



THE CITY OF SAN DIEGO

## REPORT TO THE PLANNING COMMISSION

**DATE ISSUED:** May 20, 2015 **REPORT NO.** PC-15-058

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

**SUBJECT:** APPEAL OF THE HEARING OFFICER'S DECISION TO DENY A  
CONDITIONAL USE PERMIT FOR CC3 MMCC - PROJECT NO.  
368319 (PROCESS 3).

**REFERENCE:** Report to the Hearing Officer; Report No. HO-15-034 (Attachment 1-12).

**OWNER/  
APPLICANT:** NOELL LA PLAYA PROPERTIES /  
Brent Mesnick

### SUMMARY

**Issue:** Should the Planning Commission approve or deny an appeal of the Hearing Officer's decision to deny a Conditional Use Permit (CUP) to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in a 1,643 square-foot tenant space within an existing 84,420 square-foot building located at 3485 Noell Street on a 1.6-acre site within the Midway/Pacific Highway Corridor Community Plan area?

### Staff Recommendations:

1. **Deny** the appeal and **Uphold** the Hearing Officer's decision to **Deny** Conditional Use Permit No. 1287855; and
2. **Do not** adopt Negative Declaration No. 368319, as staff is recommending denial of the project.

**Community Planning Group Recommendation:** On July 2, 2014, the Midway Community Planning Group voted 6-2-1 to approve the project with conditions (Attachment 10).

**Environmental Review:** This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15303, New Construction or Conversion of Small Structures on August 29, 2014 (Attachment 8). An appeal of the CEQA determination was previously made and the City Council denied

the CEQA appeal on January 13, 2015.

Subsequent to the environmental exemption, it was confirmed that the project site contains monitoring wells and is included on a list compiled pursuant to Government Code 65962.5, which excludes the site from a categorical exemption per CEQA guidelines. The Environmental Analysis Section (EAS) acknowledged that the initial determination of exemption was made in error and consequently reviewed the project in accordance with CEQA and the City of San Diego's CEQA Significance Determination Thresholds. Negative Declaration No. 368319 was prepared and distributed for public review on April 10, 2015, the public review ended on April 30, 2015, and the document was final on May 11, 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 Medical Marijuana Consumer Cooperative in a 1,643 square-foot tenant space within an existing 84,420 square-foot building located at 3485 Noell Street. The Site Plan (Attachment No. 9) within the Hearing Officer Report No. HO-15-034 did not contain the correct off-street parking space locations. On March 25, the Hearing Officer was given the correct Site Plan (Attachment 16) with the accurate locations.

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.

This project was presented to the Hearing Officer on March 25, 2015. The day of the hearing staff changed its recommendation from approval to denial of the project as it was determined, after the Hearing Officer Report was prepared, that the incorrect environmental determination had been made. The Hearing Officer agreed with staff's recommendation and denied the project.

On April 10, 2015, Negative Declaration No. 368319 was prepared and distributed for public review, the public review period ended on April 30, 2015, and the document was final on May 11, 2015.

### **New Information:**

#### ***Minor-Oriented Facility - Cali Coast Elite***

During the initial review process of this application staff identified a minor-oriented facility, Cali Coast Elite, located at 2004 Hancock Street, within 1,000 feet of this site. The applicant was notified that staff would be recommending denial of their project as it did not meet the distance requirement of the SDMC. Subsequently, a code enforcement case was opened on Cali Coast Elite asserting that the use, Instructional Studio, was not allowed in the IS-1-1 zone. Based on the information submitted to Code Enforcement Division (CED), LDR-Planning concluded that the project could move forward with recommendation of approval, as the minor-oriented use was not allowed in the zone, and CED would be moving forward with a Civil Penalty case to cease the operation of the instructional studio.

CED recently concluded their investigation and determined that Instructional Studios are allowed in the IS-1-1 zone. CED has maintained the enforcement case open as Cali Coast Elite must still obtain a ministerial permit for the change of use from warehouse to instructional studio.

#### ***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.

### **DISCUSSION**

**Appeal:** An appeal of the Hearing Officer's decision was filed on March 30, 2015, by Claude Anthony Marengo on the grounds of Factual Error and New Information (Attachment 13).

The appellant's ground for appeal and staff response is as follows:

**Appeal Issue:**

*As the applicant we wish to appeal our own project as the environmental determination was an exemption in error. We accept a denial at Hearing Officer to rectify the City's document and be able to present the correct document at Planning Commission.*

Staff Response: The Environmental Analysis Section (EAS) acknowledged that the initial determination that the project qualified for a categorical exemption was made in error. The project site contains monitoring wells, and is included on a list compiled pursuant to Government Code 65962.5, which excludes the site from a categorical exemption per CEQA guidelines. The project has subsequently been reviewed in accordance with CEQA and the City of San Diego's CEQA Significance Determination Thresholds. Negative Declaration No. 368319 was prepared and distributed for public review on April 10, 2015, the public review ended on April 30, 2015, and the document was final on May 11, 2015.

**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 a minor-oriented facility and playground. 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:**

- 1-12 Report to the Hearing Officer – Report HO-15-034
- 13. Appeal Application, Claude Anthony Marengo
- 14. CUP Resolution with Findings
- 15. Site Plan





THE CITY OF SAN DIEGO

## REPORT TO THE HEARING OFFICER

HEARING DATE: March 25, 2015 REPORT NO. HO-15-034

ATTENTION: Hearing Officer

SUBJECT: CC3 MMCC  
PROJECT NUMBER: 368319

LOCATION: 3485 Noell Street

APPLICANT: Brent Mesnick

### SUMMARY

Issue(s): Should the Hearing Officer approve a Conditional Use Permit to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in a 1,643 square foot tenant space within an existing 8,420 square foot building within the Midway/Pacific Highway Corridor Community Plan Area?

Staff Recommendation: APPROVE Conditional Use Permit No. 1287855.

Community Planning Group Recommendation: On July 2, 2014, the Midway Community Planning Group voted 6-2-1 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 October 8, 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 Hearing Officer's decision 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 a 1,643 square foot tenant space within an existing 8,420 square foot building on a 1.6-acre site. The MMCC site is located at 3485 Noell Street, west of Interstate 5, northwest of Pacific Highway, and south of Washington 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 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. 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 3485 Noell Street is a 1.6-acre site developed with a 7,988 square foot one- story building which is currently being used as a commercial service. The MMCC proposes interior improvements that include a reception area, dispensary, office, employee lounge and restrooms. The site requires no public improvements.

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 applicant has voluntarily agreed to the following conditions in order avoid adverse impact to the community: 1) operable surveillance cameras and a metal detector to the satisfaction of the San Diego Police Department 2) the cameras shall have and use a recording device that maintains the records for a minimum of 30 days 3) an armed security guard to the extent the possession of a firearm by the security guard is not in conflict with 18 U. S.C. § 922(g) and 27 C.F.R. § 478.11. Nothing herein shall be interpreted to require or allow a violation of federal firearms laws 4) the security guard is required to be on the premises during the hours of operation, seven days a week and 5) graffiti must be removed within 24 hours (Attachment 4, Conditions Number 16 & 20).

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.

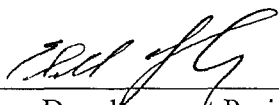
#### CONCLUSION

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. 1287855, with modifications.
2. Deny Conditional Use Permit No. 1287855, if the findings required to approve the project cannot be affirmed.

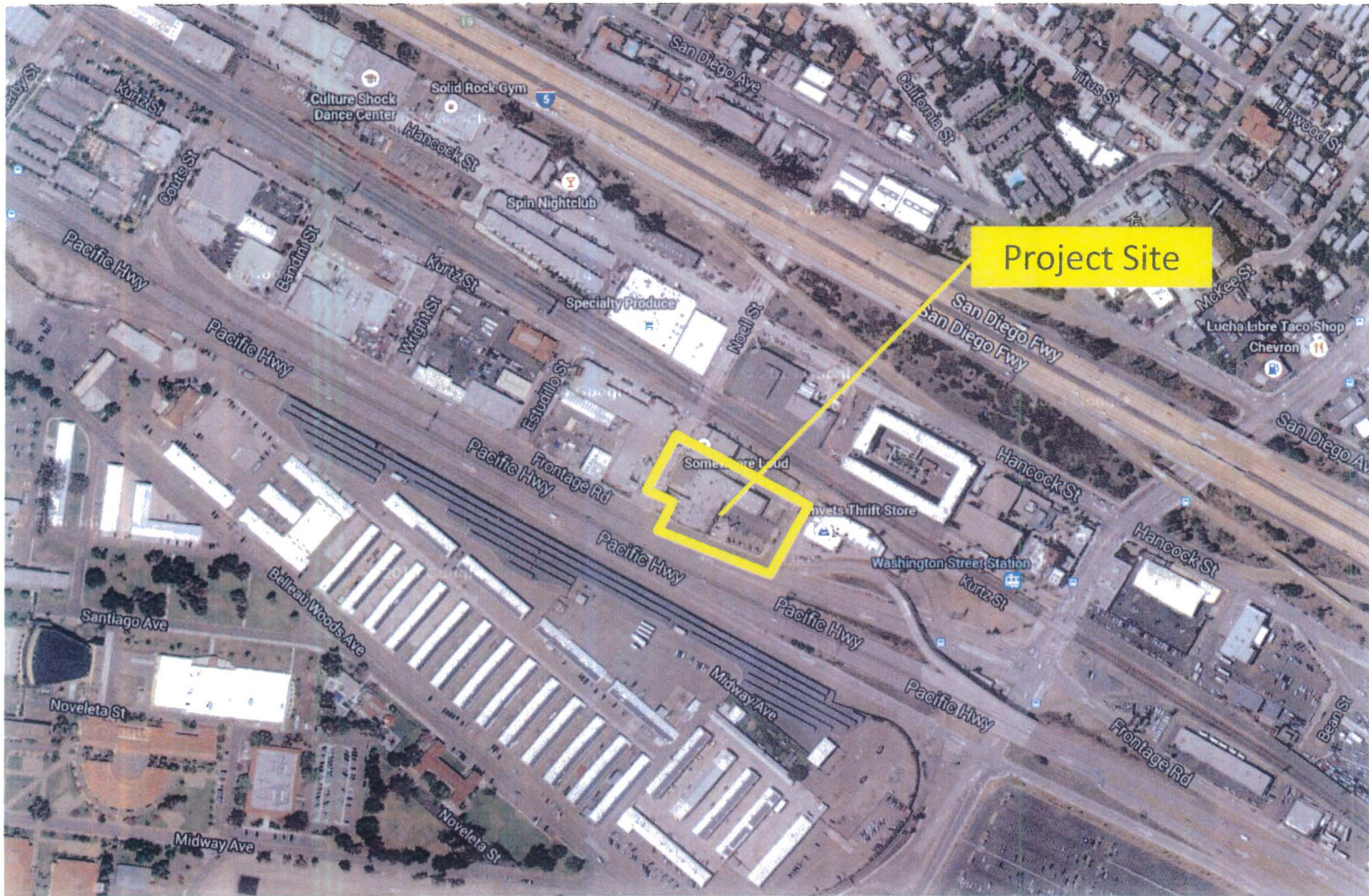
Respectfully submitted,

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

Attachments:

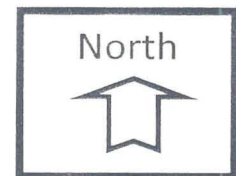
1. Aerial Photograph
2. Project Location Map
3. Community Plan Land Use Map
4. Draft Permit with Conditions
5. Draft Permit Resolution with Findings
6. 1000 Foot Radius Map
7. 1000 Foot Radius Map Spreadsheet
8. Notice of Right to Appeal
9. Project Site Plan(s)
10. Community Planning Group Recommendation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



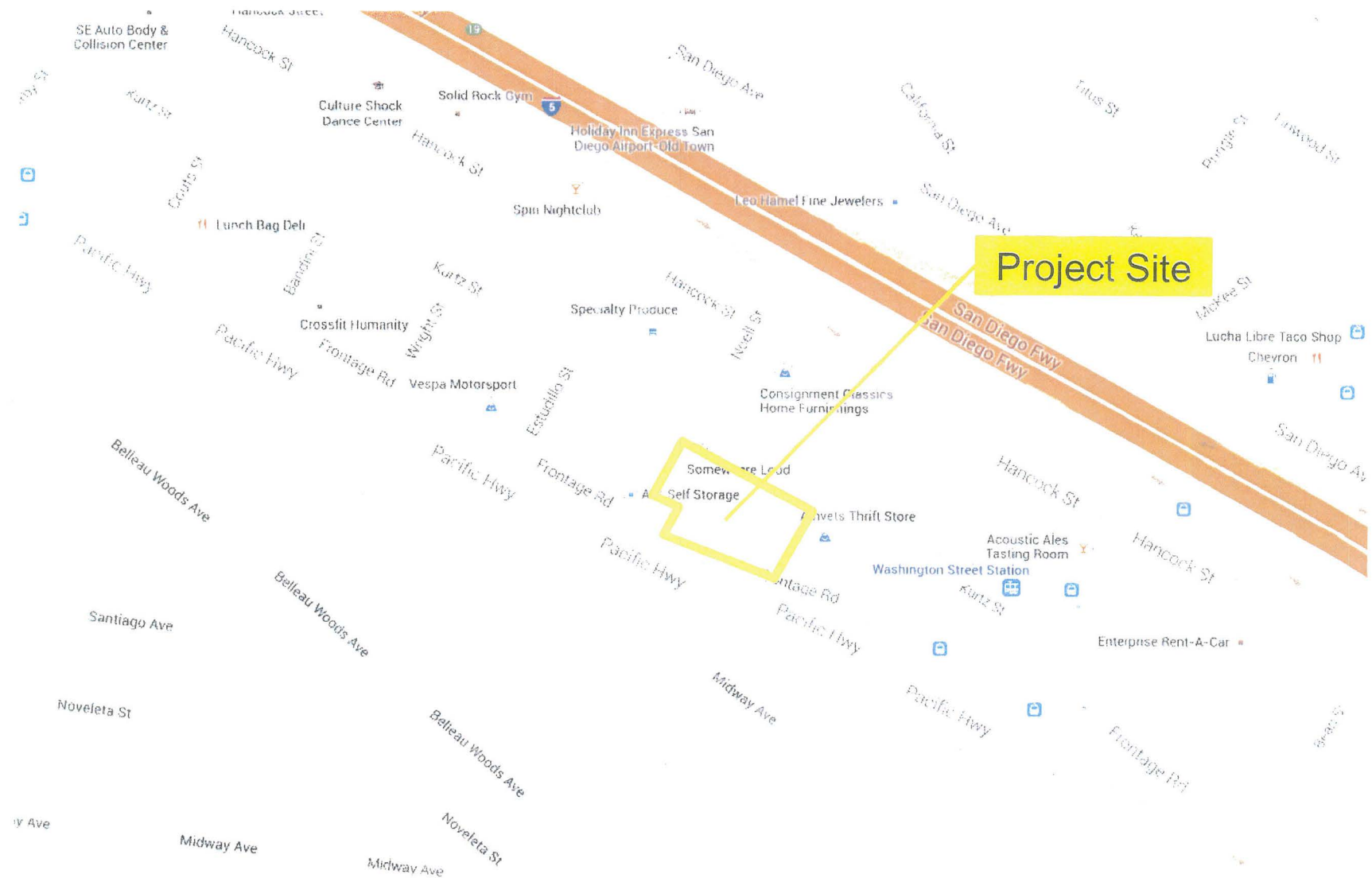


## Project Aerial Photo

CC3 MMCC- 3485 Noell Street  
 PPROJECT NO. 368319

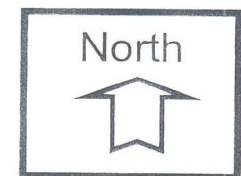


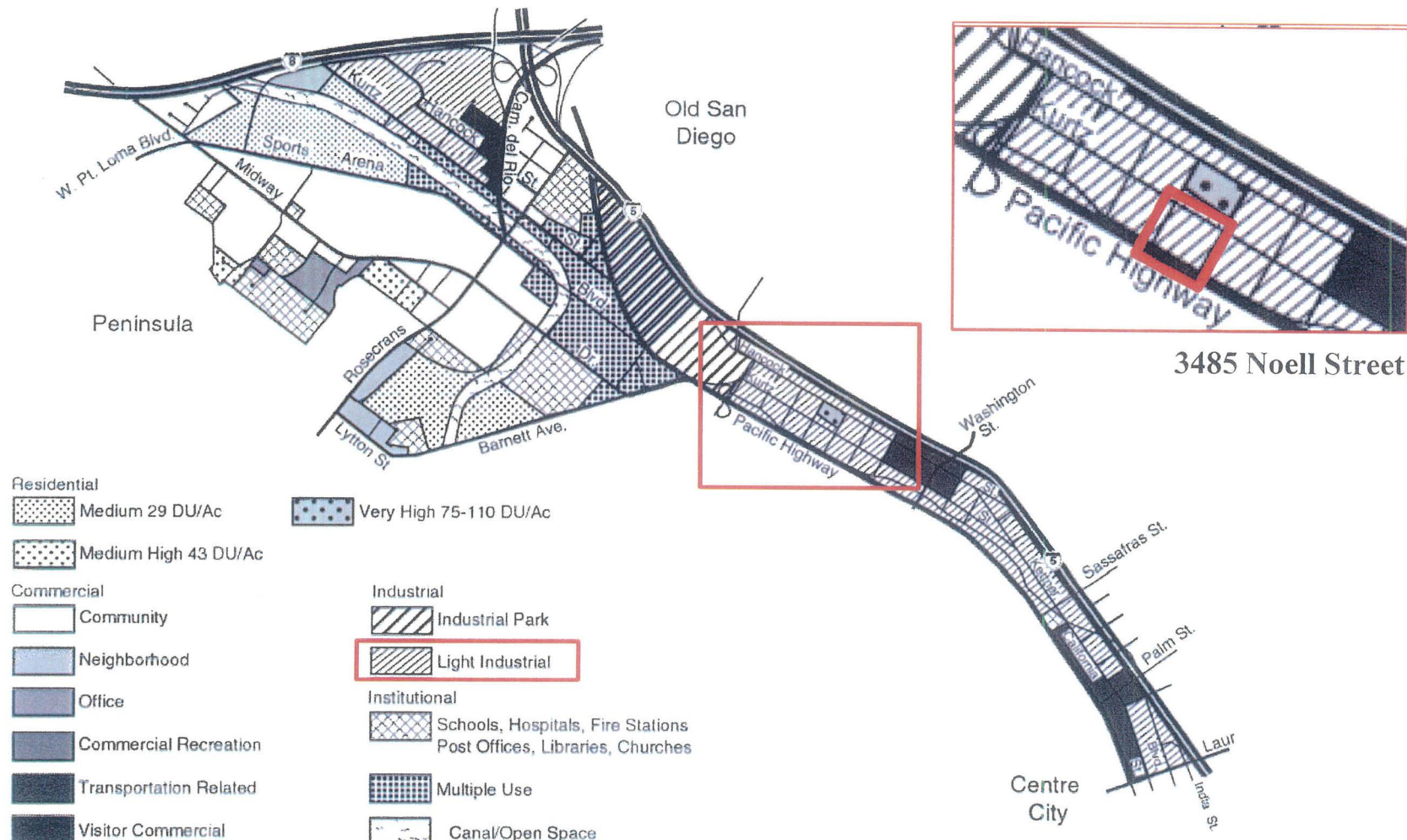




## Project Location Map

CC3 MMCC- 3485 Noell Street  
**PROJECT NO. 368319**

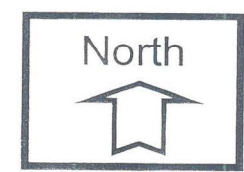




**Proposed Land Uses**  
**Midway / Pacific Highway Corridor Community Plan**  
 City of San Diego • Community and Economic Development



**Land Use Map**  
**CC3 MMCC- 3485 Noell Street**  
**PPROJECT NO. 368319**



**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: 24004637

**CONDITIONAL USE PERMIT NO. 1287855**  
**CC3 MMCC- PROJECT NO. 368319**  
**HEARING OFFICER**

This Conditional Use Permit No. 1287855 is granted by the Hearing Officer of the City of San Diego to NOELL LA PLAYA PROPERTIES, Owner and BRENT MESNICK, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 1.06-acre site is located at 3485 Noell 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: Lot 2 to 6, Block 245, Lots 161 to 166, Lots 7 to 16, Block 197, Middletown, Map by J. E. Jackson, January 18, 1881.

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) in a 1,643 square foot tenant space within an existing 8,420 square foot building on a 1.6-acre site;
- b. Existing landscaping (planting, irrigation and landscape related improvements);
- c. Existing off-street parking;
- d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality

Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by 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 1,643 square foot tenant space shall be limited to the MMCC and any use permitted in the IS-1-1 Zone.



14. Consultations by medical professionals shall not be a permitted accessory use at the MMCC.
15. Lighting shall be provided to illuminate the interior of the MMCC, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
16. Security shall include operable cameras and a metal detector to the satisfaction of the San Diego Police Department, alarms, and an armed security guard to the extent the possession of a firearm by the security guard is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R. § 478.11. Nothing herein shall be interpreted to require or allow a violation of federal firearms laws. The security guard shall be licensed by the State of California and be on the premises during business hours. The security guard should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the records for a minimum of 30 days.
17. The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the MMCC in character size at least two inches in height.
18. The MMCC shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
19. The use of vending machines which allow access to medical marijuana except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this section and condition, a vending machine is any device which allows access to medical marijuana without a human intermediary.
20. The Owner/Permittee or operator shall maintain the MMCC, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed within 24 hours.
21. Medical marijuana shall not be consumed anywhere within the 1.6-acre site.
22. The Owner/Permittee or operator shall post anti-loitering signs near all entrances of the MMCC.
23. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Sign colors and typefaces are limited to two. Ground signs shall not be pole signs. A sign is required to be posted on the outside of the MMCC and shall only contain the name of the business.

**TRANSPORTATION REQUIREMENTS:**

24. No fewer than 29 parking spaces including 2 accessible spaces (46 spaces proposed including 3 accessible spaces) shall be maintained on the property (29,444 SF building including the proposed 1,643 SF MMCC) at all times in the approximate locations shown on Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.

**POLICE DEPARTMENT RECOMMENDATION:**

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

**INFORMATION ONLY:**

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

APPROVED by the Hearing Officer of the City of San Diego on March 25, 2015 and Resolution No. HO-XXXX.

Conditional Use Permit No.1287855/PTS No. 368319

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.

NOELL LA PLAYA PROPERTIES  
Owner

By \_\_\_\_\_  
Frances H. Golden  
Trustee

BRENT MESNICK  
Permittee

By \_\_\_\_\_  
Brent Mesnick  
Permittee

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

HEARING OFFICER  
RESOLUTION NO. HO-  
CONDITIONAL USE PERMIT NO. 1287855  
CC3 MMCC- PROJECT NO. 368319

WHEREAS, NOELL LA PLAYA PROPERTIES, Owner and BRENT MESNICK, Permittee, filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) in a 1,643 square foot tenant space within an existing 8,420 square foot building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1287855), on portions of a 1.6-acre site;

WHEREAS, the project site is located at 3485 Noell 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 Lot 2 to 6, Block 245, Lots 161 to 166, Lots 7 to 16, Block 197, Middletown, Map by J. E. Jackson, January 18, 1881;

WHEREAS, on March 25, 2015, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1287855 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on October 8, 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. 309475;

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 in a 1,643 square foot tenant space within an existing 8,420 square foot building. The 1.6-acre site is located at 3485 Noell 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 1,643 square foot MMCC located at 3485 Noell Street is within an existing one-story building. The existing tenant space is currently being used as a commercial service. The project proposes interior improvements that include a reception area, dispensary, office, employee lounge and restrooms. 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 no public improvements.

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. 1287855. 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 1,643 square foot tenant space located at 3485 Noell Street is within an existing one-story building on a 1.6-acre site. The site is in the IS-1-1 Zone and is currently being used as a commercial service. The project proposes interior improvements that include a reception area, dispensary, office, employee lounge and restrooms.

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 1,643 square foot MMCC located at 3485 Noell Street is within an existing one-story building on a 1.6-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. 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 and compatible uses with MMCCs. Therefore, the proposed MMCC is an appropriate use at the proposed location.

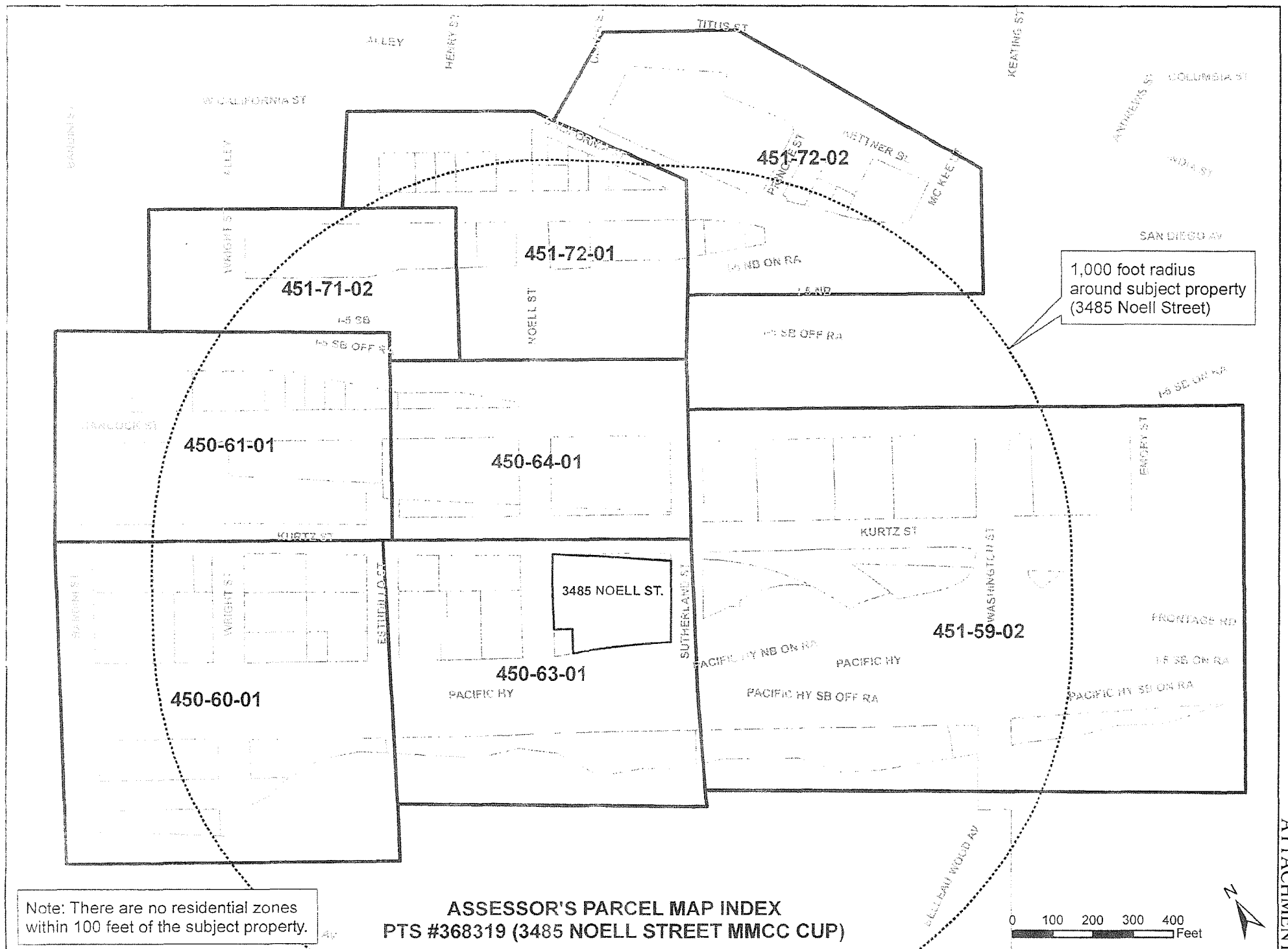
BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1287855 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1287855, a copy of which is attached hereto and made a part hereof.

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Edith Gutierrez  
Development Project Manager  
Development Services

Adopted on: March 25, 2015

Job Order No. 24004637



## Businesses and Land Uses within 1,000 Feet of 3485 Noell Street

APN	ADDRESS			BUSINESS NAME	USE
4506010200	2057	KURTZ	ST 92110-2014		(Vacant)
4506010300	2053	KURTZ	ST 92110-2014	National Air and Energy	Heating and Air Conditioning
4506010400	4005	PACIFIC	HWY 92110-2028	Diko Auto Repair	Automotive repair
4506010500	4025	PACIFIC	HWY 92110-2028	Inspections and Materials Testing	Industrial
4506010500	4029	PACIFIC	HWY 92110-2028	Coastal Die Cutting	Industrial
4506010500	4031	PACIFIC	HWY 92110-2028	Crossfit Humanity	Gymnasium
4506010600	2077	KURTZ	ST 92110-2014		(Vacant)
4506020200	3959	PACIFIC	HWY 92110-2027	BJ's Equipment Rentals	Industrial supply
4506020500	3955	PACIFIC	HWY 92110-2027	Vespa Motorsport	Motor scooter sales
4506020600	3957	PACIFIC	HWY 92110-2027	Vespa Motorsport	Motor scooter sales
4506020700	3959	PACIFIC	HWY 92110-2027	BJ's Equipment Rentals	Industrial supply
4506021000	2049	KURTZ	ST 92110-2014	Balboa Transportation Services, Inc.	Car rental
4506021400	3500	ESTUDILLO	ST 92110-2005		(Vacant)
4506021500	3540	ESTUDILLO	ST 92110-2005	Western Towing	Towing lot
4506030100	0				U.S. Military
4506040100	0				U.S. Military
4506050100	0				U.S. Military
4506112200	2074	HANCOCK	ST 92110-2009	Solid Rock Gym	Indoor rock climbing
4506112300	2050	HANCOCK	ST 92110-2009	Buffalo Breath Costumes	Costume shop
4506120200	2036	HANCOCK	ST 92110-2009	Labann Lock and Safe	Locksmith
4506120700	2010	HANCOCK	ST 92110-2056	858 Graphics	Printing
4506120800	2028	HANCOCK	ST 92110-2009	Spin	Nightclub
4506121000	2020	HANCOCK	ST 92110-2058	Karvon Electronic	Electrical contracting
4506130800	2015	HANCOCK	ST 92110-2013		Residential (condos)
4506130900	0	HANCOCK	ST 92110		Railroad right-of-way
4506310100	1945	KURTZ	ST 92110	A-1 Self Storage	Self storage
4506310200	3492	NOELL	ST 92110-2018	A-1 Self Storage	Self storage
4506310700	3911	PACIFIC	HWY 92110-2023	A-1 Self Storage	Self storage
4506310800	3923	PACIFIC	HWY 92110-2023	A-1 Self Storage	Self storage
4506310900	3923	PACIFIC	HWY 92110-2023	A-1 Self Storage	Self storage
4506320500	3895	PACIFIC	HWY 92110-2022	Fantasy Shots	Adult photography studio
4506320600	0				Railroad right-of-way
4506321000	3485	NOELL	ST 92110-2019	Yoga Workshop	Yoga studio
4506321000	3485	NOELL	ST 92110-2019	Electric Green Inc.	Electrical contracting
4506321000	3485	NOELL	ST 92110-2019	Aburto Marine and Industrial Supply	Industrial
4506321000	3487	NOELL	ST 92110	Somewhere Loud	Music venue
4506321000	3489	NOELL	ST 92110	Ron C. Photography	Photography studio
4506321000	3442	SUTHERLAND	ST 92110	Ryan's Express Transportation	Charter bus rental
4506330300	0	PACIFIC	HWY 92140		Airport Parking
4506410900	2004	HANCOCK	ST 92110-2009	Cali Coast Elite	Gymnasium
4506411000	1026	HANCOCK	ST 92110	Jet Graphics	Printing
4506411100	0	HANCOCK	ST 92110		Residential (condos)
4506411200	1929	HANCOCK	ST 92110-2061	Specialty Produce	Produce supplier
4506411200	1929	HANCOCK	ST 92110-2061	Neighborhood House Assoc. Central Kitchen	Kitchen

4506411300	1895	HANCOCK	ST	92110-2007	Consignment Classics	Retail (antiques)
4507900200	1600	HENDERSON	AVE	92140-5001	United States Marine Corps Recruit Depot	U.S. Military
4515902700	1847	HANCOCK	ST	92110-2007		Residential (condos)
4515903000	1747	HANCOCK	ST A	92101-1130	Road Rebel Entertainment	Office (entertainment agency)
4515903000	1747	HANCOCK	ST B	92101-1130	Anti-Aging Arts	Office (medical)
4515903100	1735	HANCOCK	ST	92101-1118	57 Degrees	Restaurant
4515904600	0					(Undeveloped)
4515905200	3441	SUTHERLAND	ST	92110-2031	Amvets Thrift Store	Commercial Retail
4515905500	0					(Undeveloped)
4515906300	2120	WASHINGTON	ST 100	92110-2052	Acoustic Ales	Brewery tasting room
4515906300	2120	WASHINGTON	ST 101		New Mindful Life	Office (medical)
4515906300	2120	WASHINGTON	ST 200		Acoustic Ales	Brewery office
4515906300	2150	WASHINGTON	ST 102		Saban Brands	Office (entertainment)
4515906300	2150	WASHINGTON	ST 110		IOA Insurance Services	Office (insurance)
4515906300	2150	WASHINGTON	ST 112		Freshform Interactive	Office (design/marketing)
4515906300	2150	WASHINGTON	ST 113		The Miller Hull Partnership	Office (architecture)
4515906300	2150	WASHINGTON	ST 201		Whitmore Architects	Office (architecture)
4515906300	2150	WASHINGTON	ST 203		O'Connor Construction Management	Office (construction)
4515906300	2150	WASHINGTON	ST 205		XM Works, Inc.	Office (sales)
4515906300	2150	WASHINGTON	ST 208		Omega 320 Management	Office (property management)
4515906300	2150	WASHINGTON	ST 301		Orcutt Winslow	Office (architecture)
4515906300	2150	WASHINGTON	ST 303		Domusstudio Architecture	Office (architecture)
4515906300	2150	WASHINGTON	ST 308		T-Solutions, Inc.	Office (engineering)
4515906300	2150	WASHINGTON	ST 401		Kornberg Associates Architects	Office (architecture)
4515906300	2150	WASHINGTON	ST 402		Spear / Hall Advertising & PR	Office (advertising)
4515906300	2150	WASHINGTON	ST 501		Paul Barnett Photographer	Photography studio
4515906400	1815	HANCOCK	ST	92110-2007		Residential (condos)
4515906500	1775	HANCOCK	ST 120	92110-2007	Westberg + White	Office (architecture)
4515906500	1775	HANCOCK	ST 130		Vall Cooper & Associates, Inc.	Office (construction)
4515906500	1775	HANCOCK	ST 150		GKKWorks	Office (architect)
4515906500	1775	HANCOCK	ST 160		Premier Alliance	Office (engineering)
4515906500	1775	HANCOCK	ST 180	92110-2006	Hullinger, Speredelozzi & Fabian, APC	Office (accountant)
4515906500	1775	HANCOCK	ST 190		Caltrop Corporation	Office (engineering)
4515906500	1775	HANCOCK	ST 200		Pacifica Companies	Office (property management)
4515906500	1785	HANCOCK	ST 100		Ownerguard Insurance Services	Office (insurance)
4515906600	0	PACIFIC	HWY	92101		(Undeveloped)
4515907600	0	PACIFIC	HWY	92110		Railroad right-of-way
4515907800	0					(Undeveloped)
4515907900	0					Railroad right-of-way
4517150200	1955	SAN DIEGO	AVE	92110-2105	Holiday Inn	Hotel
4517220900	3926	CALIFORNIA	ST	92110-2117		Residential (single-family)
4517221000	3922	CALIFORNIA	ST	92110-2169		Residential (single-family)
4517221100	0	SAN DIEGO	AVE	92110	Discount Auto Service Center	Automobile maintenance
4517221200	1866	SAN DIEGO	AVE	92110-2102	Discount Auto Service Center	Automobile maintenance
4517221300	1858	SAN DIEGO	AVE	92110-2102	Economy Car Rental	Car rental
4517221400	1890	SAN DIEGO	AVE	92065	Dos Brasas Mexican Food	Restaurant
4517221500	1900	SAN DIEGO	AVE	92110-2104		Residential (multi-family)

4517221600	1912	SAN DIEGO	AVE	92110-2180		Residential (multi-family)
4517221700	1926	SAN DIEGO	AVE	92110-2104		Residential (multi-family)
4517221800	1936	SAN DIEGO	AVE	92110-2104		Residential (multi-family)
4517221900	1942	SAN DIEGO	AVE	92110-2108		Residential (multi-family)
4517230100	1891	SAN DIEGO	AVE	92110-2101	Maidhof Bros. Nautical Antiques	Retail (antiques)
4517230200	1851	SAN DIEGO	AVE	92110-2168	Wurts Carpets	Retail (carpet)
4517230200	1851	SAN DIEGO	AVE	100-E 92110	Clark Gracie Jiu Jitsu Academy	Athletic studio
4517230200	1851	SAN DIEGO	AVE	120 92110	California Bath Restoration	Retail (remodeling)
4517230200	1851	SAN DIEGO	AVE	92110	Leo Hamel Jewelers	Jeweler
4517230200	1851	SAN DIEGO	AVE	92110	My Printer/Sign King	Printer
4517240300	1919	SAN DIEGO	AVE	92110-2105	Mr. Consignment USA	Consignment store
4517240400	1911	SAN DIEGO	AVE	92110-2105	Mission Hills Auctioneers	Consignment store
4517260600	0	SAN DIEGO	AVE	92110		Residential (multi-family)
4517260700	1784	SAN DIEGO	AVE	92110-1906	Chapman Appliance	Appliance repair
4517260800	3407	PRINGLE	ST	92110-1947		Residential (multi-family)
4517261100	1764	SAN DIEGO	AVE	92110-1987	Legal Aid Society of San Diego	Office (legal)
4517261100	1764	SAN DIEGO	AVE		Osteo Relief	Office (medical)
4517261100	1764	SAN DIEGO	AVE		Fine Dentistry	Office (dentistry)
4517261100	1764	SAN DIEGO	AVE		FedEx	Shipping
4517261201	3903	CALIFORNIA	ST	1 92110-2157		Residential (condos)
4517261202	3903	CALIFORNIA	ST	2 92110-2157		Residential (condos)
4517261203	3903	CALIFORNIA	ST	3 92110-2157		Residential (condos)
4517261204	3903	CALIFORNIA	ST	4 92110-2157		Residential (condos)
4517261205	3903	CALIFORNIA	ST	5 92110-2157		Residential (condos)
4517261206	3903	CALIFORNIA	ST	6 92110-2158		Residential (condos)
4517261207	3903	CALIFORNIA	ST	7 92110-2158		Residential (condos)
4517261208	3903	CALIFORNIA	ST	8 92110-2158		Residential (condos)
4517261209	3903	CALIFORNIA	ST	9 92110-2158		Residential (condos)
4517261210	3903	CALIFORNIA	ST	10 92110-2158		Residential (condos)
4517261211	3903	CALIFORNIA	ST	11 92110-2159		Residential (condos)
4517261212	3903	CALIFORNIA	ST	12 92110-2159		Residential (condos)
4517261213	3903	CALIFORNIA	ST	13 92110-2159		Residential (condos)
4517261214	3903	CALIFORNIA	ST	14 92110-2159		Residential (condos)
4517261215	3903	CALIFORNIA	ST	15 92110-2159		Residential (condos)
4517261216	3893	CALIFORNIA	ST	1 92110-2153		Residential (condos)
4517261217	3893	CALIFORNIA	ST	2 92110-2153		Residential (condos)
4517261218	3893	CALIFORNIA	ST	3 92110-2153		Residential (condos)
4517261219	3893	CALIFORNIA	ST	4 92110-2173		Residential (condos)
4517261220	3893	CALIFORNIA	ST	5 92110-2173		Residential (condos)
4517261221	3893	CALIFORNIA	ST	6 92110-2173		Residential (condos)
4517261222	3893	CALIFORNIA	ST	7 92110-2154		Residential (condos)
4517261223	3893	CALIFORNIA	ST	8 92110-2154		Residential (condos)
4517261224	3893	CALIFORNIA	ST	9 92110-2154		Residential (condos)
4517261225	3893	CALIFORNIA	ST	10 92110-2174		Residential (condos)
4517261226	3893	CALIFORNIA	ST	11 92110-2174		Residential (condos)
4517261227	3893	CALIFORNIA	ST	12 92110-2174		Residential (condos)
4517261228	3893	CALIFORNIA	ST	13 92110-2155		Residential (condos)

4517261229	3893	CALIFORNIA	ST	14	92110-2155		Residential (condos)
4517261230	3893	CALIFORNIA	ST	15	92110-2155		Residential (condos)
4517261231	3893	CALIFORNIA	ST	16	92110-2175		Residential (condos)
4517261232	3893	CALIFORNIA	ST	17	92110-2175		Residential (condos)
4517261233	3893	CALIFORNIA	ST	18	92110-2175		Residential (condos)
4517261234	3863	CALIFORNIA	ST	1	92110-2151		Residential (condos)
4517261235	3863	CALIFORNIA	ST	2	92110-2151		Residential (condos)
4517261236	3863	CALIFORNIA	ST	3	92110-2151		Residential (condos)
4517261237	3863	CALIFORNIA	ST	4	92110-2197		Residential (condos)
4517261238	3863	CALIFORNIA	ST	5	92110-2197		Residential (condos)
4517261239	3863	CALIFORNIA	ST	6	92110-2197		Residential (condos)
4517261240	3444	PRINGLE	ST	1	92110-1959		Residential (condos)
4517261241	3444	PRINGLE	ST	2	92110-1959		Residential (condos)
4517261242	3444	PRINGLE	ST	3	92110-1959		Residential (condos)
4517261243	3444	PRINGLE	ST	4	92110-1959		Residential (condos)
4517261244	3444	PRINGLE	ST	5	92110-1960		Residential (condos)
4517261245	3444	PRINGLE	ST	6	92110-1960		Residential (condos)
4517261246	3444	PRINGLE	ST	7	92110-1960		Residential (condos)
4517261247	3444	PRINGLE	ST	8	92110-1960		Residential (condos)
4517261248	3444	PRINGLE	ST	9	92110-1961		Residential (condos)
4517261249	3444	PRINGLE	ST	10	92110-1961		Residential (condos)
4517261250	3444	PRINGLE	ST	11	92110-1961		Residential (condos)
4517261251	3444	PRINGLE	ST	12	92110-1961		Residential (condos)
4517261252	3444	PRINGLE	ST	13	92110-1962		Residential (condos)
4517261253	3444	PRINGLE	ST	14	92110-1962		Residential (condos)
4517261254	3444	PRINGLE	ST	15	92110-1962		Residential (condos)
4517261255	3444	PRINGLE	ST	16	92110-1962		Residential (condos)
4517261500	0	SAN DIEGO	AVE		92110		(Vacant)
4517261700	1769	SAN DIEGO	AVE		92110-1901		(Vacant)
4517261800	1755	SAN DIEGO	AVE		92110	The Diamond Connection	Jeweler
7602452100	0	PACIFIC HWY			92110		(Undeveloped)
7602454100	1815	HANCOCK	ST		92110-2007		Residential (condos)
N/A	Underneath Pacific Hwy, west of Washington St.				Washington Street Skate Park		Skateboard Facility





THE CITY OF SAN DIEGO

Date of Notice: October 8, 2014

# NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 24004637

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**PROJECT NAME/NUMBER:** CC3 MMCC/368319**COMMUNITY PLAN AREA:** Midway/Pacific Highway Corridor Community Plan**COUNCIL DISTRICT:** 2**LOCATION:** The project is located at 3485 Noell Street, San Diego, CA 92110

**PROJECT DESCRIPTION:** The proposed project is a request for a Conditional Use Permit (CUP) for a Medical Marijuana Consumer Cooperative (MMCC). The proposed project is a request for a Conditional Use Permit (CUP) for a Medical Marijuana Consumer Cooperative (MMCC). The facility is proposing to operate the MMCC within a 1,643-square-foot portion of an existing 8,420 square-foot building located at 3485 Noell Street. The 1.6-acre site is located within the Midway/Pacific Highway Corridor Community Plan Area, IS-1-1 Zone, the Airport Influence Area for San Diego International Airport, the Part 77 Noticing Area, and the Coastal Height Limitation Overlay Zone. The community plan designates the site as Light Industrial.

**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:****MAILING ADDRESS:****PHONE NUMBER:**

Edith Gutierrez

1222 First Avenue, MS 501

San Diego, CA 92101

(619) 446-5147

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On October 8, 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 (October 22, 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.





THE CITY OF SAN DIEGO

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

## Community Planning Committee Distribution Form Part 2

Project Name: CC3 MMCO		Project Number: 308319	Distribution Date: 5-1-2014
<b>Project Scope/Location:</b> MIDWAY-PACIFIC HIGHWAY Conditional Use Permit (Process 3) for a Medical Marijuana Dispensary/Cooperative (MMCO) to operate within a 1,643 square foot portion of an 8,420 square foot building located at 3485 Noyes Street. The 1.6-acre site is located in the IS-1-1 zone within the Midway/North Bay Community Plan Area, Council District 2, North County.			
Applicant Name: Brant Mesnick		Applicant Phone Number: (619) 446-1111	
Project Manager: Gutierrez, Edith	Phone Number: (619) 446-5147	Fax Number: (619) 446-5111	E-mail Address: E.gutierrez@sandiego.gov
Committee Recommendations (To be completed for Initial Review):			
<input type="checkbox"/> Vote to Approve	Members Yes	Members No	Members Abstain
<input checked="" type="checkbox"/> Vote to Approve With Conditions Listed Below	6	2	1
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Deny	Members Yes	Members No	Members Abstain
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)			<input type="checkbox"/> Continued
<b>CONDITIONS:</b> <div style="font-size: 1.2em; margin-top: 10px;">See attached sheet</div>			
NAME: <i>Melanie Nickel</i>		TITLE: <i>Chair</i>	
SIGNATURE: <i>Melanie Nickel</i>		DATE: <i>7-2-14</i>	
Attach Additional Pages If Necessary.		Please return to: Project Management Division City of San Diego Development Services Department 1222 First Avenue MS 302 San Diego, CA 92101	
Printed on recycled paper. Visit our website at <a href="http://www.mhfga.gov">www.mhfga.gov</a> . Order form 22-0015. Upon request this information is available in alternative formats for persons with disabilities.			

Midway Community Planning Group action on project # 368319, 3485 Noell 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 business will not be allowed to expand into the balance of the existing building.

<b>Project Title:</b> CC3 MMCC	<b>Project No. (For City Use Only)</b> 366319
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**Part II - To be completed when property is held by a corporation or partnership**

**Legal Status (please check):**

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

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

<b>Corporate/Partnership Name (type or print):</b> Noell La Playa LLC <hr/> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> <b>Street Address:</b> 3011 Rogers Street <hr/> <b>City/State/Zip:</b> San Diego, CA 92106 <hr/> <b>Phone No:</b> _____ <b>Fax No:</b> _____ FRANCES H. GOLDEN <hr/> <b>Name of Corporate Officer/Partner (type or print):</b> Frances H. Golden <hr/> <b>Title (type or print):</b> Frances H. Golden <hr/> <b>Signature :</b> <b>Date:</b> 4-22-14	<b>Corporate/Partnership Name (type or print):</b> <hr/> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> <b>Street Address:</b> <hr/> <b>City/State/Zip:</b> <hr/> <b>Phone No:</b> _____ <b>Fax No:</b> _____ <hr/> <b>Name of Corporate Officer/Partner (type or print):</b> <hr/> <b>Title (type or print):</b> <hr/> <b>Signature :</b> _____ <b>Date:</b> _____
<b>Corporate/Partnership Name (type or print):</b> <hr/> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> <b>Street Address:</b> <hr/> <b>City/State/Zip:</b> <hr/> <b>Phone No:</b> _____ <b>Fax No:</b> _____ <hr/> <b>Name of Corporate Officer/Partner (type or print):</b> <hr/> <b>Title (type or print):</b> <hr/> <b>Signature :</b> _____ <b>Date:</b> _____	<b>Corporate/Partnership Name (type or print):</b> <hr/> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> <b>Street Address:</b> <hr/> <b>City/State/Zip:</b> <hr/> <b>Phone No:</b> _____ <b>Fax No:</b> _____ <hr/> <b>Name of Corporate Officer/Partner (type or print):</b> <hr/> <b>Title (type or print):</b> <hr/> <b>Signature :</b> _____ <b>Date:</b> _____
<b>Corporate/Partnership Name (type or print):</b> <hr/> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> <b>Street Address:</b> <hr/> <b>City/State/Zip:</b> <hr/> <b>Phone No:</b> _____ <b>Fax No:</b> _____ <hr/> <b>Name of Corporate Officer/Partner (type or print):</b> <hr/> <b>Title (type or print):</b> <hr/> <b>Signature :</b> _____ <b>Date:</b> _____	<b>Corporate/Partnership Name (type or print):</b> <hr/> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <hr/> <b>Street Address:</b> <hr/> <b>City/State/Zip:</b> <hr/> <b>Phone No:</b> _____ <b>Fax No:</b> _____ <hr/> <b>Name of Corporate Officer/Partner (type or print):</b> <hr/> <b>Title (type or print):</b> <hr/> <b>Signature :</b> _____ <b>Date:</b> _____





### SDPD CPTED REVIEW OF 3485 NOELL STREET MMCC

**Date:** March 16, 2015  
**To:** Joshua Kordasiewicz  
**From:** Ted Parker, SDPD Crime Prevention  
**Copies to:** Edith Gutierrez, Development Services Department  
 Linda Griffin, A/Lieutenant, SDPD Vice Administration  
 David Surwilo, SDPD Western Division Community Relations Officer (CRO)

I have a few advisory suggestions for crime prevention measures in the design of this project. They are based on the following four CPTED concepts that are widely used to reduce the incidence and fear of crime, and improve the quality of life in land-development projects. These concepts are defined briefly as follows:

1. *Surveillance.* Involves the use of electrical and mechanical devices, and the location of physical features, activities, and people to provide good visibility in the environment. Creates a risk of detection for offenders and a perception of safety for legitimate users.
2. *Access control.* Uses electrical and mechanical devices, people, and natural measures to create a perception of risk to offenders and deny them access to targets and escape routes. Also guides legitimate users safely through the environment.
3. *Territorial reinforcement.* Uses physical features and signs to define ownership and control activities in the environment. Delineates spaces with limited or no public access.
4. *Maintenance.* Allows the continued use of spaces for their intended purposes. Maintains the effectiveness of measures employed for surveillance, access control, and territoriality.

Feel free to call me at (858) 523-7049 if you want to discuss these suggestions further.

### SUGGESTIONS

#### Alarms

The San Diego Municipal Code (SDMC) Sec. 141.0614(d) requires alarms but does not say what kind. Both robbery and burglar alarm systems should be installed. The robbery alarm is a silent panic button that an employee would push in the event of a holdup. It would signal the alarm company to call 911 to report a robbery in progress and not call back to confirm the alarm. The burglar alarm system should include sensors on all exterior doors and walls, common interior walls with adjacent suites, and the ceiling. The sensors on the walls and ceiling would detect any attempts to drill or otherwise break through them. These alarm systems should have batteries for backup power.

The above-ground telephone line and its network interface box should be protected against various attacks. The exterior cable should be installed in armored conduits. And the wiring should be in a sturdy metal box that is locked with a hidden- or shielded-shackle padlock with a shackle that is difficult to cut with a bolt cutter. Alternatively, the alarm system should have a wireless backup that would send the alarm if the telephone wire is cut.

#### Electric Power

Because lights and security systems work on electric power it is important that measures be taken to prevent its disruption and provide a source of backup power in the event of a power failure. If the circuit breakers and fuses

are located outside the suite, they should also be installed in a sturdy metal box that is locked with a hidden- or shielded-shackle padlock. If they are in an interior room, its door should be locked with a deadbolt that is separate from any other locking mechanism. This will prevent someone for shutting off electric power for the lights and security systems, and cutting communications with the alarm company.

### Cameras

The SDMC Sec. 141.0614(d) requires cameras but does not say what kind or where they should be installed. Cameras can be wired or wireless. They can record continually, when motion is detected, at specified times, or on an alarm. After a crime occurs the imagery can be reviewed for usable evidence. Any camera system that is installed should be designed to provide high-quality, color imagery of persons and activities inside and outside the MMCC in any lighting condition for use by the SDPD in investigating crimes. It should operate 24/7 and have backup power for at least 12 hours in the event of a power failure. At a minimum, the cameras should cover the parking spaces, the exterior doors, the lobby and reception areas, and the commercial service, work, storage, and break rooms. Their imagery should enable clear and certain identification of any individual on the premises. The video should be recorded and kept in a secure room for at least 30 days.

The existence of cameras helps to deter crime but not to stop a crime in progress. However, if the suite also has Internet Protocol (IP) cameras, the imagery can be transmitted to the alarm company so personnel there can look at the imagery and see what is happening. Or it can be transmitted to a web-enabled mobile device. (This should be done over a secure Internet link protected by a strong password. Microsoft Windows suggests that these passwords be at least eight characters long, with at least one capital letter, one lowercase letter, one number, and one symbol. Use of non-dictionary words or easily-remembered phrases is recommended.) If a crime in progress is seen, **911** should be called and the dispatcher given the details. This will lead to a higher call priority and a faster response than would occur for an unverified alarm call. Officers might even arrive in time to catch the perpetrators. If something suspicious is seen, it should be reported to the SDPD on its non-emergency number, **(619) 531-2000** or **(858) 484-3154**.

For actions that don't trigger alarms, "smart" cameras with video-analytics or intelligent-video software can be installed and programmed to detect anything unusual or suspicious. When an alert condition occurs, the imagery would be recorded and transmitted to the alarm company or to a web-enabled mobile device so security personnel can see what is happening and take appropriate action. Again, if a crime in progress is seen, **911** should be called and the dispatcher given the details. This will lead to a high call priority and a relatively fast response. Officers might even arrive in time to catch the perpetrators.

In either case, if something suspicious is seen, it should be reported to the SDPD on its non-emergency number, **(619) 531-2000** or **(858) 484-3154**. Or if there is a guard on-site or one in a patrol car that can respond quickly, the alarm company should be called to investigate.

IP cameras that view areas in which crimes might be in progress, such as the MMCC cash register location, should also be capable of providing real-time streaming video to the SDPD in Operation Secure San Diego. This program is one of the SDPD's new technology public safety and crime fighting activities. It will enable officers arriving at the scene to make better, more-informed tactical decisions and determine whether additional officers and emergency services are required. Contact the CRO in the SDPD's Western Division at **(619) 692-4800** if you wish to partner with the SDPD in this program.

Signs regarding cameras should be posted in order to deter crimes. They should use words like **CAMERAS ARE ON THE PREMISES**, **SURVEILLANCE IS IN PROGRESS**, or **ALL ACTIVITIES ARE RECORDED TO AID IN THE PROSECUTION OF CRIMES COMMITTED ON THE PREMISES**. One such sign is shown below.



Because cameras are susceptible to damage by criminals attempting to hide their actions, measures should be taken to make less vulnerable. Here are some possibilities.

- Mount cameras as high as possible.
- Use damage-resistant cameras.
- Use armored conduits for electrical cables.
- Install cameras where they are within the field of view of at least one other camera.
- Include measures to detect lens blockage and other tampering.

### **Lighting**

Lighting should comply with SDMC Sec. 141.0614(c). The area outside the MMCC should be well-lighted from sunset to sunrise. Like cameras, light fixtures should also be damage-resistant.

### **Exterior Door Locks**

When the suite is unoccupied, the exterior doors can be locked with single-cylinder deadbolts that are separate from other locking mechanisms. These locks should have a throw of at least one inch, be key-operated on the outside, and have a thumb turn on the inside. They cannot be used when suite is occupied because California Fire Code Sec. 1008.1.9 states that egress doors shall be readily openable from the egress side without the use of a key or special knowledge or effort. The thumb turn is deemed to require special knowledge. It also requires twisting of the wrist to open the door, which makes it prohibited in the California Fire Code. When a deadbolt is installed a sign must be posted on or adjacent to the door saying THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED per California Fire Code Sec. 1008.1.9.3.

### **Peepholes in Exterior Doors**

Exterior doors should also have a 180-deg peephole so employees in the building can be sure that no one is loitering outside before they open the door to take out the trash or otherwise leave the building. Or with a camera outside the door, they could look at its monitor to see if it is safe to open the door.

### **Bullet-Resistant Doors**

To be bullet-resistant the door should be made of steel or reinforced with steel, and be tested in accordance with Underwriters Laboratories (UL) 752 and assigned a protection level from 1 to 10. The door should also have a steel frame or a steel reinforcing device mounted on the lock side of the frame that extends at least 2 feet above and below the strike plate.

### **Single Doors**

The following measures apply to interior and exterior single doors that are opened on the inside with push or press bars, or lever arms and not locked with a deadbolt.

Doors with beveled latches that are visible from the outside should have latch guards that extend at least 12 inches above and below the latches. This will prevent a person from sliding something between the door and its frame to push in the latch.

Doors that are opened on the inside by a push or press bar and have a gap between them and their frames can be opened with an L-shaped rod that is inserted next to the bar, turned 90 degrees, and pulled to depress the bar. This can be prevented by attaching a strip of metal or some other material to the door to cover the gap. It is better if there is no gap between the door and its frame.

Doors that are opened on the inside by a lever arm and have a gap underneath them can also be opened with a lever-opening tool like the Keedex K-22. Its wire would be inserted under the door and raised to hook over the lever arm on the inside of the door. The wire is then pulled to rotate the lever arm downward to open the door. This can be prevented by attaching a threshold strip to the floor under the door and a brush-sweep to on the bottom of the door. They would close the gap and prevent the tool from being inserted.

Doors that are opened on the inside by a press bar, i.e., one that rotates downward when pushed, and have a gap underneath them can be opened with a lever-opening tool like the Keedex K-22 as described above. Use of a threshold strip and door brush-sweep would close the gap and prevent the tool from being inserted.

### **Roll-Up Doors**

Slide locks should be mounted on the bottom of roll-up doors. Metal rods slide into holes on each side of the door frame to secure the door in place when it is closed. This will prevent the door from being pried open from the bottom.

### **Consumer Movement in the MMCC**

Ideally, consumers should enter the suite through an entry door, be checked in and have their carry-in items searched, go to the showroom and select their cannabis, pay the cashier, receive their cannabis, and leave the building through an exit door. Consumers should not have any access to offices and rooms for safes, camera recordings, and marijuana storage, processing, and packaging. Doors to these rooms should be kept locked at all times. Employees would have keys, keypad codes, fobs, or access cards to open them. An advantage of the latter is that a record of employee access can be kept.

In addition to the security measures suggested above, a MMCC could have a video intercom, mantrap, metal detector, armed security guard at the entry door, bullet-resistant protection for the receptionist and cashier, and remotely controlled locks on interior doors, as suggested below.

### **Video Intercom**

With a video intercom, the front door would be locked and a person wanting to enter would push a button to talk to a receptionist or security guard, who would be able to see the person on a camera monitor and ask to see the person's identification and membership card. People would be buzzed in if their identity and membership are verified and they are not carrying any prohibited items. The MMCC should have a policy that defines the things that can and cannot be brought inside. Things that might be prohibited include backpacks, brief cases, reusable grocery bags, laptops, shopping carts, etc.

### **Mantrap**

To prevent a person from following another into the suite, i.e., tailgating, the front door could lead to a mantrap, i.e., a secured space for one person equipped with two interlocking doors to insure that only one person at a time can pass through into the reception area. Employees of the MMCC would be able to open both doors with their individual access cards, fobs, or keypad codes. Others would be buzzed through by a receptionist or security guard. To prevent someone who has stolen an employee's access means from entering the building, a biometric sensor like a fingerprint reader could be installed at the second door. Thus, only employees would be able to enter through the mantrap without being buzzed in. Consumers would leave the suite through the mantrap to prevent someone from entering when the front door is open.

## **Metal Detector**

If the lobby shown at the front door on the floor plan has a metal detector, security guard, and a table where allowed carry-in items can be checked, it can operate like a mantrap. The guard, who should be armed, wear a bullet-resistant vest, and be trained in how to deal with people who have weapons, refuse to be searched, or use their weapons, would check all allowed carry-in items and any metal items detected. An alternative to a metal detector is a wand used by a security guard to search a person for metal objects. The guard would request the person to remove for inspection any objects detected. If no prohibited metal objects are found, the guard would let the consumer enter the reception area.

## **Receptionist or Security Guard in the Reception Area**

A receptionist or guard in the reception area could operate the video intercom and verify identities and memberships again before letting consumers into the commercial-service room. If there is a limit on the number of consumers in that room at a time, the receptionist or guard would ask other consumers to sit and wait until they can be admitted.

## **Employee Protection**

Consider protecting the receptionist or security guard in the reception area and the cashier in the commercial-service room with a bullet-resistant glass, plastic, or laminate enclosure with a bullet-resistant door.

## **Common Interior Walls with Adjacent Suites**

Consider strengthening them to prevent break-throughs.

## **Preventing Entry when the Front Door Is Open**

Someone could enter the lobby when the front door is open after a consumer leaves the suite. This person would be trapped in the lobby because the door to the reception area would lock after a consumer leaves. One way to deal with this possibility is to have the guard in the lobby prevent someone from entering. Another is to have receptionist or guard in the reception room watch consumers leave on their camera monitor. If they see someone enter the lobby, which would have an intercom connection, they will tell the person that the police will be called if they don't leave immediately.

## **CAVEATS ON CPTED**

CPTED measures employ three elements -- people, devices, and design features -- to deter crimes of opportunity by making it more difficult for an offender to commit a crime and escape without being stopped or detected. Although devices and design features are important, the human element is the critical one. People in the environment must:

- Take advantage of the visibility provided to observe and question intruders.
- Report suspicious behavior and criminal activities.
- Use the access control measures provided to keep intruders out.
- Use security measures to protect themselves and their property.
- Exercise control over their environment.

But even all of this will not stop many types of offenders. Other concepts and strategies will be needed to deal with offenders who are:

- Determined and skillful in defeating surveillance and access control measures,
- Irrational in their behavior,
- Acting as a member of an organized gang,
- Under the influence of drugs or alcohol,
- Reckless or undeterred by the risks of detection and apprehension,

- Unconcerned about possible punishment, or
- Legitimately in the area.

The need for the community, police, and other agencies and organizations to work together as partners to employ other concepts and strategies is especially critical in dealing with organized gangs because gangs can also use surveillance, access control, and territoriality measures, along with terror and intimidation, to make an environment safe for their criminal activities.

Finally, CPTED measures do not deal with many types of crimes that occur in social, home, and business environments. For example, they do not help to prevent crimes in which the victim knows or provides access to the offender, i.e., domestic violence, child abuse, and acquaintance rape. Nor do they help prevent substance abuse, workplace violence, fraud, forgery, and other financial crimes. Counseling, education, enforcement, and other measures are needed to deal with these situations.



 THE CITY OF SAN DIEGO	City of San Diego <b>Development Services</b> 1222 First Ave. 3rd Floor San Diego, CA 92101	<h2 style="margin: 0;">Development Permit/ Environmental Determination Appeal Application</h2>	<b>FORM DS-3031 OCTOBER 2012</b>
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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: CLAUDE ANTHONY MARENGO E-mail Address: CMARENGO@SANDIEGO.CA.GOV  
 Address: 342 NAUTILUS ST City: S.D. State: CA Zip Code: 92037 Telephone: \_\_\_\_\_

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

BLOUNT MESSNIK ~~NOEL LA PLAYA PROPERTIES~~

**4. Project Information**

Permit/Environmental Determination & Permit/Document No.:

PTS# 368319

Date of Decision/Determination:

MARCH 25<sup>TH</sup> 2015

City Project Manager:

EDITH GUTIERREZ

Decision (describe the permit/approval decision):

PROJECT WAS DENIED BASED ON FINDING # 2 OF CUP FINDINGS

**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.)

AS THE APPLICANT DOES NOT WISH TO APPEAL OUR OWN PROJECT AS THE ENVIRONMENTAL DETERMINATION WAS AN EXCEPTION IN ERROR. WE ACCEPTED A DENIAL AT HEARING OFFICER TO RECTIFY THE CITY'S DOCUMENT AND BE ABLE TO PRESENT THE CORRECTED DOCUMENT AT PLANNING COMMISSION

RECEIVED

MAR 30 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: C. Marengo

Date: MARCH 30<sup>TH</sup> 2015

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

PLANNING COMMISSION  
RESOLUTION NO. PC-  
CONDITIONAL USE PERMIT NO. 1287855  
CC3 MMCC- PROJECT NO. 368319

WHEREAS, NOELL LA PLAYA PROPERTIES, Owner and BRENT MESNICK, Permittee, filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) in a 1,643 square foot tenant space within an existing 8,420 square foot building (as described in and by reference to the denied Exhibits "A" and corresponding conditions of denial for the associated Permit No. 1287855), on portions of a 1.6-acre site;

WHEREAS, the project site is located at 3485 Noell 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 Lot 2 to 6, Block 245, Lots 161 to 166, Lots 7 to 16, Block 197, Middletown, Map by J. E. Jackson, January 18, 1881;

WHEREAS, on March 25, 2015, the Hearing Officer of the City of San Diego denied Conditional Use Permit No. 1287855 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on March 30, 2015, Claude Anthony Marengo filed an appeal 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, a Negative Declaration has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.), that the Declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said Declaration, together with any comments received during the public review process, has been reviewed and considered by the Planning Commission;

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 in a 1,643 square foot tenant space within an existing 8,420 square foot building. The 1.6-acre site is located at 3485 Noell 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 in a 1,643 square foot tenant space within an existing 8,420 square foot building located at 3485 Noell 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 3485 Noell Street is within 1,000 feet of a minor-oriented facility, Cali Coast Elite (2004 Hancock Street) and 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 in a 1,643 square foot tenant space within an existing 8,420 square foot building located at 3485 Noell 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 3485 Noell Street is within 1,000 feet of a minor-oriented facility, Cali Coast Elite (2004 Hancock Street) and 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 in a 1,643 square foot tenant space within an existing 8,420 square foot building located at 3485 Noell 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 3485 Noell Street is within 1,000 feet of a minor-oriented facility, Cali Coast Elite (2004 Hancock Street) and 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. 1287855 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. 1287855, 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. 24004637



7515 MISSION BLVD, SUITE 100  
SAN DIEGO, CA 92108  
TEL: 619.591.1234 FAX: 619.591.1235

3485 NOELL ST.  
SAN DIEGO, CA 92110

GENERAL NOTES:

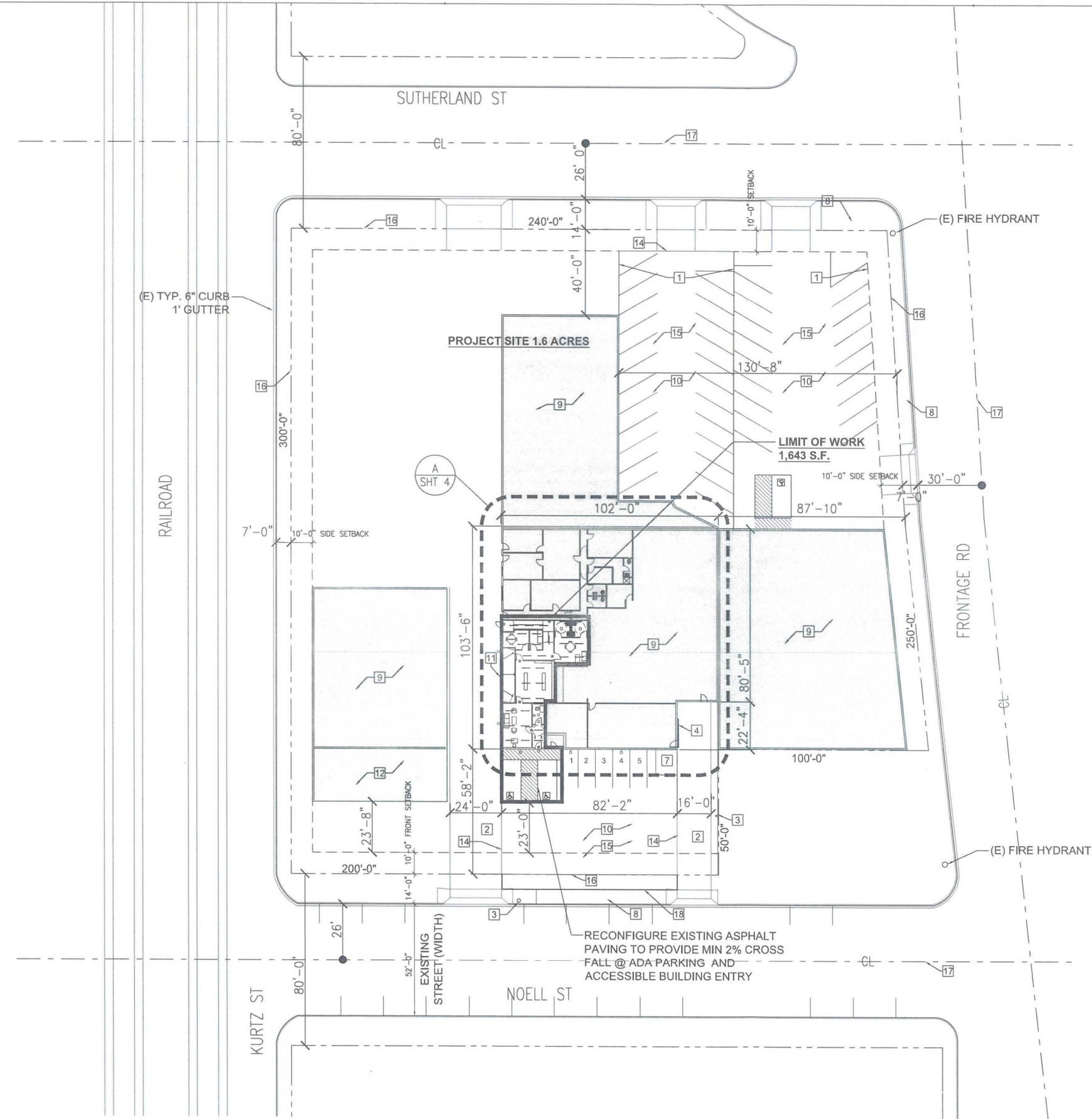
1. FIELD VERIFY DIMENSIONS PRIOR TO CONSTRUCTION.

KEYNOTES:

- 1 (E) FENCE
- 2 (E) DRIVEWAY TO REMAIN
- 3 (E) POST
- 4 (E) SLIDE DOOR
- 5 (E) WOOD FENCE
- 6 (E) TELEPHONE POLE
- 7 (E) STORAGE
- 8 (E) SIDEWALK
- 9 (E) 1-STORY BUILDING TO REMAIN
- 10 (E) PARKING TO REMAIN
- 11 (E) ROLLDOWN DOOR TO REMAIN
- 12 (E) 2-STORY BUILDING TO REMAIN
- 13 (E) ON-STREET PARKING
- 14 (E) GATE - REMAIN OPEN DURING BUSINESS HOURS
- 15 (E) EXTERIOR LIGHTING FOR IMMEDIATE AREA
- 16 (E) PUBLIC RIGHT-OF-WAY
- 17 (E) CENTER OF PUBLIC RIGHT-OF-WAY
- 18 (E) FENCE TO BE RELOCATED TO PROPERTY-LINE

LEGEND:

- (E) INDICATES EXISTING
- (N) INDICATES NEW
- NEW WALL
- PROPERTY LINE
- EXISTING BUILDING TO REMAIN - NOT IN SCOPE



SITE PLAN  
SCALE: 1" = 20'-0"

Drawn By: Checked By:

No.	Date	Issue	Description
CUP PREPARATION	4/15/14		
CUP REVISION	5/9/14		
CUP RESUBMITTAL	6/30/14		
CUP 2ND-SUBMITTAL	8/7/14		
CUP 3RD-SUBMITTAL	9/10/14		

Stamp:

Date:  
Project No.:  
Sheet Titles:

SITE PLAN  
Sheet No.:  
SHEET  
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