWY 92101	4515906600	INFORMATION NOT AVAILABLE
VACANT INDUSTRIAL	PACIFIC HWY 92110	4515907600	INFORMATION NOT AVAILABLE
WAREHOUSE-PROCESSING/STORAGE/DISTRIBUTION	3655 PACIFIC HWY 92101-1133	4515907700	INFORMATION NOT AVAILABLE
SPECIALTY/HARD GOODS	3605 PACIFIC HWY 92101	4515907700	VINYARD DOORS INC
UNZONED/OTHER	INFORMATION NOT AVAILABLE	4515907800	INFORMATION NOT AVAILABLE
UNZONED/OTHER	INFORMATION NOT AVAILABLE	4515907900	INFORMATION NOT AVAILABLE
GARAGE PARKING LOT/USED CAR	INDIA ST 92103	4515911400	INFORMATION NOT AVAILABLE
SERVICE STATION&MKTS	1809 W WASHINGTON ST 92103-3767	4515911500	EXXON MOBIL CORPORATION
SERVICE STATION&MKTS	1809 W WASHINGTON ST 92103-3767	4515911500	WASHINGTON MOBIL
SINGLE FAMILY RESIDENCE - GENERIC	3648 KETTNER BLVD 92101-1138	4516901100	N/A
WAREHOUSE-PROCESSING/STORAGE/DISTRIBUTION	3625 CALIFORNIA ST 92101-1142	4516901300	INFORMATION NOT AVAILABLE
GARAGE PARKING LOT/USED CAR	CALIFORNIA ST 92101	4516901400	INFORMATION NOT AVAILABLE
GARAGE PARKING LOT/USED CAR	CALIFORNIA ST 92101	4516901500	INFORMATION NOT AVAILABLE
GARAGE PARKING LOT/USED CAR	3601 CALIFORNIA ST 92101-1142	4516901600	INFORMATION NOT AVAILABLE
OFFSET	3553 CALIFORNIA ST 92101	4516901600	RUSH PRESS
PRINTERS - GRAPHICS	3553 CALIFORNIA ST 92101	4516901600	GRAPHICS COMMUNICATIONS INC
FACTORY/LIGHT MANUFACTURING	3554 KETTNER BLVD 92101-1139	4516901700	INFORMATION NOT AVAILABLE
AUTO-RENTAL	3564 KETTNER BLVD 92101	4516901700	GALAXY RENT A CAR INC
MISC FOOD STORE	3574 KETTNER BLVD 92101	4516901700	DESIGN FOR HEALTH INC
UNZONED/OTHER	KETTNER BLVD 92101	4516901800	INFORMATION NOT AVAILABLE
MISC PROFESSIONAL	3550 KETTNER BLVD SAN DIEGO	4516901800	PNF OF SAN DIEGO INC
SINGLE TENANT INDUSTRIAL	3225 BEAN ST 92101	4516903200	INFORMATION NOT AVAILABLE
GARAGE PARKING LOT/USED CAR	0 PACIFIC HWY 92101	4516903300	INFORMATION NOT AVAILABLE
AUTOMOTIVE REPAIR GARAGES	3569 PACIFIC HWY 92101-1140	4516903400	INFORMATION NOT AVAILABLE
BUSINESS-MISCELLANEOUS	3571 PACIFIC HWY 92101	4516903400	TWO MEN WILL MOVE YOU
SINGLE TENANT INDUSTRIAL	3555 PACIFIC HWY 92101-1140	4516904000	INFORMATION NOT AVAILABLE
AUTO PARKING	3275 PACIFIC HWY 92101	4516904000	AIRPORT VALET SERVICE PARK & RIDE
COMPUTER CENTER	3302 PACIFIC HWY 92101	4516904000	CSC ENTERPRISES
SPECIALTY/HARD GOODS	3555 PACIFIC HWY 92101	4516904000	FOUR SEASONS SUN ROOM
SPECIAL-SLIVER, SMALL PARCEL	3634 KETTNER BLVD 92101-1131	4516904500	INFORMATION NOT AVAILABLE
AUTO-RENTAL	3420 KETTNER BLVD 92101-1124	4516904800	ADVANTAGE RENT A CAR
GARAGE PARKING LOT/USED CAR	3565 PACIFIC HWY 92101-1140	4516905300	INFORMATION NOT AVAILABLE
MISCELLANEOUS AGENCY	3569 PACIFIC HWY 92101	4516905300	CALIFORNIA EXPRESS SERVICES
AUTO REPAIR SHOP	3565 PACIFIC HWY 92101	4516905300	SWEDISH AUTO AB
UNZONED/OTHER	INFORMATION NOT AVAILABLE	4516905500	INFORMATION NOT AVAILABLE
VACANT INDUSTRIAL	3630 CALIFORNIA ST 92101	4516905600	INFORMATION NOT AVAILABLE
SINGLE TENANT INDUSTRIAL	3596 CALIFORNIA ST 92101-1116	4516905700	INFORMATION NOT AVAILABLE
VACANT INDUSTRIAL	PACIFIC HWY 92110	7602452100	INFORMATION NOT AVAILABLE





THE CITY OF SAN DIEGO

Date of Notice: September 16, 2014

# NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 24004650

---

**PROJECT NAME/NUMBER:** 3225 Bean Street-MMCC / 368324

**COMMUNITY PLAN AREA:** Midway-Pacific Highway Corridor Community Plan and Local Coastal Program Land Use Plan

**COUNCIL DISTRICT:** 2

**LOCATION:** The project is located at 3421 Hancock Street, San Diego, CA 92110

**PROJECT DESCRIPTION:** CONDITONAL USE PERMIT (CUP) to operate and maintain a Medical Marijuana Consumer Cooperative (MMCC) within an existing 2,426-square-foot building. The 0.21-acre project site is located at 3225 Bean Street. The project site is designated Light Industrial and is located in the IS-1-1 zone, the Airport Influence Area for San Diego International Airport, the Part 77 Noticing Area, the Airport Approach Overlay Zone, the Transit Area Overlay Zone, and the Coastal Height Limitation Overlay Zone within the Midway-Pacific Highway Corridor Community Plan and Local Coastal Program Land Use Plan area.

**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 September 16, 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.

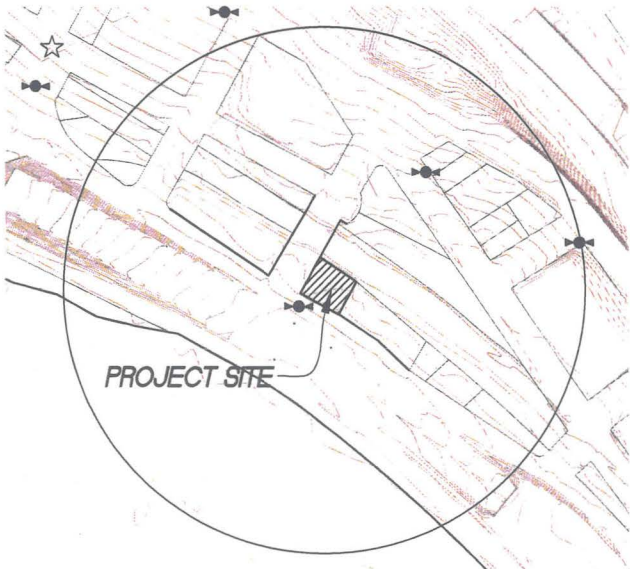
Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (September 30, 2014). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

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

MEDICAL MARIJUANA CONSUMER COOPERATIVE (MMCC)  
3225 BEAN STREET SAN DIEGO, CA 92101  
CONDITIONAL USE PERMIT # \_\_\_\_\_

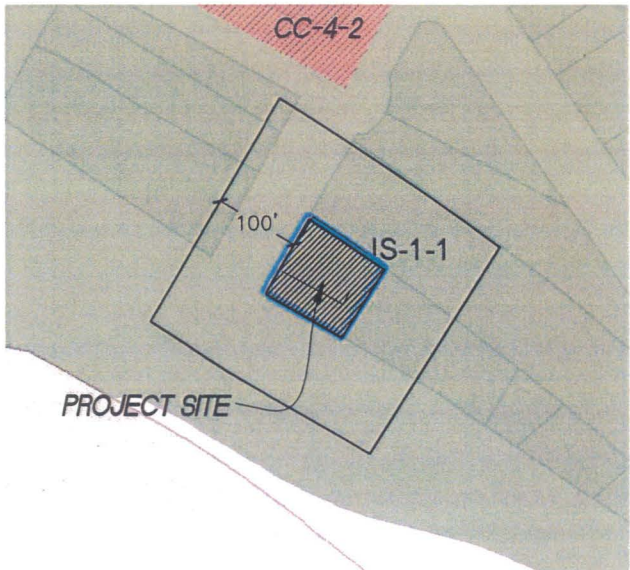
LEGEND:

- EXISTING FIRE HYDRANT
- EXISTING BUS STOP\*



\* THERE ARE NO BUS STOPS WITHIN THE VICINITY OF THE PROJECT.

KEY MAP (600' RADIUS)  
N.T.S.



SURROUNDING ZONING  
1" = 100'

PROJECT SUMMARY

1. SUMMARY OF REQUEST:

CONDITIONAL USE PERMIT TO ALLOW FOR THE USE OF A MEDICAL MARIJUANA CONSUMER COOPERATIVE THAT WILL UTILIZE THE EXISTING BUILDING. NO EXTERIOR MODIFICATIONS ARE PROPOSED.

2. PROJECT TEAM:

LATITUDE 33 PLANNING AND ENGINEERING 858-751-0633  
WILLIAM JENKINS ARCHITECTURE 619-500-6393

3. LEGAL DESCRIPTION

RIGHT OF WAY LOTS 135 AND 136, BLOCK 157, OF MIDDLETOWN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY J.E. JACKSON ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAN DIEGO COUNTY.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED OCTOBER 30, 1962 AS FILE NO. 186107 OF OFFICIAL RECORDS AND DESCRIBED AS FOLLOWS:

THOSE PORTIONS OF RIGHT OF WAY LOTS 135 AND 136, MIDDLETOWN, ACCORDING TO PARTITION MAP THEREOF MADE BY J.E. JACKSON AND ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAN DIEGO COUNTY, LYING SOUTHWESTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT A POINT IN THE SOUTHEASTERLY LINE OF SAID LOT 135, DISTANT ALONG SAID SOUTHEASTERLY LINE NORTH 29° 14' 50" EAST, 14.39 FEET FROM THE MOST SOUTHERLY CORNER OF SAID LOT 135; THENCE NORTH 60° 40' 40" WEST, 100.28 FEET TO A POINT IN THE NORTHWESTERLY LINE OF SAID LOT 136, LAST SAID POINT BEING DISTANT ALONG SAID NORTHWESTERLY LINE NORTH 29° 19' 20" EAST, 6.45 FEET FROM THE MOST WESTERLY CORNER OF SAID LOT 136.

4. OWNER

FLOYD J. BENTLEY AND OPAL V. BENTLEY, AS CO-TRUSTEES OF THE FOLYD AND OPAL BENTLEY TRUST  
PO BOX 83404  
SAN DIEGO, CA 92138

5. APPLICANT

MEDICATION MANAGEMENT OF SAN DIEGO COOPERATIVE, INC  
8439 WEST SUNSET BOULEVARD  
WEST HOLLYWOOD, CA 90069

6. OCCUPANCY CLASSIFICATION: M, B, S-1

7. TYPE OF CONSTRUCTION: N/A

8. ZONING CLASSIFICATIONS: IS-1-1, SAN DIEGO INT'L. AIRPORT INFLUENCE REVIEW AREA 1 TRANSIT AREA OVERLAY ZONE (TAOZ)

9. SITE AREA:

TOTAL SITE AREA: 0.21 ACRES 9,021 S.F.  
FLOOR AREA: 2,426 SF

10. EXISTING USAGE: INDUSTRIAL: LIGHT INDUSTRIAL (VINYARD GARAGE DOORS, INC.)

11. PROPOSED USAGE: INDUSTRIAL: SEPARATELY REGULATED COMMERCIAL SERVICE USE: MEDICAL MARIJUANA CONSUMER COOPERATIVE

12. YEAR CONSTRUCTED: 1962

13. GEOLOGIC HAZARD CATEGORY: 31 LIQUEFACTION: HIGH POTENTIAL - SHALLOW GROUNDWATER, MAJOR DRAINAGES, HYDRAULIC FILLS

14. LANDSCAPE AREA SQUARE FOOTAGE (EXISTING): APPROXIMATELY 1,340 SF

15. PARKING: REQUIRED: 0, PER 142.0540/ON-STREET PARKING PROVIDED

16. ALL PATHS DEEMED TO BE ACCESSIBLE SHALL COMPLY WITH TITLE 24 AND APPLICABLE ADA ACCESS CODES.

NOTES

- BUILDING MOUNTED SIGNS SHOULD NOT PROJECT ABOVE THE ROOFLINE AND FREE STANDING SIGNS SHOULD BE NO MORE THAN FIVE FEET IN HEIGHT.
- CONSULTATIONS BY MEDICAL PROFESSIONALS SHALL NOT BE A PERMITTED ACCESSORY USE AT THE MEDICAL MARIJUANA CONSUMER COOPERATIVE.
- LIGHTING SHALL BE PROVIDED TO ILLUMINATE THE INTERIOR OF THE MEDICAL MARIJUANA CONSUMER COOPERATIVE, 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.
- SECURITY SHALL BE PROVIDED AT THE MEDICAL MARIJUANA CONSUMER COOPERATIVE WHICH SHALL INCLUDE OPERABLE CAMERAS, ALARMS, AND A SECURITY GUARD. THE SECURITY GUARD SHALL BE LICENSED BY THE STATE OF CALIFORNIA AND BE PRESENT ON THE PREMISES DURING BUSINESS HOURS. THE SECURITY GUARD SHOULD ONLY BE ENGAGED IN ACTIVITIES RELATED TO PROVIDING SECURITY FOR THE FACILITY, EXCEPT ON AN INCIDENTAL BASIS.
- SIGNS SHALL BE POSTED ON THE OUTSIDE OF THE MEDICAL MARIJUANA CONSUMER COOPERATIVE AND SHALL ONLY CONTAIN THE NAME OF THE BUSINESS, LIMITED TO TWO COLORS AND TYPEFACE. POLE SIGNS ARE PROHIBITED.
- THE NAME AND EMERGENCY CONTACT PHONE NUMBER OF AN OPERATOR OR MANAGER SHALL BE POSTED IN A LOCATION VISIBLE FROM THE OUTSIDE OF THE MEDICAL MARIJUANA CONSUMER COOPERATIVE IN CHARACTER SIZE AT LEAST TWO INCHES IN HEIGHT.
- 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, A VENDING MACHINE IS ANY DEVICE WHICH ALLOWS ACCESS TO MEDICAL MARIJUANA WITHOUT A HUMAN INTERMEDIARY.
- USES MAY BE ANY USE PERMITTED IN THE IS-1-1 ZONE.

PREPARED IN THE OFFICE OF:

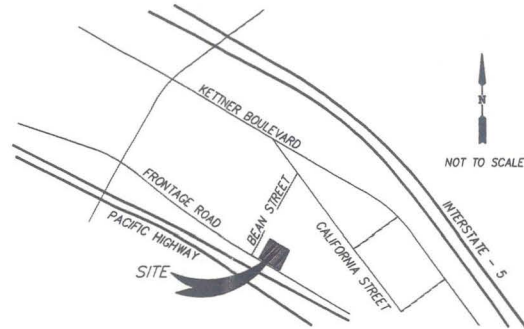
  
LATITUDE 33  
PLANNING AND ENGINEERING  
5355 MIRA SORRENTO PLACE, SUITE 650  
SAN DIEGO, CA 92121  
TEL. 858.751.0633  
FAX. 858.751.0634

ASSESSOR'S PARCEL NO.  
451-690-32

SHEET INDEX

- 1.0 COVER PAGE NOTES & DETAILS
- 2.0 SITE PLAN
- 3.0 ARCHITECTURAL FLOOR PLANS
- 4.0 ARCHITECTURAL ROOF PLANS

VICINITY MAP



Prepared By:

Name: LATITUDE 33 PLANNING & ENGINEERING  
Address: 5355 MIRA SORRENTO DRIVE, STE. 650  
SAN DIEGO, CA 92122  
Phone #: (858) 751-0633  
Fax #: (858) 751-0634

Project Address:

3225 BEAN STREET  
SAN DIEGO, CA 92101

Project Name:

MMCC  
3225 BEAN STREET

Sheet Title:

CONDITIONAL USE PERMIT  
COVER SHEET

Revision 14:	_____
Revision 13:	_____
Revision 12:	_____
Revision 11:	_____
Revision 10:	_____
Revision 9:	_____
Revision 8:	_____
Revision 7:	_____
Revision 6:	_____
Revision 5:	_____
Revision 4:	_____
Revision 3:	_____
Revision 2:	_____
Revision 1:	_____

Original Date: APRIL 24, 2014

Sheet 1 of 4

DEP# \_\_\_\_\_

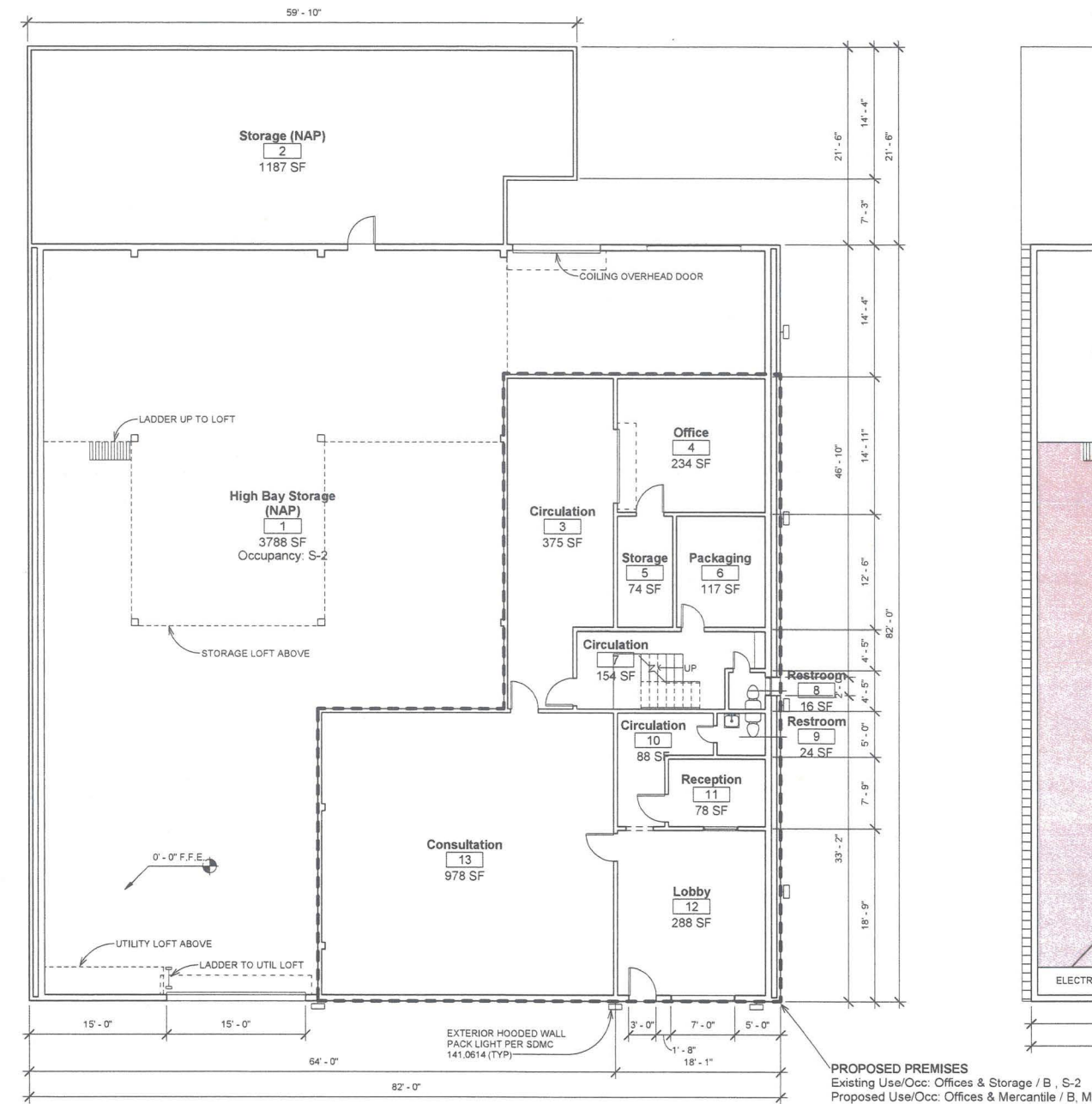


**LATITUDE 33**  
**PLANNING AND ENGINEERING**  
5355 MIRA SORRENTO PLACE, SUITE 650  
SAN DIEGO, CA 92121  
TEL. 858.751.0633  
FAX. 858.751.0634

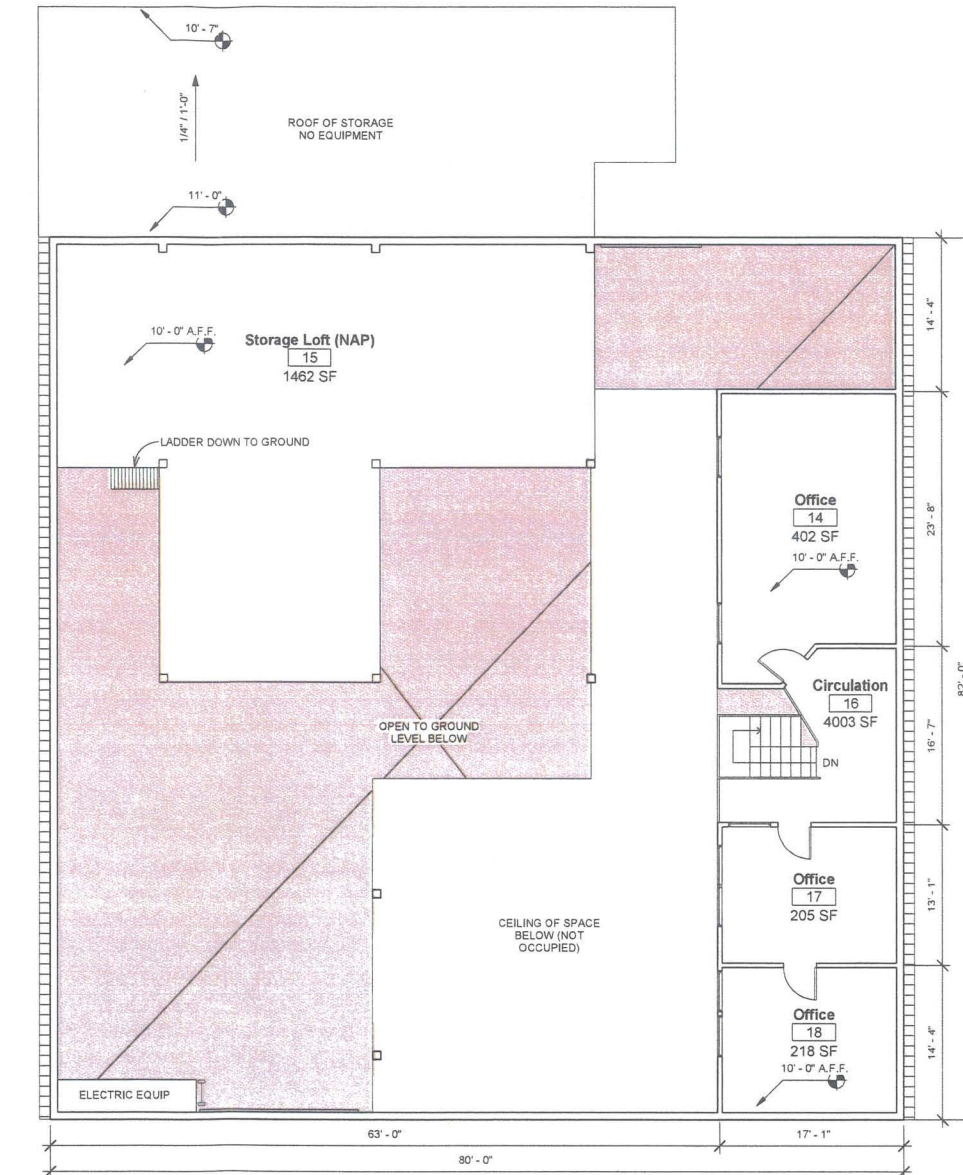
## SITE PLAN

DEP#

MEDICAL MARIJUANA CONSUMER COOPERATIVE (MMCC)  
3225 BEAN STREET SAN DIEGO, CA 92101  
CONDITIONAL USE PERMIT # \_\_\_\_\_



1 Level 1  
1/8" = 1'-0"



2 Level 2  
1/8" = 1'-0"

NOTE: ALL PROPOSED USES AND OCCUPANCIES ARE EXISTING TO REMAIN UNLESS OTHERWISE NOTED

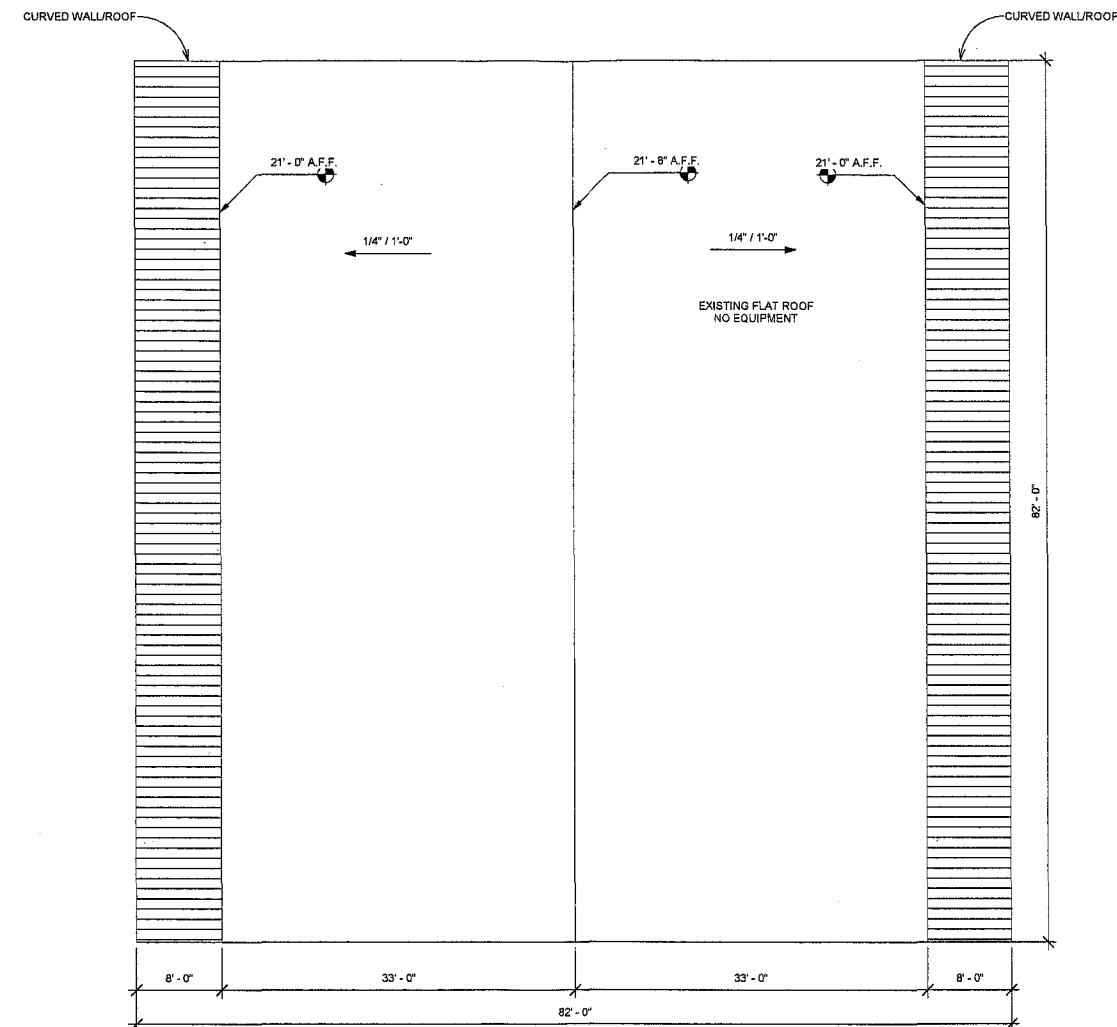


DATE	7/16/2014
BY	MMCC
FOR	3225 BEAN STREET
PROJECT	CONDITIONAL USE PERMIT
REVISION	7/16/2014 ADDED LIGHTING

MMCC  
3225 BEAN STREET

CONDITIONAL USE PERMIT

LATITUDE 33  
PLANNING AND ENGINEERING  
5355 MIRA SORRENTO PLACE, SUITE 650  
SAN DIEGO, CA 92121  
TEL. 858.751.0633  
FAX. 858.751.0634



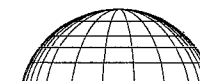
① Roof  
1/8" = 1'-0"



MMCC

Sheet Title  
**CONDITIONAL USE PERMIT**  
**ROOF PLAN**

NOTE: PLANS ARE INTENDED FOR PLANNING SUBMITTAL AND GENERAL REVIEW ONLY. ALL ELEMENTS AND DIMENSIONS SHALL BE FIELD VERIFIED PRIOR TO RELYING UPON SAID DIMENSIONS AND ELEMENTS SHOWN HEREIN FOR PURPOSES OF CONSTRUCTION. PLANS ARE NOT FOR CONSTRUCTION.

$$E_1 = \frac{1}{2} \left( \frac{1}{2} \right)^2 = \frac{1}{8}$$


**LATITUDE 33**  
**PLANNING AND ENGINEERING**  
 5355 MIRA SORRENTO PLACE, SUITE 650  
 SAN DIEGO, CA 92121  
 TEL. 858.751.0633  
 FAX. 858.751.0634



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

The City of San Diego

## Community Planning Committee Distribution Form Part 2

Project Name: 3225 Bean Street-MMCC		Project Number: 368324	Distribution Date: 05/16/2014
Project Scope/Location: MIDWAY-PACIFIC HIGHWAY Conditional Use Permit (Process 3) for a Medical Marijuana Consumer Cooperative (MMCC) to operate in a 2,400 square foot building located at 3225 Bean Street. The 0.21-acre site is located in the IS-1-1 zone within the Midway/North Bay Commercial Urban Area, Council District 2. Notes Card=1.			
Applicant Name: Matthew Epstein		Applicant Phone Number: (619) 256-1551	
Project Manager: Eli Gutierrez	Phone Number: (619) 446-5147	Fax Number: (619) 446-5245	E-mail Address: egutierrez@sanidiego.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	5	3	0
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Deny	Members Yes	Members No	Members Abstain
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)			<input type="checkbox"/> Continued
CONDITIONS: See attached sheet			
NAME: Melanie Nickel		TITLE: Chair	
SIGNATURE: <i>Melanie Nickel</i>		DATE: 7-9-14	
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	
<p>Please visit our website at <a href="http://www.sandiego.gov/development-services">www.sandiego.gov/development-services</a> for more information and contact information for persons with disabilities.</p>			

Midway Community Planning Group action on project # 368324, 3225 Bean 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.
3. That the applicant add seven parking spaces to the project.



City of San Diego  
Development Services  
1222 First Ave., MS-302  
San Diego, CA 92101  
(619) 448-5000

## Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: ☐ Neighborhood Use Permit ☐ Coastal Development Permit  
☐ Neighborhood Development Permit ☐ Site Development Permit ☐ Planned Development Permit ☒ Conditional Use Permit  
☐ Variance ☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Walver ☐ Land Use Plan Amendment ☐ Other

Project Title

3225 Bean Street - MMCC-CUP

Project No. For City Use Only

368324

Project Address:

3225 Bean Street (AKA) 3605 Pacific Highway, San Diego, CA 92101

### Part I - To be completed when property is held by individual(s)

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 owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names 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 individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. 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

Name of Individual (type or print):

Opal V. Bentley

☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

PO Box 83404

City/State/Zip:

San Diego, CA 92138-3404

Phone No:

(619) 818-2401

Fax No:

Signature:

Opal V. Bentley 4/12/14

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

Floyd J. Bentley

☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Floyd J. Bentley 4/17/14

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

 <p>City of San Diego Development Services 1222 First Ave. 3rd Floor San Diego, CA 92101</p> <p>THE CITY OF SAN DIEGO</p>	<h2 style="text-align: center;">Development Permit/ Environmental Determination Appeal Application</h2>	<p><b>FORM</b></p> <p><b>DS-3031</b></p> <p>OCTOBER 2012</p>

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: George P. Diaz E-mail Address: georgepdiaz@gmail.com  
 Address: 3500 Estudillo St City: San Diego State: CA Zip Code: 92110 Telephone: 619.688.0888

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

Matthew Feinstein

**4. Project Information**

Permit/Environmental Determination & Permit/Document No.: Date of Decision/Determination: City Project Manager:

Project No. 368324 / SAP No. 24004650 March 25th, 2015 Edith Gutierrez

Decision (describe the permit/approval decision):

At March, 25th, 2015 Public Hearing, Hearing Officer approved applicant for a

Conditional Use Permit to operate a Medical Marijuana Consumer Cooperative

**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.)

FACTUAL ERROR: DSD recommendation was made with insufficient information. Not all USES within 1,000 feet were identified and presented by DSD. Due to lack of an assessor parcel number APN and location directly beneath Pacific Highway, the Washington Street Skate Park does NOT appear in ANY Hearing Officer report, 1,000-foot radius SPREADSHEET or MAP, including GIS satellite. This Public Park and/or Playground is located within 1,000 feet of Project No. 368324. (See attached map.)

NEW INFORMATION: Project is in violation of §141.0614, Minimum separation distance between USES. Attached please find a Letter, Official City Documents, Photographic and Video Evidence, and 1,000-foot Radius Map from the Washington Street Skate Park, all indicating the Washington Street Skate Park's USE as a Public Park and/or Playground as defined in SDMC §113.0103.

FINDINGS NOT SUPPORTED: Neither of the issues cited for acknowledgment of the public park and/or playground by Hearing Officer, regarding signage and visibility the Washington Street Skate Park are defining criteria of USES in SDMC §113.0103.

CONFLICT WITH OTHER MATTERS: Violation of SDMC §141.0614 by omission of the public park and/or playground at the Washington Street Skate Park causes irreparable damages to other District 2 applicants that HAVE properly cleared all USES.

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

Signature: George P. Diaz Date: 04/06/2015

**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](http://www.sandiego.gov/development-services).

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

DS-3031 (10-12)

**RECEIVED**

APR 06 2015

DEVELOPMENT SERVICES

# BREMER WHYTE

## BREMER WHYTE BROWN & O'MEARA LLP

20320 S.W. BIRCH STREET  
SECOND FLOOR  
NEWPORT BEACH, CALIFORNIA 92660  
(949) 221-1000  
(949) 221-1001 FAX  
www.bremerwhyte.com

NICOLE WHYTE<sup>1,2,3,6,\*</sup>  
 KEITH G. BREMER<sup>1</sup>  
 RAYMOND MEYER, JR.<sup>1</sup>  
 PETER C. BROWN<sup>1,2,3,10</sup>  
 JOHN V. O'MEARA<sup>1,2,4</sup>  
 KERE K. TICKNER<sup>1</sup>  
 TYLER D. OFFENHAUSER<sup>1</sup>  
 PATRICK AU<sup>1</sup>  
 NELSON L. COHEN<sup>1,2</sup>  
 JEREMY S. JOHNSON<sup>1</sup>  
 JOHN H. TOOHEY<sup>1,3</sup>  
 VIK NAGPAL<sup>1</sup>  
 KAREN M. BAYTOSH<sup>1,2</sup>  
 MONIQUE R. DONAVAN<sup>1</sup>  
 ARASH S. ARABI<sup>1</sup>  
 LANETTA D.W. RINEHART<sup>1</sup>  
 JOHN J. BELANGER<sup>1</sup>  
 PAUL A. ACKER<sup>1</sup>  
 JOSHUA BORDIN-WOSK<sup>1,2,10</sup>  
 ALISON K. HURLEY<sup>1</sup>  
 LUCIAN J. GRECO, JR.<sup>1</sup>  
 ANTHONY T. GARASI<sup>1</sup>  
 RACHEL A. MIHAI<sup>1</sup>  
 RICK L. PETERSON<sup>1</sup>  
 LANCE J. PEDERSEN<sup>1</sup>  
 DANIEL A. CRESPO<sup>1</sup>  
 JOHN C. GOTTLIEB<sup>1</sup>  
 JOHN R. CAYANGYANG<sup>1</sup>  
 MICHAEL A. D'ANDREA<sup>1</sup>  
 ALEXANDER M. GIANNETTO<sup>1,11,12</sup>  
 R. TODD WINDISCH<sup>1</sup>  
 TROY A. CLARK<sup>1,2</sup>  
 SHEILA C. STILES<sup>1</sup>  
 JEFFREY W. SAAB<sup>1</sup>  
 BENJAMIN L. PRICE<sup>1</sup>  
 NICOLE M. SLATTERY<sup>1</sup>  
 KYLE P. CARROLL<sup>1</sup>  
 BRANDI M. PLANET<sup>1,3</sup>  
 PRESCOTT T. JONES<sup>1</sup>  
 BRIAN E. CIENIAWSKI<sup>1,4</sup>  
 CARL J. BASILE<sup>1</sup>  
 JONATHAN A. KAPLAN<sup>1</sup>  
 PAUL O. MITTELSTADT<sup>1,3</sup>  
 KATHERINE SHRAGER<sup>1</sup>  
 SCOTT W. ULM<sup>1</sup>  
 ALEX M. CHAZEN<sup>1</sup>  
 JASON S. DIGIOIA<sup>1</sup>  
 NICHOLAS P. KOHAN<sup>1</sup>  
 HOLLY A. BARTUSKA<sup>1,4</sup>  
 CAMERON B. GORDON<sup>1</sup>  
 JESSE M. BABLOVE<sup>1</sup>  
 EILEEN J. GAISFORD<sup>1</sup>  
 CHATA N. HOLT<sup>1</sup>  
 LINDA T. LAM<sup>1,2</sup>  
 DARLENE M. CARTIER<sup>1</sup>  
 ROBERT K. PECK<sup>1</sup>  
 NICOLE L. SCHMIDT<sup>1</sup>  
 KEN I. ITO<sup>1</sup>  
 BRADLEY S. BEHERNS<sup>1</sup>  
 AUGUST B. HOTCHKIN<sup>1,2</sup>  
 MICHAEL J. GIANELLONI<sup>1</sup>  
 JARED G. CHRISTENSEN<sup>2,11</sup>  
 KATE M. SCHWARTZ<sup>1</sup>  
 NICHOLAS C. YOUNG<sup>1</sup>  
 KERRY R. O'BRIEN<sup>2</sup>  
 RYAN B. THOMPSON<sup>1</sup>  
 CHRISTOPHER SCHON<sup>1</sup>  
 ALICE KIUREGHIAN<sup>1</sup>  
 KENNETH L. MARIBOHO II<sup>1</sup>  
 NICOLE NUZZO<sup>1</sup>  
 JENNA M. WARDEN<sup>1</sup>  
 KEVIN Y. KANOONI<sup>1</sup>  
 NEHA SAREEN<sup>1</sup>  
 LANCE ROGERS<sup>1</sup>  
 BRYAN C. SWAIM<sup>1</sup>  
 PATRICK TAYLOR<sup>1</sup>  
 SARITA PATEL<sup>1</sup>  
 MICHELLE WUERZ<sup>1</sup>  
 EMILY K. DOTY<sup>1</sup>  
 MOHSEN FARSA<sup>1</sup>  
 JENNIFER M. PORCHIE<sup>1</sup>  
 CHELSIE A. ADAMS<sup>1</sup>  
 LAURIE ELZA<sup>1,2</sup>  
 CHELSEE M. MONTGOMERY<sup>1</sup>  
 CATHERINE T. BARNARD<sup>1</sup>  
 JESSICA M. FRIEDMAN<sup>1</sup>  
 ALESSANDRA LOPEZ-HUTCHISON<sup>1</sup>  
 DANIELLE N. LINCORS<sup>1</sup>  
 PAUL A. DELGADILLO<sup>1</sup>  
 JENNIFER YANNI<sup>1</sup>  
 NICHOLAS S. KAM<sup>1</sup>  
 KELLI M. WINKLE-PETTERSON<sup>1</sup>  
 LORENA MATEI<sup>1</sup>  
 JENNA C. GARZA<sup>1</sup>  
 ROSS A. DILLION<sup>1</sup>  
 DAVID C. LARSEN<sup>1</sup>  
 BRIAN T. ANDERS<sup>1</sup>  
 CHRISTOPHER R. KENT<sup>1</sup>  
 R. CHRISTOPHER JACKSON<sup>1</sup>  
 LYLE M. CHAN<sup>1</sup>  
 NATASHA M. WU<sup>1</sup>  
 MORGAN B. HALLEY<sup>1</sup>  
 RYAN L. MAUGHAN<sup>1</sup>  
 NATASHA M. WU<sup>1</sup>  
 MARISSA C. MARXEN<sup>1</sup>

1 Admitted in California  
 2 Admitted in Nevada  
 3 Admitted in Arizona  
 4 Admitted in Colorado  
 5 Admitted in Ohio  
 6 Admitted in Washington D.C.  
 7 Admitted in Oregon  
 8 Admitted in Texas  
 9 Admitted in Washington  
 10 Admitted in New Jersey  
 11 Admitted in New York  
 12 Admitted in Illinois  
 13 Admitted in Utah  
 14 Admitted in Pennsylvania  
 \* Certified Family Law Specialist  
 The State Bar of California Board  
 of Legal Specialization

April 3, 2015

Planning Commissioners:  
 Tim Golba, Chairperson  
 Stephen Haase, Vice-Chairperson  
 Douglas Austin  
 Susan Peerson  
 Theresa Quiroz  
 Anthony Wagner  
 James Whalen  
 1222 First Ave, 5th floor  
 San Diego, CA 92101

**Re: MMCC Project No. 368324, Proximity to Washington Street Skate Park**

Dear Planning Commissioners:

On Wednesday, March 25, 2015, eight (8) Medical Marijuana Consumer Cooperative (MMCC) permit applications sought approval in District 2 from Hearing Officer, Kenneth Teasley. Three (3) of these applications (Project Numbers: 368324; 368295; and 368319) are within 1,000 feet proximity of the Washington Street Skate Park, which is an open, outdoor 7,500 square feet skateboard facility, free of charge and open to the PUBLIC of all AGES. It is a Park which meets the definition of a **public park** and/or **playground** as defined in SDMC §113.0101. It is a violation of San Diego Municipal Code § 141.0614(a)(1) for any proposed MMCC to be within 1,000 feet proximity of the Washington Street Skate Park.

Planning Commissioners:  
 April 3, 2015  
 Page 2

Project Number: 368324, is one of these three applicants, yet their application was approved by the Hearing Officer on March 25, 2015. The other two applicants were denied due to their proximity to Project 368324 and pending environmental findings.

This appeal is based on Factual Error; New Information; Findings Not Supported and Conflict with Other Matters.

(1) **FACTUAL ERROR**

“The statements or evidence relied upon by the decision maker when approving, conditionally approving, or denying a permit, map, or other matter were inaccurate.” (SDMC §112.0506 (c)(1))

A **FACTUAL ERROR** exists because the Washington Street Skate Park does not appear in ANY Hearing Officer Report, 1,000-foot radius SPREADSHEET or MAP, including GIS satellite, due to the lack of an assessor parcel number (APN) and location directly beneath Pacific Highway. (See attached 1,000-foot radius map.) The Washington Street Skate Park was not identified or classified in any Hearing Officer report presented by the Development Services Department. City staff overlooked this facility when making their recommendations to approve these projects.

**Required Distance of Separation.** The authorizing legislation for a Medical Marijuana Consumer Cooperative permit is set forth in Municipal Code Section §141.0614 (a)(1): “*Medical marijuana consumer cooperatives* shall maintain the following minimum separation between uses, as measured between *property lines*, in accordance with Section 113.0225: (1) 1,000 feet from *public parks, churches, child care centers, playgrounds...* .”

(2) **NEW INFORMATION**

“New information is available to the applicant or the interested person that was not available through that person’s reasonable efforts or due diligence at the time of the decision.” (SDMC §112.0506 (c)(2))

**Public Parks** as defined in SDMC §113.0101. “**Public Park** means a publicly owned area that is designated a park.” According to attached CMR 99-179, signed by **Marcia C. McLatchy, Park and Recreation Director, and Penelope Culbreth-Graft, DPA, Assistant City Manager**, the subject site (Washington Street Skate Park) is City owned, and thus publicly owned. Moreover, as seen on the attached Certificate of Liability Insurance, the City is **named** as Additional Insured for the Washington Street Skate Park.

Planning Commissioners:  
 April 3, 2015  
 Page 3

The Washington Street Skate Park was developed with the assistance of a City Task Force which included representation from the **Mission Hills community, MHA representative, Council District 2 representative, local skaters, and senior staff members from several City Departments i.e., City Attorney's Office, Risk Management, Transportation/Street Division, Real Estate Assets and the Northern Parks Division of the Park and Recreation Department (task force chair.)** (See CMR 99-179.) The City also partially funded the Washington Street Skate Park, initially providing (\$2,400.00) in funds from the **Park and Recreation Department** for the engineering permit, plan processing, and approval. (See attachments.) Furthermore, the City agreed to match funds raised by the community and eventually contributed an additional (\$10,000.00) to the development costs of the Washington Street Skate Park.

The Washington Street Skate "**Park**" has been **DESIGNATED** and **SOLELY** referred to as a "**Park**" in every attached Official City Report, Permit, Document, Agreement, and Communication by the Park and Recreation Department, City Council, City Attorney's Office, and Development Services Department. **Deputy Mayor Byron Wear, Councilmember Harry Mathis, Councilmember George Stevens, and Councilmember Juan Vargas, presiding over the Land Use & Housing Committee**, unanimously approved the right-of-entry permit for the Washington Street Skate "**Park**" on September 29, 1999, as seen in the attached minutes. Thus, Washington Street Skate Park **MEETS** the definition of **public park** as defined in SDMC §113.0101.

**Playgrounds**, which do not require any designation, are defined in SDMC §113.0101 as "any outdoor premises or grounds owned by the City that contains any play or athletic equipment used or intended to be used by any person less than eighteen (18) years old." Again, the outdoor premises or grounds, where the Washington Street Skate Park is located, are City owned and insured. (See CMR 99-179.)

The Washington Street Skate Park **clearly contains** play and athletic equipment. There are numerous types of ramps, pools, transitions, rails and quarterpipes, which are all used as the play area for the skaters to practice their sport. The Washington Street Skate Park is intended to be used by persons less than eighteen (18) years of age. Attached please find both photographic and video evidence showing the **Playground** being used by persons less than eighteen (18) years old. <https://www.youtube.com/watch?v=JYVFpVWfhPo> , <https://www.youtube.com/watch?v=qHJD-FnC0K0> . Therefore, the Washington Street Skate Park **MEETS** the definition of **Playground** as defined in SDMC §113.0101.

Attached please find Official City Documents, Article, Photographs, Videos and a 1,000-foot radius map of the Washington Street Skate Park. All of these documents indicate the Washington Street Skate Park's intended use is as a *Public Park* and/or *Playground* as defined in

Planning Commissioners:  
 April 3, 2015  
 Page 4

SDMC §113.0101. Project Number: 368324, is well within 1,000 feet of the Park and/or Playground and its approval was based on inaccurate information.

#### Supporting Documents

- 1,000-Foot Radius Map of Washington Street Skate Park
- City Manager's Report (CMR 99-179) - City Ownership of Park
- City Council Land Use & Housing Committee Minutes – Right-of-Entry Permit
- Certificate of Insurance - City Named Insured
- Interfund Transfer - Park & Recreation Fund Plan Check & Inspection
- Engineering Permit
- Permit Extension – Park & Recreation Matching Funds
- Union Tribune Article
- Photos
- Video Links

#### (3) **FINDINGS ARE NOT SUPPORTED.**

“The decision maker’s stated findings to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker.” SDMC §112.0506 (c)(3))

Of the three (3) applications heard within 1,000 feet of the Washington Street Skate Park, one (1) was approved, Project Number 368324 / 3225 Bean Street MMCC, to which this appeal pertains. The location of the Washington Street Skate Park is within 1,000 feet of four (4) proposed MMCCs. The first three projects were heard at the Hearing on March 25, 2015:

- Patients Alternative- Middletown – Project 368295 (Denied by Hearing Officer)
- CC3 MMCC – Project 368319 (Denied by Hearing Officer)
- **3225 Bean Street MMCC – Project 368324 (Approved by Hearing Officer)**
- 3895 Pacific Highway MMCC – Project 368341 (Appealed for Environmental Determination)

At the Public Hearing on March 25, 2015, the Hearing Officer ultimately concluded that the Washington Street Skate Park could not be defined as a *public park* and/or *playground* because of signage and visibility issues. This is not defining criteria of USES as a *Public Park* and/or *Playground* as defined in SDMC §113.0101. These **FINDINGS ARE NOT SUPPORTED.**

Planning Commissioners:  
April 3, 2015  
Page 5

**(4) CONFLICTS WITH OTHER MATTERS**

“The decision to approve, conditionally approve, or deny the permit, map, or other matter is in conflict with a land use plan, a City Council policy, or the Municipal Code.” SDMC §112.0506 (c)(4))

This application of State laws and City Ordinances mandates that the City treat all applicants for the Medical Marijuana Consumer Cooperatives equally by applying the Code requirements fairly and equally to all such applications.

The four applications pending for approval in District 2, are all well within 1,000 feet of the Washington Street Skateboard Park—a direct violation of the City’s Municipal Code. (SDMC § 141.0614(a)(1)). Project Number 368324 is one of these four applications and should not have been approved since it is in direct violation of the City’s Municipal Code.

The proximity to the *Public Park* and/or *Playground* at Washington Street Skate Park should be confirmed and be a determining factor in each of those pending applications. Omitting the Washington Street Skate Park from the *Public Park* and/or *Playground* definition is a violation of SDMC §141.0614, minimum separation distance between uses, and thus **CONFLICTS WITH OTHER MATTERS**. This omission will cause irreparable damages to other applicants in District 2 that have properly cleared all USES within 1,000 feet.

Thank you for your attention to this and we look forward to the City making the appropriate recommendations and determinations in this and each of the referenced cases.

Very truly yours,

BREMER WHYTE BROWN & O’MEARA LLP

Lance Rogers

lrogers@bremerwhyte.com

NB:kh

Enclosures

Planning Commissioners  
April 3, 2015  
Page 6

# Supporting Documents

- 1,000-Foot Radius Map of Washington Street Skate Park
- City Manager's Report (CMR 99-179) - City Ownership of Park
- City Council Land Use & Housing Committee Minutes – Right-of-Entry Permit
- Certificate of Insurance - City Named Additional Insured
- Interfund Transfer - Park & Recreation Fund Plan Check & Inspection
- Engineering Permit
- Permit Extension – Park & Recreation Matching Funds
- Union Tribune Article
- Photos
- Video Links



THE CITY OF SAN DIEGO  
**MANAGER'S REPORT**

RECEIVED  
CITY CLERK'S OFFICE  
99 SEP 22 PM 2:01  
SAN DIEGO, CALIF.

DATE ISSUED: September 22, 1999

REPORT NO. 99-179

ATTENTION: Land Use and Housing Committee  
Agenda of September 29, 1999.

SUBJECT: Washington Street Skate Park Proposal

SUMMARY

Issue – Should the City Manager issue a Right-of-Entry Permit (Permit) to the Mission Hills Association (MHA) for the design, construction and operation of a skate park facility under the Pacific Highway/Washington Street underpass?

Manager's Recommendation – Recommend issuance of a Permit to the MHA.

Other Recommendations – The Mission Hills Association at its August 4, 1999 meeting, voted unanimously to sponsor this project. The Midway Community Plan Advisory Committee at its September 7 meeting voted approval, 8-1-1. This item was also presented to the Uptown Planners as an Information Item on September 7.

Fiscal Impact – None with this action. The MHA, as the project sponsor and as provided in the Permit, will be fiscally responsible for all costs associated with the development and operation of this facility.

BACKGROUND

In the spring of 1999 several skaters constructed a small makeshift skate board park under the Pacific Highway underpass at Washington Street without City authorization. In the interest of public safety, the City installed concrete barriers and fencing to prevent continued use of the site.

At the May 12, 1999 meeting of the Land Use and Housing (LU&H) Committee, several skate board advocates addressed the committee requesting that the skate board park be allowed to

remain open. In addition, they expressed their desire for more skate board parks in San Diego. The matter was referred to the City Manager for evaluation and directed to return to the LU&H Committee with a report to include a discussion on the following issues:

- Land ownership and authority
- Liability
- Design and safety of existing and proposed facility additions
- Community input
- Operations and maintenance

### DISCUSSION

The City Manager directed staff to defer removal of the existing skate park features and to form a task force to explore the feasibility of allowing the existing construction to remain and/or redesign and construct a larger on-site facility with appropriate City authorization. The task force was formed with representation from the Mission Hills community, MHA representative, Council District 2 representative, local skaters and senior staff members from several City departments, i.e., City Attorney's Office, Risk Management, Transportation/Street Division, Real Estate Assets and the Northern Parks Division of the Park and Recreation Department (task force chair). Throughout the course of several task force meetings, staff conducted research and collaborated with other task force members to reach the following determinations:

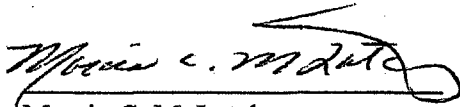
1. The subject site is City owned.
2. The skate park project area is approximately 75,000 square feet.
3. The MHA (an incorporated non-profit organization) would sponsor this activity and provide funding for: liability insurance (\$3Million), professional design and construction, and full responsibility for operations and maintenance. No City funds would be requested.
4. There is an existing active railroad line which is used approximately once per month for "turn about" purposes. The San Diego Metropolitan Development Board has no objection to this proposal given that their easement is observed and protected with acceptable fencing.

In addition to the public input process cited above, staff mailed approximately 1,000 "Community Advisory" letters, dated July 23, 1999, to property owners, businesses and residents within a one-half mile radius of the subject site. To date, the responses received have been very supportive of this project.

ALTERNATIVE

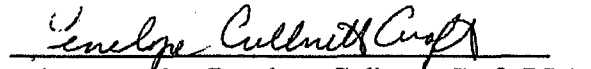
1. Do not issue permit.

Respectfully submitted,



Marcia C. McLatchy  
Park and Recreation Director

MCLATCHY/TM



Approved by: Penelope Culbreth-Graft, DPA  
Assistant City Manager

**THE COMMITTEE ON LAND USE AND HOUSING  
OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO**

**ACTIONS FOR  
WEDNESDAY, SEPTEMBER 29, 1999, AT 2:00 P.M.**

**COUNCIL COMMITTEE ROOM (12TH FLOOR), CITY ADMINISTRATION  
BUILDING  
202 C STREET, SAN DIEGO, CALIFORNIA**

(For information, contact Clifton B. Williams,  
Council Committee Consultant, 533-3920.)

---

COUNCIL COMMENT. Deputy Mayor Wear requested an update on the City Manager's report on Affordable Housing.

PUBLIC COMMENT

ACTION: None received.

ITEM-1: Report from the City Manager on the SKATE BOARD PARK AT PACIFIC HIGHWAY AND WASHINGTON STREET.

(See CMR 99-179; news article)

ACTION: Motion by Deputy Mayor Wear, second by Councilmember Mathis to accept the recommendation of the City Manager and issue the Right-of-Entry Permit to the Mission Hills Association for the Washington Street Skate Park.

VOTE: 4-0; Vargas-yea, Mathis-yea, Wear-yea, Stevens-yea,  
McCarty-not present

ITEM-2: Report from the City Manager on Policy Guidelines for SELF ASSESSMENT DISTRICTS FOR UTILITY UNDERGROUNDING.

(See George Loveland's September 24, 1999, memo)

ACTION: Motion by Councilmember Stevens, second by Councilmember Mathis to continue the item to a future meeting.

<b>ACORD™ CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 07/30/2004
<b>PRODUCER</b> FAX 918-627-3056 Commercial Insurance Services, Inc./SM 4500 S. Garnett, Suite 630 Tulsa, OK 74146	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> Washington Street Skatepark Association 4074 Swift Ave. #6 San Diego, CA 92104	<b>INSURERS AFFORDING COVERAGE</b> INSURER A: Capitol Indemnity INSURER B: INSURER C: INSURER D: INSURER E:	<b>NAIC #</b>      

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED, MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	X	GENERAL LIABILITY	CP 81112-01 CERT#4796	07/31/2004	07/31/2005	EACH OCCURRENCE \$ 1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ included
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$ excluded
		<b>Participant Liability</b>				PERSONAL & ADV INJURY \$ 1,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE \$ 2,000,000
		<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				PRODUCTS - COM/OP AGG \$ 1,000,000
		AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident) \$
		<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
		<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
		<input type="checkbox"/> HIRED AUTOS				
		<input type="checkbox"/> NON-OWNED AUTOS				
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
		<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC \$
						AUTO ONLY: AGG \$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE \$
		<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$
		<input type="checkbox"/> DEDUCTIBLE				\$
		RETENTION \$				\$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/>
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT \$
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE \$
		OTHER				E.L. DISEASE - POLICY LIMIT \$

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**

Certificate Holder is named as Additional Insured with respect to the liability arising out of the operations of the Named Insured.

**CERTIFICATE HOLDER**

City of San Diego Peter Yee 1200 3rd Ave Ste 1000 San Diego, CA 92101	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE Mike Bloom/RELLIO <i>MLHPL.com</i>
--	---

1-9-01

**From:** Cindy Delino  
**To:** Lina Riego  
**Date:** 1/9/01 2:54PM  
**Subject:** Re: Interfund Transfer - DP#3932941

Hi Sarah,

This is to confirm that Mohammad Sammak via Steve Lindsay requested that Parks and Rec deposit \$2,400.00 to the following account:

Fund 41303  
Account 77046  
Job Order 037000

These funds are for Plan Check and Inspection for the Washington Street Skate Park. Lina Riego requested this transfer on DP3932941.

If you need anything else please let me know! If you can please tell me when this DP is completed I would appreciate it.

Have a wonderful afternoon!

- Cindy -

>>> Lina Riego 01/09/01 02:47PM >>>  
Hi Cindy,

Can you send Sarah Cooper the confirmation of the amount that you told me by phone to pay you for the Washington Street Skateboard Park. You said \$2,400.00. Please send her something for her record... Thanks... Lina

**CC:** Sarah Cooper; Stephen Lindsay

W.O. # 99-236



City of San Diego  
Planning and Development Review  
Land Development Review Division  
1222 First Avenue, MS 502  
San Diego, CA 92101-4155  
(619) 446-5460

# Engineering Permit

W 49452

Work Order No. 99-736 (037000)		Coordinate	Date Issued 3-12-01	Permit No. w49452
Job Site	Project Address Washington street skate park		Date Expires 3-12-03	Type of Permit: <input type="checkbox"/> Public Improvement <input type="checkbox"/> Standard Public Improvement <input type="checkbox"/> Grading <input checked="" type="checkbox"/> Other
	Project Location Foot of Washington St (under Pacific Hwy) Lot      Block      Subdivision Name      Map # 74			
Permittee	Name (or Name of Business) Washington street skatepark association		Bond Amount \$ <u>n/a</u> <input type="checkbox"/> Cash	
	Mailing Address 3623 India Street City, State, Zip      Telephone San Diego, CA 92103      619.299.3392		Specific Bond # _____ Bond Co. _____ Other _____	
Contractor	Name D.M.C. Darren mossir construction		Official Receipt No.: \$2400.00 DP 3932941	
	Address 3126 Barbados Place City, State, Zip      Telephone Costa Mesa, CA 92626      714.641.4772		Cash Bond to be Returned to: <input type="checkbox"/> Permittee <input type="checkbox"/> Contractor <input type="checkbox"/> Other: _____	
City law requires that all dirt, brush, trash, and construction debris be disposed of at locations specifically approved for this purpose. As an applicant for the Engineering Permit, I acknowledge that I have been notified that all excess dirt, brush, trash and construction debris resulting from work associated with and authorized by this permit must be deposited only at City-approved locations. At the present time, the only City-approved location is the Miramar Landfill.				
<b>Additional Deposits</b> Applicant or agent recognizes that administration of this project may result in City charges exceeding the amount deposited and hereby agrees to reimburse the City for any such additional costs.				
I hereby certify that the information given is correct and that I am the owner or duly authorized agent of the owner. I agree that any work performed will be done in accordance with City standards and specifications and/or other agreements and special conditions.				
Signature 		Date Signed 3-12-01		
Print Name Ken Lewis		Telephone 619.299.3392		
<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Employee of <input type="checkbox"/> Contractor <input checked="" type="checkbox"/> Permittee <input type="checkbox"/> Agent for Owner <input type="checkbox"/> Agent for Contractor				
Work to be Done/Additional Comments: skateboard park per 30978-d (a1 - a5)				
Permit Issued By: Planning and Development Review M. Sammak				
<b>NOTE: FOR INSPECTION, CALL (858) 627-3200.          TWENTY-FOUR HOUR PRIOR NOTICE REQUIRED WHEN REQUESTING INSPECTION.          PLEASE PROVIDE PERMIT NUMBER WHEN CALLING.</b>				
Inspector's Signature & Date:				
1st Inspection _____ (forms, etc.)      (Signature)      (Date)				
Final Inspection _____ (to release bond)      (Signature)      (Date)				
RETURN TO PLANNING AND DEVELOPMENT REVIEW, M.S. 502				
Fund & Account No.		Type of Charge		Amount
41303 77046		Permit (Fixed Fee) W.O. # 037000		\$ 2400.00
63021 9022		Cash Bond		\$ -0-
63020 9022		Permit (Deposit) W.O. #		\$ -0-
41300 73651		Penalty		\$ -0-
41302 77096		5% System Improvement Charge		\$ -0-
Total Fees Due:				\$ 2400.00

Goldenrod Copy - Permit Binder    Blue Copy - Folder    Green Copy - Inspection Services    White Copy - Permittee

This information is available in alternative formats for persons with disabilities.  
To request this information in alternative format, call (619) 446-5446 or (800) 735-2929 (TT)



THE OFFICIAL SEAL OF THE CITY OF SAN DIEGO

City of San Diego  
Development Services Department  
Land Development Review Division  
1222 First Avenue, MS-502  
San Diego, CA 92101-4155  
Telephone (619) 446-5365

## APPLICATION FOR EXTENSION OF TIME OF ENGINEERING PERMIT

Date: 08-08-2003

To: Land Development Review - Subdivisions and Permit Processing

From: Name: Thomas A. ClaypoolAddress: 4074 Swift Ave #1City/State/Zip Code: San Diego, CA 92104SUBJECT: ENGINEERING PERMIT NO. W- 49452LOCATION: Washington Street (under PCH)

We now request that the time to complete the work specified in Engineering Permit No. W- 49452 be extended  
until January 1st 2004 The reason for this request is as follows:

1. Funding Issues: Park and Rec. Matching Funds is a GREAT program, however, the turnaround on funding can take up to 2 months per occurrence. We can only work Cont. on bottom
- By: Thomas A. Claypool C.F.O.  
(Print Name & Title)

NOTE: NOTARY ACKNOWLEDGMENTS (FOR ALL SIGNATURES) MUST BE ATTACHED, PER CIVIL CODE SEC.1180 ET. SEQ.

### SURETY ACKNOWLEDGMENT

\_\_\_\_\_ is aware that \_\_\_\_\_  
(Name of Surety Provider)  
principal on Bond No. \_\_\_\_\_, is applying for an extension of time until \_\_\_\_\_, in which to  
complete the improvements in the above numbered permit, and has no objection to such extension. I also acknowledge that this Bond will remain in full  
force and effect as security for the performance of this obligation. Please provide current name and address of bonding agency in space provided  
below.

By: \_\_\_\_\_

Name of Surety Agency: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Work Order Number: \_\_\_\_\_

NOTE: NOTARY ACKNOWLEDGMENTS (FOR ALL SIGNATURES) MUST BE ATTACHED, PER CIVIL CODE SEC.1180 ET. SEQ.

This information is available in alternative formats for persons with disabilities.  
To request this information in alternative format, call (619) 446-5446 or (800) 735-2929 (TDD).

Revised 5/21/01

For a limited amount of time, and once our credit line is maxed  
out we must wait up to 2 months for reimbursement

2. VOLUNTEER LABOR: THE WORK IS COMPLETED IN  
WORKERS' SPARE TIME.

# Sports site No. 35: Washington Street Skatepark

## A park built by skaters for skaters

By [Matt Calkins](#) [\(/staff/matt-calkins/\)](#) 3 p.m. June 15, 2013 Updated 1:25 p.m. June 14, 2013



Washington Street skateboard park is built under a busy highway near Lindbergh Field. *Jim Baird*

**Location:** The corner of Pacific Highway and Washington, San Diego, CA 92101

Skateboarders from around the world come to maneuver about Washington Street Skatepark, yet a jogger could run by and never know it was there. Nestled underneath the Pacific Highway overpass on the west end of Washington Street, the park is a hidden San Diego gem still blazing with luster.

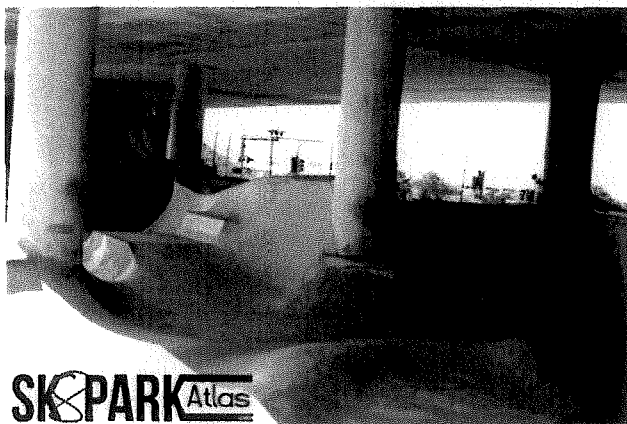
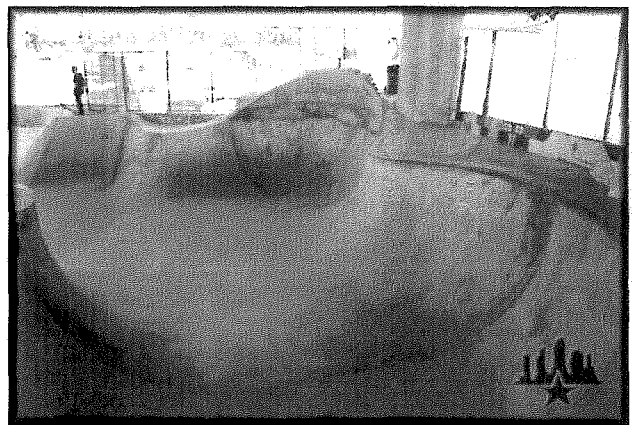
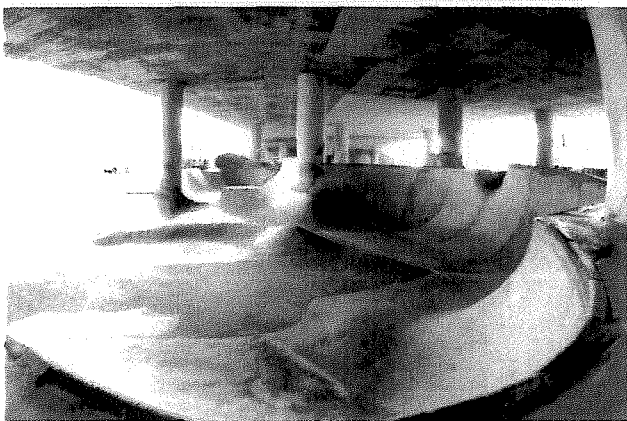
The venue is protected by barbed wire and a gate at the top of a ramp, but once your skatership has been determined, it offers a canvas like nothing else. And that's mainly a good thing.

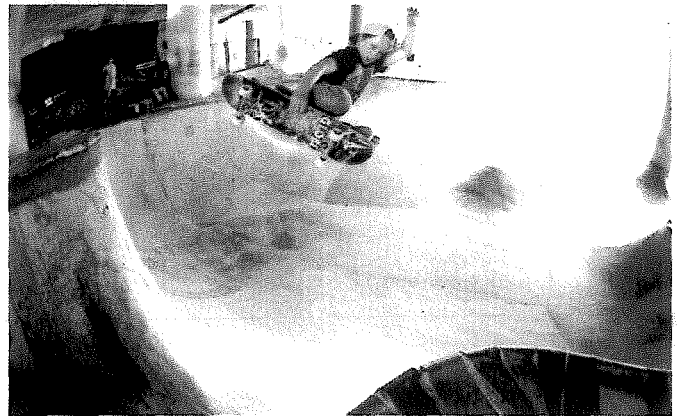
Built by skaters for skaters in the late 1990's and early 2000's, the 7,500 square-foot park has "something to offer in every corner," as 20-year-old Larry Houston said. However, give the designers' amateur construction background, can be as much of an obstacle course as it is a playground.

The concrete isn't always smooth, and for first-time (or second-, third- or fourth-time) skaters, the placement of the ramps seem random and difficult to navigate. That's all part of the mystique, though.

With no requirements for helmets or pads, there is a certain freedom accompanying the park, which has a built-in barbecue and is family and pet-friendly. Tony Hawk and other San Diego Legends have each come through the gate, where the cameras and fanfare is non-existent, but the skating is pure as can be.

© Copyright 2015 The San Diego Union-Tribune, LLC. An MLIM LLC Company. All rights reserved.





# **Lia, Tim, Austin & Dena Skate Washington St.**

<https://www.youtube.com/watch?v=JYVFpVWfhPo>

<https://www.youtube.com/watch?v=qHJD-FnC0K0>



- Legend**
- Washington Street Skateboard Park
  - 1000 ft. Buffer
  - ① Patients Alternative-Middletown - PTS 368295
  - ② CC3 MMCC - PTS 368319
  - ③ 3225 Bean Street - MMCC - PTS 368324
  - ④ 3895 Pacific Highway MMCC - PTS 368341

**Washington Street Skateboard Park**



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: Carol Carpenter E-mail Address: carolcarpenter@me.com  
 Address: 7851 Drury Lane City: La Jolla State: CA Zip Code: 92037 Telephone: (858) 204-6071

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

Michael Feinstein

**4. Project Information**

Permit/Environmental Determination & Permit/Document No.: 368324	Date of Decision/Determination: 03/25/15	City Project Manager: Edith Gutierrez
---	---	--

Decision (describe the permit/approval decision):  
Approval of CUP for MMCC project 368324

**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.)

Application did not satisfy all of the finding for approval and does not comply in every respect with city Municipal Code

See attached exhibit.

Further support and documentation will be provided prior to planning commission hearing date that is still pending.

RECEIVED  
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: 04/07/15

**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](http://www.sandiego.gov/development-services).

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

CITY OF SAN DIEGO  
HEARING OFFICER HEARING – MARCH 25, 2015  
AGENDA ITEM #7

MY NAME IS KAREN ZOBELL. MY ADDRESS IS 401 B STREET, SUITE 1200, SAN DIEGO, CALIFORNIA 92101

I AM HERE TODAY IN OPPOSITION OF AGENDA ITEM #7 ON TODAY'S AGENDA – THE APPROVAL OF THE CONDITIONAL USE PERMIT FOR 3225 BEAN STREET MMCC – PROJECT NO. 368324.

I REQUEST THAT THE HEARING OFFICER DENY THE BEAN STREET MMCC APPLICATION FOR ITS CONDITIONAL USE PERMIT FOR THE FOLLOWING REASONS:

THE BEAN STREET CUP APPLICATION FAILS TO SATISFY ALL FINDINGS FOR APPROVAL OF A CUP, AND DOES NOT COMPLY IN EVERY RESPECT WITH THE CITY MUNICIPAL CODE AND IS THE PROJECT WITH THE LEAST MERIT IN DISTRICT 2 FOR THE REASONS SET FORTH BELOW.

THE MMCC ORDINANCE AND INFORMATION BULLETIN 170 LACK A FAIR AND EQUITABLE PROCESS FOR GETTING A PROJECT TO HEARING. THERE ARE PROBLEMS INHERENT IN THE CURRENT PROCESS THAT RESULT IN INCONSISTENT REVIEW, A DENIAL OF DUE PROCESS AND FAVORS THOSE

PROJECTS THAT PROPOSE THE LEAST IMPROVEMENT AND THEREFORE, ARE  
SUBJECT TO MINIMAL QUALITATIVE REVIEW AND DELAY

PURSUANT TO §126.0305 OF THE CITY OF SAN DIEGO MUNICIPAL CODE, AN  
APPLICATION FOR A CONDITIONAL USE PERMIT MAY BE APPROVED OR  
CONDITIONALLY APPROVED ONLY IF THE DECISION MAKER MAKES CERTAIN  
FINDINGS, OF WHICH THE BEAN STREET CUP FAILS TO SATISFY, AS FOLLOWS:

- (A) THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE  
APPLICABLE LAND USE PLAN;
- (B) THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE  
PUBLIC HEALTH, SAFETY, AND WELFARE;
- (C) THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE  
REGULATIONS OF THE LAND DEVELOPMENT CODE INCLUDING ANY  
ALLOWABLE DEVIATIONS PURSUANT TO THE LAND DEVELOPMENT CODE; AND
- (D) THE PROPOSED USE IS APPROPRIATE AT THE PROPOSED LOCATION.

PROJECT NO. 368324 WILL BE USING AN EXISTING 2,426 SQUARE FOOT  
STRUCTURE TO CONDUCT ITS BUSINESS. THE EXISTING BUILDING OFFERS NO  
FEATURES AND AMENITIES THAT WILL BENEFIT THE SURROUNDING  
COMMUNITY. BECAUSE IT IS AN EXISTING STRUCTURE, THERE IS NO  
REQUIREMENT TO MAKE ANY STRUCTURAL, INFRASTRUCTURE OR OUTSIDE  
IMPROVEMENTS THAT WILL ENHANCE THE SURROUNDING COMMUNITY.

RATHER THAN BE AN ENHANCEMENT TO THE SURROUNDING COMMUNITY, THE APPLICANT OF PROJECT NO. 368324 IS RELYING ON “GRANDFATHERING” AND EXEMPTIONS FROM CURRENT PARKING, LANDSCAPING, FRONTAGE IMPROVEMENTS, AND STORMWATER REQUIREMENTS, THUS AVOIDING ENHANCING THE COMMUNITY, UPDATED COMPLIANCE WITH REGULATIONS AND THE TIME-CONSUMING REVIEWS BY THE VARIOUS CITY DISCIPLINES. PROJECT NO. 368324’S USE OF ITS PROPOSED STRUCTURE AS A MEDICAL MARIJUANA CONSUMER COOPERATIVE (AN OLD UNKEMPT BUILDING) IS CONSISTENT WITH THE FEARS AND APPREHENSIONS OF ALL OPPONENTS TO THE MMCC ORDINANCE AND OFFERS NOTHING TO ALLEVIATE THE TREPIDATIONS OF THOSE OPPOSED TO MMCCS.

THE BEAN STREET APPLICATION OFFERS NO PARKING AND LANDSCAPING IMPROVEMENTS. AS A RESULT, THE PROPOSED STRUCTURE WILL CONTINUE TO BE A DETRIMENT TO THE SURROUNDING COMMUNITY. BECAUSE THE STRUCTURE IS GRANDFATHERED, THE SITE WILL NOT OPERATE IN ACCORDANCE WITH CURRENT REGULATIONS OF THE LAND DEVELOPMENT CODE. ADDITIONALLY, IT HAS COME TO OUR ATTENTION, THAT THE BEAN STREET LOCATION INTENDS TO OPERATE AS A “MEDBOX” AND WILL ULTIMATELY SUBLEASE THE SPACE TO AN END-USER, THUS SUPPLYING VENDING MACHINE MARIJUANA. THE CITY ALSO SHOULD EVALUATE THE QUALIFICATIONS OF THE PROPOSED OWNER AND OPERATOR OF ANY PROJECT APPROVED PURSUANT TO THE MMCC ORDINANCE.

THE BEAN STREET APPLICATION IS AN EXAMPLE OF AN APPLICANT THAT WAS ALLOWED TO SUBMIT A DEFICIENT APPLICATION AS PART OF THE STEP ONE: INITIAL SCREENING; ALLOWED TO MOVE FORWARD TO STEP TWO: SUBMITTED COMPLETENESS REVIEW; AND ALLOWED TO CORRECT ANY SUBMITTAL DEFICIENCIES AS PART OF STEP THREE: FULL SUBMITTAL. RATHER THAN BEING REJECTED AT THE OUTSET, AS WAS DESCRIBED IN THE MARCH 2014 IB 170.

THE CITY ISSUED MMCC IB 170 IN MARCH 2014 WHICH DESCRIBED THE APPLICATION PROCESS FOR THE MMCC CUP AND SET FORTH THE MINIMUM SUBMITTAL REQUIREMENTS. THE MARCH 2014 VERSION REQUIRED AS PART OF STEP ONE, THAT "APPLICATIONS MISSING ANY OF THE REQUIRED SUBMITTAL ITEMS, REQUIRED DETAILS OR FEES WILL NOT BE ACCEPTED". THE MARCH 2014 VERSION OF IB 170 ALSO STATED THAT "FULL SUBMITTALS WILL BE PLACED ON A LIST BASED ON THE COMPLETED DATE AND TIME. THIS LIST WILL BE POSTED ON THE DEVELOPMENT SERVICES DEPARTMENT'S WEBSITE."

THESE 2 STATEMENTS WERE MISSING FROM THE JULY 2014 VERSION OF IB 170. THE REVISED IB 170 ELIMINATED THE EXPRESS EMPHASIS ON STRICT COMPLIANCE WITH MINIMUM SUBMITTAL REQUIREMENTS, THEREBY ALLOWING LESS-THAN-COMPLETE APPLICATIONS TO MOVE FORWARD TO STEPS 2 AND 3, RATHER THAN BEING REJECTED. ALSO, THE STATED PLACEMENT ON A LIST OF APPLICATIONS , BASED ON COMPLETED DATE AND TIME, APPEARS TO

BE USELESS AS IT RELATES TO PLACEMENT IN THE QUEUE OF PROJECTS BEING REVIEWED.

THE LACK OF QUALITATIVE REVIEW FAILS TO ADEQUATELY ADDRESS WHAT IS MOST BENEFICIAL TO A NEIGHBORHOOD AND THE CITY: AN EXISTING BUILDING THAT PROPOSES NO NEW OR UPDATED FEATURES AND AMENITIES, OR A NEW BUILDING THAT TRANSFORMS AN UNDERUTILIZED AND/OR NEGLECTED SITE WITH NEW ARCHITECTURE, LANDSCAPE, UTILITIES, FRONTAGE, AND ADA-COMPLIANT WALKWAYS. AGAIN, IT WOULD BE A FAILURE OF THE DISCRETIONARY PROCESS TO NOT PERFORM A QUALITATIVE REVIEW, PARTICULARLY WHEN THE NUMBER OF PERMITS TO BE GRANTED IS SEVERELY LIMITED BY THE ORDINANCE.

THE CITY OF MALIBU RECENTLY WENT THROUGH A SIMILAR PROCESS IN CONSIDERING CUP APPLICATIONS UNDER ITS MEDICAL MARIJUANA ORDINANCE. WE UNDERSTAND THE CITY OF MALIBU DETERMINED THAT THE LEGAL AND EQUITABLE PROCESS FOR CONSIDERATION OF MMCC APPLICATIONS WAS TO CONSIDER ALL APPLICATIONS BASED ON MERIT, RATHER THAN ON ORDER OF SUBMITTAL OR POSTING ON THE AGENDA.

CONCLUSION

THE DECISION ON WHETHER A CUP SHOULD BE GRANTED SHOULD BE BASED ON THE MERITS OF THE PROJECT AND NOT ON WHETHER IT WENT THROUGH THE REVIEW PROCESS FASTER THAN THE OTHERS. THE PROJECTS BEFORE YOU SHOULD BE HEARD ON A QUALITATIVE BASIS, NOT ON A SUBMITTAL DATE BASIS.

THANK YOU.



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: Scott Chipman E-mail Address: scott@chipman.info  
 Address: 2247 Emerald St. 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.

Matthew Feinstein

## 4. Project Information

Permit/Environmental Determination & Permit/Document No.: 368324	Date of Decision/Determination: March 25, 2015	City Project Manager: Gutierrez
---	---	------------------------------------

Decision (describe the permit/approval decision):  
DSD Conditional Use Permit Approved

## 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.)

The address appears to be within 1000 feet of a park, Washington Street Skate Park out door park at the foot of Washington Street

Adequate public safety measures are not planned nor within the ordinance.

Owned and operated by Medbox a publicly traded company, a for profit corporation, and a vending machine is planned to be used.

A vending machine is not allowed by statute language either for customers or employees

Appears not to have ADA accessibility, The Community Planning Group did not approve this location.

# RECEIVED

APR 07 2015

# 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: Scott Chipman Date: April 7, 2015

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](http://www.sandiego.gov/development-services).

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

DS-3031 (10-12)

PLANNING COMMISSION  
RESOLUTION NO. PC-  
CONDITIONAL USE PERMIT NO. 1293933  
**3225 BEAN STREET MMCC- PROJECT NO. 368324**

WHEREAS, THE FLOYD AND OPAL BENTLEY TRUST, Owner and MATTHEW FEINSTEIN, Permittee, filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) within an existing 2,426 square foot building (as described in and by reference to the denied Exhibits "A" and corresponding conditions of denial for the associated Permit No. 1293933), on portions of a 0.21-acre site;

WHEREAS, the project site is located at 3225 Bean 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 Right of Way Lots 135 and 136 of Middletown, Map made by J.E. Jackson, October 30, 1962 as File No. 186107;

WHEREAS, on March 25, 2015, the Hearing Officer of the City of San Diego approved Conditional Use Permit No. 1293933 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on April 6 and April 7 2015, George P. Diaz, Carol Carpenter and Scott Chipman filed appeals of the Hearing Officer's decision;

WHEREAS, on May 28, 2015, the Planning Commission of the City of San Diego considered the appeal of Conditional Use Permit No. 1287800 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on September 16, 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 the Environmental Determination was appealed to City Council, which heard and denied the appeal on January 13, 2015 pursuant to Resolution No. 309471;

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 May 28, 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 a MMCC within an existing 2,426 square foot building. The 0.21-acre site is located at 3225 Bean 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 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. This community portion contains little residential development. All of the surrounding parcels are in the IS-1-1 zone and the existing uses are consistent with the Light Industrial designation of the community plan. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit and is consistent with the community plan, therefore will not adversely affect the applicable land use plan.

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

The proposed project is a request for a Conditional Use Permit to operate a MMCC within an existing 2,426 square foot building located at 3225 Bean Street.

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. The limit of four MMCCs per Council District (36 city-wide) and the minimum distance requirements were adopted in order to minimize the impact on the City, residential neighborhoods and to avoid adverse impacts upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area.

The proposed MMCC located at 33225 Bean Street is within 1,000 feet of a playground, Washington Street Stake Park, and therefore would be detrimental to the public health, safety and welfare of the community.

**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 project is a request for a Conditional Use Permit to operate a MMCC within an existing 2,426 square foot building located at 3225 Bean Street.

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.

The proposed MMCC located at 3225 Bean Street is within 1,000 feet of a playground, Washington Street Stake Park, and therefore does not comply with the regulations of the Land Development Code.

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

The proposed project is a request for a Conditional Use Permit to operate a MMCC within an existing 2,426 square foot building located at 3225 Bean Street.

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.

The proposed MMCC located at 3225 Bean Street is within 1,000 feet of a playground, Washington Street Stake Park, and therefore is not at an appropriate location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 1293933 is hereby DENIED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1293933, a copy of which is attached hereto and made a part hereof.

---

Edith Gutierrez  
Development Project Manager  
Development Services

Adopted on: May 28, 2015

Job Order No. 24004650