



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: February 12, 2020

TO: City of San Diego Planning Commission

FROM: Edith Gutierrez, Development Project Manager, Development Services

SUBJECT: RECONSIDERATION (REHEAR) DOCKET FOR FEBRUARY 20, 2020
[4337 Home Avenue](#) Conditional Use Permit for Type 20 Alcohol License
Project No. 593686

BACKGROUND

The project was a request for a Neighborhood Use Permit (NUP) to continue operation of an existing automobile service station (ARCO) and mini-market (AM/PM) located in the CC-1-3 (Commercial-Community) and IL-3-1 (Industrial-Light) zones; a Conditional Use Permit (CUP) to continue operation of an Alcoholic Beverage Outlet, Type 20 Alcohol License, within the existing mini-market; and a CUP to allow operation of a Marijuana Outlet (Outlet) in a 1,200-square-foot tenant space within a new two-story, 2,400 square-foot building.

The 1.08-acre project site is in the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area in Council District 9.

PROPOSED ACTION:

Deny the appeal, affirm the Hearing Officer's decision and approve CUP Permit No. 2225844 for a Type 20 Alcohol License at an existing automobile service station (ARCO) and mini-market (AM/PM) located at 4337 Home Ave or grant the appeal, reverse the Hearing Officer's decision and deny CUP Permit No. 2225844 for a Type 20 Alcohol License.

STAFF RECOMMENDATION:

Deny the appeal, affirm the Hearing Officer's decision and approve CUP Permit No. 2225844 for a Type 20 Alcohol License at an existing automobile service station (ARCO) and mini-market (AM/PM).

TIMELINE OF EVENTS

JULY 24, 2019

[Hearing Officer – Item No. 5](#)

1. Adopted Mitigated Negative Declaration (MND) No. 593686
2. Approved Neighborhood Use Permit No. 2140441 (Automobile Service Station & Mini-Market);
3. Approved Conditional Use Permit No. 2225844 (ABC Type 20 License); and
4. Approved Conditional Use Permit No. 2117121 (Marijuana Outlet)

JULY 24, 2019

An appeal of the Hearing Officer's decision was filed.

AUGUST 7, 2019

The MND was appealed to City Council, however, the appeal was withdrawn before the appeal hearing.

DECEMBER 5, 2019

[Planning Commission Motions – Item No. 2](#)

1. Denied the appeal, affirmed the Hearing Officer's decision, and approved Neighborhood Use Permit No. 2140441 (Automobile Service Station & Mini-Market). Vote 6-1-0.
2. Grant the appeal, reversed the Hearing Officer's decision, and denied Conditional Use Permit No. 2225844 (ABC Type 20 License). Vote 4-3-0.
3. Grant the appeal, reversed the Hearing Officer's decision, and denied Conditional Use Permit No. 2117121 (Marijuana Outlet). Vote 7-0-0.

DECEMBER 12, 2019

Planning Commission – Non- agenda public comment

- The Owner/Applicant of AVAD Investments Inc., Mr. Arkan Somo, requested a reconsideration of the December 5, 2019, Planning Commission decision for

Conditional Use Permit (CUP) No. 2225844 (ABC Type 20 License). ¹

- Commissioners Granowitz and Whalen supported the request for reconsideration to be placed on a future agenda.

January 30, 2020

Planning Commission – Item No. 1

1. Motion by Commissioner Boomhower to suspend the Permanent Rules of the Planning Commission. Seconded by Commissioner Whalen. Vote 6-0-1.
2. Motion by Commissioner Whalen to reconsider the December 5, 2019, denial of Conditional Use Permit No. 2225844 (ABC Type 20 License). Seconded by Commissioner Austin to correct hasty decision since the taking of the original vote. Vote 6-0-1.

February 20, 2020

Planning Commission will reconsider whether to deny the appeal, affirm the Hearing Officer's decision and approve CUP Permit No. 2225844 for a Type 20 Alcohol License at an existing automobile service station (ARCO) and mini-market (AM/PM) located at 4337 Home Ave or grant the appeal, reverse the Hearing Officer's decision and deny CUP Permit No. 2225844 for a Type 20 Alcohol License.

ATTACHMENTS:

1. [Planning Commission Report NO. PC-19-100](#) – Reference material
2. Draft Resolution with Findings (ABC Type 20 License)
3. Draft Permit with Conditions (ABC Type 20 License)

¹ Mr. Randall Zaitona also requested a reconsideration of CUP Permit No. 2117121 (Marijuana Outlet). Commissioner Hofman asked that the request be placed on a future agenda. The request for reconsideration of the CUP for the MO is not on the current agenda but will be set on a later date.



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: November 27, 2019 REPORT NO. PC-19-100

HEARING DATE: December 5, 2019

SUBJECT: 4337 HOME AVENUE MARIJUANA OUTLET NUP/CUP
PROCESS THREE DECISION

PROJECT NUMBER: [593686](#)

REFERENCE: [Report to the Hearing Officer No. HO-19-068](#)

OWNER/APPLICANT: AVAD Investments Inc.

SUMMARY

Issue: Should the Planning Commission deny or approve the appeal of the Hearing Officer's decision to approve the continued operation of an automobile service station and mini-market, including a Type 20 Alcoholic Beverage Outlet within existing structures, and the operation of a Marijuana Outlet within a new, two story building, located at 4333 and 4337 Home Avenue, within the City Heights community of the Mid-City Communities Plan area?

Staff Recommendation(s):

1. Approve Neighborhood Use Permit No. 2140441 (Automobile Service Station & Mini-Market);
2. Approve Conditional Use Permit No. 2225844 (ABC Type 20 License); and
3. Approve Conditional Use Permit No. 2117121 (Marijuana Outlet)

Community Planning Group Recommendation: On June 4, 2018, the City Heights Area Planning committee (CHAPC) considered the project and passed the following motions:

Motion 1: voted 11-4-0 to recommend denial of the Conditional Use Permit for the marijuana outlet and marijuana production facility. (Subsequent to the vote, the applicant redesigned the project to remove the marijuana production facility.)

Motion 2: voted 13-2-0 to approve construction of a new 2,400-square-foot building

at 4337 Home Avenue, not the marijuana outlet, provided that the applicant and the building's construction follow the guidelines of the Chollas Creek Enhancement Plan for the setbacks to the adjoining auburn Creek bed.

Motion 3: voted 15-0-0 to continue discussion of the left turn lane request from Home Avenue as part of this project pending a traffic study of the area to be completed by the applicant and presented to DSD and the CHAPC as part of this project.

No motion was taken on the existing use of the service station and mini-mart with the existing type 20 liquor license, however, on November 14, 2019, the CHAPC chair confirmed via email that the planning committee supports the continued use (Attachment 6).

Environmental Review: Mitigated Negative Declaration (MND) No. 593686 was prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines for potential impacts to Tribal Cultural Resources. A Mitigation, Monitoring and Reporting Program (MMRP) was prepared to reduce, to below a level of significance, potential impacts to Tribal Cultural Resources.

The MND was appealed on August 7, 2019, by Michael Martinez. On August 6, 2019, Mr. Martinez withdrew the appeal. Per San Diego Municipal Code (SDMC) Section 112.0520(d), no hearing will be conducted if the appeal is withdrawn. The scope of the subject hearing only includes the project, and not the environmental determination.

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

Code Enforcement Impact: None with this application.

Housing Impact Statement: The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. Light Manufacturing with Commercial use is intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Specifically, the CC-1-3 (Commercial-Community) and IL-3-1 (Industrial-Light) zones allows a mix of commercial, light industrial and office uses. The project site is surrounded by commercial and industrial uses consistent with the community plan. Therefore, the project would not impact the housing supply within the City of San Diego.

BACKGROUND

The project is a request for a Neighborhood Use Permit (NUP) pursuant to SDMC Section [126.0203\(a\)](#) to continue operation of an existing automobile service station (ARCO) and mini-market

(AM/PM) located in the CC-1-3 (Commercial-Community) and IL-3-1 (Industrial-Light) zones; a Conditional Use Permit (CUP) pursuant to SDMC Section [126.0303](#) to continue operation of an Alcoholic Beverage Outlet for the sale of beer and wine for off-site consumption, in accordance with a Type 20 Alcohol and Beverage Control (ABC) License, within the existing mini-market; and a CUP pursuant to SDMC Section [126.0303](#) to allow operation of a Marijuana Outlet (Outlet) in a 1,200-square-foot tenant space within a new two-story, 2,400 square-foot building located on the portion of the site zoned IL-3-1 located at 4333 - 4337 Home Avenue . The 1.08-acre project site is also located in the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area. The site is designated Industrial, intended for commercial and light industrial use, by the Mid-City Communities Plan.

On July 24, 2019, the Hearing Officer approved the project. The [Report to the Hearing Officer No. HO-19-068](#) (Attachment 1) contains the project background, analysis and necessary draft findings with a staff recommendation of approval. On July 24, 2019, Theresa Quiroz, filed a Development Permit Appeal Application based on factual error and findings not supported (Attachment 2).

PROJECT APPEAL DISCUSSION

The project's appeal issues are summarized below with the City staff responses:

APPEAL ISSUE NO. 1: Findings not supported for the NUP- Mini-market

The mini-market has a conditional approval which requires that the landscape areas be kept free of weeds, litter and disease and replace any dead plants. It also did not allow for unapproved signage in the landscape and public areas. Both conditions have been continuously ignored therefore, finding b cannot be made.

STAFF RESPONSE ISSUE NO. 1: Development Services Department-Code Enforcement Division has no existing or previous code enforcement complaints or violations on this property relating to trash or unpermitted signs. Violations of the Land Development Code are enforced through remedies in Chapter 12, Article 1, Division 3.

APPEAL ISSUE NO. 2: Findings not supported for CUP- Alcohol License

The project fails three of the four criteria in Section 141.0502(b)(1) Limited Use Regulations and section 141.0502(b)(11) requiring the owner to maintain the property free of trash and graffiti. Also, Section 141.0502(c)(7)(D) states that prior violations shall constitute grounds for denying an application. The site has weeds and litter, in violation and therefore grounds for denial.

STAFF RESPONSE ISSUE NO. 2: Sections 141.0502(b)(1) and (b)(11) Limited Use Regulations, which allows an alcoholic beverage outlet with a ministerial permit, does not apply to this project. The project is a request for a CUP and is subject to the regulations in Section 141.0502(c). The CUP includes a permit condition requiring the owner/permittee to maintain the premises, adjacent public sidewalks, and areas under the control of the Owner/Permittee, free of litter and graffiti at all times, to provide for daily removal of trash, litter, and debris and to eliminate graffiti within 48 hours of application.

Section 141.0502(c)(7)(D) which allows an expiration date to be extended does not apply to this project, as the project is requesting a new Conditional Use Permit, not an Extension of Time.

APPEAL ISSUE NO. 3: The MND is not sufficient and should not be approved.

STAFF RESPONSE ISSUE NO. 3: The MND was appealed on August 7, 2019 by Michael Martinez. On August 6, 2019, Mr. Martinez withdrew the appeal. Per SDMC Section 112.0520(d), no hearing will be conducted if the appeal is withdrawn. The scope of the subject hearing only includes the project, and not the environmental determination.

Conclusion:

City staff has reviewed the proposed project and all issues identified through the review process have been resolved in conformance with adopted Land Development Code. The existing and proposed uses comply with the development regulations of the CC-1-3 and IL-3-1 zones. Staff has provided draft findings (Attachment 3) to support the proposed development and draft conditions of approval (Attachment 4). Staff is recommending that the Planning Commission deny the appeal, affirm the Hearing Officer's decision, and approve the project as presented.

ALTERNATIVES

1. Deny the appeal, affirm the Hearing Officer's decision, and approve Neighborhood Use Permit No. 2140441, Conditional Use Permit No. 2225844 and Conditional Use Permit No. 2117121, with modifications.
2. Uphold the appeal, reverse the Hearing Officer's decision, and deny Neighborhood Use Permit No. 2140441, Conditional Use Permit No. 2225844 and Conditional Use Permit No. 211712, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



PJ Fitzgerald
Assistant Deputy Director
Development Services Department



Edith Gutierrez
Development Project Manager
Development Services Department

LOWE/EG

Attachments:

1. [Report to the Hearing Officer No. HO-19-068](#)
2. Theresa Quiroz Appeal
3. Draft Resolution with Findings
4. Draft Permit with Conditions (Automobile Service Station and Alcoholic Beverage Outlet)
5. Draft Permit with Conditions (Marijuana Outlet)
6. City Heights Area Planning committee (CHAPC) email dated November 14, 2019



THE CITY OF SAN DIEGO

Report to the Hearing Officer

DATE ISSUED: July 17, 2019 REPORT NO. HO-19-068

HEARING DATE: July 24, 2019

SUBJECT: 4337 HOME AVENUE MARIJUANA OUTLET NUP/CUP - Process Three Decision

PROJECT NUMBER: [593686](#)

OWNER/APPLICANT: Avad Investments Inc. (Attachment 16)

SUMMARY

Issue: Should the Hearing Officer approve the continued operation of an automobile service station and mini- market, including a Type 20 Alcoholic Beverage Outlet within existing structures, and the operation of a Marijuana Outlet within a new, two story building, located at 4333 and 4337 Home Avenue, within the City Heights community of the Mid-City Communities Plan area?

Staff Recommendations:

1. **Adopt** Mitigated Negative Declaration No. 593686;
2. **Approve** Neighborhood Use Permit No. 2140441 (Automobile Service Station & Mini-Market);
3. **Approve** Conditional Use Permit No. 2225844 (ABC Type 20 License); and
4. **Approve** Conditional Use Permit No. 2117121 (Marijuana Outlet).

Community Planning Group Recommendation: On June 4, 2018, the City Heights Area Planning committee (CHAPC) considered the project and approved the following motions (Attachment 15):

Motion 1: voted 11-4-0 to recommend denial of the Conditional Use Permit for the marijuana outlet and marijuana production facility. (Subsequent to the vote, the applicant redesigned the project to remove the marijuana production facility.)

Motion 2: voted 13-2-0 to approve construction of a new 2,400-square-foot building at 4337 Home Avenue provided that the applicant and the building's construction

follow the guidelines of the Chollas Creek Enhancement Plan for the setbacks to the adjoining auburn Creek bed.

Motion 3: voted 15-0-0 to continue discussion of the left turn lane request from Home Avenue as part of this project pending a traffic study of the area to be completed by the applicant and presented to DSD and the CHAPC as part of this project.

Environmental Review: Mitigated Negative Declaration No. 593686 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines for potential impacts to Tribal Cultural Resources. A Mitigation, Monitoring and Reporting Program (MMRP) has been prepared which will reduce, to below a level of significance, potential impacts identified in the environmental review process (Attachment 7).

BACKGROUND

The project is a request for a Neighborhood Use Permit pursuant to San Diego Municipal Code (SDMC) Section [126.0203\(a\)](#) to continue operation of an existing automobile service station (ARCO) and mini-market (AM/PM) located in the CC-1-3 (Commercial-Community) and IL-3-1 (Industrial-Light) zones; a Conditional Use Permit (CUP) pursuant to SDMC Section [126.0303](#) to continue operation of an Alcoholic Beverage Outlet for the sale of beer and wine for off-site consumption, in accordance with a Type 20 Alcohol and Beverage Control (ABC) License, within the existing mini-market; and a CUP pursuant to SDMC Section 126.0303 to allow operation of a Marijuana Outlet (Outlet) in a 1,200-square-foot tenant space within a new two-story, 2,400 square-foot building located on the portion of the site zoned IL-3-1 located at 4333 - 4337 Home Avenue (Attachment 1). The 1.08-acre project site is also located in the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area. The site is designated Industrial, intended for commercial and light industrial use, by the Mid-City Communities Plan (Attachment 2).

The site is currently improved with a mini-market with a Type 20 ABC License Alcoholic Beverage Outlet, fueling islands, paved parking lot, and landscape areas, constructed in accordance with CUP No. 96-7374 approved on September 17, 1997. The CUP was valid for 20 years and has expired. A concrete-line drainage channel is located along the southwest boundary of the property. Grades on the property slope from northeast to southwest with elevations varying from approximately 145 feet Mean Sea Level (MSL) to 137 feet MSL. The site is surrounded by Home Avenue to the northwest, the 805 freeway and on and off-ramps to the southwest, an undeveloped natural slope in the OR-1-1 (Open Space-Residential Zone) that rises to the southeast approximately 100 feet in elevation with single family dwellings beyond the slope, and light industrial and commercial land uses to the northeast in the IL-3-1 Zone (Attachment 3). There is no sensitive habitat or biological resources on the project site. The project site is near the Multi-Habitat Planning Area (MHPA) to the southeast, and has been conditioned to require compliance with the MHPA Land Use Adjacency Guidelines.

DISCUSSION

Project Description:

The project proposes to continue the operation of the existing automobile service station, and a 2,994-square-foot mini-market with a Type 20 Alcoholic Beverage Outlet. No changes to the existing automobile service station and mini-market are proposed as part of this application. The project also proposes the construction of a new two-story, 2,400 square-foot building in an area of project site that has been previously disturbed. This building would include the operation of a Marijuana Outlet within a 1,200 square-foot tenant space on the first floor. The second floor, 1,200-square-foot space will remain vacant for the duration of the CUP, as detailed in the Marijuana Outlet Project Analysis section of this report.



Access to the development would be provided via two existing driveways on Home Avenue, which have been conditioned to be improved to current City standards. The project will provide 24 off-street parking spaces, which exceeds the 21 off-street parking spaces required for all uses on site, including six required spaces for the Marijuana Outlet, and 15 required spaces for the auto service station and the mini-market.

Automobile Service Station and Mini-Market Analysis:

The premise has an automobile service station with a mini-market as an accessory use, including the sales of alcoholic beverages, which has been operating since 1998 pursuant to CUP No. 96-7374. The CUP was valid for 20 years and has expired. An automobile service station is permitted as a limited use in the IL-3-1 Zone, and within a NUP in the CC-1-3 Zone, subject to the regulations set forth in SDMC section [141.0801](#). The automobile service station complies with all applicable regulations and due to its proximity to the residential zones, has been conditioned to limit hours of operation between 6:00 AM and 12:00 Midnight pursuant to SDMC Section 141.0801(g).

Alcoholic Beverage Outlet Analysis:

The premise has an existing Type 20 license that was originally issued by the Alcoholic Beverage Control (ABC) in 1999, which was transferred to the existing owner in 2005. The current Off-Sale beer & wine license has no restrictive condition with regard to the hours of sales, other than State mandated restriction between 2:00AM and 6:00AM.

A Type 20 ABC license is defined as “off-sales,” which does not allow the alcohol sold in the store to be consumed on the premises. The underlying CC-1-3 Zone is a community commercial zone intended to accommodate development with an auto orientation and permits a maximum density of 1 dwelling unit for each 1,500 square feet of lot area. Alcoholic beverage outlets are allowed in the CC-1-3 Zone as a Limited Use subject to regulations set forth in SDMC Section [141.0502\(b\)](#). An alcoholic beverage outlet that does not comply with the requirements, including certain locational criteria per SDMC Section 141.0502(b)(1), may still be permitted with a Process Three, CUP pursuant

to SDMC Section 141.0502(c), and requires a recommendation from the San Diego Police Department (SDPD) (Attachment 8). The proposed alcoholic beverage outlet at this location requires a CUP because the project site does not meet certain location criteria set forth in SDMC Section 141.0502(b)(1) as explained below:

1. **Within a census tract, or within 600 feet of a census tract, where the general crime rate exceeds the citywide average general crime rate by more than 20%.**

The subject property is in Census Tract No. 34.01 which reported a crime rate of 141.0 percent, and an alcohol crime rate of 98 percent, of the city-wide average based on the statistics provided by the SDPD. A Census Tract is considered to have "high crime" if the crime rate exceeds 120 percent of the city-wide average. A CUP is required for the off-sale of alcoholic beverages at this location based on the project's location within a "high crime" Census Tract.

2. **Within a Census Tract, or within 600 feet of a Census Tract, where the ratio of alcoholic beverage outlets exceeds the standards established by the California Business and Professional Code Section 23958.4.**

The subject property is in Census Tract No. 34.01, which based on the California Business and Professional Code Section 23958.4 permits a total of three off-sale alcoholic beverage outlets based on residential population ratio. There are currently eight active Off-Sale licenses, including the existing license (Attachments 9 and 10). Although the project would not increase the number of licenses, a CUP is required for the off-sale of alcoholic beverages at this location due to the number of existing licenses exceeding the established standard for this Census Tract.

3. **Within 600 feet of a public or private accredited school, a public park, playground or recreational area, church, hospital or a San Diego County Welfare District Office.**

The project site is not located within 600 feet of a public or private accredited school, a public park, playground or recreational area, church, hospital or a San Diego County Welfare District Office.

4. **Within 100 feet of residentially zoned property.**

The project site is within 100 feet of residential zones including the abutting RS-1-1 Zone improved with the 805 freeway and on and off-ramps to the southwest, and Home Avenue and residential development beyond on top of the slope to the northwest. The project site is also within 100 feet of an undeveloped natural slope in the OR-1-1 Zone, an Open Space-Residential zone. Therefore, a CUP is required for the off-sale of alcoholic beverages at this location based on the project's proximity to residential zoned properties.

The continued operation of an alcoholic beverage outlet within the existing mini-market is permitted by the underlying CC-1-3 Zone with a CUP at the subject location. The project has been reviewed by City staff and the SDPD for conformance to the applicable development regulations and land use policies. Staff supports the continued operation of the alcoholic beverage outlet at this location based on the commercial nature of the site, and its location within a commercial building. With the approval of this application, the sale of alcohol, limited to beer and wine, would be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood. Staff is recommending approval of the CUP for an alcoholic beverage outlet as conditioned by staff and the SDPD (Attachment 5). The CUP includes conditions that limit the hours of sales, limit the floor area dedicated for the display of beer and wine, limit advertising, require a well-lit and clean site, prohibit

amusement machines or video game devices on the premises, and prohibit loitering and graffiti. The CUP also includes recommended conditions for the ABC license that would regulate the type, volume, and alcohol content of the beverages.

Marijuana Outlet Analysis:

On November 2016, the people of the State of California approved Proposition 64, the Adult Use of Marijuana Act (AUMA). The AUMA allows adults 21 years of age or older to legally grow, possess, and use cannabis for non-medicinal purposes, with certain restrictions. The California State Legislature passed Senate Bill 94 (Chapter 27) on June 2017 that integrated Medical Cannabis Regulation and Safety Act (MCRSA) with AUMA to create the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) contained in Division 10 of the California Business and Professions Code (§26000 et seq.). Under MAUCRSA, a single regulatory system governs the medical and adult-use cannabis industry in California.

A local jurisdiction may adopt and enforce local ordinances that regulate land use requirements as it deems necessary to reduce potential impacts associated with marijuana use. On February 22, 2017, [Ordinance No. O-20793](#) was approved, which included amendments to the Land Development Code and the Local Coastal Program, replacing the Medical Marijuana Consumer Cooperative (MMCC) use with a new retail sales use, Marijuana Outlet. The Ordinance became effective in areas of the City of San Diego outside of the Coastal Overlay Zone on April 12, 2017, and within the Coastal Overlay Zone on October 12, 2017.

A Marijuana Outlet may be allowed with the approval of a Process Three, CUP, in specific land use zone of the City, and limited to no more than four per Council District, and 36 City-wide. A Marijuana Outlet would be allowed to sell both medicinal and retail marijuana, and subject to State licensing requirements as defined in California Business and Professions Code section 26001. To date, one Marijuana Outlet has been approved within Council District 9.

The project proposes to construct a new, two-story, 2,400 square-foot building, which would house a Marijuana Outlet within a 1,200 square-foot tenant space on the first floor of the building. The 1,200 square-foot, second floor tenant space within the building will remain vacant for the duration of the CUP (Attachment 6, Condition No. 33). Any future occupancy of this vacant space will require an amendment to the CUP for the Marijuana Outlet.

The new two-story building is located on the portion of the project site zoned IL-3-1. The proposed Marijuana Outlet, classified as retail sales, is allowed in the IL-3-1 Zone with a CUP pursuant to SDMC [Section 141.0504](#). The IL-3-1 allows a mix of light industrial, office, and commercial uses. The proposed Marijuana Outlet is consistent with the underlying zone.

Separation Requirements: The SDMC provides regulations for Marijuana Outlets, including minimum separation requirements between a Marijuana Outlet and other specified uses. SDMC Section 141.0504(a) requires a 1,000-foot separation from resource and population-based parks, other marijuana outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten and grades One to Twelve. In addition, there is a minimum distance requirement of 100 feet from all residentially zoned

properties. Distance between uses is measured in a straight line between the two closest points of the property lines. Per [SDMC Section 113.0225\(c\)](#), when measuring distance between uses, natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses can be taken into consideration. In such cases, the distance is measured as the most direct route around the barrier in a manner that establishes direct access.

City staff has reviewed the 1,000-foot radius map (Attachment 11) and 1,000-foot spreadsheet exhibit (Attachment 12) provided by the applicant identifying all of the existing uses. The project site is within 100 feet of residential zones (Attachment 13). The project site abuts the RS-1-1 Zone to the southwest, which is improved with the 805 freeway and on and off-ramps. The site abuts the RS-1-7 Zone to the northwest, which is improved with Home Avenue, multi-

family residential north of Home Avenue, and single-family residential development beyond located on top of the slope (Figure 1). The closest residential development is approximately 135 feet away, measured property line to property line, from the proposed Marijuana Outlet (Attachment 14).

There is also undeveloped natural slope in the OR-1-1 (Open Space-Residential) Zone that rises to the southeast approximately 100 feet in elevation with single family dwellings beyond the slope (Figure 2). Although the project site is within 100 feet of residential zones, the closest residential development is more than 100 feet away measured property line to property line. Furthermore, the other nearby residential uses are separated from the proposed Marijuana Outlet by existing topographical barriers as illustrated in Figures 1 and 2. When measuring distance pursuant to SDMC Section 113.0225(c) as the most direct route around the existing topographical barriers, the distance between the Marijuana Outlet and residential uses is greater than 100 feet. Therefore, City staff has determined the project complies with the separation requirements.

Operational and Security Requirements: The proposed Marijuana Outlet is subject to specific operational requirements and restrictions as set forth in SDMC Section 141.0504 (b) - (m), which are incorporated as conditions in the CUP (Attachment 6). These include prohibition of consultation by



Figure 1 - Northwest view from I-805 ramps



Figure 2 – Southeast view from Home Avenue towards project site

medical professionals on-site, prohibition of the use of specified vending machines except by a responsible person (as defined by the SDMC), provision of interior and exterior lighting, operable cameras, alarms, and a security guard, restriction of hours of operation to between 7:00 am and 9:00 pm daily, maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours, and restriction of signage to business name, two-colors signs, and alphabetic characters. Marijuana Outlets must also comply with SDMC Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

Community Plan Consistency:

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan (Attachment 2). The site is within the City Heights community of the Mid-City Communities Plan Area, which identifies site for Light Manufacturing with Commercial use intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores. The operation of an automobile service station, classified as vehicle and vehicle equipment sales and service use category, and the operations of an Alcoholic Beverage Outlet and Marijuana Outlet, classified as retail sales use category, are consistent with the community plan land use designation and objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route 15, and with a NUP and CUP, are compatible uses with the surrounding commercial establishments.

Community Planning Group Recommendation:

On June 4, 2018, the CHAPC considered the project and recommended denial of the CUP for a Marijuana Outlet and Marijuana Production Facility; and recommended approval of the construction of a new 2,400 square-foot building, and to continue discussions pertaining to a left turn lane from Home Avenue. Since the CHAPC consideration of the project, the scope of the project has been modified and is no longer proposing a Marijuana Production Facility. With respect to the left turn lane, an Access Study was provided and accepted by City Staff. Per City's access management as described in the Street Design Manual, 4-lane major should have raised median, as Home Avenue does. City staff determined the right in/right out is appropriate access for this site, and that a proposed left-hand turn pocket that turns into the northerly driveway of the proposed project is not appropriate.

Conclusion:

In conclusion, City staff has reviewed the application for the NUP to continue the operation of the automobile service station with mini-market, the CUP to continue the operation of the Type 20 Alcoholic Beverage Outlet from the existing mini-market, and the CUP for the operation of a 1,200-square-foot Marijuana Outlet on the first floor of a new two-story building, and has determined that the project is consistent with the recommended land use and development standards in effect for this site per the Mid-City Communities Plan and SDMC. The project is not requesting, nor does it require any deviation or variance from the applicable regulations and policy documents. The

permits have been conditioned to ensure the proposed project would not be detrimental to the public health, safety and welfare (Attachments 5 and 6). Staff has prepared draft findings for consideration (Attachment 4) and is recommending approval of the project as proposed.

ALTERNATIVES

1. Approve Neighborhood Use Permit No. 2140441, Conditional Use Permit No. 2225844, and Conditional Use Permit No. 2117121, with modifications.
2. Deny Neighborhood Use Permit No. 2140441, Conditional Use Permit No. 2225844, and Conditional Use Permit No. 2117121, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Firouzeh Tirandazi, Development Project Manager

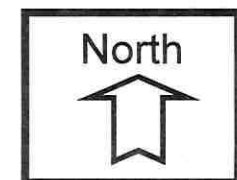
Attachments:

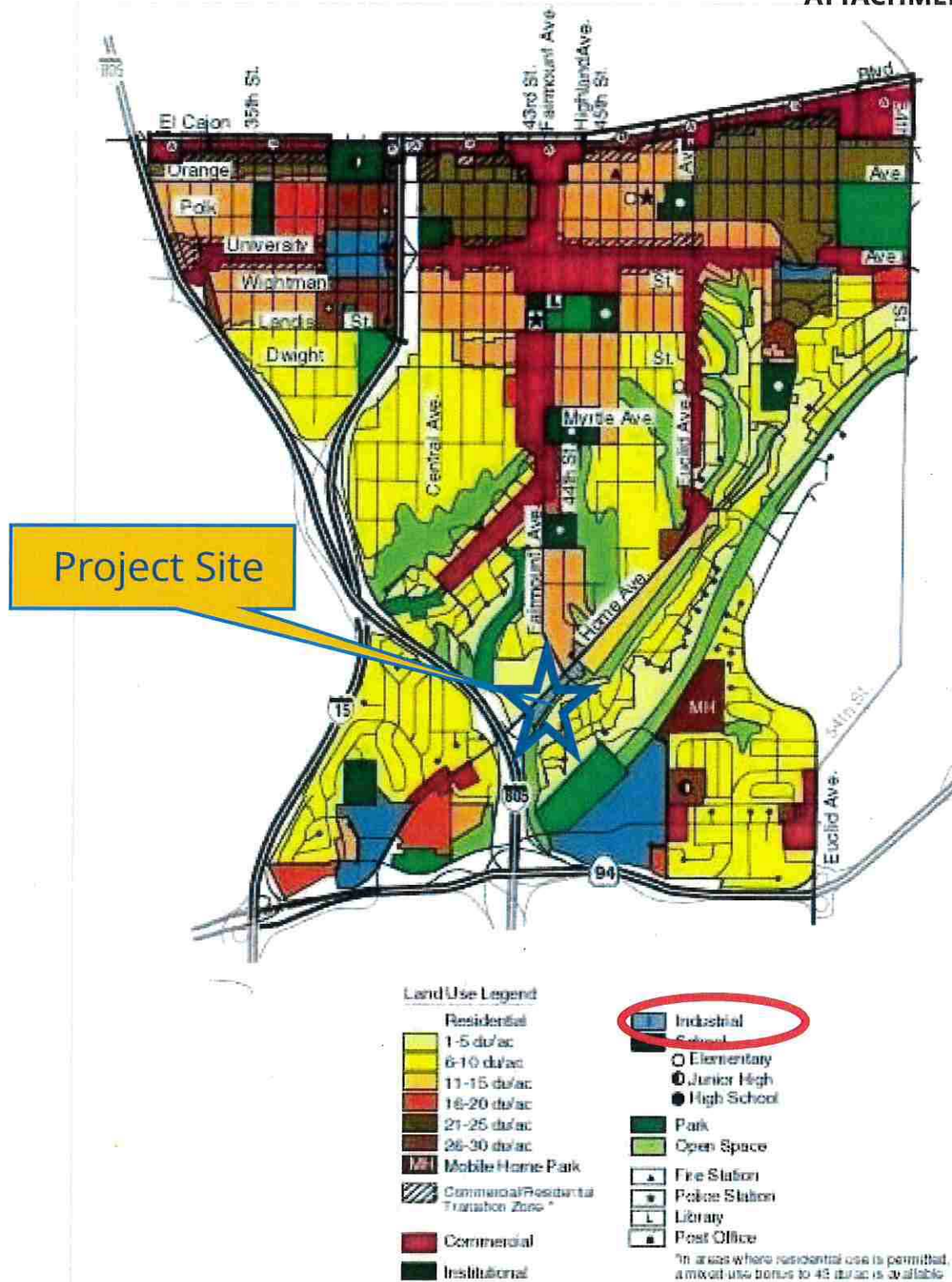
1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Draft Resolution with Findings
5. Draft Permit with Conditions (Automobile Service Station and Alcoholic Beverage Outlet)
6. Draft Permit with Conditions (Marijuana Outlet)
7. Draft Environmental Resolution with MMRP
8. San Diego Police Department Recommendation
9. ABC – Liquor Licenses within Census Tract 34.01 Map
10. ABC – Existing Off-sale licenses in Census Tract 34.01
11. 100/1000-Foot Radius Map
12. 100/1000-Foot Radius Map Spreadsheet
13. Zone Exhibit
14. Residential Use Distance Exhibit
15. Community Planning Group Recommendation
16. Ownership Disclosure Statement
17. Project Plans



Project Location Map

4337 Home Avenue MO NUP/CUP – 4333-4337 Home Avenue
PROJECT NO. 593686





Mid-City Communities Land Use Map

4337 Home Avenue MO NUP/CUP - 4333-4337 Home Avenue
PROJECT NO. 593686

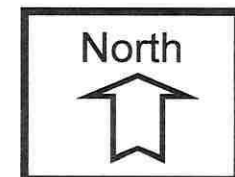
North





Aerial Photo

4337 Home Avenue MO NUP/CUP – 4333-4337 Home Avenue
PROJECT NO. 593686



HEARING OFFICER RESOLUTION NO. _____
NEIGHBORHOOD USE PERMIT NO. 2140441,
CONDITIONAL USE PERMIT NO. 2225844, AND
CONDITIONAL USE PERMIT NO. 2117121

4337 HOME AVENUE MARIJUANA OUTLET NUP/CUP – PROJECT NO 593686 [MMRP]

WHEREAS, AVAD INVESTMENTS INC., a California corporation, Owner/Permittee, filed an application with the City of San Diego for permits to continue the operation of an automobile service station and mini-market (Neighborhood Use Permit No. 2140441), including an alcoholic beverage outlet (Conditional Use Permit No. 2225844), and AVAD INVESTMENTS INC, a California corporation, Owner, and ARM INVESTMENT INC., a California corporation, Permittee, filed an application with the City of San Diego for a permit for the operation of a marijuana outlet in a 1,200-square-foot tenant space within a new 2,400-square-foot, two-story building (Conditional Use Permit No. 2117121), as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated permits, on portions of a 1.08-acre site;

WHEREAS, the project site is located at 4333 - 4337 Home Avenue in the CC-1-3 and IL-3-1 Zones, and the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones within the City Heights community of the Mid-City Communities Plan area;

WHEREAS, the project site is legally described as Parcel 1 of Parcel Map No. 17969 in the City of San Diego, County of San Diego, State of California, according to Map thereof filed in the Office of the County Records of San Diego County on December 22, 1997 as Instrument No. 1997-0651626 of Official Records;

WHEREAS, on July 24, 2019, the Hearing Officer of the City of San Diego considered Neighborhood Use Permit No. 2140441, Conditional Use Permit No. 2225844, and Conditional Use

Permit No. 2117121 pursuant to the Land Development Code of the City of San Diego; NOW,
THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Neighborhood Use Permit No. 2140441, Conditional Use Permit No. 2225844, and Conditional Use Permit No. 2117121:

A. NEIGHBORHOOD USE PERMIT [SDMC SECTION 126.0205]

1. Findings for all Neighborhood Use Permits:

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

The project includes a request for a Neighborhood Use Permit (NUP) to continue operation of an existing automobile service station (ARCO) and mini-market (AM/PM) located in the CC-1-3 (Commercial-Community) and IL-3-1 (Industrial-Light) zones. The 1.08-acre project site is located at 4333 - 4337 Home Avenue within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights community of the Mid-City Communities Plan, which further identifies site for Light Manufacturing with Commercial use. The land use designation is intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores.

The operation of an automobile service station, classified as vehicle and vehicle equipment sales and service use category, and the operations of a mini-market, classified as retail sales use category, are consistent with the community plan land use designation. The project is also consistent with the community plan objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route 15. The project is compatible with the surrounding development, including adjacent commercial and light industrial establishments, with a NUP. Therefore, the proposed development will not adversely affect the applicable land use plan.

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

The proposed development will not be detrimental to the public's health, safety and welfare because the discretionary permits controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project's compliance with applicable local, regional, state and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large. The operations of the automobile service station and the mini-market in the CC-1-3 and IL-3-1 Zones are allowed with a NUP at this location, and consistent with the goals and policies of the Mid-City Communities Plan.

Approval of this application would allow operation of the automobile service station and mini-market to be conditioned in order to prevent potential adverse impacts on the community. Specifically, the associated permit for the automobile service station includes a condition limiting hours of operation between 6:00AM to 12:00 Midnight.

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

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

The project proposes to continue the operation of the existing automobile service station, and the 2,994-square-foot mini-market located in the CC-1-3 and IL-3-1 Zones. No changes to the existing automobile service station and mini-market are proposed as part of this application.

The project will provide 24 off-street parking spaces, which exceeds the 21 off-street parking spaces required for all uses on site, including six required spaces for the marijuana outlet, and 15 required spaces for the auto service station and the mini-market.

The permits for the project include various conditions and corresponding exhibits of approval relevant to achieving compliance with the SDMC relative to parking and hours of operation. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

B. CONDITIONAL USE PERMIT [SDMC SECTION 126.0305] – Alcoholic Beverage Outlet

1. Findings for all Conditional Use Permits:

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

The project includes a request for a Conditional Use Permit (CUP) to continue operation of an alcoholic beverage outlet for the sale of beer and wine for off-site consumption, in accordance with a Type 20 Alcohol and Beverage Control (ABC) License, within an existing mini-market on a portion of a 1.08-acre site zoned CC-1-3 (Commercial-Community Zone). The project site is located at 4333 - 4337 Home Avenue within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights community of the Mid-City Communities Plan, which further identifies site for Light Manufacturing with Commercial use. The land use designation is intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores.

The operation of an alcoholic beverage outlet, classified as retail sales use category, is consistent with the community plan land use designation. The project is also consistent with the community plan objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route 15. The project is compatible with the surrounding development, including adjacent commercial and light industrial establishments, with a CUP. Therefore, the proposed development will not adversely affect the applicable land use plan.

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

The proposed development will not be detrimental to the public's health, safety and welfare because the discretionary permits controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project's compliance with applicable local, regional, state and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large. The operations of the alcoholic beverage outlet within the mini-market, in the CC-1-3 Zone, is allowed with a CUP at

this location, and consistent with the goals and policies of the Mid-City Communities Plan.

Approval of this application would allow operation of an alcoholic beverage outlet for the sale of beer and wine for off-site consumption from an existing mini-market to be conditioned in order to prevent potential adverse impacts on the community. Specifically, the associated permit for the alcoholic beverage outlet includes conditions that limit the hours of sales, limit advertising, prohibit machines or video game devices on the premises, prohibit loitering and graffiti.

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

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

The project proposes to continue the operation of a Type 20 alcoholic beverage outlet within an existing 2,994-square-foot mini-market located on a portion of a 1.08-acre site Zoned CC-1-3. No changes to the existing mini-market is proposed as part of this application.

The project will provide 24 off-street parking spaces, which exceeds the 21 off-street parking spaces required for all uses on site, including six required spaces for the Marijuana outlet, and 15 required spaces for the auto service station and the mini-market.

The permits for the project include various conditions and corresponding exhibits of approval relevant to achieving compliance with the SDMC relative to signage, lighting, security measures, hours of sale of alcohol, and site maintenance. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

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

The project proposes to continue the operation of an alcoholic beverage outlet for the sale of beer and wine for off-site consumption, in accordance with a Type 20 Alcohol and Beverage Control (ABC) License, within the existing mini-market located on the portion of a 1.08-acre site zoned CC-1-3 (Commercial – Community). The project site is also located within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is currently improved with a mini-market with a Type 20 ABC License alcoholic beverage outlet, fueling islands, paved parking lot, and landscape areas, constructed in accordance with CUP No. 96-7374 approved on September 17, 1997. The site is located within an urbanized community and surrounded by Home Avenue to the northwest, the 805 freeway and on and off-ramps to the southwest, an undeveloped natural slope in the OR-1-1 (Open Space-Residential Zone) that rises to the southeast approximately 100 feet in elevation with single family dwellings beyond the slope, and light industrial and commercial land uses to the northeast in the IL-3-1 Zone. There is no sensitive habitat or biological resources on site. The project site is near the Multi-Habitat Planning Area (MHPA) to the southeast, and has been conditioned to require compliance with the MHPA Land Use Adjacency Guidelines

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights community of the Mid-City Communities Plan Area, which identifies site for Light Manufacturing with Commercial use intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores. The operation of an alcoholic beverage outlet, classified as retail sales use category, is consistent with the community plan land use designation and objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route 15, and with a CUP, is a compatible use with the surrounding commercial establishments.

The alcoholic beverage outlet is allowed at this location with a CUP, which would allow the project to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood. The permit includes conditions that limit the hours of alcohol sales, limit advertising, prohibit machines or video games devices on the premises, and prohibit loitering and graffiti. The primary use on site is the automobile servicing and dispensing of gasoline with the market use, including sales of limited inventory of alcoholic beverages, as an accessory use and added convenience for service station customer residing, visiting and working in the project vicinity. In addition to serving the immediate community, this project is located immediately at the exit ramp of Interstate-805 and serves the wider community. The project is consistent with the purpose and intent of the underlying light industrial/commercial designation per the community plan and zone, and is compatible with the surrounding development with a CUP. Therefore, based on the above analysis, the proposed use is appropriate at the proposed location.

C. CONDITIONAL USE PERMIT [SDMC SECTION 126.0305] – MARIJUANA OUTLET

1. Findings for all Conditional Use Permits:

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

The project includes a request for a CUP to allow the operation of a marijuana outlet in a 1,200-square-foot tenant space within a new two-story, 2,400 square-foot building located on the portion of the 1.08-acre site zoned IL-3-1 (Industrial-Light). The project site is located at 4333 - 4337 Home Avenue within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights community of the Mid-City Communities Plan, which further identifies site for Light Manufacturing with Commercial use. The land use designation is intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores.

The operation of a marijuana outlet, classified as retail sales use category, is consistent with the community plan land use designation. The project is also consistent with the community plan objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route 15. The project is compatible with the surrounding development, including adjacent commercial and light industrial establishments, with a CUP. Therefore, the proposed development will not adversely affect the applicable land use plan.

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

The proposed development will not be detrimental to the public's health, safety and welfare because the discretionary permits controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project's compliance with applicable local, regional, state and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large. The operation of the marijuana outlet in the IL-3-1 Zone, is allowed with a CUP at this location, and consistent with the goals and policies of the Mid-City Communities Plan.

Marijuana outlets 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. Marijuana outlets require compliance with SDMC Section

141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other marijuana outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone.

The project site is within 100 feet of residential zones, including the abutting RS-1-1 Zone that is improved with the 805 freeway and on and off-ramps to the southwest, Home Avenue, multi-family residential development north of Home Avenue, and single-family residential development beyond on top of the slope to the northwest in the RS-1-7 Zone. The closest residential development in the RS-1-Zone is approximately 135 feet, measured property line to property line, from the proposed marijuana outlet. The project site is also adjacent to an undeveloped natural slope in the OR-1-1 (Open Space-Residential) Zone that rises to the southeast approximately 100 feet in elevation with single family dwellings beyond the slope. Although the project site is within 100 feet of residential zones, the closest residential development is more than 100 feet away measured property line to property line. Furthermore, the other residential uses are separated from the proposed Marijuana Outlet by existing topographical barriers. When measuring distance pursuant to SDMC Section 113.0225(c) as the most direct route around the existing topographical barriers, the distance between the marijuana outlet and residential uses is greater than 100 feet. Therefore, the project complies with the aforementioned separation requirements.

The proposed marijuana outlet is subject to specific operational and security requirements and restrictions as set forth in SDMC Section 141.0504(b) - (m), which have also been incorporated as conditions in the CUP including prohibition of consultation by medical professionals on-site; prohibition of the use of specified vending machines except by a responsible person (as defined by the SDMC); provision of interior and exterior lighting, operable cameras, alarms, security guard; restriction of hours of operation to between 7:00 am and 9:00 pm daily; maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; and restriction of signage to business name, two-color signs, and alphabetic characters. Marijuana outlets must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation. The CUP is valid for five years, however, may be revoked if the use violates the terms, conditions, lawful requirements, or provision of the permit.

Construction of the project authorized through this permit will be subject to all adopted building, electrical, mechanical, fire and plumbing codes, which will be enforced through plan review and building inspections completed by the City's building inspectors. Furthermore, this project has been reviewed pursuant to the California Environmental Quality Act, and the environmental analysis did not find any significant impacts to the public health and safety. Based on the above analysis, the

proposed development would not be detrimental to the public health, safety, and welfare.

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

The project proposes the construction of a new two-story, 2,400 square-foot building in an area of project site that has been previously distributed and zoned IL-3-1. This building would include the operation of a marijuana outlet within a 1,200 square-foot tenant space on the first floor. The second floor, 1,200-square-foot space will remain vacant for the duration of the CUP. Construction of the project authorized through this permit will be subject to all adopted building, electrical, mechanical, fire and plumbing codes, which will be enforced through plan review and building inspections completed by the City's building inspectors.

Access to the development would be provided via two existing driveways on Home Avenue, which have been conditioned to be improved to current City standards. The project will provide 24 off-street parking spaces, which exceeds the 21 off-street parking spaces required for all uses on site, including six required spaces for the Marijuana outlet, and 15 required spaces for the auto service station and the mini-market.

The marijuana outlet, classified as retail sales, is allowed in the IL-3-1 Zone with a CUP pursuant to San Diego Municipal Code (SDMC) Section 141.0504. Marijuana outlets require compliance with SDMC Section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other marijuana outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone.

The project site is within 100 feet of residential zones, including the abutting RS-1-1 Zone that is improved with the 805 freeway and on and off-ramps to the southwest, Home Avenue, multi-family residential development north of Home Avenue, and single-family residential development beyond on top of the slope to the northwest in the RS-1-7 Zone. The closest residential development in the RS-1-Zone is approximately 135 feet, measured property line to property line, from the proposed marijuana outlet. The project site is also adjacent to an undeveloped natural slope in the OR-1-1 (Open Space-Residential) Zone that rises to the southeast approximately 100 feet in elevation with single family dwellings beyond the slope. Although the project site is within 100 feet of residential zones, the closest residential development is more than 100 feet away measured property line to property line. Furthermore, the other residential uses are separated from the proposed Marijuana Outlet by existing topographical barriers. When measuring distance pursuant to

SDMC Section 113.0225(c) as the most direct route around the existing topographical barriers, the distance between the marijuana outlet and residential uses is greater than 100 feet. Therefore, the project complies with the aforementioned separation requirements.

The permits for the project include various conditions and corresponding exhibits of approval relevant to achieving compliance with the SDMC relative to parking, signage, lighting, security measures, hours of operation, and site maintenance. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

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

The project includes a CUP to allow the operation of a marijuana outlet in a 1,200-square-foot tenant space within a new two-story, 2,400 square-foot building located on the portion of the 1.08-acre site zoned IL-3-1. The project site is also located within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is currently improved with a mini-market with a Type 20 ABC License alcoholic beverage outlet, fueling islands, paved parking lot, and landscape areas, constructed in accordance with CUP No. 96-7374 approved on September 17, 1997. The site is located within an urbanized community and surrounded by Home Avenue to the northwest, the 805 freeway and on and off-ramps to the southwest, an undeveloped natural slope in the OR-1-1 (Open Space-Residential) Zone that rises to the southeast approximately 100 feet in elevation with single-family dwellings beyond the slope, and light industrial and commercial land uses to the northeast in the IL-3-1 Zone. There is no sensitive habitat or biological resources on site. The project site is near the Multi-Habitat Planning Area (MHPA) to the southeast, and has been conditioned to require compliance with the MHPA Land Use Adjacency Guidelines

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights community of the Mid-City Communities Plan Area, which identifies site for Light Manufacturing with Commercial use intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores. The operation of a marijuana outlet, classified as retail sales use category, is consistent with the community plan land use designation and objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route

15, and with a CUP, is a compatible use with the surrounding commercial establishments.

The SDMC limits marijuana outlets to commercial and industrial zones limited to no more than four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods. To date, one marijuana outlet has been approved within Council District 9. The marijuana outlet is allowed in the IL-3-1 Zone with a CUP and subject to separation requirements set forth in SDMC Section 141.0504(a) including a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from specified uses. There is also a minimum distance requirement of 100 feet from a residential zone.

The project site is within 100 feet of residential zones, including the abutting RS-1-1 Zone that is improved with the 805 freeway and on and off-ramps to the southwest, Home Avenue, multi-family residential development north of Home Avenue, and single-family residential development beyond on top of the slope to the northwest in the RS-1-7 Zone. The closest residential development in the RS-1-Zone is approximately 135 feet, measured property line to property line, from the proposed marijuana outlet. The project site is also adjacent to an undeveloped natural slope in the OR-1-1 (Open Space-Residential) Zone that rises to the southeast approximately 100 feet in elevation with single family dwellings beyond the slope. Although the project site is within 100 feet of residential zones, the closest residential development is more than 100 feet away measured property line to property line. Furthermore, the other residential uses are separated from the proposed Marijuana Outlet by existing topographical barriers. When measuring distance pursuant to SDMC Section 113.0225(c) as the most direct route around the existing topographical barriers, the distance between the marijuana outlet and residential uses is greater than 100 feet. Therefore, the project complies with the aforementioned separation requirements.

The proposed marijuana outlet is consistent with the purpose and intent of the underlying light industrial/commercial designation per the community plan and zone and compatible with the surrounding development with a CUP. Therefore, based on the above analysis, the proposed use is appropriate at the proposed location.

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

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Neighborhood Use Permit No 2140441, Conditional Use Permit No. 2225844, and Conditional Use Permit No. 2117121 is hereby GRANTED by the Hearing Officer to the referenced

Owner and Permittees, in the form, exhibits, terms and conditions as set forth in Permit Nos. 2140441, 2225844, and 2117121, a copy of which is attached hereto and made a part hereof.

Firouzeh Tirandazi
Development Project Manager
Development Services

Adopted on: July 24, 2019

IO#: 24007693

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24007693

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NEIGHBORHOOD USE PERMIT NO. 2140441 AND
CONDITIONAL USE PERMIT NO. 2225844
4337 HOME AVENUE MARIJUANA OUTLET NUP/CUP – PROJECT NO 593686 [MMRP]
HEARING OFFICER

This Neighborhood Use Permit No. 2140441 and Conditional Use Permit No. 2225844 (collectively, "Permit") is granted by the Hearing Officer of the City of San Diego to Avad Investments Inc., a California corporation, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0205 and 126.0305. The 1.08-acre site is located at 4333 - 4337 Home Avenue in the CC-1-3 and IL-3-1 Zones, and the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones within the City Heights neighborhood of the Mid-City Communities Plan area. The project site is legally described as: Parcel 1 of Parcel Map No. 17969 in the City of San Diego, County of San Diego, State of California, according to Map thereof filed in the Office of the County Records of San Diego County on December 22, 1997 as Instrument No. 1997-0651626 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to continue operation of an auto service station with mini-market, including an alcoholic beverage outlet conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control 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 July 24, 2019, on file in the Development Services Department.

The project shall include:

- a. Operation of an existing auto service station and a 2,944 square-foot mini-market facility;
- b. Operation of an existing alcoholic beverage outlet from the mini-market facility, conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking;

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

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by August 8, 2022.
2. Conditional Use Permit No. 2225844 [CUP] and corresponding use of this site shall expire on August 8, 2029. The Owner/Permittee may request that the expiration date be extended in accordance with SDMC section 141.0502(c)(7).
3. The utilization of CUP No. 2225844 is contingent upon the approval of a license to sell alcohol at this location by the California Department of Alcoholic Beverage Control [ABC]. The issuance of this CUP does not guarantee that the ABC will grant an alcoholic beverage license for this location.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

14. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration No. 593686, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the MMRP as specified in MITIGATED NEGATIVE DECLARATION NO. 593686, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

- Tribal Cultural Resources

CLIMATE ACTION PLAN REQUIREMENTS:

16. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

LANDSCAPE REQUIREMENTS:

17. Prior to issuance of any grading permit, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Stormwater Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.

18. Prior to issuance of any public improvement permit, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

19. Prior to issuance of any construction permit, the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around

each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)5.

20. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

21. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

22. The Owner/Permittee shall implement brush management requirements, including Brush Management Alternate Compliance, in accordance with the Brush Management Program shown on Exhibit "A" on file in the Development Services Department.

MULTIPLE SPECIES CONSERVATION PROGRAM:

23. The Owner/Permittee shall comply with the City's Multi-Species Conservation Program (MSCP) Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines.

PLANNING/DESIGN REQUIREMENTS:

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

25. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

26. All signs associated with development associated with this Permit shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.

27. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

AUTOMOBILE SERVICE STATION REQUIREMENTS:

28. Devices to alert station attendants to entering vehicles shall be located and adjusted so that they do not cause noise disturbance to adjoining properties.
29. The automobile service station shall operate only between the hours of 6:00 a.m. and 12:00 midnight. Signs on site may be lighted only between the hours of 6:00 a.m. and 12:00 midnight.
30. Merchandise, material, and products for sale shall be stored and displayed only within an enclosed building, except that motor oil, tires, batteries, and other automotive supplies may be displayed at pump islands or adjacent to a building if the display or storage racks and containers are designed to appear as an integral part of the pump island or building exterior.
31. When the service station is abandoned, or the use changed, the property owner shall remove the underground tanks in accordance with the procedures of the City of San Diego Fire Department and the County of San Diego Health Services Department.

ALCOHOLIC BEVERAGE OUTLET CONDITIONS:

32. Owner/Permittee shall post a copy of the Conditional Use Permit conditions in the licensed premises in a place where they may be readily viewed by any member of the general public or any member of a government agency.
33. The sale of alcoholic beverages shall be accessory as shown on Exhibit "A" and limited to no more than 50 square feet of the floor area of the market.
34. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.
35. Pool or billiard tables, foosball or pinball games, arcade style video and electronic games, or amusement devices are not permitted on the premises.
36. Exterior public pay phones that permit incoming calls are not permitted on the premises, adjacent public sidewalks, or areas under the control of the Owner/Permittee.
37. The Owner/Permittee shall provide illumination, at a minimum level of 0.4 foot candles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the Owner/Permittee. The illumination shall be in operation during all hours of darkness while the outlet is open for business so that persons standing on or near the premises at night are identifiable by law enforcement personnel. The required illumination shall be shielded and directed so that it does not shine on adjacent properties.
38. A maximum of 33 percent of the square footage of the windows and doors of the premises may bear advertising or signs of any sort, except for any advertising prohibited by law. All advertising and signs shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlet.

39. The Owner/Permittee of the alcoholic beverage outlet shall post a prominent, permanent sign or signs stating, "No loitering, consumption of alcoholic beverages, or open alcoholic beverage containers are allowed inside the premises, in the parking area, or on the public sidewalks adjacent to the premises, violators are subject to arrest." The sign shall be at least two square feet with two-inch block lettering. The sign shall be in English and Spanish.

40. The Owner/Permittee shall list a business address and telephone number in the Pacific Bell/San Diego telephone directory or other similarly distributed directory.

41. The Owner/Permittee shall provide trash receptacles, conveniently located for use by patrons, inside and outside the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the Owner/Permittee. At least one 13-gallon trash receptacle shall be located inside the premises. At least one 32-gallon trash receptacle shall be located outside the alcoholic beverage outlet, and at least one additional 32-gallon trash receptacle shall be located in the parking areas under the control of the Owner/Permittee.

42. The Owner/Permittee shall maintain the premises, adjacent public sidewalks, and areas under the control of the Owner/Permittee, free of litter and graffiti at all times. The Owner/Permittee shall provide for daily removal of trash, litter, and debris. The Owner/Permittee shall eliminate graffiti within 48 hours of application.

POLICE DEPARTMENT REQUIREMENTS:

43. The sales of alcoholic beverage shall be permitted between the hours of 8AM to Midnight each day of the week.

44. Exterior advertising of alcoholic beverages, or interior advertising of alcoholic beverages that is visible from the exterior of the premises shall be prohibited.

45. Video surveillance shall be recording and available to law enforcement upon request covering both interior and exterior of the premises. Upon request of law enforcement video surveillance shall not be deleted, voided or destroyed. Recordings shall be maintained for a minimum of 30 days absent a request of law enforcement.

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

- Wine shall not be sold in containers of less than 750 milliliters, with the exception of wine coolers sold in four-pack containers or more per sale.
- Beer, wine or malt beverage products, regardless of size, shall only be sold in pre-packaged multi-unit quantities.
- The sale of beer or malt beverages in kegs is prohibited.
- Wine shall not be sold with an alcoholic content greater than 15 percent by volume.

INFORMATION ONLY:

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

APPROVED by the Hearing Officer of the City of San Diego on July 24, 2019 and Resolution No. XXXXX.

Permit Type/PTS Approval No.: NUP No. 2140441 and CUP No. 2225844
Date of Approval: _____

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Firouzeh Tirandazi
Development Project Manager

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

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

**AVAD INVESTMENTS INC.,
A California Corporation**
Owner/Permittee

By _____
NAME
TITLE

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

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24007693

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 2117121

4337 HOME AVENUE MARIJUANA OUTLET NUP/CUP - PROJECT NO 593686 [MMRP]
HEARING OFFICER

This Conditional Use Permit No. 2117121 (Permit) is granted by the Hearing Officer of the City of San Diego to Avad Investments Inc., a California corporation, Owner, and ARM Investment Inc., a California corporation, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 1.08-acre site is located at 4333 - 4337 Home Avenue in the CC-1-3 and IL-3-1 Zones, and the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones within the City Heights neighborhood of the Mid-City Communities Plan area. The project site is legally described as: Parcel 1 of Parcel Map No. 17969 in the City of San Diego, County of San Diego, State of California, according to Map thereof filed in the Office of the County Records of San Diego County on December 22, 1997 as Instrument No. 1997-0651626 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Marijuana Outlet described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated July 24, 2019, on file in the Development Services Department.

The project shall include:

- a. Construction of a new 2,400-square-foot, two-story building, on the portion of the 1.08-acre site zoned IL-3-1;
- b. Operation of a Marijuana Outlet within a 1,200-square-foot, tenant space, located on the first floor of the new 2,400-square-foot, two-story building;
- c. The second floor of the new 2,400-square-foot building, totaling 1,200 square feet, as shown on Exhibit "A", to remain vacant and unoccupied for the term of the subject Conditional Use Permit;
- d. Landscaping (planting, irrigation and landscape related improvements);

- e. Off-street parking; and
- f. 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 August 8, 2022.
2. This Conditional Use Permit and corresponding use of this site shall expire on August 8, 2024. The Owner/Permittee may request that the expiration date be extended in accordance with SDMC Section 141.0504(n).
3. In addition to other provisions of the law, the Marijuana Outlet must comply with Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 5 of the San Diego Municipal Code.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department;
 - b. The Permit is recorded in the Office of the San Diego County Recorder; and
 - c. A marijuana Outlet Permit issued by the Development Services Department is approved in accordance with SDMC Section 42.1504.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

14. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration No. 593686, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the MMRP as specified in MITIGATED NEGATIVE DECLARATION NO. 593686, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

- Tribal Cultural Resources

CLIMATE ACTION PLAN REQUIREMENTS:

16. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

ENGINEERING REQUIREMENTS:

17. The project proposes to export 205 cubic yards of material from the project site. All excavated material listed to be exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2015 edition and Regional Supplement Amendments adopted by Regional Standards Committee.

18. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.

19. Prior to the issuance of any construction permit for building, the Owner/Permittee shall assure, by permit and bond, the construction of two current City Standard 30-foot wide driveways, adjacent to the site on Home Avenue, satisfactory to the City Engineer.

20. Prior to the issuance of any construction permit for building, the Owner/Permittee shall assure, by permit and bond, to reconstruct existing curb ramp at the Southeast corner of Home Avenue and I-805 ramps, with current City Standard Curb Ramp and Detectable/Tactile Warning Tile, satisfactory to the City Engineer.

21. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.
22. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

LANDSCAPE REQUIREMENTS:

23. Prior to issuance of any grading permit, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Stormwater Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.
24. Prior to issuance of any public improvement permit, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
25. Prior to issuance of any construction permit, the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)5.
26. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.
27. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

28. The Owner/Permittee shall implement brush management requirements, including Brush Management Alternate Compliance, in accordance with the Brush Management Program shown on Exhibit "A" on file in the Development Services Department.

MULTIPLE SPECIES CONSERVATION PROGRAM:

29. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the owner/permittee shall depict the following requirements on the construction documents and plans for Project Site.

- a. **Grading/Land Development/MHPA Boundaries** -Within or adjacent to the MHPA, all manufactured slopes associated with site development shall be included within the development footprint.
- b. **Drainage** - All staging and developed/paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials prior to release by incorporating the use of filtration devices, planted swales and/or planted detention/desiltation basins, or other approved temporary and permanent methods that are designed to minimize negative impacts, such as excessive water and toxins into the ecosystems of the MHPA.
- c. **Toxics/Project Staging Areas/Equipment Storage** - Projects that use chemicals or generate by-products such as pesticides, herbicides, and animal waste, and other substances that are potentially toxic or impactive to native habitats/flora/fauna (including water) shall incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. No trash, oil, parking, or other construction/development-related material/activities shall be allowed outside any approved construction limits. Provide a note in/on the CD's that states: "All construction related activity that may have potential for leakage or intrusion shall be monitored by the Qualified Biologist/Owners Representative or Resident Engineer to ensure there is no impact to the MHPA."
- d. **Lighting** -All lighting within or adjacent to the MHPA is directed away/shielded from the MHPA, or limited to the immediate area and is in compliance with City Outdoor Lighting Regulations per LDC Section 142.0740.
- e. **Barriers** -Existing fences/walls; and/or signage along the MHPA boundaries shall remain and or be added to direct public access to appropriate locations, reduce domestic animal predation, protect wildlife in the preserve, and provide adequate noise reduction where needed.
- f. **Invasives** - No invasive, non-native plant species shall be introduced into areas within or adjacent to the MHPA.

- g. **Brush Management** -Brush management zones will not be greater in size that is currently required by the City's regulations (this includes use of approved alternative compliance). Within Zone 2 the amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done. Vegetation clearing shall be done consistent with City standards and shall avoid/minimize impacts to covered species to the maximum extent possible. For all new development, regardless of the ownership, the brush management in the Zone 2 area will be the responsibility of a home-owner's association or other private party.
- h. **Noise** - Construction noise that exceeds the maximum levels allowed (60 dB or greater at the beginning edge of the habitat) shall be avoided during the breeding seasons for the following: CA gnatcatcher (3/1-8/15). If construction is proposed during the breeding season for the species the following measures are required:

COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

1. Prior to the issuance of any grading permit, the City Manager (or appointed designee) shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

NO CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR BETWEEN MARCH 1 AND AUGUST 15, THE BREEDING SEASON OF THE COASTAL CALIFORNIA GNATCATCHER, UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET TO THE SATISFACTION OF THE CITY MANAGER:

- A. A QUALIFIED BIOLOGIST (POSSESSING A VALID ENDANGERED SPECIES ACT SECTION 10(a)(1)(A) RECOVERY PERMIT) SHALL SURVEY THOSE HABITAT AREAS WITHIN THE MHPA THAT WOULD BE SUBJECT TO CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [dB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE COASTAL CALIFORNIA GNATCATCHER. SURVEYS FOR THE COASTAL CALIFORNIA GNATCATCHER SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION. IF GNATCATCHERS ARE PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:
- I. BETWEEN MARCH 1 AND AUGUST 15, NO CLEARING, GRUBBING, OR GRADING OF OCCUPIED GNATCATCHER HABITAT SHALL BE PERMITTED. AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; AND
- II. BETWEEN MARCH 1 AND AUGUST 15, NO CONSTRUCTION ACTIVITIES SHALL OCCUR WITHIN ANY PORTION OF THE SITE WHERE CONSTRUCTION ACTIVITIES WOULD RESULT IN NOISE LEVELS

EXCEEDING 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED GNATCATCHER HABITAT. AN ANALYSIS SHOWING THAT NOISE GENERATED BY CONSTRUCTION ACTIVITIES WOULD NOT EXCEED 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED HABITAT MUST BE COMPLETED BY A QUALIFIED ACOUSTICIAN (POSSESSING CURRENT NOISE ENGINEER LICENSE OR REGISTRATION WITH MONITORING NOISE LEVEL EXPERIENCE WITH LISTED ANIMAL SPECIES) AND APPROVED BY THE CITY MANAGER AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES DURING THE BREEDING SEASON, AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; OR

- III. AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES, UNDER THE DIRECTION OF A QUALIFIED ACOUSTICIAN, NOISE ATTENUATION MEASURES (e.g., BERMS, WALLS) SHALL BE IMPLEMENTED TO ENSURE THAT NOISE LEVELS RESULTING FROM CONSTRUCTION ACTIVITIES WILL NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF HABITAT OCCUPIED BY THE COASTAL CALIFORNIA GNATCATCHER. CONCURRENT WITH THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES AND THE CONSTRUCTION OF NECESSARY NOISE ATTENUATION FACILITIES, NOISE MONITORING* SHALL BE CONDUCTED AT THE EDGE OF THE OCCUPIED HABITAT AREA TO ENSURE THAT NOISE LEVELS DO NOT EXCEED 60 dB (A) HOURLY AVERAGE. IF THE NOISE ATTENUATION TECHNIQUES IMPLEMENTED ARE DETERMINED TO BE INADEQUATE BY THE QUALIFIED ACOUSTICIAN OR BIOLOGIST, THEN THE ASSOCIATED CONSTRUCTION ACTIVITIES SHALL CEASE UNTIL SUCH TIME THAT ADEQUATE NOISE ATTENUATION IS ACHIEVED OR UNTIL THE END OF THE BREEDING SEASON (AUGUST 16).

* Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB (A) hourly average or to the ambient noise level if it already exceeds 60 dB (A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

B. IF COASTAL CALIFORNIA GNATCATCHERS ARE NOT DETECTED DURING THE PROTOCOL SURVEY, THE QUALIFIED BIOLOGIST SHALL SUBMIT SUBSTANTIAL EVIDENCE TO THE CITY MANAGER AND APPLICABLE RESOURCE AGENCIES WHICH

DEMONSTRATES WHETHER OR NOT MITIGATION MEASURES SUCH AS NOISE WALLS ARE NECESSARY BETWEEN MARCH 1 AND AUGUST 15 AS FOLLOWS:

- I. IF THIS EVIDENCE INDICATES THE POTENTIAL IS HIGH FOR COASTAL CALIFORNIA GNATCATCHER TO BE PRESENT BASED ON HISTORICAL RECORDS OR SITE CONDITIONS, THEN CONDITION A.III SHALL BE ADHERED TO AS SPECIFIED ABOVE.
- II. IF THIS EVIDENCE CONCLUDES THAT NO IMPACTS TO THIS SPECIES ARE ANTICIPATED, NO MITIGATION MEASURES WOULD BE NECESSARY.

GEOLOGY REQUIREMENTS:

30. Prior to the issuance of any construction permits (either grading or building permit), the Owner/Permittee shall submit a geotechnical investigation report prepared in accordance with the City's "Guidelines for Geotechnical Reports" that specifically addressed the proposed construction plans. The geotechnical investigation report shall be reviewed for adequacy by the Geology Section of Development Services prior to the issuance of any construction permit.

PLANNING/DESIGN REQUIREMENTS:

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

32. The use within the 1,200-square-foot tenant space shall be limited to a Marijuana Outlet and any use permitted by right in the IL-3-1 Zone.

33. The Owner/Permittee shall maintain the 1,200-square-foot tenant suite above the Marijuana Outlet vacant for the duration of the Conditional Use Permit as noted on the approved Exhibit A, unless an amendment has been granted.

34. The Owner/Permittee shall obtain a Marijuana Outlet Permit as required pursuant to SDMC Chapter 4, Article 2, Division 15.

35. Each responsible person at this Marijuana Outlet shall undergo fingerprinting, a criminal background check, and report convictions as required pursuant to SDMC Chapter 4, Article 2, Division 15.

36. The sale of marijuana shall be prohibited without a valid license from the State authorizing such activity.

37. Consultations by medical professionals shall not be a permitted accessory use at the Marijuana Outlet.
38. The Owner/Permittee shall provide lighting to illuminate the interior of the Marijuana Outlet, façade, 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.
39. The Owner/Permittee shall provide security including operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the premises during business hours. The security guard shall only be engaged in activities related to providing security for the facility, except on an incidental basis.
40. The Marijuana Outlet shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
41. The use of vending machines which allow access to marijuana and marijuana products except by a responsible person, as defined in the San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this Section, a vending machine is any device which allows access to marijuana and marijuana products without a human intermediary.
42. The Owner/Permittee shall maintain the Marijuana Outlet, adjacent public sidewalks, and areas under the control of the Owner/Permittee, free of litter and graffiti at all times.
43. The Owner/Permittee shall provide daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.
44. The Owner/Permittee shall provide a sufficient odor absorbing ventilation and exhaust system capable of minimizing excessive or offensive odors emanating outside of the permitted facility, to the satisfaction of the Development Services Department.
45. Medical marijuana, recreational marijuana, or marijuana products, in any form, shall not be consumed anywhere within the 1.08-acre site.
46. 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. Ground signs shall not be pole signs. A primary sign shall be posted on the outside of the Marijuana Outlet and shall only contain the name of the business, which shall contain only alphabetic characters, and shall be limited to two colors.
47. The Owner/Permittee shall post and maintain a sign showing the name and emergency contact phone number of the operator or manager, in a location visible from outside the Marijuana Outlet, in character size at least two inches in height.
48. Deliveries shall be permitted as an accessory use only from the Marijuana Outlet with a valid Conditional Use Permit unless otherwise allowed pursuant to the Compassionate Use Act of 1996.

TRANSPORTATION REQUIREMENTS:

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

50. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the re-construction of the two existing driveways to 30-foot driveways to current City standards, satisfactory to the City Engineer. All improvements shall be completed and accepted by the City Engineer prior to first occupancy.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

51. Prior to building occupancy, the Owner/Permittee shall obtain a plumbing permit for the installation of appropriate above ground private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director and the City Engineer. BFPD's are typically located on private property, in line with the service and immediately adjacent to the right-of-way. The Public Utilities Department will not permit the required BFPDs to be located below grade or within the structure.

52. All on-site water and sewer facilities shown on this drawing are private and shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.
- Cannabis businesses that operate or provide services within the City of San Diego are liable for a monthly gross receipts tax. As referenced in San Diego Municipal Code Section [34.0103 \(b\)](#), taxable activities include but are not limited to, transporting, manufacturing, cultivating,

packaging, or retail sales of cannabis and any ancillary products in the City. For additional information, contact the Office of the City Treasurer at 619-615-1580.

APPROVED by the Hearing Officer of the City of San Diego on July 24, 2019 and Resolution No. XXXXX.

DRAFT

Permit Type/PTS Approval No.: CUP No. 2117121
Date of Approval: _____

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Firouzeh Tirandazi
Development Project Manager

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

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

**AVAD INVESTMENTS INC.,
A California Corporation**
Owner

By _____
NAME
TITLE

**ARM INVESTMENT INC.,
A California Corporation**
Permittee

By _____
NAME
TITLE

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

HEARING OFFICER
RESOLUTION NUMBER R-_____
ADOPTED ON _____

A RESOLUTION ADOPTING MITIGATED NEGATIVE DECLARATION NO. 593686,
ADOPTING THE MITIGATION, MONITORING, AND REPORTING PROGRAM;
4337 HOME AVENUE MARIJUANA OUTLET NUP/CUP – PROJECT NO 593686

WHEREAS, on March 9, 2018, AVAD Investments, Inc., a California corporation, submitted an application to the Development Services Department for a Neighborhood Use Permit and two Conditional Use Permits for the 4337 Home Avenue Marijuana Outlet NUP/CUP Project No. 593686 (Project); and

WHEREAS, the matter was set for a public hearing to be heard by the Hearing Officer of the City of San Diego; and

WHEREAS, the issue was heard by the Hearing Officer on July 24, 2019; and

WHEREAS, the Hearing Officer considered the issues discussed in Mitigated Negative Declaration No. 593686 (Declaration) prepared for this Project; NOW THEREFORE,

BE IT RESOLVED, by the Hearing Officer that it is certified that the 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 Hearing Officer in connection with the approval of the Project.

BE IT FURTHER RESOLVED, that the Hearing Officer finds on the basis of the entire record that project revisions now mitigate potentially significant effects on the environment previously

identified in the Initial Study, that there is no substantial evidence that the Project will have a significant effect on the environment, and therefore, that said Declaration is hereby adopted.

BE IT FURTHER RESOLVED, that pursuant to CEQA Section 21081.6, the Hearing Officer hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by the Hearing Officer in order to mitigate or avoid significant effects on the environment, which is attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, that the Declaration and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the Development Services Department, 1222 First Avenue, San Diego, CA 92101.

BE IT FURTHER RESOLVED, that Development Services staff is directed to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

APPROVED:

By: _____
Firouzeh Tirandazi
Development Project Manager
Development Services Department

ATTACHMENT: Exhibit A, Mitigation Monitoring and Reporting Program

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

NEIGHBORHOOD USE PERMIT NO. 2140441
CONDITIONAL USE PERMIT NO. 2117121
CONDITIONAL USE PERMIT NO. 2225844
PROJECT NO. 593686

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Mitigated Negative Declaration No. 593686 shall be made conditions of Neighborhood Use Permit No. 2140441, Conditional Use Permit No. 2117121, and Conditional Use Permit No. 2225844 as may be further described below.

MITIGATION, MONITORING AND REPORTING PROGRAM:

A. GENERAL REQUIREMENTS – PART I Plan Check Phase (prior to permit issuance)

1. Prior to the issuance of a Notice To Proceed (NTP) for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the Development Services Department (DSD) Director's Environmental Designee (ED) shall review and approve all Construction Documents (CD), (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.

2. In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, **"ENVIRONMENTAL/MITIGATION REQUIREMENTS."**

3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website:

<http://www.sandiego.gov/development-services/industry/standtemp.shtml>

4. The **TITLE INDEX SHEET** must also show on which pages the "Environmental/Mitigation Requirements" notes are provided.

**B. GENERAL REQUIREMENTS – PART II
Post Plan Check (After permit issuance/Prior to start of construction)**

1. PRE-CONSTRUCTION MEETING IS REQUIRED TEN (10) WORKING DAYS PRIOR TO BEGINNING ANY WORK ON THIS PROJECT. The PERMIT HOLDER/OWNER is responsible to arrange and perform this meeting by contacting the CITY RESIDENT ENGINEER (RE) of the Field Engineering Division and City staff from MITIGATION MONITORING COORDINATION (MMC). Attendees must also include the Permit holder's Representative(s), Job Site Superintendent and the following consultants:

Qualified Native American Monitor

Note: Failure of all responsible Permit Holder's representatives and consultants to attend shall require an additional meeting with all parties present.

CONTACT INFORMATION:

- a) The PRIMARY POINT OF CONTACT is the **RE** at the **Field Engineering Division - 858-627-3200**
- b) For Clarification of ENVIRONMENTAL REQUIREMENTS, it is also required to call **RE and MMC at 858-627-3360**

2. MMRP COMPLIANCE: This Project, Project Tracking System (PTS) #593686, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD's Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e. to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc.).

Note: Permit Holder's Representatives must alert RE and MMC if there are any discrepancies in the plans or notes, or any changes due to field conditions. All conflicts must be approved by RE and MMC BEFORE the work is performed.

3. OTHER AGENCY REQUIREMENTS: Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution or other documentation issued by the responsible agency.

Not Applicable

4. MONITORING EXHIBITS: All consultants are required to submit, to RE and MMC, a monitoring exhibit on a 11x17 reduction of the appropriate construction plan, such as site plan, grading, landscape, etc., marked to clearly show the specific areas including the **LIMIT OF WORK**, scope of that discipline's work, and notes indicating when in the construction schedule that work will be performed. When necessary for clarification, a detailed methodology of how the work will be performed shall be included.

NOTE: Surety and Cost Recovery - When deemed necessary by the Development Services Director or City Manager, additional surety instruments or bonds from the

private Permit Holder may be required to ensure the long-term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

5. OTHER SUBMITTALS AND INSPECTIONS: The Permit Holder/Owner's representative shall submit all required documentation, verification letters, and requests for all associated inspections to the RE and MMC for approval per the following schedule:

DOCUMENT SUBMITTAL/INSPECTION CHECKLIST			
Issue Area	Document Submittal	Associated Inspection/Approvals	Notes
General	Consultant Qualification Letters	Prior to Preconstruction Meeting	3 Days Prior to Pre-con. meeting
Tribal Cultural Resources	Tribal Cultural Resources Reports	Tribal Cultural Resources Site Observation	Completion of Tribal Cultural Resources Site Observation
Bond Release	Request for Bond Release Letter	MMC Final Inspection	Prior to Bond Release Letter

B. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

TRIBAL CULTURAL RESOURCES

I. Prior to Permit Issuance or Bid Opening/Bid Award

A. Entitlements Plan Check

1. Prior to permit issuance or Bid Opening/Bid Award, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the applicable construction documents through the plan check process.

B. Letters of Qualification have been submitted to ADD

1. Prior to Bid Award, the applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project meet the qualifications established in the HRG.
3. Prior to the start of work, the applicant must obtain written approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site-specific records search (1/4-mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coastal Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼ mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Native American consultant/monitor (where Native American resources may be impacted), Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.

2. Acknowledgement of Responsibility for Curation (CIP or Other Public Projects)

The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the archaeological monitoring program.

3. Identify Areas to be Monitored

Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) (with verification that the AME has been reviewed and approved by the Native American consultant/monitor when Native American resources may be impacted) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.

The AME shall be based on the results of a site-specific records search as well as information regarding the age of existing pipelines, laterals and associated appurtenances and/or any known soil conditions (native or formation).

MMC shall notify the PI that the AME has been approved.

4. When Monitoring Will Occur

- a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
- b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as age of existing pipe to be replaced, depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

5. Approval of AME and Construction Schedule
After approval of the AME by MMC, the PI shall submit to MMC written authorization of the AME and Construction Schedule from the CM.

III. During Construction

- A. Monitor Shall be Present During Grading/Excavation/Trenching
 1. The Archaeological Monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the AME.**
 2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop and the Discovery Notification Process detailed in Section III.B-C and IV.A-D shall commence.
 3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered that may reduce or increase the potential for resources to be present.
 4. The archaeological and Native American consultant/monitor shall document field activity via the Consultant Site Visit Record (CSV). The CSV's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
- B. Discovery Notification Process
 1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources and immediately notify the RE or BI, as appropriate.
 2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
 3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.
 4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.
- C. Determination of Significance
 1. The PI and Native American consultant/monitor, where Native American resources are discovered shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.

- a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
 - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval of the program from MMC, CM and RE. ADRP and any mitigation must be approved by MMC, RE and/or CM before ground disturbing activities in the area of discovery will be allowed to resume.
Note: If a unique archaeological site is also an historical resource as defined in CEQA Section 15064.5, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Section 21083.2 shall not apply.
 - (1). Note: For pipeline trenching and other linear projects in the public Right-of-Way, the PI shall implement the Discovery Process for Pipeline Trenching projects identified below under "D."
 - c. If the resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.
 - (1). Note: For Pipeline Trenching and other linear projects in the public Right-of-Way, if the deposit is limited in size, both in length and depth; the information value is limited and is not associated with any other resource; and there are no unique features/artifacts associated with the deposit, the discovery should be considered not significant.
 - (2). Note, for Pipeline Trenching and other linear projects in the public Right-of-Way, if significance cannot be determined, the Final Monitoring Report and Site Record (DPR Form 523A/B) shall identify the discovery as Potentially Significant.
- D. Discovery Process for Significant Resources - Pipeline Trenching and other Linear Projects in the Public Right-of-Way
- The following procedure constitutes adequate mitigation of a significant discovery encountered during pipeline trenching activities or for other linear project types within the Public Right-of-Way including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance:
- 1. Procedures for documentation, curation and reporting
 - a. One hundred percent of the artifacts within the trench alignment and width shall be documented in-situ, to include photographic records, plan view of the trench and profiles of side walls, recovered, photographed after cleaning and analyzed and curated. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact.
 - b. The PI shall prepare a Draft Monitoring Report and submit to MMC via the RE as indicated in Section VI-A.
 - c. The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) the resource(s) encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines. The DPR forms shall be submitted to the South Coastal Information Center for either a Primary Record or SDI Number and included in the Final Monitoring Report.

- d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area and no soil shall be exported off-site until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.5(e), the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS) of the Development Services Department to assist with the discovery notification process.
2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

B. Isolate discovery site

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.
2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenience.
3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

C. If Human Remains **ARE** determined to be Native American

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:
 - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being granted access to the site, OR;
 - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner, the landowner shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance, THEN

- c. To protect these sites, the landowner shall do one or more of the following:
 - (1) Record the site with the NAHC;
 - (2) Record an open space or conservation easement; or
 - (3) Record a document with the County. The document shall be titled "Notice of Reinterment of Native American Remains" and shall include a legal description of the property, the name of the property owner, and the owner's acknowledged signature, in addition to any other information required by PRC 5097.98. The document shall be indexed as a notice under the name of the owner.
 - d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and items associated and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.
- D. If Human Remains are **NOT** Native American
- 1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
 - 2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
 - 3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner, any known descendant group, and the San Diego Museum of Man.

V. Night and/or Weekend Work

- A. If night and/or weekend work is included in the contract
- 1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
 - 2. The following procedures shall be followed.
 - a. No Discoveries
In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSV and submit to MMC via fax by 8AM of the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains. Discovery of human remains shall always be treated as a significant discovery.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction and IV-Discovery of Human Remains shall be followed.

- d. The PI shall immediately contact the RE and MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night and/or weekend work becomes necessary during the course of construction
 1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

- A. Submittal of Draft Monitoring Report
 1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC via the RE for review and approval within 90 days following the completion of monitoring. **It should be noted that if the PI is unable to submit the Draft Monitoring Report within the allotted 90-day timeframe as a result of delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of monthly status reports until this measure can be met.**
 - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
 - b. Recording Sites with State of California Department of Parks and Recreation
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
 2. MMC shall return the Draft Monitoring Report to the PI via the RE for revision or, for preparation of the Final Report.
 3. The PI shall submit revised Draft Monitoring Report to MMC via the RE for approval.
 4. MMC shall provide written verification to the PI of the approved report.
 5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.
- B. Handling of Artifacts
 1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
 2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
- C. Curation of artifacts: Accession Agreement and Acceptance Verification
 1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an

appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.

2. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection C.
 3. The PI shall submit the Accession Agreement and catalogue record(s) to the RE or BI, as appropriate for donor signature with a copy submitted to MMC.
 4. The RE or BI, as appropriate shall obtain signature on the Accession Agreement and shall return to PI with copy submitted to MMC.
 5. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
- D. Final Monitoring Report(s)
1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC of the approved report.
 2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

**SAN DIEGO POLICE DEPARTMENT
CONDITIONAL USE PERMIT RECOMMENDATION**

PREMISE ADDRESS: 4333 Home Avenue

TYPE OF BUSINESS: AVAD Investments, Inc. AM/PM ARCO, Renewal CUP #96-7374 that allows for a Type 20 (Off-Sale Beer & Wine only) ABC license.

FEDERAL CENSUS TRACT: 34.01

NUMBER OF ALCOHOL LICENSES ALLOWED: 3

NUMBER OF ALCOHOL LICENSES EXISTING: 8

CRIME RATE IN THIS CENSUS TRACT: 141.0%
(Note: Considered High Crime If Exceeds 120% of City-wide Average)

THREE OR MORE REPORTED CRIMES AT THIS PREMISE WITHIN PAST YEAR ☒ YES ☐ NO

IS THE PREMISE WITHIN 600 FEET OF INCOMPATIBLE FACILITY ☐ YES ☒ NO

IS THE PREMISE WITHIN 100 FEET OF RESIDENTIALLY ZONED PROPERTY ☐ YES ☒ NO

ABC LICENSE REVOKED AT THIS PREMISE WITHIN PAST YEAR ☐ YES ☒ NO

HAS APPLICANT BEEN CONVICTED OF ANY FELONY ☐ YES ☒ NO

WILL THIS BUSINESS BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY,
AND WELFARE OF THE COMMUNITY AND CITY ☐ YES ☒ NO

COMMENTS/OTHER FACTORS CONSIDERED:

The premise has an existing Type 20 alcohol license that was originally issued by the Alcoholic Beverage Control (ABC) in 1999 then transferred to the existing owner in 2005.

This premise falls within Census Tract 34.01 and is within the Mid City Division patrolling responsibility. The reported crime rate for 2017 within CT 34.01 is 141.0% and alcohol crime rate of 98.8%. The census tract has 8 active Off-Sale licenses, including the existing license of this applicant, where the ABC authorizes only 3 based on residential population ratio.

There were 39 calls for service to the address between January 1, 2017 and December 31, 2017. There were 3 arrests and 7 crime cases taken at the location during this same reporting period. Additionally, they were 44 arrests and 66 crime cases handled by the Department within a .2 mile radius of this location. See attached statistical data report generated by Crime Analyst Jordan Fankhauser on September 5, 2018 for further statistics and information.

The current off-Sale beer & wine license has limited restrictive conditions. There is no restrictive condition with regard to the hours of sales, other than the State of California mandated restriction between 2:00AM and 6:00AM.

When Conditional Use Permit Number 96-7374 was approved on September 20, 1997 the census tract (CT 34.01) the premise is located in was not considered high crime. Census tract 34.01 is now considered high crime and there are residences located within 200 feet of the premise.

In consideration of census tract 34.01 now being considered high crime and residences located in the vicinity of the premises the San Diego Police Department is requesting conditions restricting hours of alcohol sales be incorporated within this Conditional Use Permit.

SUGGESTED CONDITIONS: The San Diego Police Department requests the following conditions be incorporated within the Conditional Use Permit for this premises:

1. Sales and alcoholic beverages shall be permitted only between the hours of 8AM to Midnight each day of the week.
2. Wine shall not be sold in bottles or containers smaller than 750 ml.
3. No wine shall be sold with an alcoholic content greater than 15% by volume except for "Dinner Wines" which have been aged two years or more.
4. Beer, wine or malt beverage products, regardless of size, shall only be sold in pre-packaged multi unit-quantities.
5. The sale of beer of malt beverages in kegs is prohibited.
6. There shall be no exterior alcoholic advertising or signage of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of these conditions.
7. There shall be no amusement devices or pool tables maintained on the licensed premises.
8. Any graffiti painted or marked upon the premises or any adjacent area under the control of the licensee(s) shall be removed or painted over within 48 hours of being applied.
9. Video surveillance shall be recording and available to law enforcement upon request covering both interior and exterior of the premises. Upon request of law enforcement video surveillance shall not be deleted, voided or destroyed. Recordings shall be maintained for a minimum of 30 days absent a request of law enforcement.
10. No pay phone will be maintained on the interior or exterior of the premises.
11. The petitioner(s) shall post and maintain a sign facing the premises parking lot(s) that reads as the following: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall be at least two feet square
12. Illumination of the parking lot and immediate surrounding areas of the business shall be provided between the hours of dusk through dawn.
13. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.

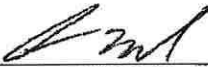
SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE ✓

DENY _____

DETECTIVE ANDREA WOOD

Name of SDPD Vice Sergeant (Print)



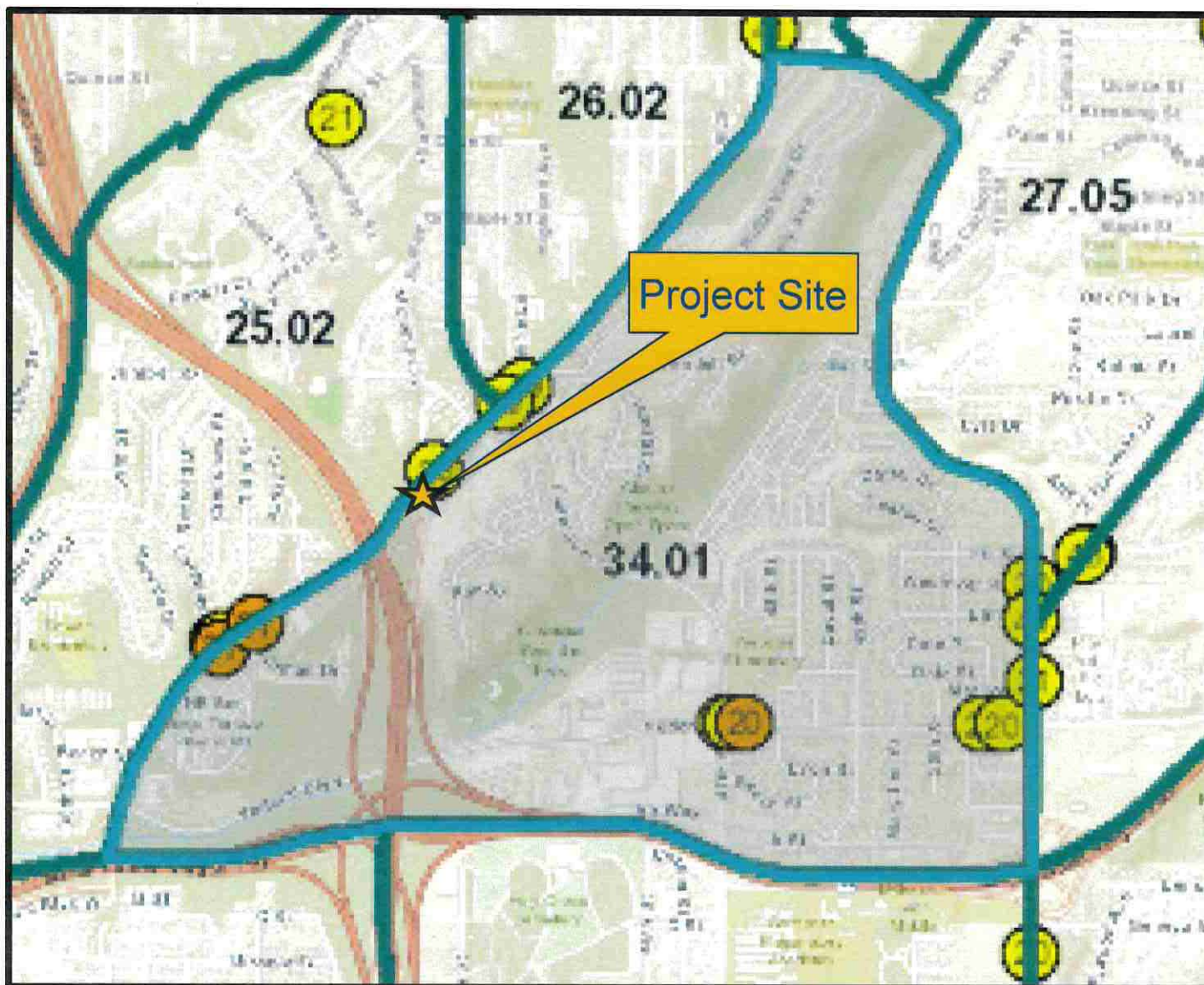
Signature of SDPD Vice Sergeant

(619) 531-2551

Telephone Number

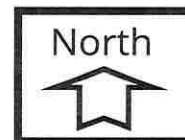
09/06/18

Date of Review



Liquor Licenses within Census Tract 34.01

4337 Home Avenue MO NUP/CUP - 4333-4337 Home Avenue
PROJECT NO. 593686





California Department of Alcoholic Beverage Control

Save As: CSV

Active Off-Sale Retail Licenses

For the County of SAN DIEGO and the Census Tract of 34.01

Report as of: 09/04/2018

Rows Per Page: 25 Reload

Total Licenses: 8

Page 1 of 1

Click on column header to sort

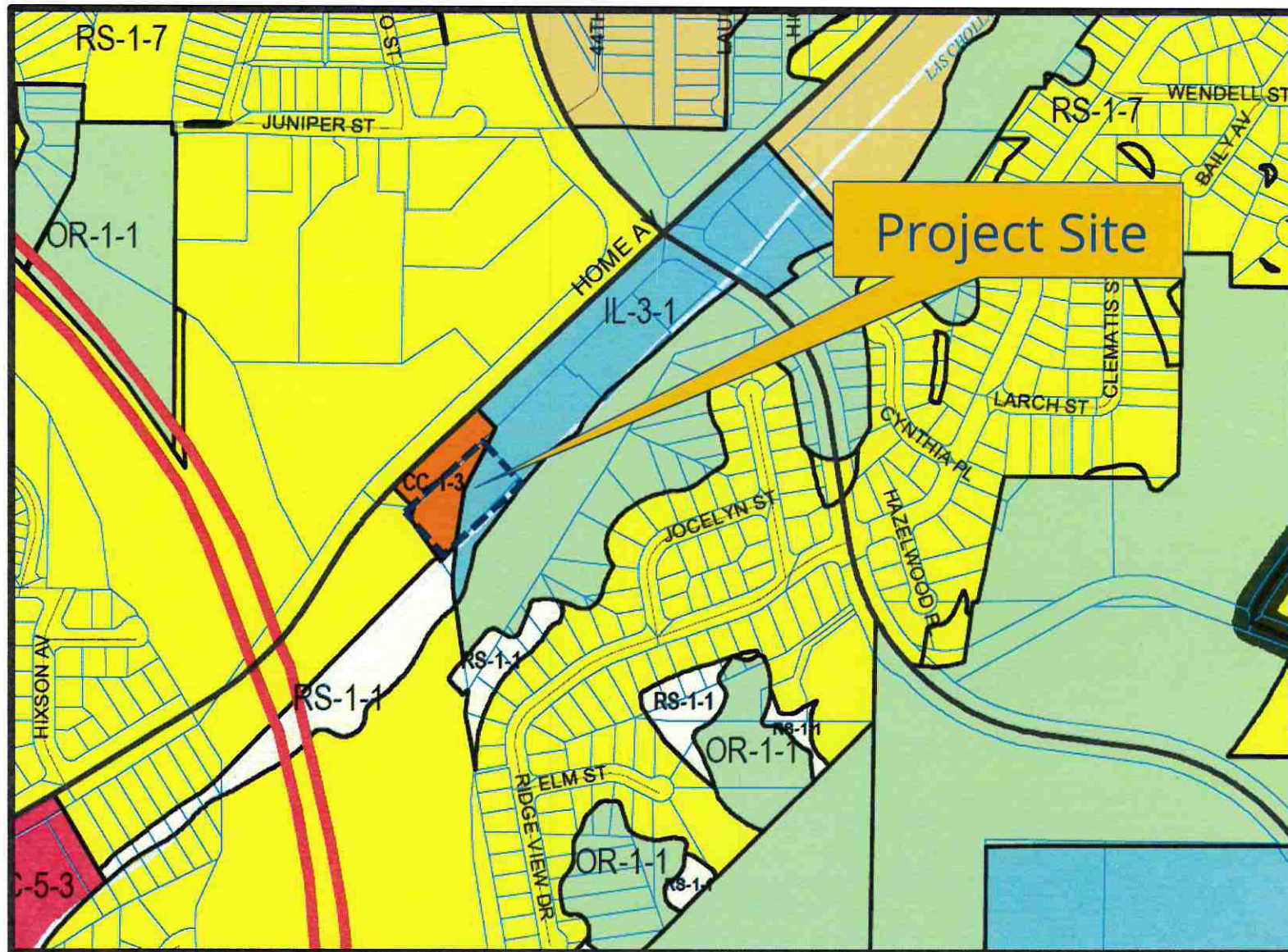
	License Number	Status	License Type	Orig. Iss. Date	Expir. Date	Primary Owner	Business Name	Premises Addr.	Geo Code
1	190097	ACTIVE	21	11/07/1986	07/31/2019	ATTISHA, BOUSHRAH PETROS	ANDERSONS MARKET LIQUOR AND DELI	4131 HOME AVE SAN DIEGO, CA 92105 Census Tract: 0034.01	3710
2	291796	ACTIVE	20	01/31/1994	12/31/2018	DALLO & CO INC	FOODLAND 3	5075 FEDERAL BLVD SAN DIEGO, CA 92102-2652 Census Tract: 0034.01	3710
3	299061	ACTIVE	21	12/01/1995	11/30/2018	CROWN INC	PAR LIQUOR	5055 FEDERAL BLVD SAN DIEGO, CA 92102 Census Tract: 0034.01	3710
4	383267	ACTIVE	21	05/01/2002	04/30/2019	KIDANEMARIAM, DANIEL BERHE	PARRY LIQUOR AND MARKET	4704 FEDERAL BLVD SAN DIEGO, CA 92102 Census Tract: 0034.01	3710
5	427919	ACTIVE	20	08/16/2005	11/30/2018	AVAD INVESTMENTS INC	ARCOHOME	4333 HOME AVE SAN DIEGO, CA 92105 Census Tract: 0034.01	3710
6	549600	ACTIVE	21	04/22/2015	03/31/2019	BIDI, SAMIM H	MY MARKET	4111 HOME AVE, STE A SAN DIEGO, CA 92105-5200 Census Tract: 0034.01	3710
7	572165	ACTIVE	20	01/04/2017	12/31/2018	CTY SITES INC	CTY SITES HOME	4405 HOME AVE SAN DIEGO, CA 92105-4721 Census Tract: 0034.01	3710
8	582593	ACTIVE	21	10/13/2017	09/30/2018	HALLAK, GEORGE H		4727-4729 FEDERAL BLVD SAN DIEGO, CA 92102-2639 Census Tract: 0034.01	3710

ATTACHMENT 1
ATTACHMENT 11



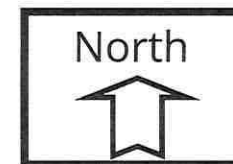
SUMMARY OF PARCELS							
APN: 541-060-19 100FT MMCC - RESIDENTIAL SERACH							
#	Use Description	Site Address	City	State	Zip	Parcel Number	Owner/Business Name
1	SERVICE STATION, GAS STATION	4335 HOME AVE	SAN DIEGO	CA	92105	541-060-19-00	AVAD INVESTMENTS INC
2	SERVICE STATION, GAS STATION	4365 HOME AVE	SAN DIEGO	CA	92105	541-060-19-00	AVAD INVESTMENTS INC
3	SERVICE STATION	4345 HOME AVE	SAN DIEGO	CA	92105	541-060-20-00	PEARL CAR WASH
4	SERVICE STATION	4355 HOME AVE	SAN DIEGO	CA	92105	541-060-20-00	HOME AVENUE LAUNDRY
THERE ARE NO RESIDENTS FOUND WITHIN 100FT HOWEVER THE RADIUS DOES CROSS INTO TWO RESIDENTIAL ZONES (OR-1-1 & RS-1-1). BOTH OF THESE ZONES ARE VACANT UNIMPROVED/OPEN LAND.							

SUMMARY OF PARCELS							
APN: 541-060-19 1000FT MMCC - BUSINESS LIST							
#	Use Description	Site Address	City	State	Zip	Parcel Number	Owner/Business Name
1	PUBLIC PARK	NO ADDRESS	SAN DIEGO	CA	92105	541-010-34-00	CITY OF SAN DIEGO/HOLLYWOOD PARK
2	STORES, RETAIL OUTLET	4359 HOME AVE	SAN DIEGO	CA	92105	541-060-12-00	GOODWILL INDUSTRIES OF SAN DIEGO
3	STORES, RETAIL OUTLET	4395 HOME AVE	SAN DIEGO	CA	92105	541-060-18-00	CHUY'S AUTO BODY
4	SERVICE STATION, GAS STATION	4335 HOME AVE	SAN DIEGO	CA	92105	541-060-19-00	AVAD INVESTMENTS INC
5	SERVICE STATION, GAS STATION	4365 HOME AVE	SAN DIEGO	CA	92105	541-060-19-00	AVAD INVESTMENTS INC
6	SERVICE STATION	4345 HOME AVE	SAN DIEGO	CA	92105	541-060-20-00	PEARL CAR WASH
7	SERVICE STATION	4355 HOME AVE	SAN DIEGO	CA	92105	541-060-20-00	HOME AVENUE LAUNDRY
8	SERVICE STATION, GAS STATION	2286 FAIRMOUNT AVE	SAN DIEGO	CA	92105	541-060-20-00	PETER AUTO REPAIR
9	GOVERNMENTAL, PUBLIC	4425 HOME AVE	SAN DIEGO	CA	92105	541-280-03-00	COLUMBUS CLUB OF SAN DIEGO
10	PARKING LOT, PARKING STRUCTURE	2281 FAIRMOUNT AVE	SAN DIEGO	CA	92105	541-280-09-00	GEORGE'S GARAGE
11	SERVICE STATION, GAS STATION	4405 HOME AVE	SAN DIEGO	CA	92105	541-280-10-01	CITY SITES
12	SERVICE STATION, GAS STATION	4405 HOME AVE	SAN DIEGO	CA	92105	541-280-10-02	YODER,JOSEPH & MARY TRUST
13	COOPERATIVE/GARDEN	2004 RIDGE VIEW DR	SAN DIEGO	CA	92105	760-227-28-00	CITY HEIGHTS TOWN COUNCIL INC DB
THERE IS ONE PUBLIC PARCK FOUND WITHIN 1000FT WHEN MESAURING FROM PARCEL TO PARCEL. HOWEVER, THE PARK IS APROXIMATELY 3600' FEET AWAY WHEN USING SURFACE STREETS.							



Zoning Map (CC-1-3 and IL-3-1 Zones)

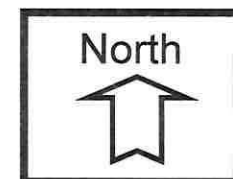
4337 Home Avenue MO NUP/CUP – 4333-4337 Home Avenue
PROJECT NO. 593686





Residential Use - Distance

4337 Home Avenue MO NUP/CUP - 4333 - 4337 Home Avenue
PROJECT NO. 593686





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

Community Planning Committee Distribution Form Part 2

Project Name: 4337 Home Avenue - CUP		Project Number: 593686	Distribution Date: 03/09/2018
Project Scope/Location: MID CITY-CITY HEIGHTS (Process 3) Conditional Use Permit(s) for a Marijuana Outlet and Production Facility within a new 2400 sq ft building and Amendment to Conditional Use Permit 96-7374 to ABC License Type 21 for the sale of general liquor for off-site consumption from existing mini market at an existing gas station located at 4337 Home Ave. The 1.08 acre site is located in the IL-3-1 zone within the Mid-City, City Heights Community Plan area. Council District 6.			
Applicant Name: Arkan Somo		Applicant Phone Number: (619) 977-8485	
Project Manager: Paul Godwin	Phone Number: (619) 446-5190	Fax Number: (619) 446-5245	E-mail Address: PGodwin@SanDiego.gov
Committee Recommendations (To be completed for Initial Review): <i>PLEASE SEE ATTACHED MEMO</i>			
<input type="checkbox"/> Vote to Approve	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Approve With Conditions Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Deny	Members Yes	Members No	Members Abstain
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)			<input type="checkbox"/> Continued
CONDITIONS: <i>SEE ATTACHED MEMO</i>			
NAME: <i>RUSS CONNELLY</i>		TITLE: <i>CHAIR</i>	
SIGNATURE: <i>Russ Connelly</i>		DATE: <i>06-07-2018</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 web site at www.sandiego.gov/development-services . Upon request, this information is available in alternative formats for persons with disabilities.			



CHAPC
P.O. Box 5859
City Heights, CA 92165
(619) 266-7161

MEMORANDUM FOR: Paul Godwin – City of San Diego Development Services Department

From: Committee Chairman
Russ Connelly

Subject: 593686 4337 Home Avenue CUP

CC: Arkan Somo

On June 4th 2018, this committee heard this item for consideration. Due to the several issues within this project, the Chair took each part as separate motions. They are summarized below:

Motion 1: Recommend denial of the CUP for the marijuana outlet and production facilities. Motion was seconded and the vote tally was 11-4-0 to deny the CUP with the Chair not voting.

Motion 2: To approve construction of a new 2400 square foot building at 4337 Home Avenue provided that the applicant and the building's construction follow the guidelines of the Chollas Creek Enhancement Plan for the setbacks to the adjoining Auburn Creek bed. Motion was seconded and the vote tally was 13-2-0 with the Chair not voting.

Motion 3: To continue discussion of the left turn lane request from Home Avenue as part of this project pending a traffic study of the area to be completed by the applicant and presented to DSD and the CHAPC as part of this project. Motion was seconded and the vote tally was 15-0-0 with the Chair not voting to continue this item pending further information to a future meeting.

The applicant stated that his request to modify CUP 96-7374 is to be withdrawn. The Committee agrees with this request. No discussion or motion was made for this part of the project since it is to be withdrawn by the applicant.

	City of San Diego Development Services 1222 First Ave., MS 302 San Diego, CA 92101 (619) 446-5000	Ownership Disclosure Statement	FORM
			DS-318
			October 2017

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

Project Title: 4337 Home Avenue Marijuana Outlet NUP/CUP **Project No. For City Use Only:** 593686

Project Address: 4333-4337 Home Ave., San Diego, CA 92105

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

☒ Corporation ☐ Limited Liability -or- ☐ General - What State? California Corporate Identification No. C2589316

☐ Partnership ☐ Individual

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the owner(s), applicant(s), and other financially interested persons of the above referenced property. A financially interested party includes any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver or syndicate with a financial interest in the application. If the applicant includes a corporation or partnership, include the names, titles, addresses of all individuals owning more than 10% of the shares. If a publicly-owned corporation, include the names, titles, and addresses of the corporate officers. (A separate page may be attached if necessary.) If any person is a nonprofit organization or a trust, list the names and addresses of ANY person serving as an officer or director of the nonprofit organization or as trustee or beneficiary of the nonprofit organization. A signature is required of at least one of the property owners. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Property Owner

Name of Individual: AVAD Investments, Inc. ☒ Owner ☐ Tenant/Lessee ☐ Successor Agency

Street Address: 1129 Avenida Del Oceano

City: El Cajon State: CA Zip: 92019

Phone No.: 619-977-8485 Fax No.: 866-790-6123 Email: arkansomo@gmail.com

Signature: [Signature] Date: 7-3-2019

Additional pages Attached: ☐ Yes ☒ No

Applicant

Name of Individual: Arkan Somo ☒ Owner ☐ Tenant/Lessee ☐ Successor Agency

Street Address: 4333-4337 Home Ave.

City: San Diego State: CA Zip: 92105

Phone No.: 619-977-8485 Fax No.: 866-790-6123 Email: arkansomo@gmail.com

Signature: [Signature] Date: 7-3-2019

Additional pages Attached: ☐ Yes ☒ No

Other Financially Interested Persons

Name of Individual: ARM Investment, Inc. ☐ Owner ☒ Tenant/Lessee ☐ Successor Agency

Street Address: 1530 Jamacha Rd.

City: El Cajon State: CA Zip: 92019

Phone No.: 619-820-8121 Fax No.: _____ Email: rzaitona@yahoo.com

Signature: [Signature] Date: 7-3-2019

Additional pages Attached: ☐ Yes ☒ No

Printed on recycled paper. Visit our web site at www.ci.sandiego.ca.us.
 Upon request, this information is available in alternative formats for persons with disabilities.

Attachment to Ownership Disclosure Statement - FORM DS-318

City of San Diego Development Services
1222 First Ave., MS 302 San Diego, CA 92101(619)446-5000

Project Title: 4337 Home Avenue Marijuana Outlet NUP/CUP

Project Address: 4333-4337 Home Ave., San Diego, CA 92105

Property Owner: AVAD Investments, Inc.

Percentage of Ownership: 100% of the Stock are owned by Arkan Somo

Mailing Address: 1129 Avenida Del Oceano, El Cajon, CA 92019

Tenant Owner: ARM Investment, Inc.

Percentage of Ownership: 100% of the Stock are owned by Randall Zaitona

Mailing Address: 1530 Jamacha Rd., El Cajon, CA 92019

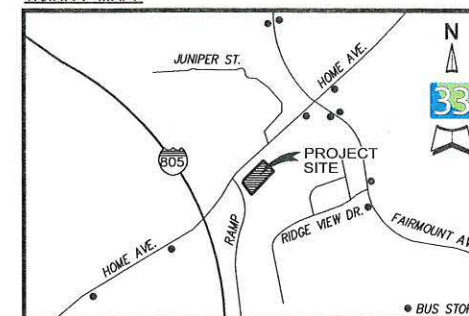
CONDITIONAL USE PERMIT # 2117121 FOR MARIJUANA OUTLET (MO)
CONDITIONAL USE PERMIT # 2225844 FOR ABC TYPE 20 LICENSE
NEIGHBORHOOD USE PERMIT # 2140441 FOR AUTO SERVICE STATION

4333-4337 HOME AVENUE, SAN DIEGO, CA 92105

LEGEND:

PROPERTY LINE	---
EXISTING SETBACKS	---
ZONE DELINEATION	---
EXISTING BUILDING	///
EXISTING CURB & GUTTER	---
EXISTING TREES	○
ADA PATH OF TRAVEL	---
VISIBILITY AREA	△
APPROXIMATE DRAINAGE PATTERN	---
PROPOSED BUILDING	///
PROPOSED LANDSCAPING	...
PROPOSED UTILITY CONNECTION (SEWER, WATER, ROOF DRAIN)	○
PROPOSED SEWER LINE	---
PROPOSED WATER LINE	---
PROPOSED STRIPED DIRECTIONAL ARROWS	→

VICINITY MAP:



GROSS SITE AREA/FLOOR AREA:

-GROSS SITE AREA: 46,952 SF (1.08 ACRES)
-EXISTING FLOOR AREA: 2,944 SF (0.07 ACRES)
-EXISTING FLOOR AREA RATIO: 6.3%

-PROPOSED FLOOR AREA: 5,344 (0.12 ACRES)
-PROPOSED FLOOR AREA RATIO: 11.4%

LANDSCAPE AREA SQUARE FOOTAGE:

EXIST: 9,000 SF
PROPOSED: 15,174 SF

BUILDING HEIGHT:

(E) MINI MARKET: 24'-6" (1 STORY)
(E) CANOPY: 19'-1" (1 STORY)
(P) MO BUILDING: 34'-4" (2 STORIES)

YEAR CONSTRUCTED:

(E) MINI MARKET: 1998
(E) CANOPY: 1998
(P) MO BUILDING: PROPOSED

TYPE OF CONSTRUCTION:

(E) MINI MARKET: V-B
(E) CANOPY: II-N
(P) MO BUILDING: III

OCCUPANCY CLASSIFICATION:

(E) MINI MARKET: M
(E) CANOPY: S3
(P) MO BUILDING: V-B

NOTES:

- OWNER SHALL PROVIDE BUILDING ADDRESS NUMBERS, VISIBLE AND LEGIBLE FROM THE STREET OR ROAD FRONTING THE PROPERTY PER FHPS P-00-6 (UFC 901.4.4)
- NO OBSTRUCTION INCLUDING LANDSCAPING OR WALLS IN THE VISIBILITY AREA SHALL EXCEED 3 FEET IN HEIGHT.
- EXISTING WATER AND SEWER SERVICES TO REMAIN.
- PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMIT, THE OWNER/PERMITEE SHALL SUBMIT A WATER POLLUTION CONTROL PLAN (WPCP). THE WPCP SHALL BE PREPARED IN ACCORDANCE WITH THE GUIDELINES IN PART 2 CONSTRUCTION BMP STANDARDS CHAPTER 4 OF THE CITY'S STORM WATER STANDARDS.
- PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMIT, THE OWNER/PERMITEE SHALL INCORPORATE ANY CONSTRUCTION BEST MANAGEMENT PRACTICES NECESSARY TO COMPLY WITH CHAPTER 14, ARTICLE 2, DIVISION 1 (GRADING REGULATIONS) OF THE SAN DIEGO MUNICIPAL CODE, INTO THE CONSTRUCTION PLANS OR SPECIFICATIONS.

GRADING QUANTITIES

SITE DISTURBANCE: 15,530 SF
• 10,300 SF OF PERVIOUS AREA DISTURBED
• 5,230 SF OF IMPERVIOUS AREA DISTURBED
• IMPERVIOUS DISTURBED AREA REPLACED W/ PROPOSED IMPERVIOUS SURFACE: 3,180 SF
• IMPERVIOUS DISTURBED AREA REPLACED W/ PROPOSED PERVIOUS LANDSCAPE: 2,050 SF

TOTAL EXPORT: 210 CUBIC YARDS (CUT)
• 190 CY FOR LANDSCAPING
• 15 CY FOR BUILDING ADDITION FOUNDATION
• 5 CY FOR WATER AND SEWER LATERALS

MAXIMUM EXCAVATION DEPTH FOR SITE WORK:
• 1.5' FOR PROPOSED CONCRETE PAVEMENT
• 5.5' FOR PROPOSED SEWER LATERAL
• 3.5' FOR PROPOSED BUILDING ADDITION FOOTING

Prepared By:

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Phone #: (858) 751-0633
Fax #: (858) 751-0634

Project Address:
4333 HOME AVENUE
SAN DIEGO, CA 92105

Project Name:
4333-4337 HOME AVENUE
CUP

Project Number:
593686

Sheet Title:
COVER SHEET & SITE PLAN

Revision 14: _____
Revision 13: _____
Revision 12: _____
Revision 11: _____
Revision 10: _____
Revision 9: _____
Revision 8: _____
Revision 7: _____
Revision 6: 3/26/2019
Revision 5: 3/7/2019
Revision 4: 12/10/2018
Revision 3: 10/29/2018
Revision 2: 9/20/2018
Revision 1: 7/26/2018

Original Date: 1/8/2018

Sheet 1 of 8

DEP# _____

DEVELOPMENT SUMMARY:

THE PROPOSED PROJECT IS SEEKING:
-APPROVAL OF A NEIGHBORHOOD USE PERMIT (NUP) TO CONTINUE THE AUTO SERVICE STATION OPERATION W/ EXISTING MINI-MARKET.
-APPROVAL OF A CONDITIONAL USE PERMIT (CUP) TO CONTINUE ABC TYPE 20 BEER AND WINE LICENSE FOR OFF-SITE CONSUMPTION ALCOHOL BEVERAGE SALE, LOCATED AT 4333 HOME AVE IN THE CC-1-3-ZONE.
-APPROVAL OF A CONDITIONAL USE PERMIT (CUP) TO OPERATE A 1,200 SF MARIJUANA OUTLET (MO) ON THE FIRST FLOOR OF A 2,400 SF BUILDING THAT IS TO BE CONSTRUCTED.

PROJECT TEAM:

LATITUDE 33 PLANNING AND ENGINEERING
996B HIBERT STREET 2ND FLOOR, SAN DIEGO, CA 92131
92121 (858) 751-0633 FAX (858) 751-0634

OWNER:

AVAD INVESTMENTS, INC.
4333 & 4337 HOME AVE.
SAN DIEGO, CA 92105

LEGAL DESCRIPTION:

PARCEL 1 OF PARCEL MAP NO. 17969 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON DECEMBER 22, 1997 AS INSTRUMENT NO. 1997-0651626 OF OFFICIAL RECORDS.

ASSESSOR'S PARCEL NO.

541-060-19-00

ZONING DESIGNATION:

CC-1-3 & IL-3-1

OVERLAY ZONE DESIGNATION:

-HILLSIDE REVIEW OVERLAY ZONE

EXISTING/PROPOSED USE:

-EXISTING: COMMUNITY COMMERCIAL/GENERAL COMMERCIAL WITH LIGHT MANUFACTURING: GAS STATION AND MINI MART WITH BEER & WINE SALES
-PROPOSED: COMMUNITY COMMERCIAL/GENERAL COMMERCIAL, MARIJUANA OUTLET, & GAS STATION WITH MINI MART WITH BEER & WINE SALES

EASEMENTS:

- SEWER EASEMENT RESERVED PER DEED REC. 10-31-1980 AS F/P. 80-364441, O.R. (CITY DWG. NO. 14805-2-D).
- DRAINAGE EASEMENT RESERVED PER DEED REC. 10-31-1980 AS F/P. 80-364441, O.R.
- 4' WIDE SDG&E EASEMENT PER DEED REC. 2-01-1977, F/P 77-038930, O.R.

GEOLOGIC HAZARD CATEGORY:

32 - LOW POTENTIAL, FLUCTUATING GROUNDWATER MINOR DRAINAGES

ENVIRONMENTALLY SENSITIVE LAND:

NONE

LIMIT OF WORK:

ASSESSORS PARCEL NUMBER 541-060-19-00

TRANSIT STOPS:

TRANSIT STOPS DIRECTLY ADJACENT TO PROJECT: NONE
SEE VICINITY MAP ABOVE.

PARKING REQUIREMENTS:

PARKING REQUIREMENTS				
	PROPOSED USE/SQ.FT.	RATIO	MIN. REQUIRED	PROVIDED
ZONE IL-3-1				
GROUND FLOOR	MO/1200	5	6	6
SECOND FLOOR	VACANT/1200	N/A	0	3
ZONE CC-3-1				
SINGLE STORY	GAS SERVICE STATION/2944	5	15	15
TOTAL:			21	24

PROVIDED PARKING		
	MIN. REQUIRED	PROVIDED
ADA PARKING	1	1
VAN ACCESSIBLE ADA PARKING	1	1
STANDARD PARKING	21	22
TOTAL PROVIDED:		24

PROVIDED CARPOOL/ZERO EMISSION PARKING		
	MIN. REQUIRED	PROVIDED
CARPOOL/ZERO EMISSION PARKING	1	1
TOTAL PROVIDED:		1

	MIN. REQUIRED	PROVIDED
MOTORCYCLE PARKING	2	2
TOTAL PROVIDED:		2

PROVIDED BICYCLE PARKING		
	MIN. REQUIRED	PROVIDED
LONG TERM	1	1
SHORT TERM	2	5
TOTAL PROVIDED:		6

PREPARED IN THE OFFICE OF:

latitude 33
PLANNING & ENGINEERING
996B Hibert Street, 2nd Floor, San Diego, CA 92131
Tel: (858) 751-0633

TOPOGRAPHIC SOURCE:

SITE TOPOGRAPHY SHOWN IS PER FIELD SURVEY BY GARY
ENGINEERING DATED MARCH 07, 2018.

BENCHMARK:

BRASS PLUG LOCATED IN CURB RETURN AT THE
NORTHEAST CORNER OF HOME AVENUE AND
FAIRMOUNT AVENUE INTERSECTION
ELEVATION: 157.95
DATUM: NGVD 29 FEET

REFERENCE DRAWING NO.

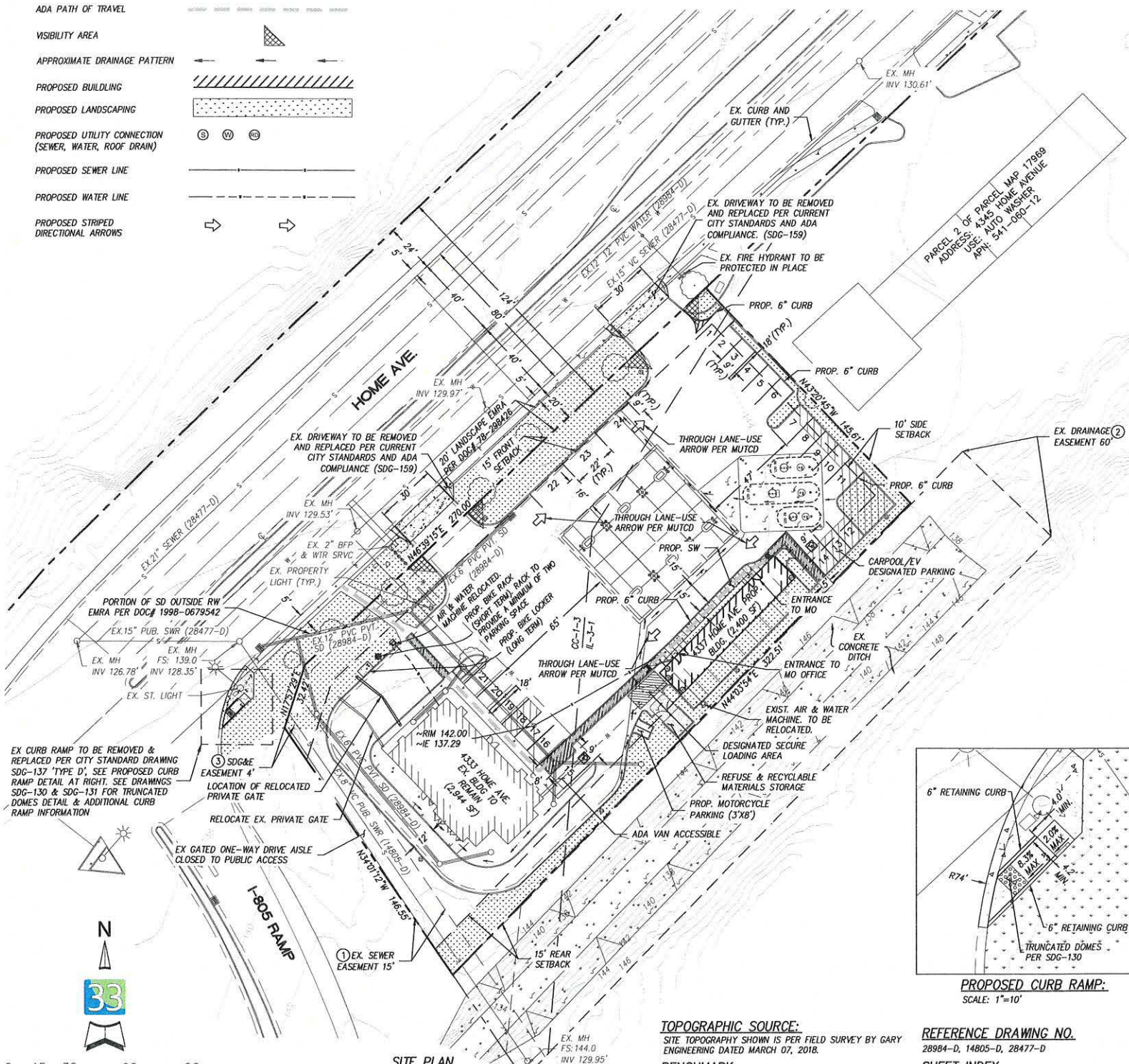
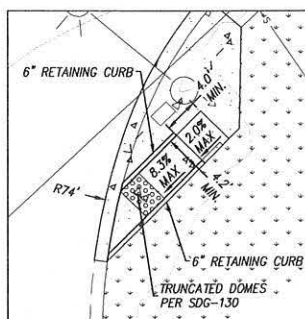
28984-D, 14805-D, 28477-D

SHEET INDEX:

COVER SHEET AND SITE PLAN.....1
PROPOSED ARCHITECTURAL FLOOR PLANS.....2
PROPOSED BUILDING ELEVATIONS.....3
LANDSCAPE PLANS.....4-9

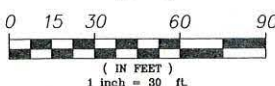
PROPOSED CURB RAMP:

SCALE: 1"=10'



SITE PLAN

SCALE 1"=30'

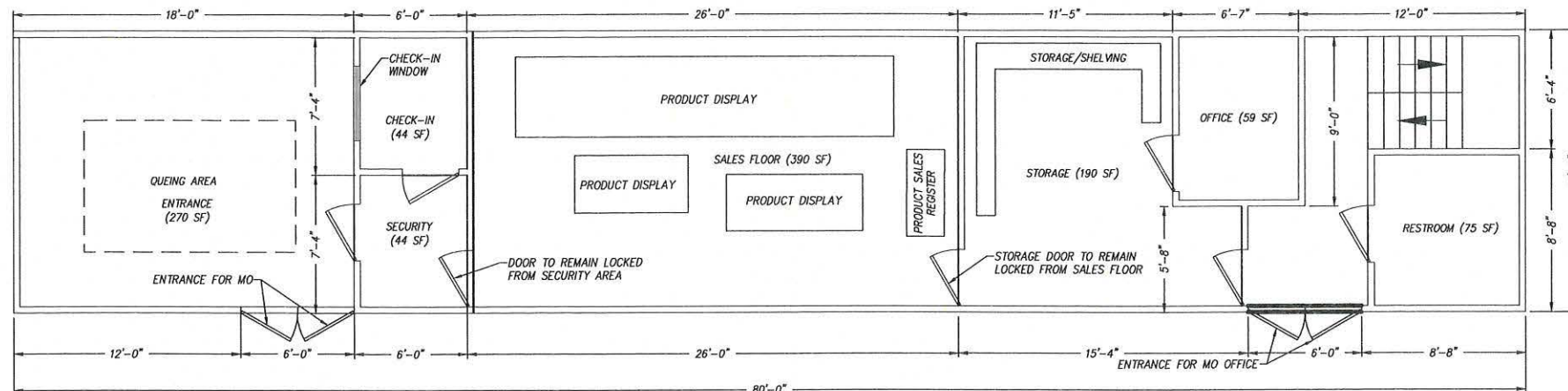


CONDITIONAL USE PERMIT # 2117121 FOR MARIJUANA OUTLET (MO)
CONDITIONAL USE PERMIT # 2225844 FOR ABC TYPE 20 LICENSE
NEIGHBORHOOD USE PERMIT # 2140441 FOR AUTO SERVICE STATION

4333-4337 HOME AVENUE, SAN DIEGO, CA 92105

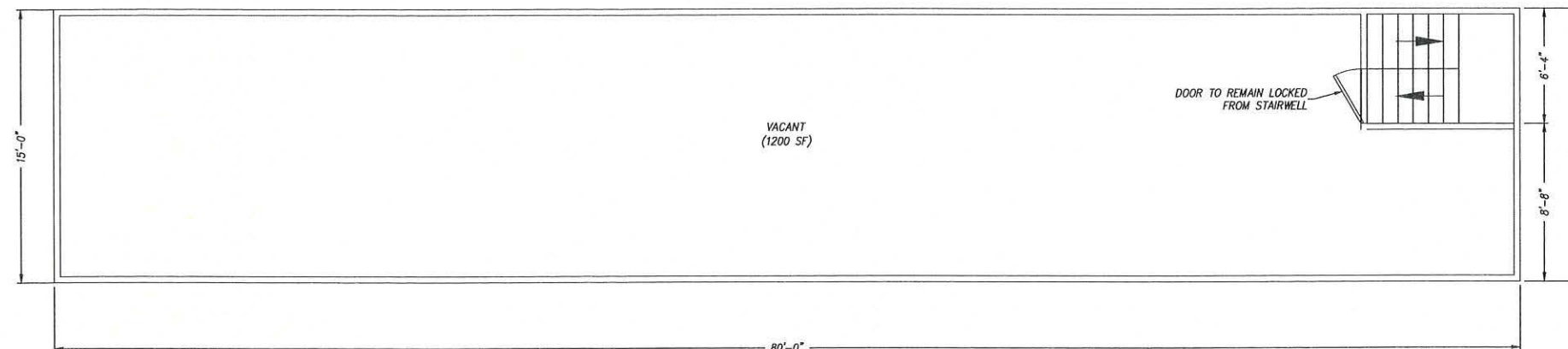
LEGEND

- 1 LA HABRA STUCCO (X-53 PURE IVORY)
- 2 12"x12" TILE (SAND)
- 3 SPANISH TILE ROOFING
- 4 DOUBLE PANE CLEAR TEMPERED GLAZING TYP.
- 5 ANODIZED ALUMINUM (BLACK)
- 6 2" REVILES
- 7 INTERNALLY ILLUMINATED LIGHT BOX



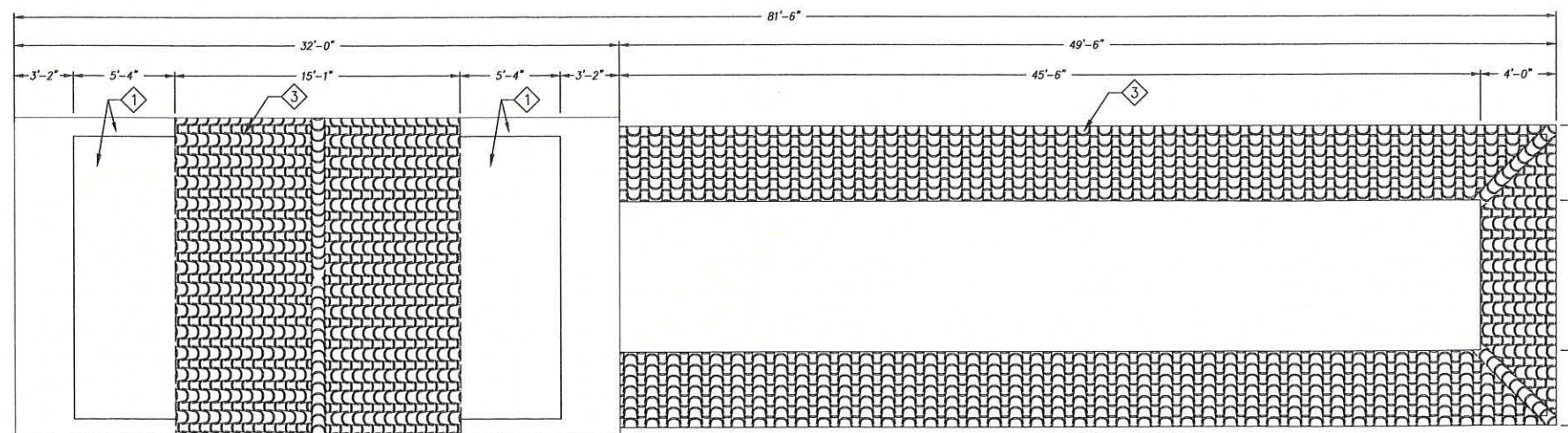
1ST FLOOR PLAN

SCALE: 1/4"=1'-0"



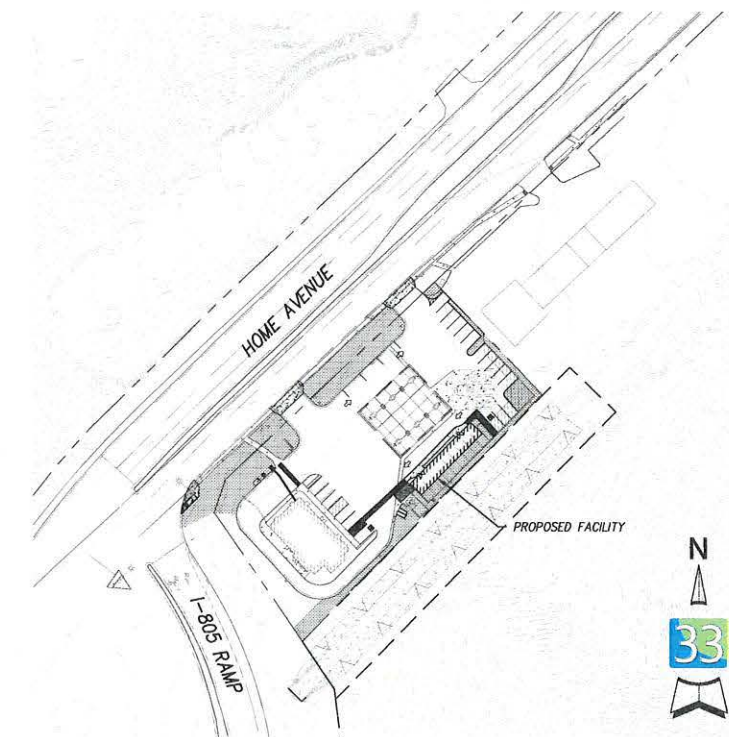
2ND FLOOR PLAN

SCALE: 1/4"=1'-0"



ROOF PLAN

SCALE: 1/4"=1'-0"



SITE PLAN

NTS

Prepared By:

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Project Address:

4333 HOME AVENUE

SAN DIEGO, CA 92105

Project Name:

4333-4337 HOME AVENUE

CUP

Project Number:

593686

Revision 14:

Revision 13:

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Revision 8:

Revision 7:

Revision 6: 3/26/2019

Revision 5: 3/7/2019

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Revision 1: 7/26/2018

Original Date: 1/8/2018

PREPARED IN THE OFFICE OF:

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Sheet Title:

PROPOSED ARCHITECTURAL

FLOOR PLANS & ROOF PLAN

Sheet 2 of 8

DEP#

SITE #81993_42254

DRIVING DESCRIPTION
 SITE #81993_42254 - STORE LAYOUT

SP-ARCO
 4111 HUNTER AVE. - SAN DIEGO, CA

DWG. NO. 18-0106-A
SCALE 1/8" = 1'-0"

DATE 04/24/2018
DRAWN BY JN

REVISION

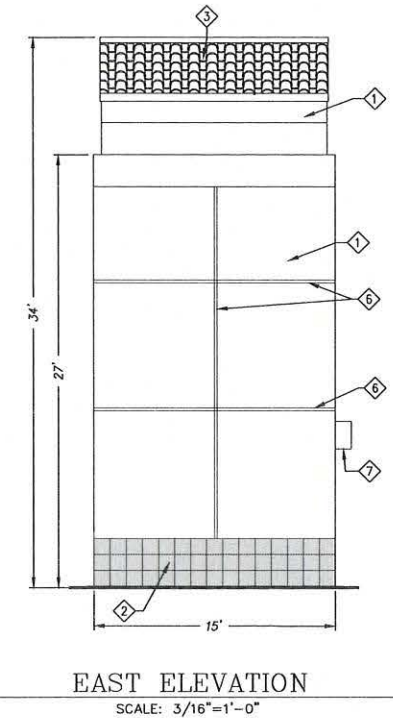
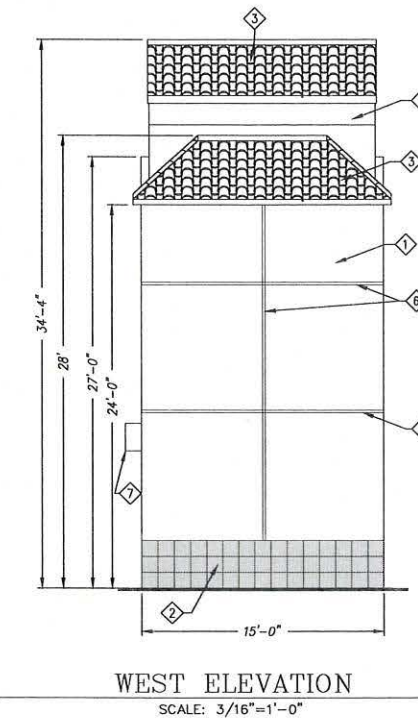
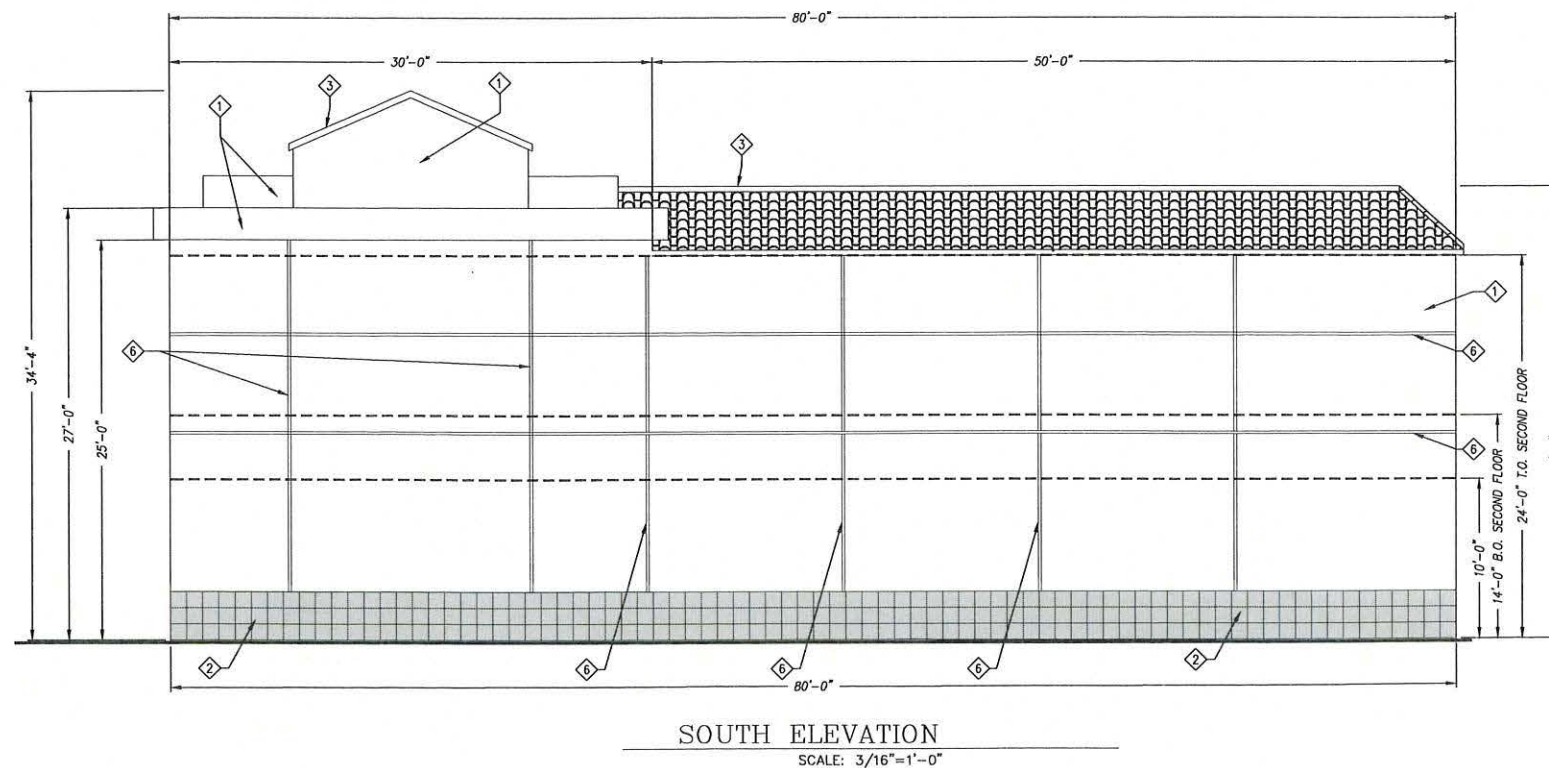
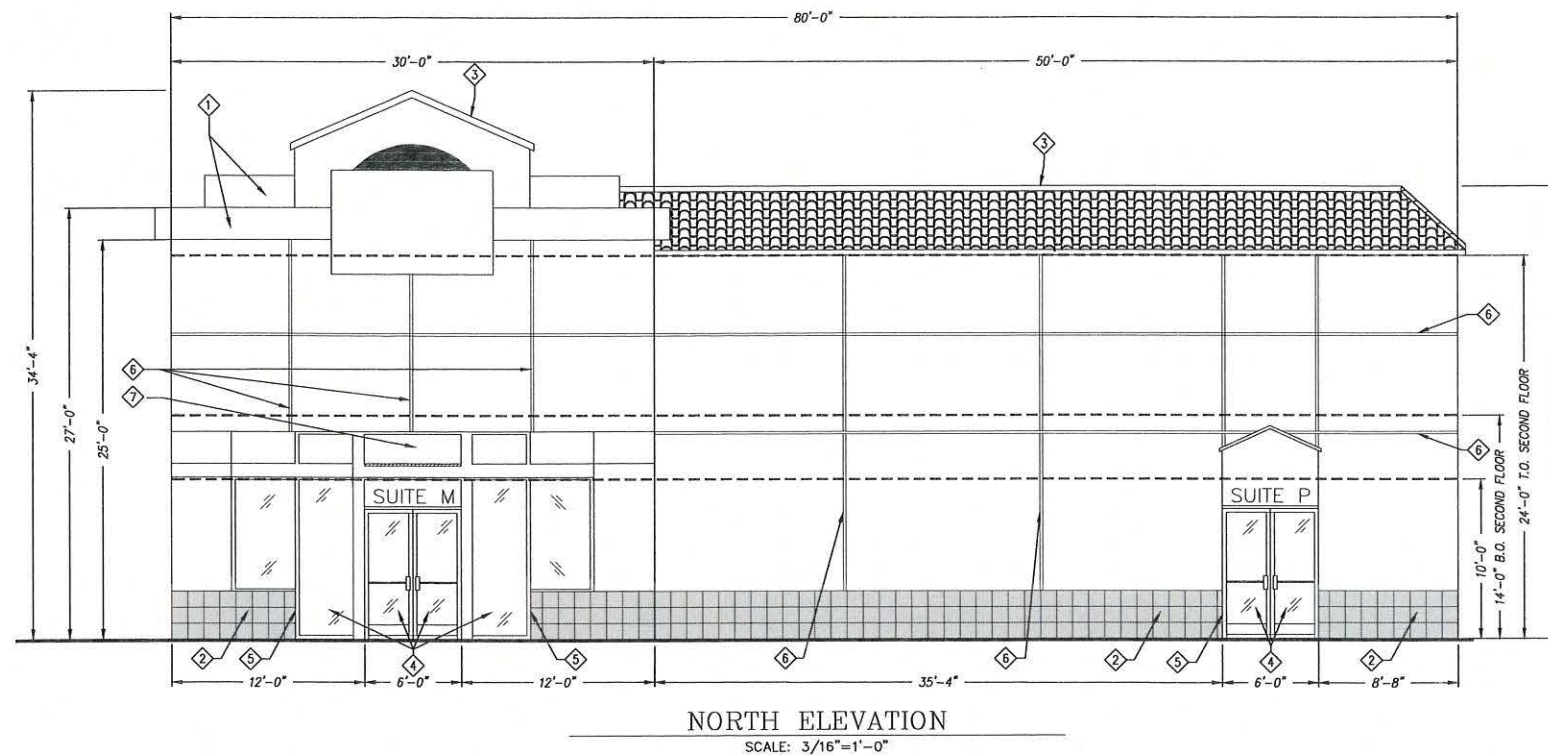
GONDOLAS COLOR BLACK
SQUARE FOOTAGE 1411.5 sq.ft.
SHOPCO USA, INC.

7171 WEST SAN ANTONIO PKWY. N.
 HOUSTON, TX 77040
 (713) 634-2800

DEP# _____

CONDITIONAL USE PERMIT # 2117121 FOR MARIJUANA OUTLET (MO)
CONDITIONAL USE PERMIT # 2225844 FOR ABC TYPE 20 LICENSE
NEIGHBORHOOD USE PERMIT # 2140441 FOR AUTO SERVICE STATION

4333-4337 HOME AVENUE, SAN DIEGO, CA 92105



LEGEND

- 1 LA HABRA STUCCO (X-53 PURE IVORY)
- 2 12"x12" TILE (SAND)
- 3 SPANISH TILE ROOFING
- 4 DOUBLE PANE CLEAR TEMPERED GLAZING TYP.
- 5 ANODIZED ALUMINUM (BLACK)
- 6 2" REVILES
- 7 INTERNALLY ILLUMINATED LIGHT BOX

MATERIAL LEGEND

CODE	MATERIAL	MANUFACTURER	SPECIFICATION
P-1	PAINT(EXTERIOR)	SHERWIN WILLIAMS 6535 E. 82ND STREET, STE.206 INDIANAPOLIS, IN 46250 CONTACT: MARGE JONES (317) 594 0083	STYLE: AQUARIUS PAINTS COLOR: CUSTOM RED
P-2	PAINT(EXTERIOR)	SHERWIN WILLIAMS 6535 E. 82ND STREET, STE.206 INDIANAPOLIS, IN 46250 CONTACT: MARGE JONES (317) 594 0083	STYLE: AQUARIUS PAINTS COLOR: CUSTOM PURPLE
P-3	PAINT(EXTERIOR)	SHERWIN WILLIAMS 6535 E. 82ND STREET, STE.206 INDIANAPOLIS, IN 46250 CONTACT: MARGE JONES (317) 594 0083	STYLE: AQUARIUS PAINTS COLOR: CUSTOM YELLOW

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Project Address:

4333 HOME AVENUE

SAN DIEGO, CA 92105

Project Name:

4333-4337 HOME AVENUE

CUP

Project Number:

593686

Sheet Title:

ARCHITECTURAL

ELEVATIONS

Revision 14: _____

Revision 13: _____

Revision 12: _____

Revision 11: _____

Revision 10: _____

Revision 9: _____

Revision 8: _____

Revision 7: _____

Revision 6: 3/26/2019

Revision 5: 3/7/2019

Revision 4: 12/10/2018

Revision 3: 10/29/2018

Revision 2: 9/20/2018

Revision 1: 7/26/2018

Original Date: 1/9/2018

Sheet 3 of 8

DEP# _____

PREPARED IN THE OFFICE OF:

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CONDITIONAL USE PERMIT # 2117121 FOR MARIJUANA OUTLET (MO)
CONDITIONAL USE PERMIT # 2225844 FOR ABC TYPE 20 LICENSE
NEIGHBORHOOD USE PERMIT # 2140441 FOR AUTO SERVICE STATION
4333-4337 HOME AVENUE, SAN DIEGO, CA 92105

REFERENCE NOTES

SYMBOL	DESCRIPTION
1	ENHANCED PEDESTRIAN PAVING
2	PEDESTRIAN ACCESSIBLE PATHWAY (STRIPING ONLY)
3	EXISTING CHAINLINK FENCE TO REMAIN
4	PARKING STALLS
5	NEW PLANTER ALONG PROPERTY LINE
6	EXISTING JACARANDA STREET TREE
7	PROPOSED JACARANDA STREET TREE
8	EXISTING FICUS TREE (CALIPER 6")
9	EXISTING DRAINAGE EASEMENT, TYP.
10	EXISTING TRASH ENCLOSURE
11	EXISTING SEWER EASEMENT

LANDSCAPE NOTES

- ALL LANDSCAPE AND IRRIGATION SHALL CONFORM TO THE STANDARDS OF THE CITY-WIDE LANDSCAPE REGULATIONS AND THE CITY OF SAN DIEGO LAND DEVELOPMENT MANUAL LANDSCAPE STANDARDS AND ALL OTHER LANDSCAPE RELATED CITY AND REGIONAL STANDARDS.
- MINIMUM TREE SEPARATION DISTANCE:
TRAFFIC SIGNALS / STOP SIGNS - 20 FT.
UNDERGROUND UTILITY LINES - 5 FT. (10 FT. FOR SEWER)
ABOVE GROUND UTILITY STRUCTURES - 10 FT.
DRIVEWAY (ENTRIES) - 10 FT.
INTERSECTIONS (INTERSECTING CURB LINES OF TWO STREETS) - 25 FT.
- A MINIMUM ROOT ZONE OF 40 SF. IN AREA SHALL BE PROVIDED FOR ALL TREES. THE MINIMUM DIMENSION FOR THIS AREA SHALL BE 5 FT. PER SDMC 142.0403(B)(5).
- MAINTENANCE: ALL REQUIRED LANDSCAPE AREAS SHALL BE MAINTAINED BY OWNER. LANDSCAPE AND IRRIGATION AREAS IN THE PUBLIC RIGHT-OF-WAY SHALL BE MAINTAINED BY OWNER. THE LANDSCAPE AREAS SHALL BE MAINTAINED FREE OF DEBRIS AND LITTER, AND ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY GROWING CONDITION. DISEASED OR DEAD PLANT MATERIAL SHALL BE SATISFACTORILY TREATED OR REPLACED PER THE CONDITIONS OF THE PERMIT.
- VEGETATION SHALL BE MAINTAINED IN SUCH A MANNER AS TO ALLOW IMMEDIATE ACCESS TO ALL HYDRANTS, VALVE, FIRE DEPARTMENT CONNECTIONS, PULL STATION, EXTINGUISHERS, SPRINKLER RISERS, ALARM CONTROL PANELS, RESCUE WINDOWS, AND OTHER DEVICES OR AREAS USED FOR FIREFIGHTING PURPOSES.

IRRIGATION NOTES

- ALL PLANTING AREAS WILL BE IRRIGATED FROM A DEDICATED IRRIGATION METER ACCORDING TO HYDROZONES, PLANT TYPE & ENVIRONMENTAL EXPOSURE AND WILL RECEIVE 100% COVERAGE BY MEANS OF AN AUTOMATICALLY CONTROLLED, ELECTRONICALLY OR SATELLITE OPERATED, UNDERGROUND PIPED PERMANENT IRRIGATION SYSTEM.
- AN AUTOMATIC, ELECTRICALLY CONTROLLED IRRIGATION SYSTEM SHALL BE PROVIDED AS REQUIRED BY LDC 142.0403(C) FOR PROPER IRRIGATION, DEVELOPMENT, AND MAINTENANCE OF THE VEGETATION IN A HEALTHY, DISEASE-RESISTANT CONDITION. THE DESIGN OF THE SYSTEM SHALL PROVIDE ADEQUATE SUPPORT FOR THE VEGETATION SELECTED.

PLANT SCHEDULE

SYMBOL	DESCRIPTION	CONT	SPACING
●	EXISTING TREE / PROTECT IN PLACE		
○	PODOCARPUS GRACILIOR / PODOCARPUS	36" BOX	
○	JACARANDA MIMOSIFOLIA / JACARANDA	36" BOX	
SHRUB AREAS			
SYMBOL	BOTANICAL NAME / COMMON NAME	CONT	SPACING
○	LANTANA MONTEVIDENSIS 'WHITE LIGHTNING' / TRAILING LANTANA	1 GALLON	24" o.c.
○	LAVANDULA ANGUSTIFOLIA / ENGLISH LAVENDER		
○	ROSMARINUS OFFICINALIS 'PROTRATUS' / CREEPING ROSEMARY		
○	MUHLBERGIA DUBIA / PINE MUHLY	1 GALLON	36" o.c.
○	MUHLBERGIA LINDHEIMERI / LINDHEIMER'S MUHLY		
○	LOMANDRA LONGIFOLIA 'NYALLA' / NYALLA MAT RUSH		
○	PYRACANTHA X 'DWARF RED' / DWARF RED FIRETHORN	1 GALLON	30" o.c.
○	COTONEASTER LADDER LEAF / BEARBERRY COTONEASTER		
○	GREVILLEA LANGIERA 'PROSTRATE' / PROSTRATE WOOLLY GREVILLEA		
○	RHAPHIOLEPS INDICA 'CLARA' / INDIAN HAWTHORN	5 GALLON	36" o.c.
○	GREVILLEA 'SCARLET SPRITE' / SCARLET SPRITE GREVILLEA		
○	CALLISTEMON LITTLE JOHN / DWARF CALLISTEMON		
○	EXISTING PLANTING TO REMAIN, PROTECT IN PLACE.		

State of CA Model Water Efficient Landscape Ordinance (MWELO)

Project Name: 4333-4337 HOME AVENUE CUP

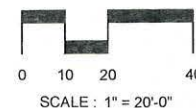
2015 Executive Order EO B-29-15 MWELO (Updated ETWU) - PROJECT WATER USE ANALYSIS

Description	MAWA		ETWU		Hydrozones				Total Usage
	MAWA	ETWU	Special Landscape Area	High Water Use	Moderate Water Use	Low Water Use	Very Low Water Use		
Total Landscape Area (Square Feet)	15,174	Hydrozone Area S.F. (H4)	NA	0	0	15,174	0	15,174 SqFt	
Special Landscape Area (SLA)	0	SLA Hydro Area	0	NA	NA	NA	NA	0 SqFt	
Irrigation Efficiency (IE)	NA	Irrigation Efficiency (IE)	Irr. Type	1.00	Irr. Type	0.75	Irr. Type	0.75	0.81
Reference Evapotranspiration (Eto)	45.57	Ref ET (Eto)	45.57	45.57	45.57	45.57	45.57	45.57	
Plant Factor (PF) - H=5/7, M=6/5, L=4/3, V=2/1	NA	Plant Factor (PF)	1.0	0.7	0.5	0.3	0.1	0.1	
ET Adjustment Factor (ETAF) for non residential projects	0.45	ETAF (PF/IE)	1.00	0.50	0.67	0.40	0.12	0.12	
Conversion Factor (Inches to Gallons)	0.62	Conversion Factor	0.62	0.62	0.62	0.62	0.62	0.62	
Eto x 62 x (ETAF x Land Area) + ((H-ETAF) x SLA)	192,922.7	Eto x 62 x (ETAF x Area)	NA	0.00	0.00	8,069.05	0.00	8,069.05	
		Eto x 0.62 x (SLA Area)	0.00	0.00	0.00	171,486.8	0.00	171,486.8	
Total Gallons Per Year	192,922.7	171,486.8						171,486.8	
		Project Average ETAF	0.45	(Proj. Ave. ETAF < MAWA ETAF)					

Anticipated evapotranspiration rates for the site are based on historical averages.
This data is collected from C.I.M.I.S. (California Irrigation Management Information System)

IE = All overhead spray = 0.75; Subsurface irrigation such as Bubbler and Drip = 0.81
Data from the C.I.M.I.S. Station # 184 was used.

SCHMIDT DESIGN GROUP, INC.

BALANCING ARTISTIC EXPRESSION IN DESIGN
WITH ENVIRONMENTAL SENSITIVITY1111 Sixth Avenue, Suite 500, San Diego, CA 92101
telephone (619) 236-1462 facsimile (619) 236-8792
www.schmidtgroup.com
Lic. CA 2138, NV 219, AZ 34139

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Fax #: (858) 751-0634

Project Address:
4333 HOME AVENUE
SAN DIEGO, CA 92105

Project Name:
4333-4337 HOME AVENUE
CUP

Project Number:
593686

Sheet Title:
LANDSCAPE DEVELOPMENT
PLAN

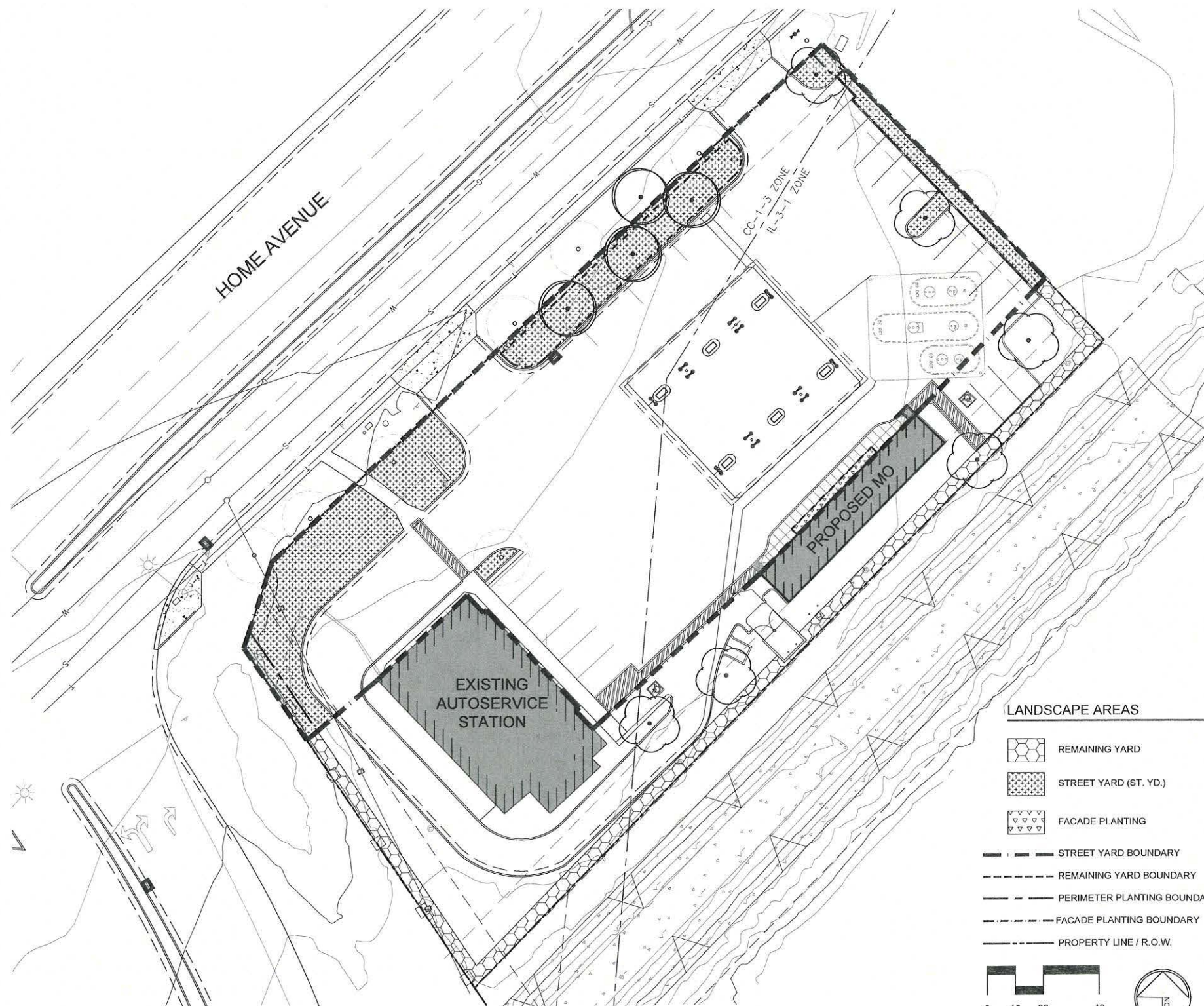
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Sheet L-1 of 8

DEP# _____

CONDITIONAL USE PERMIT # 2117121 FOR MARIJUANA OUTLET (MO)
CONDITIONAL USE PERMIT # 2225844 FOR ABC TYPE 20 LICENSE
NEIGHBORHOOD USE PERMIT # 2140441 FOR AUTO SERVICE STATION
4333-4337 HOME AVENUE, SAN DIEGO, CA 92105



STREET YARD				
TOTAL AREA	31,177 SF			
PLANTING AREA REQUIRED (SQ. FT.) (15%)	4,677	PLANTING AREA PROVIDED (SQ. FT.)	5,093	EXCESS AREA PROVIDED (SQ. FT.) 416
PLANTING POINTS REQUIRED (3%)	935	PLANTING POINTS PROVIDED	1,239	EXCESS POINTS PROVIDED 304
REMAINING YARD				
TOTAL AREA	2,242 SF			
PLANTING AREA REQUIRED (SQ. FT.) (30%)	673	PLANTING AREA PROVIDED (SQ. FT.)	2,199	EXCESS AREA PROVIDED (SQ. FT.) 1,526
PLANTING POINTS REQUIRED (5%)	112	PLANTING POINTS PROVIDED	200	EXCESS POINTS PROVIDED 88
PERIMETER PLANTING AREA				
LINEAR LENGTH	155 FT			
PLANTING AREA REQUIRED (SQ. FT.) (length x 5')	775	PLANTING AREA PROVIDED (SQ. FT.)	728	EXCESS AREA PROVIDED (SQ. FT.) -47
PLANTING POINTS REQUIRED (2%)	16	PLANTING POINTS PROVIDED	123	EXCESS POINTS PROVIDED 107
FACADE PLANTING AREA				
LINEAR LENGTH	80 FT			
PLANTING AREA REQUIRED (SQ. FT.) (length * 50% x 9')	360	PLANTING AREA PROVIDED (SQ. FT.)	1658	EXCESS AREA PROVIDED (SQ. FT.) 1298
PLANTING POINTS REQUIRED (5%)	18	PLANTING POINTS PROVIDED	379	EXCESS POINTS PROVIDED 361

PLANT TABULATION NOTES:

STREET YARD:

TREE POINTS REQUIRED (50%) : 550

TREE POINTS PROVIDED
(2) EXISTING (6" CALIPER) - 150 POINTS EACH = 300
(5) 36" BOX TREES - 50 POINTS EACH = 250

SHRUBS PROVIDED
(8) EXISTING SHRUB 24" - 15 POINTS EACH = 120
(15) EXISTING SHRUB 12" - 24" - 4 POINTS EACH = 60
(72) 5 GALLON SHRUBS - 2 POINTS EACH = 144
(375) 1 GALLON SHRUBS - 1 POINTS EACH = 365

REMAINING YARD:

SHRUBS POINTS PROVIDED WITHIN REMAINING YARD
(200) 1 GALLON SHRUBS - 1 POINT EACH = 200

PERIMETER PLANTING AREA:

SHRUBS POINTS PROVIDED WITHIN PERIMETER AREA
(3) EXISTING SHRUB 24" - 15 POINTS EACH = 45
(6) EXISTING SHRUB 12" - 24" - 4 POINTS EACH = 24
(15) 5 GALLON SHRUBS - 2 POINTS EACH = 30
(24) 1 GALLON SHRUBS - 1 POINTS EACH = 24

FACADE AREA:

TREE POINTS PROVIDED
(3) 36" BOX TREES - 50 POINTS EACH = 150
SHRUBS POINTS PROVIDED WITHIN FACADE AREA
(229) 1 GALLON SHRUBS - 1 POINT EACH = 229

NOTES:

- LANDSCAPE CALCULATIONS BASED UPON CITY OF SAN DIEGO LANDSCAPE REGULATIONS, CHAPTER 14, ARTICLE 2, DIVISION 4 OF LAND DEVELOPMENT CODE.
- SEE PLANTING PLAN FOR FULL PLANTING SCHEDULE.
- A MINIMUM OF ONE 24" BOX TREE SHALL BE LOCATED WITHIN 30' OF EACH PARKING SPACE.
- TREE GRATES SHALL PROVIDE A MINIMUM OF 40 SQ. FT. PLANTING AREA, WITH NO DIMENSION LESS THAN 5'.
- LANDSCAPE CALCULATIONS ARE BASED OFF OF PROPOSED SITE IMPROVEMENTS WITHIN THE PROPERTY LINE / R.O.W. EXISTING LANDSCAPE AREA WITHIN THE STREET R.O.W. ARE NOT INCLUDED IN THESE CALCULATIONS.

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Project Name:

4333-4337 HOME AVENUE

CUP

Project Number:

593686

Sheet Title:

LANDSCAPE CALCULATIONS

Revision 14: _____

Revision 13: _____

Revision 12: _____

Revision 11: _____

Revision 10: _____

Revision 9: _____

Revision 8: _____

Revision 7: _____

Revision 6: _____

Revision 5: 3/7/2019

Revision 4: 12/10/2018

Revision 3: 10/29/2018

Revision 2: 9/20/2018

Revision 1: 7/26/2018

Original Date: 1/8/2018

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LANDSCAPE AREAS



REMAINING YARD

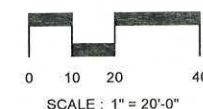


STREET YARD (ST. YD.)

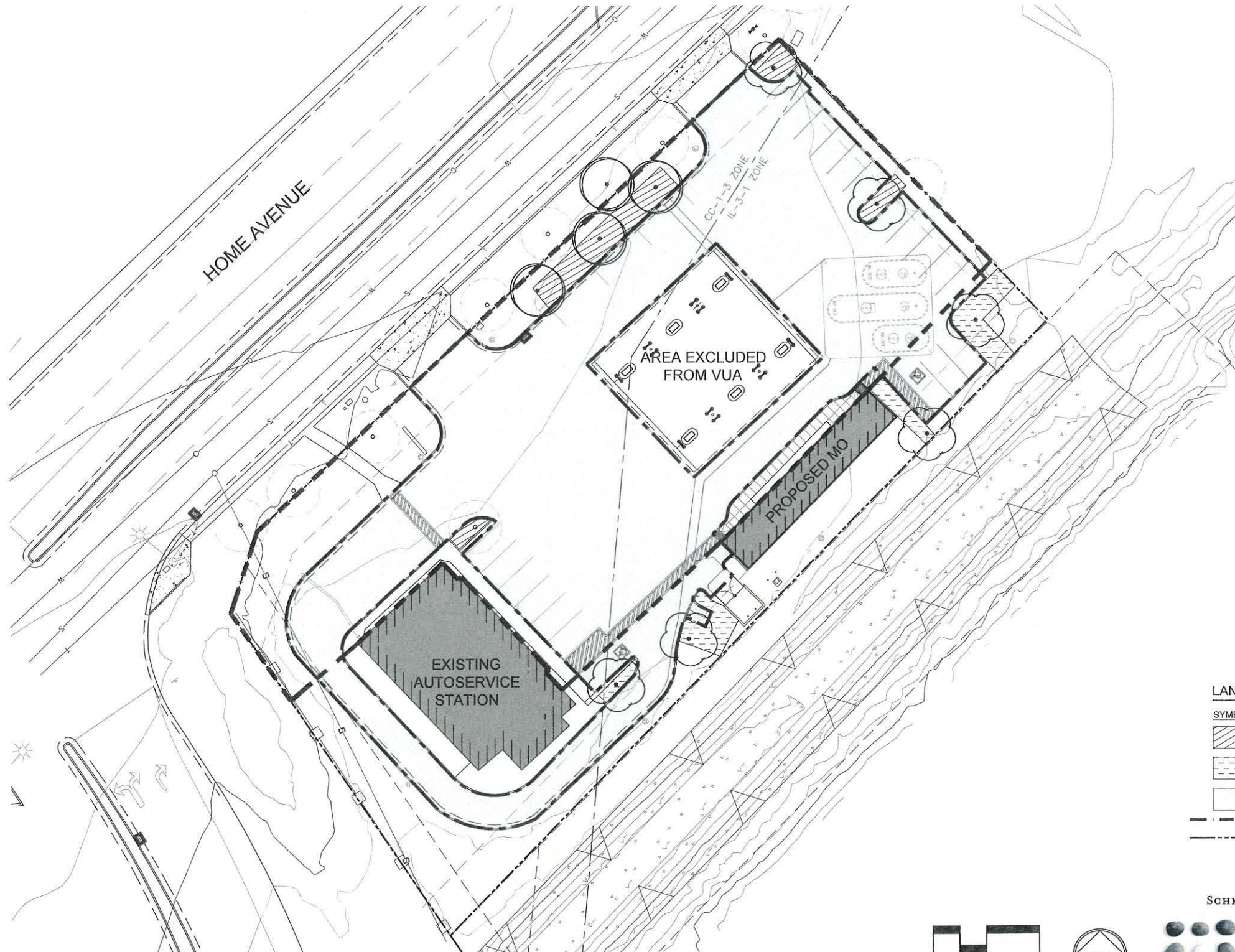


FACADE PLANTING

- STREET YARD BOUNDARY
- REMAINING YARD BOUNDARY
- PERIMETER PLANTING BOUNDARY
- FACADE PLANTING BOUNDARY
- PROPERTY LINE / R.O.W.



CONDITIONAL USE PERMIT # 2117121 FOR MARIJUANA OUTLET (MO)
CONDITIONAL USE PERMIT # 2225844 FOR ABC TYPE 20 LICENSE
NEIGHBORHOOD USE PERMIT # 2140441 FOR AUTO SERVICE STATION
4333-4337 HOME AVENUE, SAN DIEGO, CA 92105



VEHICULAR USE AREA CALCULATIONS				
TOTAL VUA AREA	24,503			
VUA IN ST. YD.	20,630			
VUA OUTSIDE OF ST. YD.	3,873			
PLANTING AREA REQ'D (5% TOTAL) (SQ. FT.)	1,225	PLANTING AREA PROVIDED (SQ. FT.)	1,855	EXCESS AREA PROVIDED (SQ. FT.) 630
PLANTING AREA REQ'D INSIDE ST. YD. (5% TOTAL) (SQ. FT.)	1,032	PLANTING AREA PROVIDED (SQ. FT.)	940	EXCESS AREA PROVIDED (SQ. FT.) -92
PLANTING AREA REQ'D OUTSIDE ST. YD. (3% TOTAL)	116	PLANTING AREA PROVIDED (SQ. FT.)	915	EXCESS AREA PROVIDED (SQ. FT.) 799
PLANT POINTS REQUIRED (.05xS.F.)	1,225	PLANTING POINTS PROVIDED	1225	EXCESS POINTS PROVIDED 0
PLANT POINTS REQUIRED INSIDE ST. YD. (.05xS.F.)	1,032	PLANTING POINTS PROVIDED	807	EXCESS POINTS PROVIDED -225
PLANT POINTS REQUIRED OUTSIDE ST. YD. (.03xS.F.)	116	PLANTING POINTS PROVIDED	418	EXCESS POINTS PROVIDED 302

PLANT TABULATION NOTES:

VEHICULAR USE AREA:

TREE POINTS REQUIRED (50%):

TREE POINTS PROVIDED

(2) EXISTING (6" CALIPER) - 150 POINTS EACH = 300

(9) 36" BOX TREES - 50 POINTS EACH = 450

SHRUBS PROVIDED

(69) 5 GALLON SHRUBS - 2 POINTS EACH = 138

(337) 1 GALLON SHRUBS - 1 POINTS EACH = 337

INSIDE STREET YARD:

TREE POINTS PROVIDED

(2) EXISTING (6" CALIPER) - 150 POINTS EACH = 300

(5) 36" BOX TREES - 50 POINTS EACH = 250

SHRUBS PROVIDED

(69) 5 GALLON SHRUBS - 2 POINTS EACH = 138

(119) 1 GALLON SHRUBS - 1 POINTS EACH = 119

OUTSIDE STREET YARD:

TREE POINTS PROVIDED

(4) 36" BOX TREES - 50 POINTS EACH = 200

SHRUBS PROVIDED

(218) 1 GALLON SHRUBS - 1 POINTS EACH = 218

NOTES:

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LANDSCAPE AREAS

SYMBOL NOTES



VUA INSIDE ST. YD.



VUA OUTSIDE ST. YD.



VEHICULAR USE AREA

STREET YARD BOUNDARY

PROPERTY LINE / R.O.W.

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Project Name:

4333-4337 HOME AVENUE

CUP

Project Number:

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Sheet Title:

VEHICULAR USE AREA

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Revision 9: _____

Revision 8: _____

Revision 7: _____

Revision 6: _____

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Revision 4: 12/10/2018

Revision 3: 10/29/2018

Revision 2: 9/20/2018

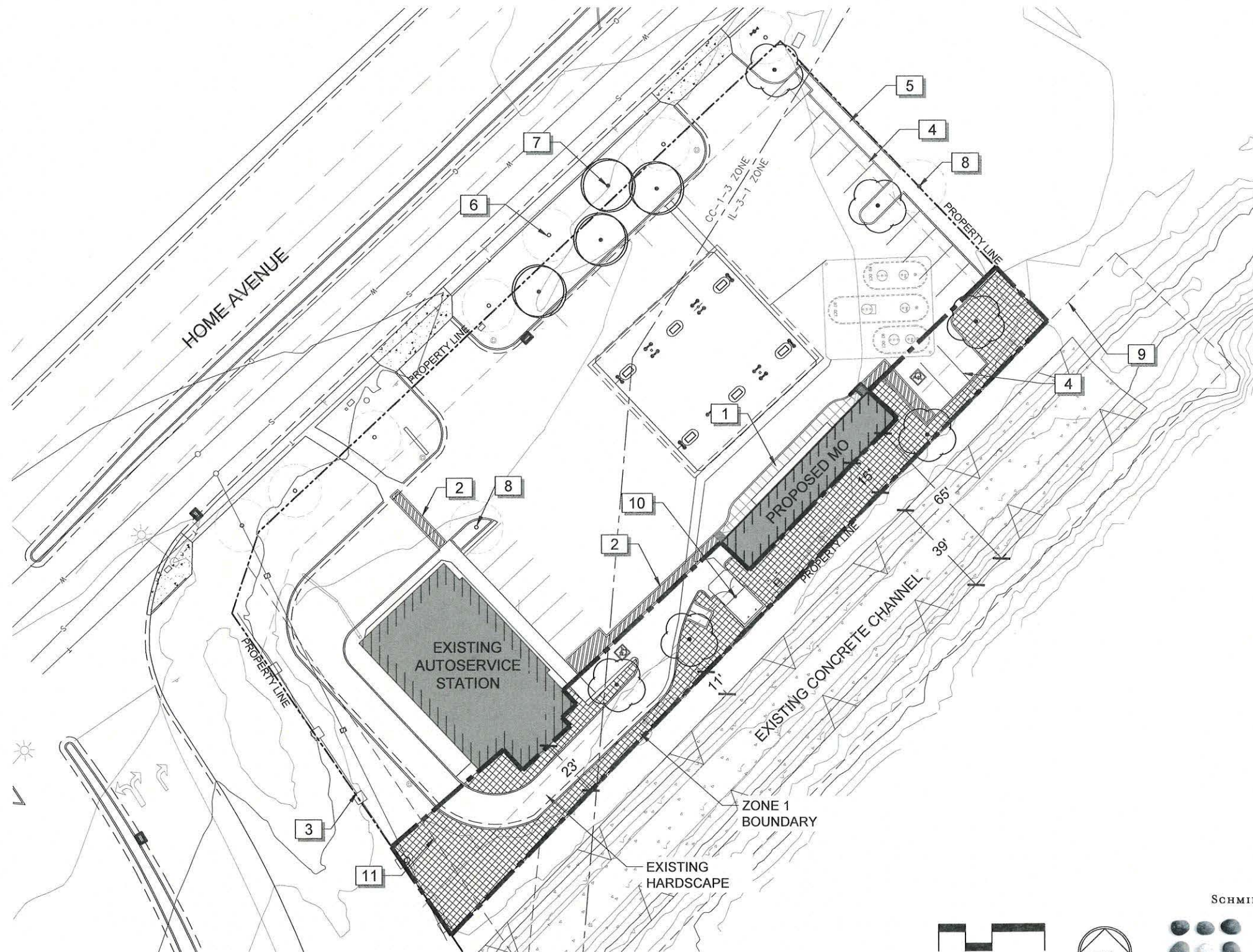
Revision 1: 7/26/2018

Original Date: 1/8/2018

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CONDITIONAL USE PERMIT # 2117121 FOR MARIJUANA OUTLET (MO)
CONDITIONAL USE PERMIT # 2225844 FOR ABC TYPE 20 LICENSE
NEIGHBORHOOD USE PERMIT # 2140441 FOR AUTO SERVICE STATION
4333-4337 HOME AVENUE, SAN DIEGO, CA 92105



LEGEND

SYMBOL	DESCRIPTION
1	ENHANCED PEDESTRIAN PAVING
2	PEDESTRIAN ACCESSIBLE PATHWAY (STRIPING ONLY)
3	EXISTING CHAINLINK FENCE TO REMAIN
4	PARKING STALLS
5	NEW PLANTER ALONG PROPERTY LINE
6	EXISTING JACARANDA STREET TREE
7	PROPOSED JACARANDA STREET TREE
8	EXISTING FICUS TREE (CALIPER 6")
9	EXISTING DRAINAGE EASEMENT, TYP.
10	EXISTING TRASH ENCLOSURE
11	EXISTING SEWER EASEMENT

TREES	BOTANICAL NAME / COMMON NAME
(Symbol)	EXISTING TREE / PROTECT IN PLACE
(Symbol)	FICUS MICROCARPA / CHINESE BANYON
(Symbol)	JACARANDA MIMOSIFOLIA / JACARANDA
(Symbol)	ZONE 1 PLANTING TO BE MAINTAINED TO ZONE 1 STANDARDS

BRUSH MANAGEMENT ALTERNATE COMPLIANCE:

1. PROPOSED BUILDING TO INCLUDE 1-HOUR FIRE RATED STUCCO CONSTRUCTION AND DUAL GLAZED/DUEL TEMPERED GLASS OPENINGS IN BRUSH MANAGEMENT ZONE 1.
2. CONCRETE DRAINAGE CHANNEL SERVES AS EXISTING OFFSITE FIRE BREAK.

BRUSH MANAGEMENT NOTES

1. IRRIGATION: NEW PLANTING AREAS WILL HAVE NEW PERMANENT AUTOMATIC IRRIGATION SYSTEM. IRRIGATION FROM ZONE 1 SHALL NOT RUN INTO ZONE 2.
2. PRE-CONSTRUCTION MEETING: A PRE-CONSTRUCTION MEETING SHALL BE HELD WITH THE CITY'S LANDSCAPE INSPECTOR PRIOR TO IMPLEMENTING THE BRUSH MANAGEMENT PROGRAM.
3. OFFSITE BRUSH MANAGEMENT SHALL BE THE RESPONSIBILITY OF ADJACENT PROPERTY OWNERS. FOR FUEL MODIFICATION LOADING AND MAINTENANCE ISSUES, CONTACT THE FIRE RESCUE DEPARTMENT'S FIRE HAZARD ADVISOR - BRUSH / WEED COMPLIANCE LINE @ 619-533-4444.

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Project Name:

4333-4337 HOME AVENUECUP

Project Number:

593686

Sheet Title:

BRUSH MANAGEMENT PLAN

Revision 14:	
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Revision 12:	
Revision 11:	
Revision 10:	
Revision 9:	
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Revision 7:	
Revision 6:	
Revision 5:	3/7/2019
Revision 4:	12/10/2018
Revision 3:	10/29/2018
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Revision 1:	7/26/2018

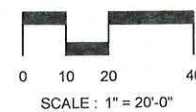
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NEIGHBORHOOD USE PERMIT # 2140441 FOR AUTO SERVICE STATION
4333-4337 HOME AVENUE, SAN DIEGO, CA 92105

SAN DIEGO MUNICIPAL CODE
§142.0412 - BRUSH MANAGEMENT

ZONE ONE REQUIREMENTS

- (1) THE REQUIRED ZONE ONE WIDTH SHALL BE PROVIDED BETWEEN NATIVE OR NATURALIZED VEGETATION AND ANY STRUCTURE AND SHALL BE MEASURED FROM THE EXTERIOR OF THE STRUCTURE TO THE VEGETATION.
- (2) ZONE ONE SHALL CONTAIN NO HABITABLE STRUCTURES, STRUCTURES THAT ARE DIRECTLY ATTACHED TO HABITABLE STRUCTURES, OR OTHER COMBUSTIBLE CONSTRUCTION THAT PROVIDES A MEANS FOR TRANSMITTING FIRE TO THE HABITABLE STRUCTURES. STRUCTURES SUCH AS FENCES, WALLS, PALAPAS, PLAY STRUCTURES, AND NON-HABITABLE GAZEBOS THAT ARE LOCATED WITHIN BRUSH MANAGEMENT ZONE ONE SHALL BE OF NONCOMBUSTIBLE, ONE HOUR FIRE-RATED OR HEAVY TIMBER CONSTRUCTION.
- (3) PLANTS WITHIN ZONE ONE SHALL BE PRIMARILY LOW-GROWING AND LESS THAN 4 FEET IN HEIGHT WITH THE EXCEPTION OF TREES. PLANTS SHALL BE LOW-FUEL AND FIRE-RESISTIVE.
- (4) TREES WITHIN ZONE ONE SHALL BE LOCATED AWAY FROM STRUCTURES TO A MINIMUM DISTANCE OF 10 FEET AS MEASURED FROM THE STRUCTURES TO THE DRIP LINE OF THE TREE AT MATURITY IN ACCORDANCE WITH THE LANDSCAPE STANDARDS OF THE LAND DEVELOPMENT MANUAL.
- (5) PERMANENT IRRIGATION IS REQUIRED FOR ALL PLANTING AREAS WITHIN ZONE ONE EXCEPT AS FOLLOWS:
 - (A) WHEN PLANTING AREAS CONTAIN ONLY SPECIES THAT DO NOT GROW TALLER THAN 24 INCHES IN HEIGHT, OR
 - (B) WHEN PLANTING AREAS CONTAIN ONLY NATIVE OR NATURALIZED SPECIES THAT ARE NOT SUMMER-DORMANT AND HAVE A MAXIMUM HEIGHT AT PLANT MATURITY OF LESS THAN 24 INCHES.
- (6) ZONE ONE IRRIGATION OVERSPRAY AND RUNOFF SHALL NOT BE ALLOWED INTO ADJACENT AREAS OF NATIVE OR NATURALIZED VEGETATION.
- (7) ZONE ONE SHALL BE MAINTAINED ON A REGULAR BASIS BY PRUNING AND THINNING PLANTS, CONTROLLING WEEDS, AND MAINTAINING IRRIGATION SYSTEMS.

ZONE TWO REQUIREMENTS

- (1) THE REQUIRED ZONE TWO WIDTH SHALL BE PROVIDED BETWEEN ZONE ONE AND THE UNDISTURBED, NATIVE OR NATURALIZED VEGETATION, AND SHALL BE MEASURED FROM THE EDGE OF ZONE ONE THAT IS FARTHEST FROM THE HABITABLE STRUCTURE, TO THE EDGE OF UNDISTURBED VEGETATION.
- (2) NO STRUCTURES SHALL BE CONSTRUCTED IN ZONE TWO.
- (3) WITHIN ZONE TWO, 50 PERCENT OF THE PLANTS OVER 24 INCHES IN HEIGHT SHALL BE CUT AND CLEARED TO A HEIGHT OF 6 INCHES.
- (4) WITHIN ZONE TWO, ALL PLANTS REMAINING AFTER 50 PERCENT ARE REDUCED IN HEIGHT, SHALL BE PRUNED TO REDUCE FUEL LOADING IN ACCORDANCE WITH THE LANDSCAPE STANDARDS IN THE LAND DEVELOPMENT MANUAL. NON-NATIVE PLANTS SHALL BE PRUNED BEFORE NATIVE PLANTS ARE PRUNED.
- (5) THE FOLLOWING STANDARDS SHALL BE USED WHERE ZONE TWO IS IN AN AREA PREVIOUSLY GRADED AS PART OF LEGAL DEVELOPMENT ACTIVITY AND IS PROPOSED TO BE PLANTED WITH NEW PLANT MATERIAL INSTEAD OF CLEARING EXISTING NATIVE OR NATURALIZED VEGETATION:
 - (A) ALL NEW PLANT MATERIAL FOR ZONE TWO SHALL BE NATIVE, LOW-FUEL, AND FIRE-RESISTIVE. NO NON-NATIVE PLANT MATERIAL MAY BE PLANTED IN ZONE TWO EITHER INSIDE THE MHPA OR IN THE COASTAL OVERLAY ZONE, ADJACENT TO AREAS CONTAINING SENSITIVE BIOLOGICAL RESOURCES.
 - (B) NEW PLANTS SHALL BE LOW-GROWING WITH A MAXIMUM HEIGHT AT MATURITY OF 24 INCHES. SINGLE SPECIMENS OF FIRE RESISTIVE NATIVE TREES AND TREE FORM SHRUBS MAY EXCEED THIS LIMITATION IF THEY ARE LOCATED TO REDUCE THE CHANCE OF TRANSMITTING FIRE FROM NATIVE OR NATURALIZED VEGETATION TO HABITABLE STRUCTURES AND IF THE VERTICAL DISTANCE BETWEEN THE LOWEST BRANCHES OF THE TREES AND THE TOP OF ADJACENT PLANTS ARE THREE TIMES THE HEIGHT OF THE ADJACENT PLANTS TO REDUCE THE SPREAD OF FIRE THROUGH LADDER FUELING.
 - (C) ALL NEW ZONE TWO PLANTINGS SHALL IRRIGATED TEMPORARILY UNTIL ESTABLISHED TO THE SATISFACTION OF THE CITY MANAGER. ONLY LOWFLOW, LOW-GALLONAGE SPRAY HEADS MAY BE USED IN ZONE TWO. OVERSPRAY AND RUNOFF FROM THE IRRIGATION SHALL NOT DRIFT OR FLOW INTO ADJACENT AREAS OF NATIVE OR NATURALIZED VEGETATION. TEMPORARY IRRIGATION SYSTEMS SHALL BE REMOVED UPON APPROVED ESTABLISHMENT OF THE PLANTINGS. PERMANENT IRRIGATION IS NOT ALLOWED IN ZONE TWO.
 - (D) WHERE ZONE TWO IS BEING REVEGETATED AS A REQUIREMENT OF SECTION 142.0411(A), REVEGETATION SHALL COMPLY WITH THE SPACING STANDARDS IN THE LAND DEVELOPMENT MANUAL. FIFTY PERCENT OF THE PLANTING AREA SHALL BE PLANTED WITH MATERIAL THAT DOES NOT GROW TALLER THAN 24 INCHES. THE REMAINING PLANTING AREA MAY BE PLANTED WITH TALLER MATERIAL, BUT THIS MATERIAL SHALL BE MAINTAINED IN ACCORDANCE WITH THE REQUIREMENTS FOR EXISTING PLANT MATERIAL IN ZONE TWO.
- (6) ZONE TWO SHALL BE MAINTAINED ON A REGULAR BASIS BY PRUNING AND THINNING PLANTS, REMOVING INVASIVE SPECIES, AND CONTROLLING WEEDS.
- (7) EXCEPT AS PROVIDED IN SECTION 142.0412(I), WHERE THE REQUIRED ZONE ONE WIDTH SHOWN IN TABLE 142-04H CANNOT BE PROVIDED ON PREMISES WITH EXISTING STRUCTURES, THE REQUIRED ZONE TWO WIDTH SHALL BE INCREASED BY ONE FOOT FOR EACH FOOT OF REQUIRED ZONE ONE WIDTH THAT CANNOT BE PROVIDED.

SAN DIEGO LANDSCAPE STANDARDS
SECTION III - BRUSH MANAGEMENT

3-1 BRUSH MANAGEMENT - DESCRIPTION

FIRE SAFETY IN THE LANDSCAPE IS ACHIEVED BY REDUCING THE READILY FLAMMABLE FUEL ADJACENT TO STRUCTURES. THIS CAN BE ACCOMPLISHED BY PRUNING AND THINNING OF NATIVE AND NATURALIZED VEGETATION, REVEGETATION WITH LOW FUEL VOLUME PLANTINGS OR A COMBINATION OF THE TWO. IMPLEMENTING BRUSH MANAGEMENT IN AN ENVIRONMENTALLY APPROPRIATE MANNER REQUIRES A REDUCTION IN THE AMOUNT AND CONTINUITY OF HIGHLY FLAMMABLE FUEL WHILE MAINTAINING PLANT COVERAGE FOR SOIL PROTECTION. SUCH A TRANSITION WILL MINIMIZE THE VISUAL, BIOLOGICAL, AND EROSION IMPACTS WHILE REDUCING THE RISKS OF WILDLAND FIRES.

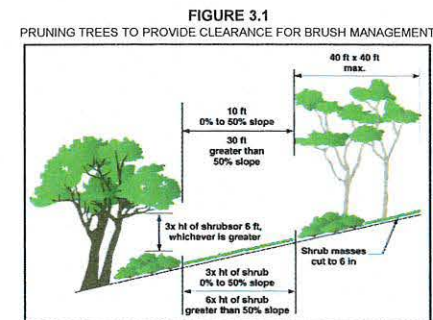
3-2 BRUSH MANAGEMENT-REQUIREMENTS

3.2-1 BASIC REQUIREMENTS - ALL ZONES

3.2-1.01 FOR ZONE TWO, PLANTS SHALL NOT BE CUT BELOW SIX INCHES.

3.2-1.02 DEBRIS AND TRIMMINGS PRODUCED BY THINNING AND PRUNING SHALL BE REMOVED FROM THE SITE OR IF LEFT, SHALL BE CONVERTED INTO MULCH BY A CHIPPING MACHINE AND EVENLY DISPERSED, NON-IRRIGATED, TO A MAXIMUM DEPTH OF 6 INCHES.

3.2-1.03 TREES AND LARGE TREE FORM SHRUBS (E.G. OAKS, SUMACS, TOYON) WHICH ARE BEING RETAINED SHALL BE PRUNED TO PROVIDE CLEARANCE OF THREE TIMES THE HEIGHT OF THE UNDER STORY PLANT MATERIAL OR SIX FEET WHICHEVER IS HIGHER (FIGURE 3-1). DEAD AND EXCESSIVELY TWIGGY GROWTH SHALL ALSO BE REMOVED.



3.2-1.04 ALL PLANTS OR PLANT GROUPINGS EXCEPT CACTI, SUCCULENTS, TREES AND TREE-FORM SHRUBS SHALL BE SEPARATED BY A DISTANCE THREE TIMES THE HEIGHT OF THE TALLEST ADJACENT PLANTS (FIGURE 3-1).

3.2-1.05 MAXIMUM COVERAGE AND AREA LIMITATIONS AS STATED HEREIN SHALL NOT APPLY TO INDIGENOUS NATIVE TREE SPECIES (I.E., PINUS, QUERCUS, PLATANUS, SALIX, AND POPULUS).

3.2-2 ZONE 1 REQUIREMENTS - STRUCTURES

3.2-2.01 DO NOT USE, AND REMOVE IF NECESSARY, HIGHLY FLAMMABLE PLANT MATERIALS (SEE APPENDIX "B").

3.2-2.02 TREES SHOULD NOT BE LOCATED ANY CLOSER TO A STRUCTURE THAN A DISTANCE EQUAL TO THE TREE'S MATURE SPREAD.

3.2-2.03 MAINTAIN ALL PLANTINGS IN A SUCCULENT CONDITION.

3.2-2.04 NON-IRRIGATED PLANT GROUPINGS OVER SIX INCHES IN HEIGHT MAY BE RETAINING PROVIDED THEY DO NOT EXCEED 100 SQUARE FEET IN AREA AND THEIR COMBINED COVERAGE DOES NOT EXCEED 10 PERCENT OF THE TOTAL ZONE 1 AREA.

3.2-2 ZONE 2 REQUIREMENTS - ALL STRUCTURES

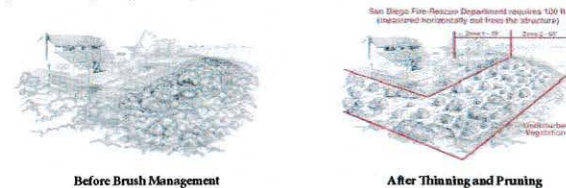
3.2-3.01 INDIVIDUAL NON-IRRIGATED PLANT GROUPINGS OVER 24 INCHES IN HEIGHT MAY BE RETAINED PROVIDED THEY DO NOT EXCEED 400 SQUARE FEET IN AREA AND THEIR COMBINED COVERAGE DOES NOT EXCEED 30 PERCENT OF THE TOTAL ZONE 2 AREA.

SAN DIEGO BRUSH MANAGEMENT REGULATIONS
BRUSH MANAGEMENT GUIDE

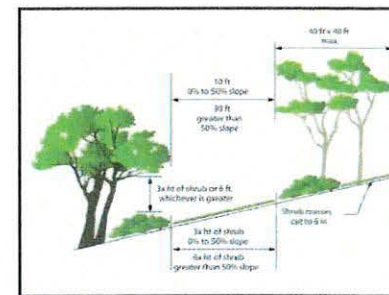
How to Selectively Thin and Prune Plants and Trees in Zone 2 and Avoid Clearing Sensitive Vegetation in Violation of the Code.

Step 1: Remove.... as much dead wood as you can and invasive species within the Brush Management Zone areas.

Step 2: Thin.... the entire Zone 2 area. Start by cutting down 50% of the plants over 2 feet in height to a height of 6 inches. Don't go any lower than 6 inches so the roots remain to control soil erosion. The goal is to create a "mosaic" or more natural look, as shown below, so do your cutting in a "staggered" pattern. Leave uncut plant groupings up to 400 square feet — that's a 20x20-foot area, or an area that can be encircled by an 80-foot rope — separated by groupings of plants cut down to 6 inches. Thinning should be prioritized as follows: 1) invasive non-native species; 2) non-native species; 3) flammable native species; 4) native species; and 5) regionally sensitive species.

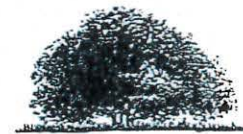


Step 3: Prune.... all plants or plant groupings that are left after the thinning process to achieve the horizontal and vertical clearances shown in the illustration below. (For trees in Eucalyptus Woodlands areas, see FPB Policy B-08-1.)



Tree and Shrub Spacing

Remaining plants, 4 feet or more in height, should then be cut and shaped into "umbrellas." This means pruning one half of the lower branches to create umbrella-shaped canopies. This allows you to see and deal with what is growing underneath. Upper branches may then be shortened to reduce fuel load as long as the canopy is left intact. This keeps the plant healthy and the shade from the plant canopy reduces weed and plant growth underneath. Vegetation that is less than 4 feet in height, like coastal sage scrub, should be cut back to within 12 inches of the root crown.



Chaparral Plant Before Pruning



Chaparral Plant After Pruning

Step 4: Dispose.... of the cuttings and dead wood by either hauling it to a landfill or, by chipping/mulching it on-site and spreading it out in the Zone 2 area to a depth of not more than 6 inches.

Step 5: Thin and prune annually.... because plants will grow back.

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SAN DIEGO LANDSCAPE STANDARDS
BRUSH MANAGEMENT MAINTENANCE NOTES

1. GENERAL MAINTENANCE ~ REGULAR INSPECTIONS AND LANDSCAPE MAINTENANCE ARE NECESSARY TO MINIMIZE THE POTENTIAL DAMAGE OR LOSS OF PROPERTY FROM BRUSH FIRES AND OTHER NATURAL HAZARDS SUCH AS EROSION AND SLOPE FAILURES. BECAUSE EACH PROPERTY IS UNIQUE ESTABLISHING A PRECISE MAINTENANCE SCHEDULE IS NOT FEASIBLE. FOR EFFECTIVE FIRE AND WATERSHED MANAGEMENT, HOWEVER, PROPERTY OWNERS SHOULD EXPECT TO PROVIDE MAINTENANCE ACCORDING TO EACH BRUSH MANAGEMENT ZONE. ZONE 1: YEAR-ROUND MAINTENANCE. ZONE 2: SEASONAL MAINTENANCE. BRUSH MANAGEMENT ACTIVITIES ARE PROHIBITED WITHIN COASTAL SAGE SCRUB, MARITIME SUCCULENT SCRUB, AND COASTAL SAGE-CHAPARRAL HABITATS FROM MARCH 1 THROUGH AUGUST 15, EXCEPT WHERE DOCUMENTED TO THE SATISFACTION OF THE CITY MANAGER THAT THE THINNING WOULD BE CONSISTENT WITH CONDITIONS OF SPECIES COVERAGE DESCRIBED IN THE CITY OF SAN DIEGO'S MSPC SUBAREA PLAN.

2. BRUSH MANAGEMENT ZONE 1 ~ THIS IS THE MOST CRITICAL AREA FOR FIRE AND WATERSHED SAFETY. ALL ORNAMENTAL PLANTINGS SHOULD BE KEPT WELL WATERED AND ANY IRRIGATION RUN-OFF SHOULD DRAIN TOWARD THE STREET. RAIN GUTTERS AND DRAINAGE PIPES SHOULD BE CLEANED REGULARLY ALL ALL LEAVES REMOVED FROM THE ROOF BEFORE FIRE SEASON BEGINS. ALL PLANTING, PARTICULARLY NON-IRRIGATED NATIVES AND LARGE TREES SHOULD BE REGULARLY PRUNED TO ELIMINATE DEAD FUELS, TO REDUCE EXCESSIVE FUEL AND TO PROVIDE ADEQUATE SPACES BETWEEN PLANTS AND STRUCTURES.

3. BRUSH MANAGEMENT ZONE 2 ~ SEASONAL MAINTENANCE IN THIS ZONE SHOULD INCLUDE REMOVAL OF DEAD WOODY PLANTS, ERADICATION OF WEEDY SPECIES AND PERIODIC PRUNING AND THINNING OF TREES AND SHRUBS. REMOVAL OF WEEDS SHOULD NOT BE DONE WITH HAND TOOLS SUCH AS HOES, AS THIS DISTURBS VALUABLE SOIL. THE USE OF WEED TRIMMERS OR OTHER TOOLS WHICH RETAIN SHORT STUBBLE THAT PROTECTS THE SOIL IS RECOMMENDED. NATIVE SHRUBS SHOULD BE PRUNED IN THE SUMMER RAFTER THE MAJOR PLANT GROWTH OCCURS. WELL PRUNED HEALTHY SHRUBS SHOULD TYPICALLY REQUIRE SEVERAL YEARS TO BUILD UP EXCESSIVE LIVE AND DEAD FUEL. ON SLOPES ALL DRAINAGE DEVICES MUST BE CLEAR. RE-INSPECT AFTER EACH STORM SINCE MINOR SOIL SLIPS CAN BLOCK DRAINS. VARIOUS GROUNDCOVERS SHOULD BE PERIODICALLY SHEARED AND THATCH REMOVED. DISEASED AND DEAD WOOD SHOULD BE PRUNED FROM TREES. FERTILIZING TREES AND SHRUBS IS NOT TYPICALLY RECOMMEND AS THIS MAY STIMULATE EXCESSIVE GROWTH.

4. LONG-TERM MAINTENANCE RESPONSIBILITY ~ ALL LANDSCAPING/BRUSH MANAGEMENT WITHIN THE BRUSH MANAGEMENT ZONE(S) AS SHOWN ON THESE PLANS SHALL BE THE RESPONSIBILITY OF THE OWNER. THE BRUSH MANAGEMENT ZONE AREAS SHALL BE MAINTAINED FREE OF DEBRIS AND LITTER OF ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY GROWING CONDITION.

Prepared By:

Name: LATITUDE 33 PLANNING & ENGINEERING

Address: 996B HIBERT ST 2ND FLOOR

SAN DIEGO, CA 92131

Phone #: (858) 751-0633

Fax #: (858) 751-0634

Project Address:

4333 HOME AVENUE

SAN DIEGO, CA 92105

Project Name:

4333-4337 HOME AVENUE

CUP

Project Number:

593686

Sheet Title:

BRUSH MANAGEMENT

NOTES

Revision 14: _____

Revision 13: _____

Revision 12: _____

Revision 11: _____

Revision 10: _____

Revision 9: _____

Revision 8: _____

Revision 7: _____

Revision 6: _____

Revision 5: 3/7/2019

Revision 4: 12/10/2018

Revision 3: 10/29/2018

Revision 2: 9/20/2018

Revision 1: 7/26/2018

Original Date: 1/8/2018

Sheet L-5 of 8

DEP# _____



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

Development Permit/ Environmental Determination Appeal Application

**FORM
DS-3031**

November 2017

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

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

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

Name: THERESA QUIROZ E-mail: quiroz@cox.net
4719 BAILY PL SAN DIEGO CA 92105 (619)263-3457
Address: City: State: Zip Code: Telephone:

3. Project Name: PROJECT# - 593686 7/24/2019 Firoozeh Tirandazi

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

NUP, CUP-Alcohol, CUP Marijuana MND

Decision(Describe the permit/approval decision):

NUP, CUP-Alcohol CUP-Marijuana MND

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

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

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

See Attached document & photos

RECEIVED

JUL 24 2019

DEVELOPMENT SERVICES

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

Signature: [Signature] Date: 7/24/19

Note: Faxed appeals are not accepted.

Appeal of Project # 593686

Findings Not Supported

NUP Mini-market

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

The finding states, "Approval of this application would allow operation of the automobile service station and mini-market to be conditioned in order to prevent potential adverse impacts on the community."

The mini-market currently has a conditional approval which requires that the landscaped areas be kept free of weeds, litter and disease and replace any dead plants. It also did not allow for unapproved signage in the landscaped and public areas.

Both of those conditions have been continuously ignored, as is evidenced by the photos attached and those in the project file. Temporary signs are placed around the landscaped areas and public right of way advertising, for example, lottery tickets for sale. The landscaped areas have been filled with litter and weeds. This property is at the off-ramp of the freeway and is an entrance way to our neighborhood. In its blighted condition, and in violation of its permit, this project has been detrimental to our community's safety and welfare.

This NUP has the same condition. There is no evidence in the record that this time will be different. The project has been proven in the past to be detrimental to the public safety despite having the same conditions placed on it. It cannot be found, absent any evidence, that the current conditions will prevent potential adverse impacts on the community.

Therefore, finding b. cannot be made.

Findings Not Supported

CUP - Alcohol License

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

As the staff report states, "Alcoholic beverage outlets are allowed in the CC-1-3 Zone as a Limited Use subject to regulations set forth in SDMC Section 141.0502(b). An alcoholic beverage outlet that does not comply with the requirements, including certain locational criteria per SDMC Section 141.0502(b)(1), may still be permitted with a Process Three, CUP pursuant to SDMC Section 141.0502(c)".

This project fails three of the four criteria in Section 141.0502(b)(1).

Section 141.0502(b)(11) also requires "The owner or operator shall maintain the premises, 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." The attached photos show that the project with its current CUP does not fulfill that provision and has been full of litter and weeds for an extended period of time.

A permit may still be approved, despite the failure to comply with those provisions subject to seven conditions under Section 141.0503(c). The first condition has been met. The Police Department provided a recommendation on the proposed use.

However, condition number 141.0503(c)(7)(D) states that an applicant may request an extension. The following is one of the provisions for that extension: "Prior violations of any conditions contained in an approved Conditional Use Permit shall constitute grounds for denying an application for an extension."

As the photos show, the condition in the current CUP to keep the premises weed and litter free has been violated.

It is important to note that the section says "shall constitute grounds". Not could or should, but shall.

Therefore finding c. cannot be made.

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

Once again, since the conditions are not enforced, and are not complied with, there is no ability to reduce, mitigate and/or prevent all adverse impacts.

Therefore, finding b. cannot be made.

Factual Error

MND

As was noted at the Hearing Officer meeting, the MND is not sufficient and should not be approved.

The draft MND contained a map that made it very hard to comment on the positioning of the new construction with respect to the Creek. This was noted by two responders. This is a very important aspect of the project's effect on the environment. After comments were made about the insufficiency of the map, an amended map was included in the final MND.

But the public was not given the opportunity to comment on the document once the amended map was included. The public is entitled to comment on the MND. When there is an error with the documentation it should be corrected, which this was. But it must then be recirculated so that appropriate comments can be made.

The MND has not been circulated to the public with the new information

included.

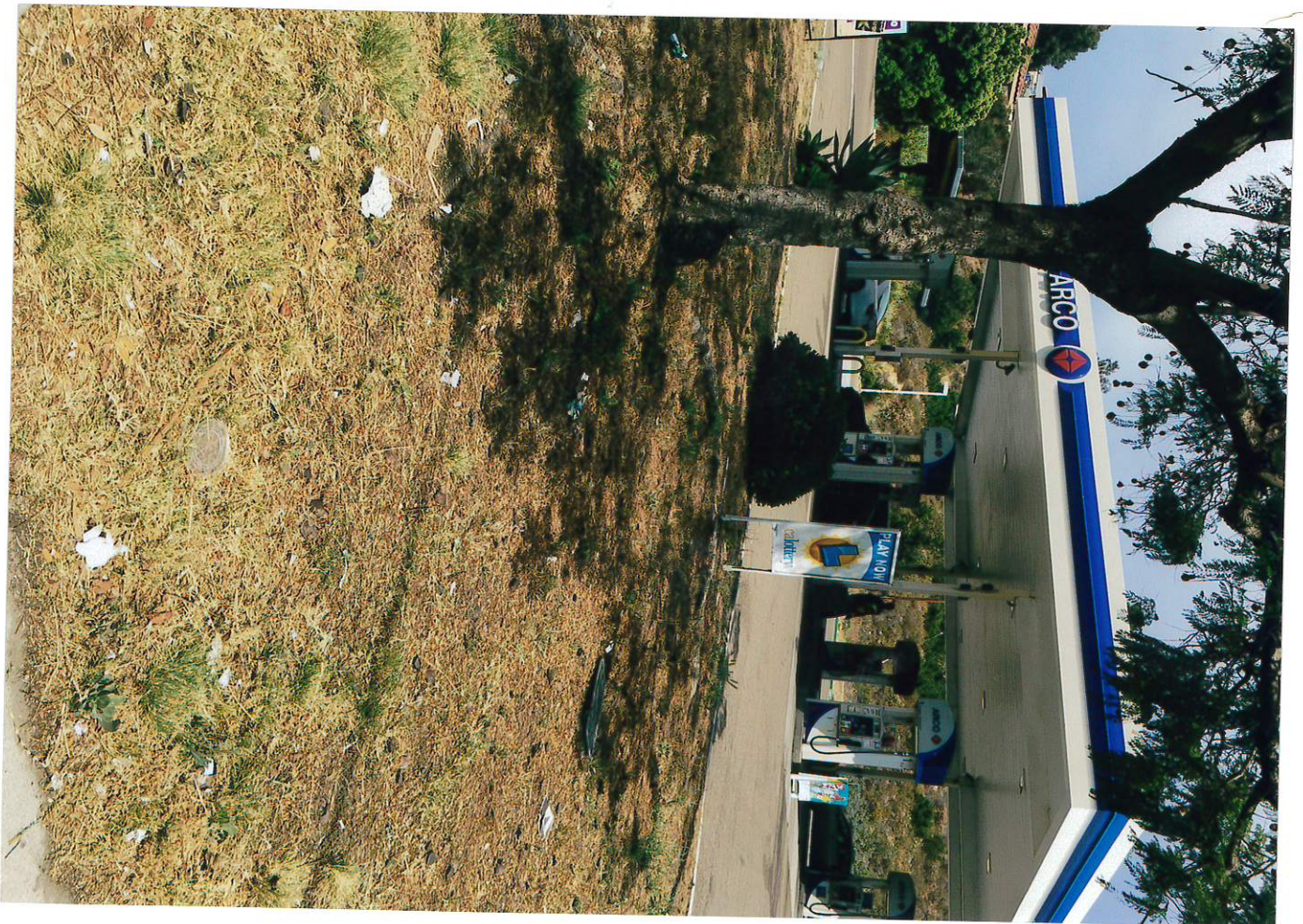
The City Council approved the Chollas Creek Enhancement Plan (Plan) on May 14, 2002, a plan which sets out policies and goals for the future of the Chollas Creek and its tributaries, of which the Auburn Creek is one.

When the City Council approved the Plan, it stated "(t)he Enhancement Program is consistent with existing Council Policy embodied in the approved documents including the General Plan and the Mid-City Communities Plan." The Council was clear that the Plan is a document that brings together the Chollas Creek sections of several different Community Plans into one document. It is an approved specific land use plan and it must be considered when reviewing the effects on the environment.

The Chollas Creek Enhancement Plan was not considered when completing the MND. Therefore none of the necessary findings were made and mitigations enforced to lessen the effects of this project on the environment.

The MND did not consider a City Council approved land use document when completing the document. It must be studied further.

PHOTOS ATTACHED









PLANNING COMMISSION RESOLUTION NO. _____
NEIGHBORHOOD USE PERMIT NO. 2140441,
CONDITIONAL USE PERMIT NO. 2225844, AND
CONDITIONAL USE PERMIT NO. 2117121

4337 HOME AVENUE MARIJUANA OUTLET NUP/CUP – PROJECT NO 593686 [MMRP]

WHEREAS, AVAD INVESTMENTS INC., a California Corporation, Owner/Permittee, filed an application with the City of San Diego for permits to continue the operation of an automobile service station and mini-market (Neighborhood Use Permit No. 2140441), including an alcoholic beverage outlet (Conditional Use Permit No. 2225844), and AVAD INVESTMENTS INC, a California Corporation, Owner, and ARM INVESTMENT INC., a California Corporation, Permittee, filed an application with the City of San Diego for a permit for the operation of a marijuana outlet in a 1,200-square-foot tenant space within a new 2,400-square-foot, two-story building (Conditional Use Permit No. 2117121), as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated permits, on portions of a 1.08-acre site;

WHEREAS, the project site is located at 4333 - 4337 Home Avenue in the CC-1-3 and IL-3-1 Zones, and the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones within the City Heights community of the Mid-City Communities Plan area;

WHEREAS, the project site is legally described as Parcel 1 of Parcel Map No. 17969 in the City of San Diego, County of San Diego, State of California, according to Map thereof filed in the Office of the County Records of San Diego County on December 22, 1997, as Instrument No. 1997-0651626 of Official Records;

WHEREAS, on July 24, 2019, the Hearing Officer of the City of San Diego considered and Approved Mitigated Negative Declaration (MND) No. 593686, Neighborhood Use Permit No.

2140441, Conditional Use Permit No. 2225844, and Conditional Use Permit No. 2117121 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on July 24, 2019, Theresa Quiroz filed a Development Permit Appeal Application on the Project (Appeal); and

WHEREAS, on December 5, 2019, the Planning Commission of the City of San Diego considered the Appeal and Neighborhood Use Permit No. 2140441, Conditional Use Permit No. 2225844, and Conditional Use Permit No. 2117121 pursuant to the Land Development Code of the City of San Diego, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the Planning Commission having fully considered the matter and being fully advised concerning the same;

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Diego, that it denies the Appeal, affirms the Hearing Officer decision of approval on July 24, 2019, and adopts the following findings with respect to Neighborhood Use Permit No. 2140441, Conditional Use Permit No. 2225844, and Conditional Use Permit No. 2117121:

A. NEIGHBORHOOD USE PERMIT [SDMC SECTION 126.0205]

1. Findings for all Neighborhood Use Permits:

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

The project includes a request for a Neighborhood Use Permit (NUP) to continue operation of an existing automobile service station (ARCO) and mini-market (AM/PM) located in the CC-1-3 (Commercial-Community) and IL-3-1 (Industrial-Light) zones. The 1.08-acre project site is located at 4333 - 4337 Home Avenue, within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights

community of the Mid-City Communities Plan, which further identifies site for Light Manufacturing with Commercial use. The land use designation is intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores.

The operation of an automobile service station, classified as vehicle and vehicle equipment sales and service use category, and the operations of a mini-market, classified as retail sales use category, are consistent with the community plan land use designation. The project is also consistent with the community plan objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route 15. The project is compatible with the surrounding development, including adjacent commercial and light industrial establishments, with a NUP. Therefore, the proposed development will not adversely affect the applicable land use plan.

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

The proposed development will not be detrimental to the public's health, safety and welfare because the discretionary permits controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project's compliance with applicable local, regional, state and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large. The operations of the automobile service station and the mini-market in the CC-1-3 and IL-3-1 Zones are allowed with a NUP at this location, and consistent with the goals and policies of the Mid-City Communities Plan.

Approval of this application would allow operation of the automobile service station and mini-market to be conditioned in order to prevent potential adverse impacts on the community. Specifically, the associated permit for the automobile service station includes a condition limiting hours of operation between 6:00AM to 12:00 Midnight.

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

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

The project proposes to continue the operation of the existing automobile service station, and the 2,994-square-foot mini-market located in the CC-1-3 and IL-3-1 Zones. No changes to the existing automobile service station and mini-market are proposed as part of this application.

The project will provide 24 off-street parking spaces, which exceeds the 21 off-street parking spaces required for all uses on site, including six required spaces for the marijuana outlet, and 15 required spaces for the auto service station and the mini-market.

The permits for the project include various conditions and corresponding exhibits of approval relevant to achieving compliance with the SDMC relative to parking and hours of operation. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

B. CONDITIONAL USE PERMIT [SDMC SECTION 126.0305] – Alcoholic Beverage Outlet

1. Findings for all Conditional Use Permits:

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

The project includes a request for a Conditional Use Permit (CUP) to continue operation of an alcoholic beverage outlet for the sale of beer and wine for off-site consumption, in accordance with a Type 20 Alcohol and Beverage Control (ABC) License, within an existing mini-market on a portion of a 1.08-acre site zoned CC-1-3 (Commercial-Community Zone). The project site is located at 4333 - 4337 Home Avenue, within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights community of the Mid-City Communities Plan, which further identifies site for Light Manufacturing with Commercial use. The land use designation is intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores.

The operation of an alcoholic beverage outlet, classified as retail sales use category, is consistent with the community plan land use designation with approval of a CUP. The project is also consistent with the community plan objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route 15. The project is compatible with the surrounding development, including adjacent commercial and light industrial establishments, with a CUP. Therefore, the proposed development will not adversely affect the applicable land use plan.

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

The proposed development will not be detrimental to the public's health, safety and welfare because the discretionary permits controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project's compliance with applicable local, regional, state and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large. The operations of the alcoholic beverage outlet within the mini-market, in the CC-1-3 Zone, is allowed with a CUP at this location, and consistent with the goals and policies of the Mid-City Communities Plan.

Approval of this application would allow operation of an alcoholic beverage outlet for the sale of beer and wine for off-site consumption from an existing mini-market to be conditioned in order to prevent potential adverse impacts on the community. Specifically, the associated permit for the alcoholic beverage outlet includes conditions that limit the hours of sales, limit advertising, prohibit machines or video game devices on the premises, prohibit loitering and graffiti.

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

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

The project proposes to continue the operation of a Type 20 alcoholic beverage outlet within an existing 2,994-square-foot mini-market located on a portion of a 1.08-acre site Zoned CC-1-3. No changes to the existing mini-market is proposed as part of this application.

The project will provide 24 off-street parking spaces, which exceeds the 21 off-street parking spaces required for all uses on site, including six required spaces for the Marijuana Outlet, and 15 required spaces for the auto service station and the mini-market.

The permits for the project include various conditions and corresponding exhibits of approval relevant to achieving compliance with the SDMC relative to signage, lighting, security measures, hours of sale of alcohol, and site maintenance. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

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

The project proposes to continue the operation of an alcoholic beverage outlet for the sale of beer and wine for off-site consumption, in accordance with a Type 20 Alcohol and Beverage Control (ABC) License, within the existing mini-market located on the portion of a 1.08-acre site zoned CC-1-3 (Commercial – Community). The project site is also located within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is currently improved with a mini-market with a Type 20 ABC License alcoholic beverage outlet, fueling islands, paved parking lot, and landscape areas, constructed in accordance with CUP No. 96-7374 approved on September 17, 1997. The site is located within an urbanized community and surrounded by Home Avenue to the northwest, the 805 freeway and on and off-ramps to the southwest, an undeveloped natural slope in the OR-1-1 (Open Space-Residential Zone) that rises to the southeast approximately 100 feet in elevation with single family dwellings beyond the slope, and light industrial and commercial land uses to the northeast in the IL-3-1 Zone. There is no sensitive habitat or biological resources on site. The project site is near the Multi-Habitat Planning Area (MHPA) to the southeast, and has been conditioned to require compliance with the MHPA Land Use Adjacency Guidelines

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights community of the Mid-City Communities Plan Area, which identifies site for Light Manufacturing with Commercial use intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores. The operation of an alcoholic beverage outlet, classified as retail sales use category, is consistent with the community plan land use designation and objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving

regional markets reliant on freeway access along I-805, Highway 94, and State Route 15, and with a CUP, is a compatible use with the surrounding commercial establishments.

The alcoholic beverage outlet is allowed at this location with a CUP, which would allow the project to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood. The permit includes conditions that limit the hours of alcohol sales, limit advertising, prohibit machines or video games devices on the premises, and prohibit loitering and graffiti. The primary use on site is the automobile servicing and dispensing of gasoline with the market use, including sales of limited inventory of alcoholic beverages, as an accessory use and added convenience for service station customer residing, visiting and working in the project vicinity. In addition to serving the immediate community, this project is located immediately at the exit ramp of Interstate-805 and serves the wider community. The project is consistent with the purpose and intent of the underlying light industrial/commercial designation per the community plan and zone, and is compatible with the surrounding development with a CUP. Therefore, based on the above analysis, the proposed use is appropriate at the proposed location.

C. CONDITIONAL USE PERMIT [SDMC SECTION 126.0305] – MARIJUANA OUTLET

1. Findings for all Conditional Use Permits:

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

The project includes a request for a CUP to allow the operation of a Marijuana Outlet in a 1,200-square-foot tenant space within a new two-story, 2,400 square-foot building located on the portion of the 1.08-acre site zoned IL-3-1 (Industrial-Light). The project site is located at 4333 - 4337 Home Avenue, within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights community of the Mid-City Communities Plan, which further identifies site for Light Manufacturing with Commercial use. The land use designation is intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores.

The operation of a Marijuana Outlet, classified as retail sales use category, is consistent with the community plan land use designation. The project is also

consistent with the community plan objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route 15. The project is compatible with the surrounding development, including adjacent commercial and light industrial establishments, with a CUP. Therefore, the proposed development will not adversely affect the applicable land use plan.

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

The proposed development will not be detrimental to the public's health, safety and welfare because the discretionary permits controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project's compliance with applicable local, regional, state and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large. The operation of the marijuana outlet in the IL-3-1 Zone, is allowed with a CUP at this location, and consistent with the goals and policies of the Mid-City Communities Plan.

Marijuana outlets 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. Marijuana outlets require compliance with SDMC Section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other marijuana outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone.

The project site is within 100 feet of residential zones, including the abutting RS-1-1 Zone that is improved with the 805 freeway and on and off-ramps to the southwest, Home Avenue, multi-family residential development north of Home Avenue, and single-family residential development beyond on top of the slope to the northwest in the RS-1-7 Zone. The closest residential development in the RS-1-Zone is approximately 135 feet, measured property line to property line, from the proposed marijuana outlet. The project site is also adjacent to an undeveloped natural slope in the OR-1-1 (Open Space-Residential) Zone that rises to the southeast approximately 100 feet in elevation with single family dwellings beyond the slope. Although the project site is within 100 feet of residential zones, the closest residential development is more than 100 feet away measured property line to property line. Furthermore, the other residential uses are separated from the proposed Marijuana Outlet by existing topographical barriers. When measuring distance pursuant to SDMC Section 113.0225(c) as the most direct route around the existing topographical barriers, the distance between the marijuana outlet and residential uses is greater

than 100 feet. Therefore, the project complies with the aforementioned separation requirements.

The proposed marijuana outlet is subject to specific operational and security requirements and restrictions as set forth in SDMC Section 141.0504(b) - (m), which have also been incorporated as conditions in the CUP including prohibition of consultation by medical professionals on-site; prohibition of the use of specified vending machines except by a responsible person (as defined by the SDMC); provision of interior and exterior lighting, operable cameras, alarms, security guard; restriction of hours of operation to between 7:00 am and 9:00 pm daily; maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; and restriction of signage to business name, two-color signs, and alphabetic characters. Marijuana outlets must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation. The CUP is valid for five years, however, may be revoked if the use violates the terms, conditions, lawful requirements, or provision of the permit.

Construction of the project authorized through this permit will be subject to all adopted building, electrical, mechanical, fire and plumbing codes, which will be enforced through plan review and building inspections completed by the City's building inspectors. Furthermore, this project has been reviewed pursuant to the California Environmental Quality Act, and the environmental analysis did not find any significant impacts to the public health and safety. Based on the above analysis, the proposed development would not be detrimental to the public health, safety, and welfare.

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

The project proposes the construction of a new two-story, 2,400 square-foot building in an area of project site that has been previously distributed and zoned IL-3-1. This building would include the operation of a marijuana outlet within a 1,200 square-foot tenant space on the first floor. The second floor, 1,200-square-foot space will remain vacant for the duration of the CUP. Construction of the project authorized through this permit will be subject to all adopted building, electrical, mechanical, fire and plumbing codes, which will be enforced through plan review and building inspections completed by the City's building inspectors.

Access to the development would be provided via two existing driveways on Home Avenue, which have been conditioned to be improved to current City standards. The project will provide 24 off-street parking spaces, which exceeds the 21 off-street parking spaces required for all uses on site, including six required spaces for the Marijuana outlet, and 15 required spaces for the auto service station and the mini-market.

The marijuana outlet, classified as retail sales, is allowed in the IL-3-1 Zone with a CUP pursuant to San Diego Municipal Code (SDMC) Section 141.0504. Marijuana outlets require compliance with SDMC Section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other marijuana outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone.

The project site is within 100 feet of residential zones, including the abutting RS-1-1 Zone that is improved with the 805 freeway and on and off-ramps to the southwest, Home Avenue, multi-family residential development north of Home Avenue, and single-family residential development beyond on top of the slope to the northwest in the RS-1-7 Zone. The closest residential development in the RS-1-Zone is approximately 135 feet, measured property line to property line, from the proposed marijuana outlet. The project site is also adjacent to an undeveloped natural slope in the OR-1-1 (Open Space-Residential) Zone that rises to the southeast approximately 100 feet in elevation with single family dwellings beyond the slope. Although the project site is within 100 feet of residential zones, the closest residential development is more than 100 feet away measured property line to property line. Furthermore, the other residential uses are separated from the proposed Marijuana Outlet by existing topographical barriers. When measuring distance pursuant to SDMC Section 113.0225(c) as the most direct route around the existing topographical barriers, the distance between the marijuana outlet and residential uses is greater than 100 feet. Therefore, the project complies with the aforementioned separation requirements.

The permits for the project include various conditions and corresponding exhibits of approval relevant to achieving compliance with the SDMC relative to parking, signage, lighting, security measures, hours of operation, and site maintenance. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

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

The project includes a CUP to allow the operation of a marijuana outlet in a 1,200-square-foot tenant space within a new two-story, 2,400 square-foot building located on the portion of the 1.08-acre site zoned IL-3-1. The project site is also located within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is currently improved with a mini-market with a Type 20 ABC License alcoholic beverage outlet, fueling islands, paved parking lot, and landscape areas,

constructed in accordance with CUP No. 96-7374 approved on September 17, 1997. The site is located within an urbanized community and surrounded by Home Avenue to the northwest, the 805 freeway and on and off-ramps to the southwest, an undeveloped natural slope in the OR-1-1 (Open Space-Residential) Zone that rises to the southeast approximately 100 feet in elevation with single-family dwellings beyond the slope, and light industrial and commercial land uses to the northeast in the IL-3-1 Zone. There is no sensitive habitat or biological resources on site. The project site is near the Multi-Habitat Planning Area (MHPA) to the southeast, and has been conditioned to require compliance with the MHPA Land Use Adjacency Guidelines

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights community of the Mid-City Communities Plan Area, which identifies site for Light Manufacturing with Commercial use intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores. The operation of a marijuana outlet, classified as retail sales use category, is consistent with the community plan land use designation and objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route 15, and with a CUP, is a compatible use with the surrounding commercial establishments.

The SDMC limits marijuana outlets to commercial and industrial zones limited to no more than four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods. To date, one marijuana outlet has been approved within Council District 9. The marijuana outlet is allowed in the IL-3-1 Zone with a CUP and subject to separation requirements set forth in SDMC Section 141.0504(a) including a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from specified uses. There is also a minimum distance requirement of 100 feet from a residential zone.

The project site is within 100 feet of residential zones, including the abutting RS-1-1 Zone that is improved with the 805 freeway and on and off-ramps to the southwest, Home Avenue, multi-family residential development north of Home Avenue, and single-family residential development beyond on top of the slope to the northwest in the RS-1-7 Zone. The closest residential development in the RS-1-Zone is approximately 135 feet, measured property line to property line, from the proposed marijuana outlet. The project site is also adjacent to an undeveloped natural slope in the OR-1-1 (Open Space-Residential) Zone that rises to the southeast approximately 100 feet in elevation with single family dwellings beyond the slope. Although the project site is within 100 feet of residential zones, the closest residential development is more than 100 feet away measured property line to property line.

Furthermore, the other residential uses are separated from the proposed Marijuana Outlet by existing topographical barriers. When measuring distance pursuant to SDMC Section 113.0225(c) as the most direct route around the existing topographical barriers, the distance between the marijuana outlet and residential uses is greater than 100 feet. Therefore, the project complies with the aforementioned separation requirements.

The proposed marijuana outlet is consistent with the purpose and intent of the underlying light industrial/commercial designation per the community plan and zone and compatible with the surrounding development with a CUP. Therefore, based on the above analysis, the proposed use is appropriate at the proposed location.

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

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Neighborhood Use Permit No 2140441, Conditional Use Permit No. 2225844, and Conditional Use Permit No. 2117121 is hereby GRANTED by the Planning Commission to the referenced Owner and Permittees, in the form, exhibits, terms and conditions as set forth in Permit Nos. 2140441, 2225844, and 2117121, a copy of which is attached hereto and made a part hereof.

Edith Gutierrez
Development Project Manager
Development Services Department

Adopted on: December 5, 2019

IO#: 24007693

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24007693

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NEIGHBORHOOD USE PERMIT NO. 2140441 AND
CONDITIONAL USE PERMIT NO. 2225844

4337 HOME AVENUE MARIJUANA OUTLET NUP/CUP – PROJECT NO 593686 [MMRP]
PLANNING COMMISSION

This Neighborhood Use Permit No. 2140441 and Conditional Use Permit No. 2225844 (collectively, "Permit") is granted by the Planning Commission of the City of San Diego to Avad Investments Inc., a California corporation, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0205 and 126.0305. The 1.08-acre site is located at 4333 - 4337 Home Avenue in the CC-1-3 and IL-3-1 Zones, and the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones within the City Heights neighborhood of the Mid-City Communities Plan area. The project site is legally described as: Parcel 1 of Parcel Map No. 17969 in the City of San Diego, County of San Diego, State of California, according to Map thereof filed in the Office of the County Records of San Diego County on December 22, 1997, as Instrument No. 1997-0651626 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to continue operation of an auto service station with mini-market, including an alcoholic beverage outlet conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control and subject to the City's land use regulations described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 5, 2019, on file in the Development Services Department.

The project shall include:

- a. Operation of an existing auto service station and a 2,944 square-foot mini-market facility;
- b. Operation of an existing alcoholic beverage outlet from the mini-market facility, conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control;
- c. Landscaping (planting, irrigation and landscape related improvements);

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

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by December 5, 2022.
2. Conditional Use Permit No. 2225844 [CUP] and corresponding use of this site shall expire on December 5, 2029. The Owner/Permittee may request that the expiration date be extended in accordance with SDMC section 141.0502(c)(7).
3. The utilization of CUP No. 2225844 is contingent upon the approval of a license to sell alcohol at this location by the California Department of Alcoholic Beverage Control [ABC]. The issuance of this CUP does not guarantee that the ABC will grant an alcoholic beverage license for this location.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.
14. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration No. 593686, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.
15. The Owner/Permittee shall comply with the MMRP as specified in MITIGATED NEGATIVE DECLARATION NO. 593686, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas: Tribal Cultural Resources.

CLIMATE ACTION PLAN REQUIREMENTS:

16. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

LANDSCAPE REQUIREMENTS:

17. Prior to issuance of any grading permit, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Stormwater Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.
18. Prior to issuance of any public improvement permit, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
19. Prior to issuance of any construction permit, the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)5.

20. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

21. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

22. The Owner/Permittee shall implement brush management requirements, including Brush Management Alternate Compliance, in accordance with the Brush Management Program shown on Exhibit "A" on file in the Development Services Department.

MULTIPLE SPECIES CONSERVATION PROGRAM:

23. The Owner/Permittee shall comply with the City's Multi-Species Conservation Program (MSCP) Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines.

PLANNING/DESIGN REQUIREMENTS:

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

25. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

26. All signs associated with development associated with this Permit shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.

27. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

AUTOMOBILE SERVICE STATION REQUIREMENTS:

28. Devices to alert station attendants to entering vehicles shall be located and adjusted so that they do not cause noise disturbance to adjoining properties.
29. Merchandise, material, and products for sale shall be stored and displayed only within an enclosed building, except that motor oil, tires, batteries, and other automotive supplies may be displayed at pump islands or adjacent to a building if the display or storage racks and containers are designed to appear as an integral part of the pump island or building exterior.
30. When the service station is abandoned, or the use changed, the Owner shall remove the underground tanks in accordance with the procedures of the City of San Diego Fire Department and the County of San Diego Health Services Department.

ALCOHOLIC BEVERAGE OUTLET CONDITIONS:

31. Owner/Permittee shall post a copy of the Conditional Use Permit conditions in the licensed premises in a place where they may be readily viewed by any member of the general public or any member of a government agency.
32. The sale of alcoholic beverages shall be accessory as shown on Exhibit "A" and limited to no more than 50 square feet of the floor area of the mini-market.
33. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.
34. Pool or billiard tables, foosball or pinball games, arcade style video and electronic games, or amusement devices are not permitted on the premises.
35. Exterior public pay phones that permit incoming calls are not permitted on the premises, adjacent public sidewalks, or areas under the control of the Owner/Permittee.
36. The Owner/Permittee shall provide illumination, at a minimum level of 0.4 foot candles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the Owner/Permittee. The illumination shall be in operation during all hours of darkness while the outlet is open for business so that persons standing on or near the premises at night are identifiable by law enforcement personnel. The required illumination shall be shielded and directed so that it does not shine on adjacent properties.
37. A maximum of 33 percent of the square footage of the windows and doors of the premises may bear advertising or signs of any sort, except for any advertising prohibited by law. All advertising and signs shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlet.

38. The Owner/Permittee of the alcoholic beverage outlet shall post a prominent, permanent sign or signs stating, "No loitering, consumption of alcoholic beverages, or open alcoholic beverage containers are allowed inside the premises, in the parking area, or on the public sidewalks adjacent to the premises, violators are subject to arrest." The sign shall be at least two square feet with two-inch block lettering. The sign shall be in English and Spanish.

39. The Owner/Permittee shall list a business address and telephone number in the Pacific Bell/San Diego telephone directory or other similarly distributed directory.

40. The Owner/Permittee shall provide trash receptacles, conveniently located for use by patrons, inside and outside the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the Owner/Permittee. At least one 13-gallon trash receptacle shall be located inside the premises. At least one 32-gallon trash receptacle shall be located outside the alcoholic beverage outlet, and at least one additional 32-gallon trash receptacle shall be located in the parking areas under the control of the Owner/Permittee.

41. The Owner/Permittee shall maintain the premises, adjacent public sidewalks, and areas under the control of the Owner/Permittee, free of litter and graffiti at all times. The Owner/Permittee shall provide for daily removal of trash, litter, and debris. The Owner/Permittee shall eliminate graffiti within 48 hours of application.

POLICE DEPARTMENT REQUIREMENTS:

42. The sales of alcoholic beverage shall be permitted between the hours of 8AM to Midnight each day of the week.

43. Exterior advertising of alcoholic beverages, or interior advertising of alcoholic beverages that is visible from the exterior of the premises shall be prohibited.

44. Video surveillance shall be recording and available to law enforcement upon request covering both interior and exterior of the premises. Upon request of law enforcement video surveillance shall not be deleted, voided or destroyed. Recordings shall be maintained for a minimum of 30 days absent a request of law enforcement.

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

- Wine shall not be sold in containers of less than 750 milliliters, with the exception of wine coolers sold in four-pack containers or more per sale.
- Beer, wine or malt beverage products, regardless of size, shall only be sold in pre-packaged multi-unit quantities.
- The sale of beer of malt beverages in kegs is prohibited.
- Wine shall not be sold with an alcoholic content greater than 15 percent by volume.

INFORMATION ONLY:

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

APPROVED by the Planning Commission of the City of San Diego on December 5, 2019 and Resolution No. XXXXX.

ATTACHMENT 4

Permit Type/PTS Approval No.: NUP No. 2140441 and CUP No. 2225844

Date of Approval: _____

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.

**AVAD INVESTMENTS INC.,
A California Corporation**
Owner/Permittee

By _____
NAME
TITLE

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

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24007693

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 2117121

4337 HOME AVENUE MARIJUANA OUTLET NUP/CUP – PROJECT NO 593686 [MMRP]
PLANNING COMMISSION

This Conditional Use Permit No. 2117121 (Permit) is granted by the Planning Commission of the City of San Diego to Avad Investments Inc., a California corporation, Owner, and ARM Investment Inc., a California corporation, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 1.08-acre site is located at 4333 - 4337 Home Avenue in the CC-1-3 and IL-3-1 Zones, and the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones within the City Heights neighborhood of the Mid-City Communities Plan area. The project site is legally described as: Parcel 1 of Parcel Map No. 17969 in the City of San Diego, County of San Diego, State of California, according to Map thereof filed in the Office of the County Records of San Diego County on December 22, 1997 as Instrument No. 1997-0651626 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Marijuana Outlet described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 5, 2019, on file in the Development Services Department.

The project shall include:

- a. Construction of a new 2,400-square-foot, two-story building, on a portion of the 1.08-acre site zoned IL-3-1;
- b. Operation of a Marijuana Outlet within a 1,200-square-foot, tenant space, located on the first floor of the new 2,400-square-foot, two-story building;
- c. The second floor of the new 2,400-square-foot building, totaling 1,200 square feet, as shown on Exhibit "A", to remain vacant and unoccupied for the term of the subject Conditional Use Permit;
- d. Landscaping (planting, irrigation and landscape related improvements);

- e. Off-street parking; and
- f. 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 December 5, 2022.
2. This Conditional Use Permit and corresponding use of this site shall expire on December 5, 2024. The Owner/Permittee may request that the expiration date be extended in accordance with SDMC Section 141.0504(n).
3. In addition to other provisions of the law, the Marijuana Outlet must comply with Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 5 of the San Diego Municipal Code.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department;
 - b. The Permit is recorded in the Office of the San Diego County Recorder; and
 - c. A marijuana Outlet Permit issued by the Development Services Department is approved in accordance with SDMC Section 42.1504.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.
14. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration No. 593686, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.
15. The Owner/Permittee shall comply with the MMRP as specified in MITIGATED NEGATIVE DECLARATION NO. 593686, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas: Trial Cultural Resources.

CLIMATE ACTION PLAN REQUIREMENTS:

16. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

ENGINEERING REQUIREMENTS:

17. The project proposes to export 205 cubic yards of material from the project site. All excavated material listed to be exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2015 edition and Regional Supplement Amendments adopted by Regional Standards Committee.
18. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.
19. Prior to the issuance of any construction permit for building, the Owner/Permittee shall assure, by permit and bond, the construction of two current City Standard 30-foot wide driveways, adjacent to the site on Home Avenue, satisfactory to the City Engineer.
20. Prior to the issuance of any construction permit for building, the Owner/Permittee shall assure, by permit and bond, to reconstruct existing curb ramp at the Southeast corner of Home Avenue and I-805 ramps, with current City Standard Curb Ramp and Detectable/Tactile Warning Tile, satisfactory to the City Engineer.
21. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

22. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

LANDSCAPE REQUIREMENTS:

23. Prior to issuance of any grading permit, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Stormwater Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.

24. Prior to issuance of any public improvement permit, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

25. Prior to issuance of any construction permit, the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)5.

26. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

27. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

28. The Owner/Permittee shall implement brush management requirements, including Brush Management Alternate Compliance, in accordance with the Brush Management Program shown on Exhibit "A" on file in the Development Services Department.

MULTIPLE SPECIES CONSERVATION PROGRAM:

29. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Owner/Permittee shall depict the following requirements on the construction documents and plans for Project Site.

- a. **Grading/Land Development/MHPA Boundaries** -Within or adjacent to the MHPA, all manufactured slopes associated with site development shall be included within the development footprint.
- b. **Drainage** - All staging and developed/paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials prior to release by incorporating the use of filtration devices, planted swales and/or planted detention/desiltation basins, or other approved temporary and permanent methods that are designed to minimize negative impacts, such as excessive water and toxins into the ecosystems of the MHPA.
- c. **Toxics/Project Staging Areas/Equipment Storage** - Projects that use chemicals or generate by-products such as pesticides, herbicides, and animal waste, and other substances that are potentially toxic or impactful to native habitats/flora/fauna (including water) shall incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. No trash, oil, parking, or other construction/development-related material/activities shall be allowed outside any approved construction limits. Provide a note in/on the CD's that states: "All construction related activity that may have potential for leakage or intrusion shall be monitored by the Qualified Biologist/Owners Representative or Resident Engineer to ensure there is no impact to the MHPA."
- d. **Lighting** -All lighting within or adjacent to the MHPA is directed away/shielded from the MHPA, or limited to the immediate area and is in compliance with City Outdoor Lighting Regulations per LDC Section 142.0740.
- e. **Barriers** -Existing fences/walls; and/or signage along the MHPA boundaries shall remain and or be added to direct public access to appropriate locations, reduce domestic animal predation, protect wildlife in the preserve, and provide adequate noise reduction where needed.
- f. **Invasives** - No invasive, non-native plant species shall be introduced into areas within or adjacent to the MHPA.
- g. **Brush Management** -Brush management zones will not be greater in size that is currently required by the City's regulations (this includes use of approved alternative compliance). Within Zone 2 the amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done. Vegetation clearing shall be done consistent with City standards and shall

avoid/minimize impacts to covered species to the maximum extent possible. For all new development, regardless of the ownership, the brush management in the Zone 2 area will be the responsibility of a home-owner's association or other private party.

- h. **Noise** - Construction noise that exceeds the maximum levels allowed (60 dB or greater at the beginning edge of the habitat) shall be avoided during the breeding seasons for the following: CA gnatcatcher (3/1-8/15). If construction is proposed during the breeding season for the species the following measures are required:

COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

1. Prior to the issuance of any grading permit, the City Manager (or appointed designee) shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

NO CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR BETWEEN MARCH 1 AND AUGUST 15, THE BREEDING SEASON OF THE COASTAL CALIFORNIA GNATCATCHER, UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET TO THE SATISFACTION OF THE CITY MANAGER:

- A. A QUALIFIED BIOLOGIST (POSSESSING A VALID ENDANGERED SPECIES ACT SECTION 10(a)(1)(A) RECOVERY PERMIT) SHALL SURVEY THOSE HABITAT AREAS WITHIN THE MHPA THAT WOULD BE SUBJECT TO CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [dB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE COASTAL CALIFORNIA GNATCATCHER. SURVEYS FOR THE COASTAL CALIFORNIA GNATCATCHER SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION. IF GNATCATCHERS ARE PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:
- I. BETWEEN MARCH 1 AND AUGUST 15, NO CLEARING, GRUBBING, OR GRADING OF OCCUPIED GNATCATCHER HABITAT SHALL BE PERMITTED. AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; AND
- II. BETWEEN MARCH 1 AND AUGUST 15, NO CONSTRUCTION ACTIVITIES SHALL OCCUR WITHIN ANY PORTION OF THE SITE WHERE CONSTRUCTION ACTIVITIES WOULD RESULT IN NOISE LEVELS EXCEEDING 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED GNATCATCHER HABITAT. AN ANALYSIS SHOWING THAT NOISE GENERATED BY CONSTRUCTION ACTIVITIES WOULD NOT EXCEED 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED HABITAT MUST BE COMPLETED BY A QUALIFIED ACOUSTICIAN (POSSESSING CURRENT

NOISE ENGINEER LICENSE OR REGISTRATION WITH MONITORING NOISE LEVEL EXPERIENCE WITH LISTED ANIMAL SPECIES) AND APPROVED BY THE CITY MANAGER AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES DURING THE BREEDING SEASON, AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; OR

- III. AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES, UNDER THE DIRECTION OF A QUALIFIED ACOUSTICIAN, NOISE ATTENUATION MEASURES (e.g., BERMS, WALLS) SHALL BE IMPLEMENTED TO ENSURE THAT NOISE LEVELS RESULTING FROM CONSTRUCTION ACTIVITIES WILL NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF HABITAT OCCUPIED BY THE COASTAL CALIFORNIA GNATCATCHER. CONCURRENT WITH THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES AND THE CONSTRUCTION OF NECESSARY NOISE ATTENUATION FACILITIES, NOISE MONITORING* SHALL BE CONDUCTED AT THE EDGE OF THE OCCUPIED HABITAT AREA TO ENSURE THAT NOISE LEVELS DO NOT EXCEED 60 dB (A) HOURLY AVERAGE. IF THE NOISE ATTENUATION TECHNIQUES IMPLEMENTED ARE DETERMINED TO BE INADEQUATE BY THE QUALIFIED ACOUSTICIAN OR BIOLOGIST, THEN THE ASSOCIATED CONSTRUCTION ACTIVITIES SHALL CEASE UNTIL SUCH TIME THAT ADEQUATE NOISE ATTENUATION IS ACHIEVED OR UNTIL THE END OF THE BREEDING SEASON (AUGUST 16).

* Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB (A) hourly average or to the ambient noise level if it already exceeds 60 dB (A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

B. IF COASTAL CALIFORNIA GNATCATCHERS ARE NOT DETECTED DURING THE PROTOCOL SURVEY, THE QUALIFIED BIOLOGIST SHALL SUBMIT SUBSTANTIAL EVIDENCE TO THE CITY MANAGER AND APPLICABLE RESOURCE AGENCIES WHICH DEMONSTRATES WHETHER OR NOT MITIGATION MEASURES SUCH AS NOISE WALLS ARE NECESSARY BETWEEN MARCH 1 AND AUGUST 15 AS FOLLOWS:

- I. IF THIS EVIDENCE INDICATES THE POTENTIAL IS HIGH FOR COASTAL CALIFORNIA GNATCATCHER TO BE PRESENT BASED ON HISTORICAL

RECORDS OR SITE CONDITIONS, THEN CONDITION A.III SHALL BE ADHERED TO AS SPECIFIED ABOVE.

- II. IF THIS EVIDENCE CONCLUDES THAT NO IMPACTS TO THIS SPECIES ARE ANTICIPATED, NO MITIGATION MEASURES WOULD BE NECESSARY.

GEOLOGY REQUIREMENTS:

30. Prior to the issuance of any construction permits (either grading or building permit), the Owner/Permittee shall submit a geotechnical investigation report prepared in accordance with the City's "Guidelines for Geotechnical Reports" that specifically addressed the proposed construction plans. The geotechnical investigation report shall be reviewed for adequacy by the Geology Section of Development Services prior to the issuance of any construction permit.

PLANNING/DESIGN REQUIREMENTS:

31. The use within the 1,200-square-foot tenant space, located on the first floor of the new 2,400-square-foot, two-story building, shall be limited to a Marijuana Outlet and any use permitted by right in the IL-3-1 Zone.

32. The Owner/Permittee shall maintain the 1,200-square-foot tenant suite above the Marijuana Outlet vacant for the duration of the Conditional Use Permit as noted on the approved Exhibit A, unless an amendment to this Permit has been granted.

33. The Owner/Permittee shall obtain a Marijuana Outlet Permit as required pursuant to SDMC Chapter 4, Article 2, Division 15.

34. Each responsible person at this Marijuana Outlet shall undergo fingerprinting, a criminal background check, and report convictions as required pursuant to SDMC Chapter 4, Article 2, Division 15.

35. The sale of marijuana shall be prohibited without a valid license from the State authorizing such activity.

36. Consultations by medical professionals shall not be a permitted accessory use at the Marijuana Outlet.

37. The Owner/Permittee shall provide lighting to illuminate the interior of the Marijuana Outlet, façade, 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.

38. The Owner/Permittee shall provide security including operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the

premises during business hours. The security guard shall only be engaged in activities related to providing security for the facility, except on an incidental basis.

39. The Marijuana Outlet shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.

40. The use of vending machines which allow access to marijuana and marijuana products except by a responsible person, as defined in the San Diego Municipal Code Section 42.1502, is prohibited. A vending machine is any device which allows access to marijuana and marijuana products without a human intermediary.

41. The Owner/Permittee shall maintain the Marijuana Outlet, adjacent public sidewalks, and areas under the control of the Owner/Permittee, free of litter and graffiti at all times.

42. The Owner/Permittee shall provide daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.

43. The Owner/Permittee shall provide a sufficient odor absorbing ventilation and exhaust system capable of minimizing excessive or offensive odors emanating outside of the permitted facility, to the satisfaction of the Development Services Department.

44. Medical marijuana, recreational marijuana, or marijuana products, in any form, shall not be consumed anywhere within the 1.08-acre site.

45. 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. Ground signs shall not be pole signs. A primary sign shall be posted on the outside of the Marijuana Outlet and shall only contain the name of the business, which shall contain only alphabetic characters, and shall be limited to two colors.

46. The Owner/Permittee shall post and maintain a sign showing the name and emergency contact phone number of the operator or manager, in a location visible from outside the Marijuana Outlet, in character size at least two inches in height.

47. Deliveries shall be permitted as an accessory use only from the Marijuana Outlet with a valid Conditional Use Permit unless otherwise allowed pursuant to the Compassionate Use Act of 1996.

TRANSPORTATION REQUIREMENTS:

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

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

49. Prior to building occupancy, the Owner/Permittee shall obtain a plumbing permit for the installation of appropriate above ground private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director and the City Engineer. BFPD's are typically located on private property, in line with the service and immediately adjacent to the right-of-way. The Public Utilities Department will not permit the required BFPDs to be located below grade or within the structure.

50. All on-site water and sewer facilities shown on this drawing are private and shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.
- Cannabis businesses that operate or provide services within the City of San Diego are liable for a monthly gross receipts tax. As referenced in San Diego Municipal Code Section [34.0103 \(b\)](#), taxable activities include but are not limited to, transporting, manufacturing, cultivating, packaging, or retail sales of cannabis and any ancillary products in the City. For additional information, contact the Office of the City Treasurer at 619-615-1580.

APPROVED by the Planning Commission of the City of San Diego on December 5, 2019 and Resolution No. XXXXX.

ATTACHMENT 5

Permit Type/PTS Approval No.: CUP No. 2117121

Date of Approval: _____

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.

**AVAD INVESTMENTS INC.,
A California Corporation**
Owner

By _____
NAME
TITLE

**ARM INVESTMENT INC.,
A California Corporation**
Permittee

By _____
NAME
TITLE

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

From: [CHAPC Chairman](#)
To: [Gutierrez, Edith](#)
Subject: Re: 4333 Home Ave PTS 593686
Date: Thursday, November 14, 2019 1:58:19 PM

Edith,

Yes, the Committee supports the existing use of the service station and Mini-mart with the existing type 20 liquor license.

Russ Connelly
Chair, City Heights Area Planning Committee

On Thursday, November 14, 2019, 12:50:48 PM PST, Gutierrez, Edith <egutierrez@sanidiego.gov> wrote:

Hi Russ,

Thanks for the background information. I understand you did not vote on the continued operation of the service station and mini-mart, however does the planning committee support the existing use to continue operating?

PLANNING COMMISSION RESOLUTION NO. _____
CONDITIONAL USE PERMIT NO. 2225844
4337 HOME AVENUE ALCOHOL BEVERAGE OUTLET CUP – PROJECT NO. 593686

WHEREAS, AVAD INVESTMENTS INC., a California Corporation, Owner/Permittee, filed an application with the City of San Diego for a permit to continue the operation of an Alcoholic Beverage Outlet, Type 20 Alcohol License, as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated permits, on portions of a 1.08-acre site;

WHEREAS, the project site is located at 4337 Home Avenue in the CC-1-3 and IL-3-1 Zones, and the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones within the City Heights community of the Mid-City Communities Plan area;

WHEREAS, the project site is legally described as Parcel 1 of Parcel Map No. 17969 in the City of San Diego, County of San Diego, State of California, according to Map thereof filed in the Office of the County Records of San Diego County on December 22, 1997, as Instrument No. 1997-0651626 of Official Records;

WHEREAS, on July 24, 2019, the Hearing Officer of the City of San Diego considered and Approved Mitigated Negative Declaration (MND) No. 593686 and Conditional Use Permit No. 2225844 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on July 24, 2019, a Development Permit Appeal Application (Appeal) was filed on the Project; and

WHEREAS, on August 7, 2019, the Mitigated Negative Declaration was appealed to City Council, however, the appeal was withdrawn before the appeal hearing;

WHEREAS, on December 5, 2019, the Planning Commission of the City of San Diego Granted the Appeal, reversed the Hearing Officer's decision, and Denied Conditional Use Permit No. 2225844;

WHEREAS, on December 12, 2019, during non-agenda public comment at the Planning Commission hearing, the Owner/Applicant, AVAD Investment Inc., Arkan Somo, requested a reconsideration of the December 5, 2019, Planning Commission decision for Conditional Use Permit No. 2225844; and the request was supported by the Planning Commission to place the reconsideration of Conditional Use Permit No. 2225844 on a future agenda pursuant to Section 2.6 of the Permanent Rules of the Planning Commission; WHEREAS, on January 30, 2020, the Planning Commission suspended the Permanent Rules and reconsidered the December 5, 2019, denial of Conditional Use Permit NO. 2225844;

WHEREAS, on February 20, 2020, the Planning Commission of the City of San Diego Denied the appeal, affirmed the Hearing Officer's decision and approved Conditional Use Permit No. 2225844 for a Type 20 Alcohol License;

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Diego, pursuant to the Land Development Code of the City of San Diego, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the Planning Commission having fully reconsidered the matter and being fully advised concerning the same, affirms the Hearing Officer decision of approval on July 24, 2019, and adopts the following findings with respect to Conditional Use Permit No. 2225844:

A. CONDITIONAL USE PERMIT [SDMC SECTION 126.0305]

1. Findings for all Conditional Use Permits:

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

The project is a request for a Conditional Use Permit (CUP) to continue operation of an alcoholic beverage outlet for the sale of beer and wine for off-site consumption, in accordance with a Type 20 Alcohol and Beverage Control (ABC) License, within an existing mini-market on a portion of a 1.08-acre site zoned CC-1-3 (Commercial-Community Zone). The project site is located at 4337 Home Avenue, within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights community of the Mid-City Communities Plan, which further identifies the site for Light Manufacturing with Commercial use. The land use designation is intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores.

The operation of an alcoholic beverage outlet, classified as retail sales use category, is consistent with the community plan land use designation with approval of a CUP. The project is also consistent with the community plan objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route 15. The project is compatible with the surrounding development, including adjacent commercial and light industrial establishments, with a CUP. Therefore, the proposed development will not adversely affect the applicable land use plan.

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

The proposed development will not be detrimental to the public's health, safety and welfare because the discretionary permits controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project's compliance with applicable local, regional, state and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large. The operations of the alcoholic beverage outlet within the mini-market, in the CC-1-3 Zone, is allowed with a CUP at this location, and consistent with the goals and policies of the Mid-City Communities Plan.

Approval of this application would allow continued operation of an alcoholic beverage outlet for the sale of beer and wine for off-site consumption from an existing mini-market. The permit as conditioned will prevent potential adverse

impacts on the community. Specifically, the associated permit for the alcoholic beverage outlet includes conditions that limit the hours of sales, limit advertising, prohibit machines or video game devices on the premises, prohibit loitering and graffiti.

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

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

The project proposes to continue the operation of a Type 20 alcoholic beverage outlet within an existing 2,994-square-foot mini-market located on a portion of a 1.08-acre site Zoned CC-1-3. No construction changes to the existing mini-market are proposed as part of this application.

The project will provide 24 off-street parking spaces, which exceeds the 21 off-street parking spaces required for all uses on site.

The permits for the project include various conditions and corresponding exhibits of approval relevant to achieving compliance with the SDMC relative to signage, lighting, security measures, hours of sale of alcohol, and site maintenance. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

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

The project proposes to continue the operation of an alcoholic beverage outlet for the sale of beer and wine for off-site consumption, in accordance with a Type 20 Alcohol and Beverage Control (ABC) License, within an existing mini-market located on the portion of a 1.08-acre site zoned CC-1-3 (Commercial – Community). The project site is also located within the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones, within the City Heights community of the Mid-City Communities Plan area.

The project site is currently improved with a mini-market with a Type 20 ABC License alcoholic beverage outlet, fueling islands, paved parking lot, and landscape areas, constructed in accordance with CUP No. 96-7374, approved on September 17, 1997. The site is located within an urbanized community and surrounded by Home Avenue to the northwest, the 805 freeway and on and off-ramps to the southwest, an undeveloped natural slope in the OR-1-1 (Open Space-Residential Zone) that rises to the southeast approximately 100 feet in elevation with single family dwellings

beyond the slope, and light industrial and commercial land uses to the northeast in the IL-3-1 Zone. There is no sensitive habitat or biological resources on site. The project site is near the Multi-Habitat Planning Area (MHPA) to the southeast, and has been conditioned to require compliance with the MHPA Land Use Adjacency Guidelines

The project site is designated Industrial Employment by the General Plan, and Industrial by the Mid-City Communities Plan. The site is within the City Heights community of the Mid-City Communities Plan Area, which identifies site for Light Manufacturing with Commercial use intended to accommodate shopping centers, strip commercial, neighborhood service convenience stores, retail sales, office, wholesale, personal and commercial services, visitor commercial enterprises, and light manufacturing. Additionally, the Mid-City Communities Plan identifies Home Avenue as a commercial corridor characterized by shopping centers, strip commercial and neighborhood serving convenience stores. The operation of an alcoholic beverage outlet, classified as retail sales use category, is consistent with the community plan land use designation and objectives of encouraging a range of commercial goods and services, and concentrating commercial enterprises serving regional markets reliant on freeway access along I-805, Highway 94, and State Route 15, and with a CUP, is a compatible use with the surrounding commercial establishments.

The alcoholic beverage outlet is allowed at this location with a CUP, which would allow the project to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood. The permit includes conditions that limit the hours of alcohol sales, limit advertising, prohibit machines or video games devices on the premises, and prohibit loitering and graffiti. The primary use on site is the automobile servicing and dispensing of gasoline with the market use, including sales of limited inventory of alcoholic beverages, as an accessory use and added convenience for service station customer residing, visiting and working in the project vicinity. In addition to serving the immediate community, this project is located immediately at the exit ramp of Interstate-805 and serves the wider community. The project is consistent with the purpose and intent of the underlying light industrial/commercial designation per the community plan and zone, and is compatible with the surrounding development with a CUP. Therefore, based on the above analysis, the proposed use is appropriate at the proposed location.

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

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 2225844 is hereby GRANTED by the Planning Commission

ATTACHMENT 2

to the referenced Owner and Permittees, in the form, exhibits, terms and conditions as set forth in Permit No. 2225844, a copy of which is attached hereto and made a part hereof.

Edith Gutierrez
Development Project Manager
Development Services Department

Adopted on: February 20, 2020

IO#: 24007693

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24007693

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 2225844
4337 HOME AVENUE ALCOHOL BEVERAGE OUTLET CUP - PROJECT NO. 593686
PLANNING COMMISSION

This Conditional Use Permit No. 2225844 ("Permit") is granted by the Planning Commission of the City of San Diego to Avad Investments Inc., a California corporation, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 1.08-acre site is located at 4337 Home Avenue in the CC-1-3 and IL-3-1 Zones, the Airport Influence Area (San Diego International Airport - Area 2), Fire Brush Zones, and High Fire Severity Overlay Zones within the City Heights neighborhood of the Mid-City Communities Plan area. The project site is legally described as: Parcel 1 of Parcel Map No. 17969 in the City of San Diego, County of San Diego, State of California, according to Map thereof filed in the Office of the County Records of San Diego County on December 22, 1997, as Instrument No. 1997-0651626 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to continue operation of an Alcoholic Beverage Outlet, Type 20 Alcohol License, conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control, 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 February 20, 2020, on file in the Development Services Department.

The project shall include:

- a. Operation of an Alcoholic Beverage Outlet, Type 20 Alcohol License, within an existing 2,944-square-foot mini-market facility, conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control;
- b. Off-street parking;
- c. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by February 20, 2023.
2. Conditional Use Permit No. 2225844 [CUP] and corresponding use of this site shall expire on February 20, 2030. The Owner/Permittee may request that the expiration date be extended in accordance with SDMC section 141.0502(c)(7).
3. The utilization of CUP No. 2225844 is contingent upon the approval of a license to sell alcohol at this location by the California Department of Alcoholic Beverage Control [ABC]. The issuance of this CUP does not guarantee that the ABC will grant an alcoholic beverage license for this location.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
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. 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.

10. 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Future development shall comply with the MMRP as specified in MITIGATED NEGATIVE DECLARATION NO. 593686, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas: Tribal Cultural Resources.

PLANNING/DESIGN REQUIREMENTS:

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

13. All signs associated with development associated with this Permit shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.

14. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

ALCOHOLIC BEVERAGE OUTLET CONDITIONS:

15. Owner/Permittee shall post a copy of the Conditional Use Permit conditions in the licensed premises in a place where they may be readily viewed by any member of the general public or any member of a government agency.

16. The sale of alcoholic beverages shall be accessory as shown on Exhibit "A" and limited to no more than 50 square feet of the floor area of the mini-market.

17. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

18. Pool or billiard tables, foosball or pinball games, arcade style video and electronic games, or amusement devices are not permitted on the premises.

19. Exterior public pay phones that permit incoming calls are not permitted on the premises, adjacent public sidewalks, or areas under the control of the Owner/Permittee.

20. The Owner/Permittee shall provide illumination, at a minimum level of 0.4 foot candles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the Owner/Permittee. The illumination shall be in operation during all hours of darkness while the outlet is open for business so that persons standing on or near the premises at night are identifiable by law enforcement personnel. The required illumination shall be shielded and directed so that it does not shine on adjacent properties.

21. A maximum of 33 percent of the square footage of the windows and doors of the premises may bear advertising or signs of any sort, except for any advertising prohibited by law. All advertising and signs shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlet.

22. The Owner/Permittee of the alcoholic beverage outlet shall post a prominent, permanent sign or signs stating, "No loitering, consumption of alcoholic beverages, or open alcoholic beverage containers are allowed inside the premises, in the parking area, or on the public sidewalks adjacent to the premises, violators are subject to arrest." The sign shall be at least two square feet with two-inch block lettering. The sign shall be in English and Spanish.

23. The Owner/Permittee shall list a business address and telephone number in the Pacific Bell/San Diego telephone directory or other similarly distributed directory.

24. The Owner/Permittee shall provide trash receptacles, conveniently located for use by patrons, inside and outside the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the Owner/Permittee. At least one 13-gallon trash receptacle shall be located inside the premises. At least one 32-gallon trash receptacle shall be located outside the alcoholic beverage outlet, and at least one additional 32-gallon trash receptacle shall be located in the parking areas under the control of the Owner/Permittee.

25. The Owner/Permittee shall maintain the premises, adjacent public sidewalks, and areas under the control of the Owner/Permittee, free of litter and graffiti at all times. The Owner/Permittee shall provide for daily removal of trash, litter, and debris. The Owner/Permittee shall eliminate graffiti within 48 hours of application.

POLICE DEPARTMENT REQUIREMENTS:

26. The sales of alcoholic beverage shall be permitted between the hours of 8 a.m. to midnight each day of the week.

27. Exterior advertising of alcoholic beverages, or interior advertising of alcoholic beverages that is visible from the exterior of the premises shall be prohibited.

28. Video surveillance shall be recording and available to law enforcement upon request covering both interior and exterior of the premises. Upon request of law enforcement video surveillance shall not be deleted, voided or destroyed. Recordings shall be maintained for a minimum of 30 days absent a request of law enforcement.

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

- Wine shall not be sold in containers of less than 750 milliliters, with the exception of wine coolers sold in four-pack containers or more per sale.
- Beer, wine and malt beverage products, regardless of size, shall only be sold in pre-packaged multi-unit quantities.
- The sale of beer of malt beverages in kegs is prohibited.
- Wine shall not be sold with an alcoholic content greater than 15 percent by volume.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

ATTACHMENT 3

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on February 20, 2020 and Resolution No. XXXXX.

ATTACHMENT 3

Permit Type/PTS Approval No.: Conditional Use Permit No. 2225844
Date of Approval: February 20, 2020

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.

**AVAD INVESTMENTS INC.,
A California Corporation**
Owner/Permittee

By _____
NAME
TITLE

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