



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: August 3, 2016 REPORT NO. PC-16-042

ATTENTION: Planning Commission, Agenda of August 11, 2016

SUBJECT: APPEAL OF THE HEARING OFFICER'S DECISION TO DENY
A CONDITIONAL USE PERMIT FOR LIVING GREEN COOP MMCC. PROCESS
THREE

PROJECT NO. 379530

REFERENCE: Report to the Hearing Officer; Report No. HO-15-049 (Attachments 1-12).

OWNER/ APPLICANT: Bradley Brown/
Cary Weaver

SUMMARY

Issue: Should the Planning Commission approve or deny an appeal of the Hearing Officer's decision to deny a Conditional Use Permit (CUP) to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in a 2,844-square-foot building located at 4417 Rainier Avenue within the Navajo Community Plan area?

Staff Recommendation: Deny the appeal and uphold the Hearing Officer's decision to Deny Conditional Use Permit No. 1333320.

Community Planning Group Recommendation: On December 16, 2014, the Navajo Community Planners Inc. voted 16-0-0 to deny the project (Attachment 10).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15303, New Construction or Conversion of Small Structures (Attachment 8). An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on March 3, 2015.

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

Code Enforcement Impact: None with this action.

BACKGROUND

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

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

The proposed project is a request for a Conditional Use Permit to operate a MMCC in a 2,844-square-foot building. The 0.16-acre site is located at 4417 Rainier Avenue in the former IL-3-1 zone (currently the CC-3-6 zone), the Airport Influence Area (Montgomery Field) and the Community Plan Implementation Overlay Zone (CPIOZ) Type A within the Navajo Community Plan area and Council District 7. The site was developed in 1976 per Building Permit No. K91109.

HEARING OFFICER

On April 22, 2015, the Hearing Officer denied the project because it was located within 1,000 feet of a park, did not meet the separation requirement, and the required permit findings could not be made.

PLANNING COMMISSION

This appeal was scheduled to be presented to the Planning Commission on October 29, 2015. The day of the hearing, the applicant requested a continuance to a date certain of December 10, 2015. On December 10, 2015, the applicant once again requested a continuance to an indefinite date. The request passed by a vote of 7-0 with Commissioners: Golba, Haase, Austin, Peerson, Wagner, Whalen and Quiroz voting yea.

CPIOZ & PARKING REQUIREMENTS

The site is designated Light Industrial and is within the CPIOZ Type A of the Navajo Community Plan.

Although no development is proposed, the change in use from office to commercial services requires the building façade, which faces a public street, have a minimum of three offsetting building planes or three distinct building facade variations, or a combination of offset building planes and façade variations. To meet the intent of this requirement, the project proposes specific façade upgrades to the north portion of the building facing Rainier Avenue that include painting the existing wood siding and portions of the masonry concrete wall in white, while maintaining portions of the wall in the existing tan color to create an illusion of offsetting planes. The proposed upgrades meet the intent of the CPIOZ requirement. A Site Development Permit (SDP) is required if a project does not meet the CPIOZ façade requirement. A SDP was originally included when the project was presented to the Hearing Officer, as the project was proposing building façade variations but not offsetting building planes. It was later determined by staff that the proposed façade upgrades met the intent of the CPIOZ, and therefore, a SDP is not required.

The proposed 2,844-square-foot MMCC requires five on-site parking spaces. The project is providing one van accessible parking space in front of the building facing Rainer Avenue and four in the rear of the property.

The proposed MMCC, classified as commercial services, is a compatible use for this location with an approved Conditional Use Permit. The exterior upgrades as proposed meet the intent of the building façade variations required by the community.

ZONE CHANGE

On July 10, 2015, the City Council approved Ordinance-20511 to rezone 222.7-acres in the Grantville area within the Navajo Community Plan area. The subject property was rezoned from IL-3-1 to the CC-3-6 zone. MMCCs are not allowed in the CC-3-6 zone, however, because the project was deemed complete on June 12, 2014, prior to the zone change, the application may continue to be processed at this location under the previous SDMC zone of IL-3-1.

MEASURING DISTANCE BETWEEN USES – Effective May 5, 2016

On April 5, 2016, the City Council approved Ordinance-20634. The ordinance includes changes to distance measurement between uses (SDMC §113.0225). The code change allows MMCCs to take into account natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses. The distance can be measured as the most direct route around the barrier in a manner that establishes direct access. Friars Road is a major roadway barrier that is located between the proposed MMCC and a park, impeding direct access. However, the subject application was deemed complete in 2014; therefore the SDMC regulations in effect in 2014 apply to this project. The applicant requested to continue to process the application under the 2014 SDMC regulations, maintaining the previous zone of IL-3-1. The newly adopted distance measurement that allows barriers to be taken into consideration cannot be applied, as applications cannot be processed under two separate versions of the SDMC.

The SDMC allows the operation of MMCCs only in limited areas of the City, and only when it can be demonstrated that the proposed MMCC will not be detrimental to neighboring properties or the

public's health, safety and welfare. The SDMC provides criteria in the form of minimum separation requirements between certain uses in order to minimize detrimental effects on the community. SDMC section 141.0614(a)(1) regulates the locations of MMCCs throughout the City, and specifically prohibits MMCCs from operating within 1,000 feet of a public park and schools. SDMC, Section 113.0225 requires that the distance be measured between property lines in a horizontal straight line. Public Park means a publicly owned area that is designated as a park (SDMC Section 113.0103). Mission Valley Riparian open space is owned by the City of San Diego for public use and is designated as a park (Attachment 4). The proposed MMCC is located approximately 500 feet south of Dedicated Parkland per City Clerk Resolution number R-307902 (Attachment 12). The project site is therefore, in direct violation of the separation requirement of SDMC.

DISCUSSION

On April 28, 2015, Cary Weaver, the applicant for the project, filed an appeal of the Hearing Officer's decision on the grounds of Factual Error and New Information (Attachment 13).

On May 5, 2015, an appeal was filed by Ted Griswold on grounds of Factual Error and Findings not supported (Attachment 14). Although Mr. Griswold opposes the MMCC, he believes that the Hearing Officer should have based his denial on a number of factors in addition to the project's inability to meet the separation requirements.

APPEAL ISSUES AND RESPONSES

Appeal Issue – Cary Weaver:

1. Mission Valley Riparian open space is not a "public park" as defined by the SDMC. Therefore, this project complies with the separation requirement.

Staff Response: Mission Valley Riparian open space meets the definition of a public park per the SDMC, is designated as a park and is within 1,000 feet of the proposed MMCC.

Appeal Issues – Ted Griswold:

1. The proposed development does not comply with the Land Development Code because it relies on alternative access parking calculations.

Staff Response: SDMC 142.0540 provides exceptions to parking regulations for non residential uses, and may be applied to all commercial uses on small lots outside of the beach impact area. The alternative parking calculations requiring five on-site parking spaces for the proposed MMCC are acceptable since the proposed use is a commercial service on a small lot (0.16-acre), and has access to a legal alley.

2. The proposed development will be detrimental to the public health, safety, and welfare because it puts community members and customers in harm's way due to parking, traffic congestion and non compliance with ADA requirements.

Staff Response: The project is providing on-site parking that meets the parking requirements and is accessed from the alley. Generally, traffic volumes within alleys are low as they are normally used as a secondary means of access. The speed limit for alleys is 15 miles per hour per the California Vehicle Code (CVC) Section 22352. One van accessible space will be provided near the entrance of the project. Any additional accessibility requirements will be evaluated during the ministerial building review process.

3. The proposed development will be detrimental to the public, safety and welfare because it will cause traffic hazards and block emergency access ways.

Staff Response: Generally, traffic volumes within alleys are low as they are normally used as a secondary means of access. The speed limit for alleys is 15 miles per hour per the California Vehicle Code (CVC) 22352 and alley access for emergency vehicles is ensured per CVC 21102.1 & SDMC 86.0121, which states that "no person shall stop or stand any vehicle in an alley in such a manner that would prevent the passage of emergency vehicles."

4. The proposed development is not appropriate for the proposed location.

Staff Response: The proposed MMCC does not meet the separation requirements as it is located within 1,000 feet of a park, and therefore not an appropriate location.

5. The Community Planning Group was never able to provide meaningful input regarding the project.

Staff Response: On December 16, 2014, the Navajo Community Planning Group voted 16-0-0 to deny the project. The vote was included in the Hearing Officer Report (Attachment 10).

CONCLUSION:

Staff is recommending denial of the appeals and denial of the project as it fails to meet the minimum distance requirement prohibiting MMCCs from operating within 1,000 feet of a public park.

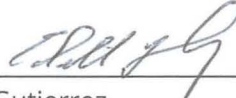
ALTERNATIVES:

1. Approve the appeal filed by Cary Weaver and Approve Conditional Use Permit No. 1333320, if the findings required to approve the project can be affirmed.
2. Approve the appeal filed by Ted Griswold or portions of it and modify the decision of the hearing officer to include these other reasons for denial of the project.

Respectfully submitted,



Elyse Lowe
Deputy Director
Development Services Department



Edith Gutierrez
Development Project Manager
Development Services Department

Attachments:

- 1-12 Report to the Hearing Officer – HO-15-049
- 13. Appeal Application, Cary Weaver
- 14. Appeal Application, Ted Griswold
- 15. Map Exhibit – Park within 1,000 feet



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: April 22, 2015 REPORT NO. HO-15-049

ATTENTION: Hearing Officer

SUBJECT: LIVING GREEN COOP MMCC
PROJECT NUMBER: 379530

LOCATION: 4417 Rainier Avenue

APPLICANT: Cary Weaver, Living Green Cooperative, Inc.

SUMMARY

Issue: Should the Hearing Officer approve a Conditional Use Permit to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in a 2,844 square-foot building within the Navajo Community Plan Area?

Staff Recommendation: DENY Conditional Use Permit No. 1333320 and Site Development Permit No. 1390091.

Community Planning Group Recommendation: On December 16, 2014, the Navajo Community Planning Group voted 16-0-0 to deny the project (attachment 10).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15303, New Construction or Conversion of Small Structures on December 11, 2014 (Attachment 8). An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on March 3, 2015. The scope of the Hearing Officer's decision only includes the project, and not the environmental determination.

BACKGROUND

In 1996 the people of the State of California passed Proposition 215, the Compassionate Use Act, which allows the use of marijuana for medical purposes when recommended by a physician and excludes the patient and the primary caregiver from criminal prosecution. In 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP) became law. The MMP requires the

California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. In 2008 the California Attorney General established guidelines for Medical Marijuana Collective Operations and allowed cities to adopt and enforce laws consistent with the MMP.

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

The proposed project is a request for a Conditional Use Permit and a Site Development Permit to operate a MMCC in a 2,844 square-foot building. The 0.16-acre site is located IL-3-1 zone, the Airport Influence Area (Montgomery Field) and the Community Plan Implementation Overlay Zone Type A within the Navajo Community Plan area. The site was developed in 1976 per Building Permit No. K91109.

The site is designated Light Industrial within the Navajo Community Plan. In addition to Light Industrial uses; retail, commercial and office uses are allowed in this designation. The Community Plan Implementation Overlay Zone (CPIOZ) of the Navajo Community Plan requires that any building facade which faces a public street have a minimum of three offset building planes or three distinct building facade variations, or a combination of offset building planes and facade variations which meets the intent of this requirement. In order to meet the intent of this requirement, the project proposes specific facade upgrades to the building that includes decorative siding on the north elevation and painting portions of the building and wood siding with light colors in order to create an illusion of offsetting planes.

The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit. The exterior upgrades as proposed meet the intent of the building facade variations required by the community plan with a Site Development Permit.

DISCUSSION

The proposed 2,844 square-foot MMCC is located 4417 Rainier Avenue. The San Diego Municipal Code (SDMC) allows the operation of MMCCs only in limited areas of the City, and only when it can be demonstrated that the proposed MMCC will not be detrimental to neighboring properties or the public's health, safety and welfare. The Code provides criteria in the form of minimum separation requirements between certain uses in order to minimize detrimental effects on the community. SDMC section 141.0614(a) regulates the locations of MMCCs throughout the City, and specifically prohibits MMCCs from operating within 1,000 feet of a park. SDMC, Section 113.0225 requires that the distance be measured between property lines in a horizontal straight line. In this case the proposed MMCC is located within 1,000 feet of Mission Valley Riparian Dedicated Parkland per City Clerk Resolution number R-307902

(Attachment 12), and therefore is in direct violation of the SDMC.

CONCLUSION

Staff is recommending denial of the project as the proposed project is located within 1,000 feet of a park, and not in compliance with the minimum separation requirement per SDMC Section 141.0614. The proposed MMCC is not consistent with the SDMC's purpose and intent to protect public safety, does not comply with the regulations of the Land Development Code and is not located at an appropriate location.

ALTERNATIVE

1. Approve Conditional Use Permit No. 1333320 and Site Development Permit No. 1390091, with modifications.
2. Approve Conditional Use Permit No. 1333320 and Site Development Permit No. 1390091, with modifications.

Respectfully submitted,



Edith Gutierrez, Development Project Manager

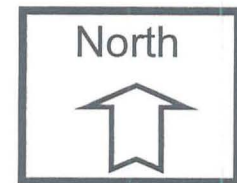
Attachments:

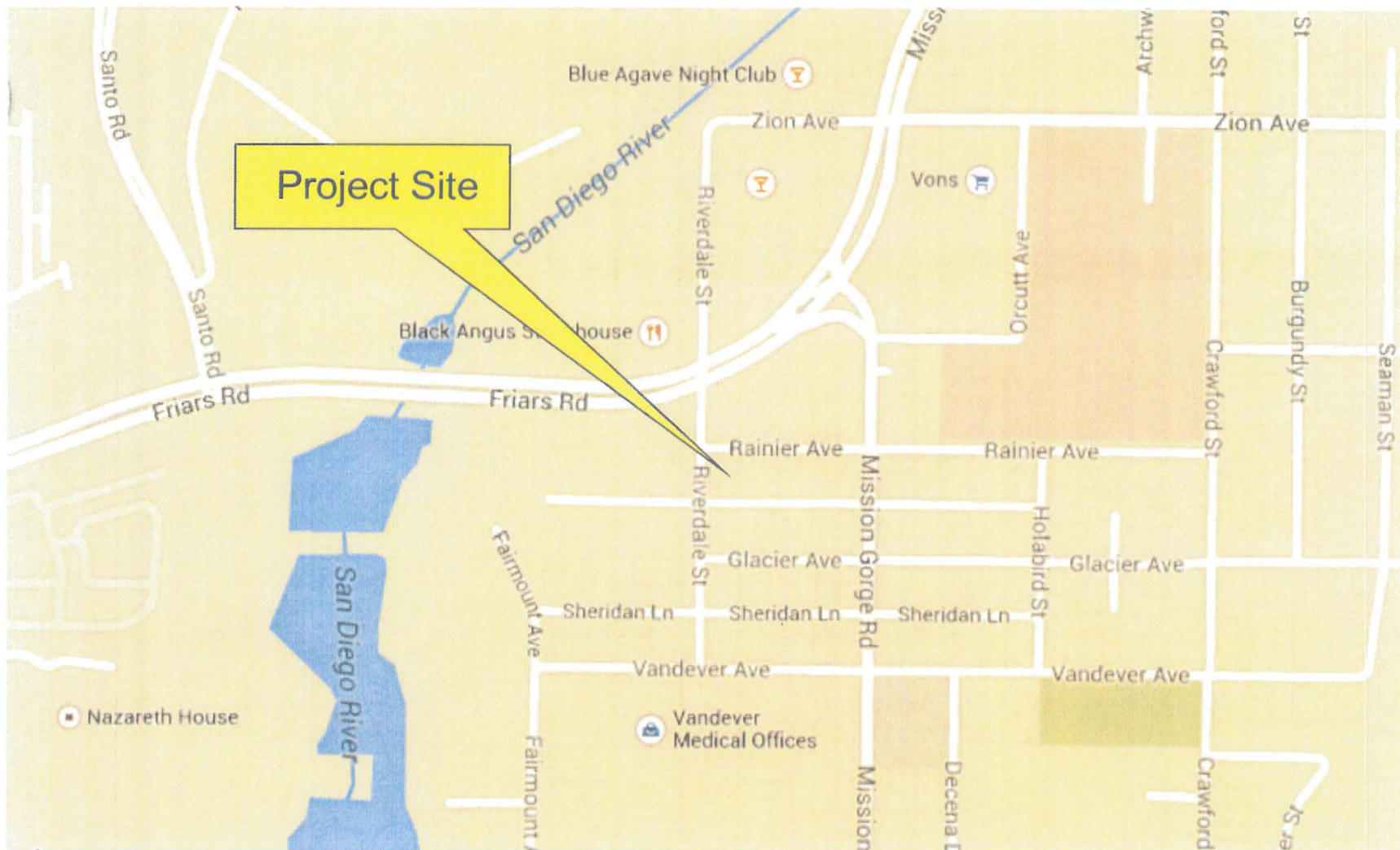
1. Aerial Photograph
2. Project Location Map
3. Community Plan Land Use Map
4. Draft Permit with Conditions
5. Draft Permit Resolution with Findings
6. 1000 Foot Radius Map
7. 1000 Foot Radius Map Spreadsheet
8. Notice of Right to Appeal
9. Project Site Plan(s)
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Resolution number R-30790



Location Aerial Photo

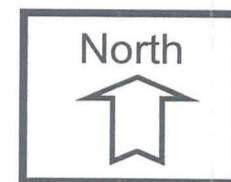
LIVING GREEN COOP MMCC-4417 RAINIER
PROJECT NO. 379530





Project Location Map

LIVING GREEN COOP MMCC-4417 RAINIER
PROJECT NO. 379530

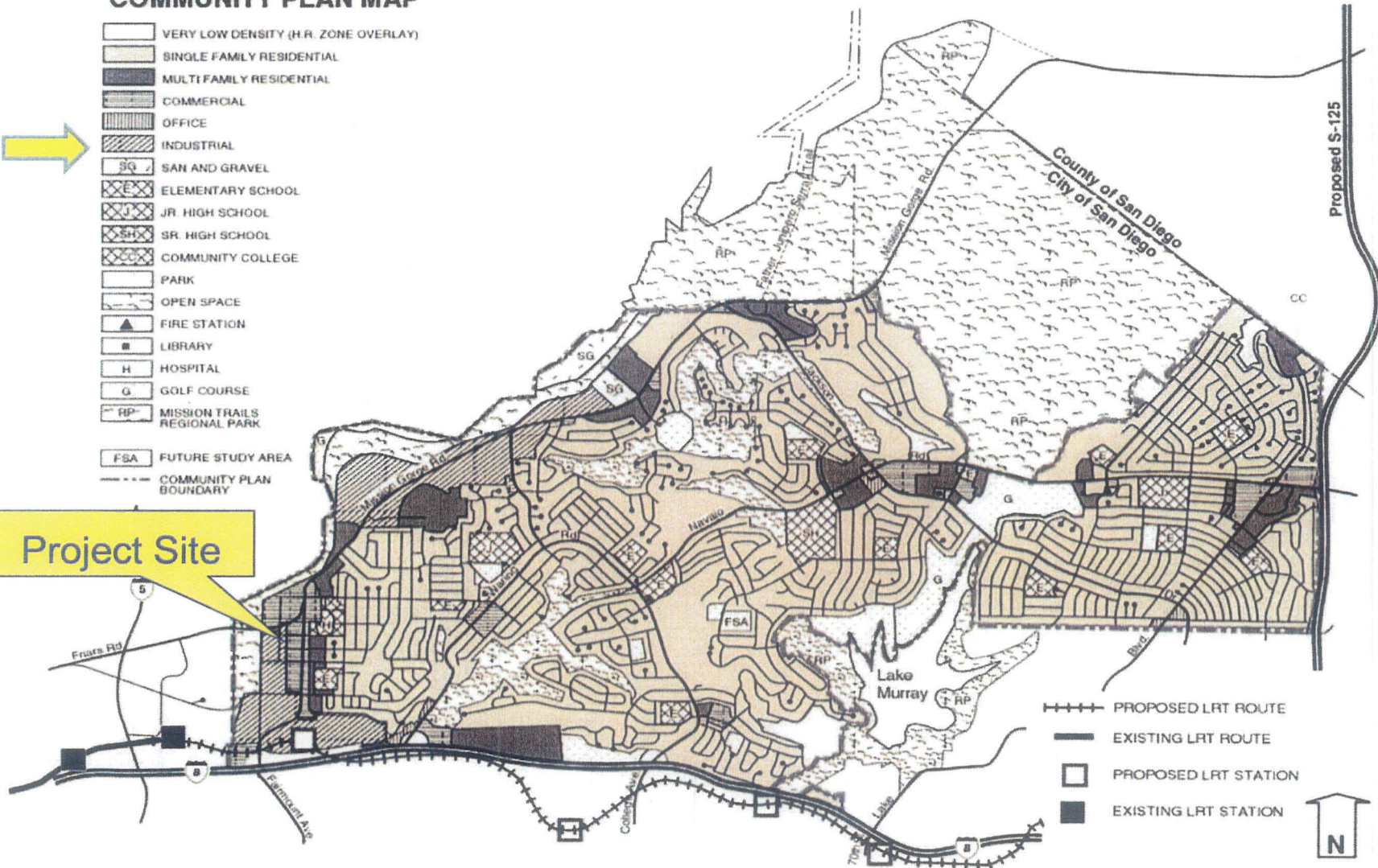


COMMUNITY PLAN MAP

- VERY LOW DENSITY (H.R. ZONE OVERLAY)
- SINGLE FAMILY RESIDENTIAL
- MULTI FAMILY RESIDENTIAL
- COMMERCIAL
- OFFICE
- INDUSTRIAL
- SAN AND GRAVEL
- ELEMENTARY SCHOOL
- JR. HIGH SCHOOL
- SR. HIGH SCHOOL
- COMMUNITY COLLEGE
- PARK
- OPEN SPACE
- FIRE STATION
- LIBRARY
- HOSPITAL
- GOLF COURSE
- MISSION TRAILS REGIONAL PARK
- FUTURE STUDY AREA
- COMMUNITY PLAN BOUNDARY



Project Site



Land Use Map

LIVING GREEN COOP MMCC-4417 RAINIER
PROJECT NO. 379530



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

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004883

CONDITIONAL USE PERMIT NO. 1333320 AND
SITE DEVELOPMENT PERMIT NO. 1390091
LIVING GREEN COOP MMCC - PROJECT NO. 379530
HEARING OFFICER

This Conditional Use Permit No. 1333320 and Site Development Permit No. 1390091 are denied by the Hearing Officer of the City of San Diego to BRADLEY BROWN, Owner and LIVING GREEN COOPERATIVE, INC., Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305 & 126.0504. The 0.16-acre site is located at 4417 Rainier Avenue in the IL-3-1 Zone, the Airport Influence Area (Montgomery Field) and the Community Plan Implementation Overlay Zone, Type A within the Navajo Community Plan area. The project site is legally described as Lots 4 & 5, Block 13, Map No. 1, February 16, 1892, Map No. 776.

Subject to the terms and conditions set forth in this Permit, permission is denied to Owner/Permittee to operate a Medical Marijuana Consumer Cooperative (MMCC) and subject to the City's land use regulations described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated April 22, 2015, on file in the Development Services Department.

The project shall include:

- a. Operation of a Medical Marijuana Consumer Cooperative (MMCC) in a 2,844 square-foot building on a 0.16-acre site;
- b. Existing landscaping (planting, irrigation and landscape related improvements);
- c. Existing off-street parking;
- d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in

accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

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

including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

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

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

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

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

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

PLANNING/DESIGN REQUIREMENTS:

13. The use within the 2,844 square-foot tenant space shall be limited to the MMCC and any use permitted in the IL-3-1 Zone.
14. Consultations by medical professionals shall not be a permitted accessory use at the MMCC.
15. Lighting shall be provided to illuminate the interior of the MMCC, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
16. Security shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the premises during business hours. The security guard should only be engaged in activities related to providing security for the facility, except on an incidental basis.
17. The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the MMCC in character size at least two inches in height.
18. The MMCC shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
19. The use of vending machines which allow access to medical marijuana except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this section and condition, a vending machine is any device which allows access to medical marijuana without a human intermediary.
20. The Owner/Permittee or operator shall maintain the MMCC, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed within 48 hours.
21. Medical marijuana shall not be consumed anywhere within the 0.16-acre site.
22. The Owner/Permittee or operator shall post anti-loitering signs near all entrances of the MMCC.
23. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Sign colors and typefaces are limited to two. Ground signs shall not be pole signs. A sign is required to be posted on the outside of the MMCC and shall only contain the name of the business.
24. Prior to utilization of this permit specific facade upgrades to the building must be made as shown on Sheet A-3.0 of the Exhibit "A".

ENGINEERING REQUIREMENTS:

25. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the closure of the existing driveway, on Rainier Avenue, with City standard curb, gutter and sidewalk, satisfactory to the City Engineer.

26. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the installation of City standard sidewalk, along the entire project frontage on Rainier Avenue, satisfactory to the City Engineer.

TRANSPORTATION REQUIREMENTS:

27. No fewer than 5 parking spaces including 1 accessible spaces (5 spaces proposed including 1 accessible spaces) shall be maintained on the property at all times in the approximate locations shown on Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.

POLICE DEPARTMENT RECOMMENDATION:

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

INFORMATION ONLY:

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

DENIED by the Hearing Officer of the City of San Diego on April 22, 2015 and Resolution No. HO-XXXX.

Conditional Use Permit No. 1333320 and Site Development Permit No. 1390091

PTS No. 379530

Date of Denial: April 22, 2015

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Edith Gutierrez
Development Project Manager

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

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

BRADLEY BROWN
Owner

By _____
Bradley Brown
Owner

LIVING GREEN COOPERATIVE, INC.
Permittee

By _____
Cary Weaver
President

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

HEARING OFFICER
RESOLUTION NO. HO-
CONDITIONAL USE PERMIT NO. 1333320 AND
SITE DEVELOPMENT PERMIT NO. 1390091
LIVING GREEN COOP MMCC - PROJECT NO. 379530

WHEREAS, BRADLEY BROWN, Owner and LIVING GREEN COOPERATIVE, INC, filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) in a 2,844 square-foot building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1333320 & 1390091), on portions of a 0.16-acre site;

WHEREAS, the project site located at 4417 Rainier Avenue is in the IL-3-1 Zone, the Airport Influence Area (Montgomery Field) and the Community Plan Implementation Overlay Zone Type A within the Navajo Community Plan area;

WHEREAS, the project site is legally described as Lots 4 & 5, Block 13, Map No. 1, February 16, 1892, Map No. 776;

WHEREAS, on April 22, 2015, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1333320 and Site Development Permit No. 1390091 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on December 11, 2014, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures); and the Environmental Determination was appealed to City Council, which heard and denied the appeal on March 3, 2015 pursuant to Resolution No. 309530;

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

That the Hearing Officer adopts the following written Findings, dated April 22, 2015.

FINDINGS:

Conditional Use Permit Approval – Section §126.0305

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

The proposed project is a request for a Conditional Use Permit and Site Development Permit to operate a MMCC in a 2,844 square-foot building. The 0.16-acre site is located IL-3-1 zone, the Airport Influence Area (Montgomery Field) and the Community Plan Implementation Overlay Zone Type A within the Navajo Community Plan area. The site is designated Light Industrial within the Navajo Community Plan. In addition to Light Industrial uses; retail, commercial and office uses are allowed in this designation. All of the surrounding parcels are in the IL-3-1 zone and the existing uses are consistent with the Light Industrial designation of the community plan. The Community Plan Implementation Overlay Zone

(CPIOZ) of the Navajo Community Plan requires that any building facade which faces a public street have a minimum of three offset building planes or three distinct building facade variations, or a combination of offset building planes and facade variations which meets the intent of this requirement. The existing building, constructed in 1976 per Building Permit No. K91109, does not have any offset building planes or facade variations. In order to meet the intent of this requirement, the project proposes specific facade upgrades to the building that includes decorative siding on the north elevation and painting portions of the building and wood siding with light colors in order to create an illusion of offsetting planes.

The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit. The proposed exterior upgrades as proposed meet the intent of the building facade variations required by the community plan with a Site Development Permit and therefore the proposed project will not adversely affect the applicable land use plan.

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

The proposed project is a request for a Conditional Use Permit and Site Development Permit to operate a MMCC in a 2,844 square-foot building located at 4417 Rainier Avenue. This proposed MMCC is located within 1,000 feet of Mission Valley Riparian, dedicated for park and recreation purposes per City Clerk Resolution number R-307902.

The San Diego Municipal Code (SDMC) allows the operation of MMCCs only in limited areas of the City, and only when it can be demonstrated that the proposed MMCC will not be detrimental to neighboring properties or the community. The Code provides criteria in the form of minimum separation requirements between certain uses in order to minimize detrimental effects on the public's health, safety and welfare. SDMC section 141.0614(a) regulates the locations of MMCCs throughout the City, and specifically prohibits MMCC's from operating within 1,000 feet of a park. SDMC, Section 113.0225 requires that the distance be measured between property lines in a horizontal straight line. In this case the proposed MMCC is proposed to be located within 1,000 feet of the dedicated parkland, and therefore is in direct violation of the SDMC.

The proposed project fails to meet the SDMC's minimum separation requirements prohibiting MMCCs from operating within 1,000 feet of a park, and is not consistent with the SDMC's purpose and intent to protect public safety. Therefore, the proposed project will be detrimental to the public's health, safety, and welfare.

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

The proposed project is a request for a Conditional Use Permit and Site Development Permit to operate an MMCC 2,844 square-foot building located at 4417 Rainier Avenue. This proposed MMCC is located within 1,000 feet of Mission Valley Riparian Dedicated Parkland (APN #458-300-17).

The Land Development Code regulates the operation of MMCCs City-wide, and provides a variety of limitations and restrictions in an effort to minimize detrimental effects to neighboring properties or incompatibility with the other permitted uses of the base zone. One of the limitations included in the Code includes minimum separation requirements between certain uses. SDMC section 141.0614(a)

specifically prohibits MMCC's from operating within 1,000 feet of a park. SDMC, Section 113.0225 requires that the distance be measured between property lines in a horizontal straight line. In this case the proposed MMCC is proposed to be located within 1,000 feet of the dedicated parkland, and therefore is in direct violation of the SDMC. Therefore, the proposed project does not comply with the regulations of the Land Development Code.

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

The proposed project is a request for a Conditional Use Permit and Site Development Permit to operate an MMCC 2,844 square-foot building located at 4417 Rainier Avenue. This proposed MMCC is located within 1,000 feet of Mission Valley Riparian, dedicated for park and recreation purposes per City Clerk Resolution number R-307902.

The San Diego Municipal Code (SDMC) allows the operation of MMCCs only in limited locations of the City, and only when it can be demonstrated that the location of the proposed MMCC will not be detrimental to neighboring properties or the community. The Code provides criteria in the form of minimum separation requirements between certain uses in order to minimize detrimental effects on public safety. SDMC section 141.0614(a) regulates the locations of MMCCs throughout the City, and specifically prohibits MMCCs from operating within 1,000 feet of a park. SDMC, Section 113.0225 requires that the distance be measured between property lines in a horizontal straight line. In this case the proposed MMCC is proposed to be located within 1,000 feet of the dedicated parkland, and therefore is in direct violation of the SDMC. Therefore, the proposed MMCC is not appropriate at this proposed location.

Site Development Permit - Section §126.0504

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

The proposed project is a request for a Conditional Use Permit and Site Development Permit to operate a MMCC in a 2,844 square-foot building. The 0.16-acre site is located IL-3-1 zone, the Airport Influence Area (Montgomery Field) and the Community Plan Implementation Overlay Zone within the Navajo Community Plan area. The site is designated Light Industrial within the Navajo Community Plan. In addition to Light Industrial uses retail, commercial and office uses are allowed in this designation. All of the surrounding parcels are in the IL-3-1 zone and the existing uses are consistent with the Light Industrial designation of the community plan. The Community Plan Implementation Overlay Zone (CPIOZ) of the Navajo Community Plan requires that any building facade which faces a public street have a minimum of three offset building planes or three distinct building facade variations, or a combination of offset building planes and façade variations which meet the intent of this requirement. The existing building, constructed in 1976 per Building Permit No. K91109, does not have any offset building planes or façade variations. In order to meet the intent of this requirement, the project proposes specific facade upgrades to the building that includes decorative siding on the north elevation and painting portions of the building and wood siding with light colors in order to create an illusion of offsetting planes.

The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit. The proposed exterior upgrades as proposed comply with the purpose and intent

of the building façade variations required by the community plan with a Site Development Permit and therefore the proposed project will not adversely affect the applicable land use plan.

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

The proposed project is a request for a Conditional Use Permit and Site Development Permit to operate a MMCC in a 2,844 square-foot building located at 4417 Rainier Avenue. This proposed MMCC is located within 1,000 feet of Mission Valley Riparian, dedicated for park and recreation purposes per City Clerk Resolution number R-307902.

The San Diego Municipal Code (SDMC) allows the operation of MMCCs only in limited areas of the City, and only when it can be demonstrated that the proposed MMCC will not be detrimental to neighboring properties or the community. The Code provides criteria in the form of minimum separation requirements between certain uses in order to minimize detrimental effects on the public's health, safety and welfare. SDMC section 141.0614(a) regulates the locations of MMCCs throughout the City, and specifically prohibits MMCC's from operating within 1,000 feet of a park. SDMC, Section 113.0225 requires that the distance be measured between property lines in a horizontal straight line. In this case the proposed MMCC is proposed to be located within 1,000 feet of the dedicated parkland, and therefore is in direct violation of the SDMC.

The proposed project fails to meet the SDMC's minimum separation requirements prohibiting MMCCs from operating within 1,000 feet of a park, and is not consistent with the SDMC's purpose and intent to protect public safety. Therefore, the proposed project will be detrimental to the public's health safety and welfare.

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

The proposed project is a request for a Conditional Use Permit and Site Development Permit to operate an MMCC 2,844 square-foot building located at 4417 Rainier Avenue. This proposed MMCC is located within 1,000 feet of Mission Valley Riparian, dedicated for park and recreation purposes per City Clerk Resolution number R-307902.

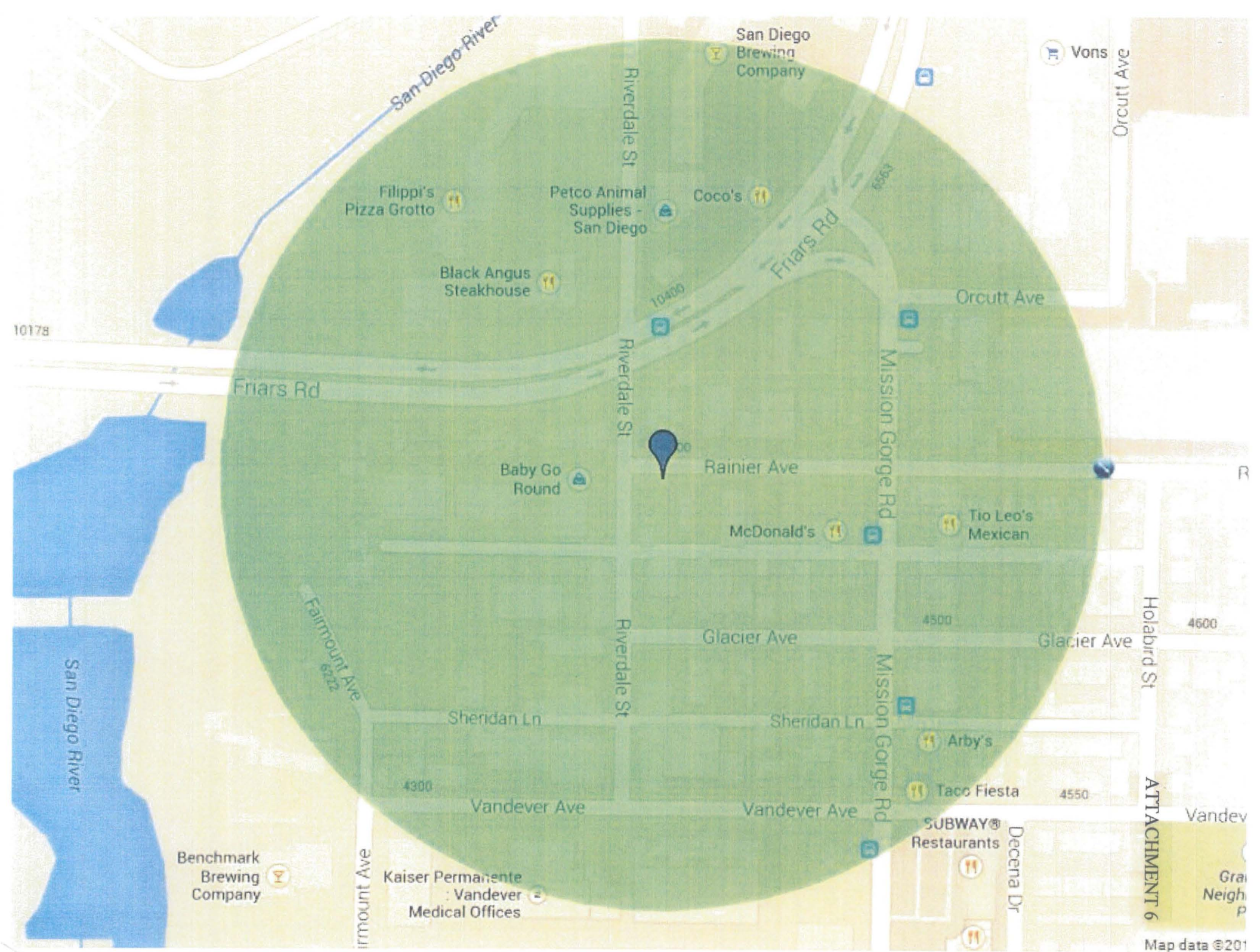
The Land Development Code regulates the operation of MMCCs City wide, and provides a variety of limitations and restrictions in an effort to minimize detrimental effects to neighboring properties or incompatibility with the other permitted uses of the base zone. One of the limitations included in the Code includes minimum separation requirements between certain uses. SDMC section 141.0614(a) specifically prohibits MMCC's from operating within 1,000 feet of a park. SDMC, Section 113.0225 requires that the distance be measured between property lines in a horizontal straight line. In this case the proposed MMCC is proposed to be located within 1,000 feet of the dedicated parkland, and therefore is in direct violation of the SDMC. Therefore, the proposed project does not comply with the regulations of the Land Development Code.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1333320 and Site Development Permit No. 1390091 are hereby DENIED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1333320 & 1390091, a copy of which is attached hereto and made a part hereof.

Edith Gutierrez
Development Project Manager
Development Services

Adopted on: April 22, 2015

Job Order No. 24004632



ATTACHMENT 6

Map data ©201

1000 Foot Radius Map

Project 4417 Rainier Ave
Address 4417 Rainier Ave
Date 7/9/2014
P/N 458-521-26-00

Use	Parcel Number	Street Number	Street	Suite	Business Name
Office	369-121-34-00	9201	Spectrum Center Blvd	110	Navajo Community Planners, Inc.
Garage	458-510-14-00	6215	Fairmount Ave		Roadside Towing
Office	458-300-04-00	6218	Fairmount Ave		Brickman
Industrial	458-300-04-00	6220	Fairmount Ave		Plavan Petroleum
Gas Station	458-510-03-00	6225	Fairmount Ave		Cosby Fuels
Industrial Lot	458-300-04-00	6232	Fairmount Ave		Maxim Crane Works
Commercial	458-720-14-00	10320	Friars Rd		Armstrong Garden Center
Restaurant	458-720-14-00	10330	Friars Rd	101	Filippi's Pizza Grotto
Restaurant	458-720-14-00	10330	Friars Rd	106	Camel's Breath Inn
Commercial	458-720-14-00	10330	Friars Rd	108	Sun & Spray Tanning
Commercial	458-720-14-00	10330	Friars Rd	109	Mathnasium of Mission Gorge
Commercial	458-720-14-00	10330	Friars Rd	112	Regency Travel
Restaurant	458-720-14-00	10330	Friars Rd	114	Sushi 4 U
Office	458-720-14-00	10330	Friars Rd	115	Edward Jones - Financial Advisor: Alex M Zubak
Commercial	458-720-14-00	10330	Friars Rd	116	Summer Nails & Spa
Commercial	458-720-14-00	10330	Friars Rd	117	Jasmine's Beauty Salon
Commercial	458-720-14-00	10330	Friars Rd	118	Pilates Room Studios
Commercial	458-720-14-00	10330	Friars Rd	119	Inspire Wellness & Medical Weight Loss
Restaurant	458-720-14-00	10330	Friars Rd	104-105	Jade Thai & Mandarin
Retail	458-720-13-00	10350	Friars Rd		CVS Pharmacy
Restaurant	458-720-15-00	10370	Friars Rd		Black Angus
Restaurant	458-720-11-00	10387	Friars Rd		Tropical Fruit Paradise
Retail	458-720-11-00	10389	Friars Rd		Euphoria Vapor Outlet
Office	458-720-11-00	10391	Friars Rd		Sierra Pacific Mortgage
Office	458-720-11-00	10393	Friars Rd		Mirage Cleaners
Commercial	458-720-11-00	10395	Friars Rd		Swimquip Pool & Spa
Office	458-720-11-00	10397	Friars Rd		Friars Road Pet Hospital
Restaurant	458-700-12-00	10406	Friars Rd	A	Starbuck's Coffee
Restaurant	458-700-12-00	10406	Friars Rd	B	Jamba Juice
Miscellaneous	458-342-23-00	10407	Friars Rd		Farmers Outlet
Retail	458-700-12-00	10410	Friars Rd		Petco Animal Supplies
Restaurant	458-700-13-00	10430	Friars Rd		Coco's Bakery Restaurant

Commercial	458-342-23-00	10433	Friars Rd	A	Shamrock Spa
Retail	458-342-23-00	10433	Friars Rd	B	Vapor Invasion
Commercial	458-342-23-00	10433	Friars Rd	D	Cindy's Nails
Commercial	458-342-23-00	10433	Friars Rd	E	AJ Pros Barber Shop
Office	458-342-23-00	10433	Friars Rd	H	Farmer's Insurance – Joseph Darcey
Office	458-342-23-00	10433	Friars Rd	I	Profesora Venus
Garage	458-342-11-00	10445	Friars Rd		Midas San Diego
Retail	458-700-10-00	10450	Friars Rd	A	Smoker's Outlet
Restaurant	458-700-10-00	10450	Friars Rd	B	Gaglione Bros. Famous Steaks & Subs
Commercial	458-700-10-00	10450	Friars Rd	C	Professionail
Restaurant	458-700-10-00	10450	Friars Rd	D	Saigon Star
Office	458-700-10-00	10450	Friars Rd	G	Brighton Dental
Commercial	458-700-10-00	10450	Friars Rd	H	iTan Sun Spray Spa
Commercial	458-700-10-00	10450	Friars Rd	I	Friars Massage & Footcare
Restaurant	458-700-10-00	10450	Friars Rd	J	Fiji Yogurt
Restaurant	458-700-10-00	10450	Friars Rd	L	San Diego Brewing Co.
Restaurant	458-700-10-00	10450	Friars Rd	R	Jump Tokyo
Commercial	458-700-10-00	10450	Friars Rd	S	Finest Hair Salon
Restaurant	458-700-10-00	10450	Friars Rd	T	Troy's Greek Restaurant
Restaurant	458-700-10-00	10450	Friars Rd	W	Pizza Hut
Restaurant	458-700-10-00	10450	Friars Rd	X	Ra-Ka-De-Ka Fresh Thai Kitchen
Restaurant	458-700-11-00	10460	Friars Rd	A	Rubio's Fresh Mexican Grill
Restaurant	458-700-11-00	10460	Friars Rd	B	Einstein Bros Bagels
Office	458-521-21-00	4410	Glacier Ave	104	Alpha Communication
Light Industrial	458-522-02-00	4417	Glacier Ave		Summit Mechanical Inc
Office	458-522-03-00	4421	Glacier Ave		Apex Contracting & Restoration
Office	458-521-22-00	4422	Glacier Ave	C	Welby Construction Management
Office	458-521-22-00	4422	Glacier Ave	D	Pro Motion Entertainment
Office	458-521-22-00	4422	Glacier Ave	E	C U Acceptance Group
Office	458-521-22-00	4422	Glacier Ave	F	Enter the Goddess Beauty Lounge
Commercial	458-521-23-00	4428	Glacier Ave		Pure Auto Sales
Office	458-522-04-00	4435	Glacier Ave		Apex Contracting & Restoration
Office	458-521-12-00	4440	Glacier Ave		Lighthouse Auto Sales
Garage	458-521-23-00	4444	Glacier Ave		Precision Towing
Office	458-521-11-00	4452	Glacier Ave		Libby Engineers, Inc.
Restaurant	461-220-44-00	6178	Mission Gorge Rd		Sombrero Mexican Food
Restaurant	458-532-12-00	6201	Mission Gorge Rd		Taco Fiesta
Restaurant	458-532-12-00	6225	Mission Gorge Rd		Arby's Roast Beef Restaurant
Commercial Lot	458-522-24-00	6240	Mission Gorge Rd		Good Guys Auto Sales
Office	458-532-22-00	6255	Mission Gorge Rd		County of San Diego
Commercial	458-531-21-00	6313	Mission Gorge Rd		California Bank & Trust

Garage	458-521-03-00	6322	Mission Gorge Rd		Mission Gorge Car Wash
Restaurant	458-521-29-00	6326	Mission Gorge Rd		McDonald's
Restaurant	458-531-02-00	6333	Mission Gorge Rd		Tio Leo's Mexican Restaurants
Warehouse	458-531-22-00	6347	Mission Gorge Rd		Wholesale Automotive Machine Inc.
Retail	458-343-28-00	6401	Mission Gorge Rd		7-Eleven
Commercial	458-343-28-00	6403	Mission Gorge Rd		Money Tree
Gas Station	458-342-20-00	6404	Mission Gorge Rd		USA Gasoline
Garage	458-343-01-00	6417	Mission Gorge Rd		Fast Brakes & Oil Change
Retail	458-342-10-00	6424	Mission Gorge Rd		Autozone
Restaurant	458-343-01-00	6435	Mission Gorge Rd		Grab & Go Subs
Commercial	458-700-04-00	6501	Mission Gorge Rd		Bank of America
Retail	458-700-07-00	6505	Mission Gorge Rd		Rite Aid Pharmacy
Restaurant	458-700-08-00	6566	Mission Gorge Rd		Carl's Jr. / Green Burrito
Office	458-342-24-00	4420	Rainier Ave	100	Our Feathered Friends
Office	458-342-24-00	4420	Rainier Ave	202	Comfort Keepers
Office	458-342-15-00	4440	Rainier Ave	103	Padre Janitorial Service
Light Industrial	458-342-15-00	4440	Rainier Ave	201	National Electric Works Inc.
Light Industrial	458-522-17-00	6267	Riverdale St		John's Automotive Care
Warehouse	458-510-32-00	6280	Riverdale St		Southern California Soil & Testing, Inc.
Commercial	458-510-18-00	6304	Riverdale St		Groundswell Brewing Company
Commercial	458-521-30-00	6305	Riverdale St		Natpro
Commercial	458-510-18-00	6306	Riverdale St		Know Knots Spa
Commercial Lot	458-510-18-00	6312	Riverdale St		TLC Medical Transport
Office	458-510-18-00	6314	Riverdale St		Riverdale Studios
Commercial	458-510-18-00	6316	Riverdale St		CeCe Photo
Office	458-510-18-00	6318	Riverdale St		LDM Inc.
Office	458-720-07-00	6320	Riverdale St		Studio 350 / Phaser Control
Warehouse	458-720-07-00	6330	Riverdale St		Four Seasons Candy
Warehouse	458-720-07-00	6332	Riverdale St		Outlier Crossfit
Office	458-521-17-00	6333	Riverdale St		Broyles Landscape Co
Warehouse	458-720-07-00	6334	Riverdale St		Outlier Athletics
Warehouse	458-720-07-00	6338	Riverdale St		American Ballet & Dance Academy
Warehouse	458-720-07-00	6346	Riverdale St		Proactive Fitness
Office	458-720-07-00	6348	Riverdale St		Murphy Power Ignition
Commercial	458-720-07-00	6354	Riverdale St		Speedpro Imaging
Commercial	458-720-07-00	6356	Riverdale St		Aikido of San Diego
Commercial	458-720-07-00	6360	Riverdale St		Baby-Go-Round Resale
Garage	458-510-04-00	4334	Sheridan Ln		Road One
Hospital	458-522-19-00	4402	Vandever Ave		Kaiser Permanente
Hospital	461-220-26-00	4405	Vandever Ave		Kaiser Permanente
Warehouse	458-522-18-00	4430	Vandever Ave		Schwerma's Professional Carpet Cleaning Co.

Commercial	458-522-18-00	4442	Vandever Ave		Tokyo Spa
Commercial	458-522-23-00	4456	Vandever Ave	5	Majestic Pharmacy
Office	458-522-23-00	4456	Vandever Ave	6	QualCare Home Health
Office	458-522-23-00	4456	Vandever Ave	9	Express Business Service, LLC
Office	458-522-23-00	4456	Vandever Ave	10	Kostyo Insurance Agency



THE CITY OF SAN DIEGO

(Revised) Date of Notice: December 11, 2014

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 24004883

PROJECT NAME/NUMBER: Living Green Coop MMCC/379530**COMMUNITY PLAN AREA:** Navajo Community Plan**COUNCIL DISTRICT:** 7**LOCATION:** The project is located at 4417 Rainier Avenue, San Diego, CA 92120

PROJECT DESCRIPTION: The proposed project is a request for a Conditional Use Permit (CUP) for a Medical Marijuana Consumer Cooperative (MMCC) and a Site Development Permit (SDP) to address development which does not conform to the Community Plan Implementation Overlay Zone (CPIOZ) Type A criteria in the Navajo Community Plan. The facility is proposing to operate in an existing 2,844-square foot building on a 0.16-acre site located at 4417 Rainier Avenue within the Navajo Community Plan Area; it is designated for Light Industry use. The project is zoned IL-3-1 and is subject to the Airport Influence Area for Montgomery Field, the Part 77 Noticing Area, the Airport Land Use Compatibility Overlay Zone, and the Community Plan Implementation Overlay Zone (Type A).

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Designated Staff**ENVIRONMENTAL DETERMINATION:** CEQA Exemption 15303 (New Construction or Conversion of Small Structures)**ENTITY MAKING ENVIRONMENTAL DETERMINATION:** City of San Diego

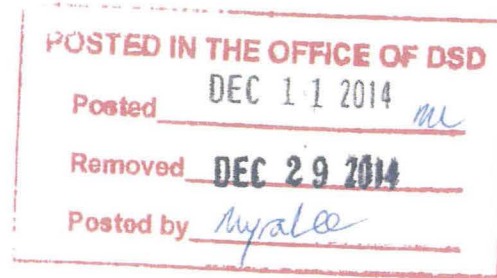
STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment. The project meets the criteria set forth in CEQA Section 15303 which allows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

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

On November 26, 2014, the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). **This notice was originally posted on November 26, 2014; it is being reposted to correct an address error.** This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (December 26, 2014). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

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



<div>ABBREVIATIONS</div> <div>AC ASPHALT CONCRETE ACT ACUSTICAL CEILING TILE ALUM ALUMINUM ALT ALTERNATE AP ACCESS PANEL ARCH ARCHITECT BD BOARD BLDG BUILDING BLK'G BLOCKING BM BEAM BOT BOTTOM CAB CABINET CAR CARPET CEM CEMENT CLG CEILING CLR CLEAR CTR CERAMIC TILE COL COUNTER COLM COLUMN CONSTR CONSTRUCTION CONT CONTINUOUS CORR CORRIDOR DBL DOUBLE DEPT DEPARTMENT DF DRINKING FOUNTAIN DIA/~ DIAMETER DIM DIMENSION DISP DISPENSER DN DOWN DR DRAIN DET DETAIL DWG DRAWING DWR DRAWER EA EACH EJ EXPANSION JOINT ELECT ELECTRICAL ENCL ENCLOSED EO EQUAL EW EACH WAY EWC ELECT WATER COOLER EXO EXISTING ETR EXISTING TO REMAIN EXT EXTERIOR FD FLOOR DRAIN FEC FIRE EXTINGUISHER CABINET FHC FIRE HOSE CABINET FIN FINISH FIXT FIXTURE FLR FLOOR FT FEET FURR FURRING GA GAUGE GALV GALVANIZED GB GRAB BAR GL GLASS GSM GALVINIZED SHT. METAL GYP GYPSUM HDR HEADER HDWD HARDWOOD HDWR HARDWARE HGT HEIGHT HORIZ HORIZONTAL ID INSIDE DIAMETER INSUL INSULATION INT INTERIOR JAN JANITOR LAM LAMINATE LLH LONG LEG HORIZONTAL LLV LONG LEG VERTICAL LGT WGT LIGHT WEIGHT MAX MAXIMUM MECH MECHANICAL MIN MINIMUM MISC MISCELLANEOUS NIC NOT IN CONTRACT NO/# NUMBER NTS NOT TO SCALE OC ON CENTER OD OUTSIDE DIAMETER OFCT OWNER FURNISHED/CONTRACTOR INSTALLED OPNG OPENING OPP OPPOSITE PL PLATE/PROPERTY LINE PL LAM PLASTIC LAMINATE PLWD PLYWOOD POL POLISHED PR PAIR PT PRESSURE TREATED PNT PAINTED QTY QUANTITY R RADIUS RD ROOF DRAIN REF REFERENCE REINF REINFORCING RM ROOM RO ROUGH OPENING RUB RUBBER SC SOLID CORE SCHED SCHEDULE SHR SHOWER SHT SHEET SIM SIMILAR SPEC SPECIFICATIONS SQ SQUARE STL STAINLESS STEEL STD STANDARD STOR STORAGE STL STEEL STRUCT STRUCTURE SUSP SUSPENDED TELE TELEPHONE TEMP TEMPORARY THK THICK TYP TYPICAL UON UNLESS OTHERWISE NOTED VCT VINYL COMPOSITION TILE VERT VERTICAL VEST VESTIBULE VIF VERIFY IN FIELD W/ WITH WD WOOD W/O WITHOUT WGT WEIGHT</div>		<div>GENERAL NOTES</div> <div>1. NO HAZARDOUS MATERIALS WILL BE STORED AND/OR USED WITHIN THE BUILDING. 2. NO EASEMENTS EXIST ON THE SUBJECT PROPERTY. 3. PROVIDE BUILDING ADDRESS NUMBERS, VISIBLE AND LEGIBLE FROM THE STREET OR ROAD FRONTING THE PROPERTY PER PHPS POLICY P-00-6 (UFC 901.4.4) 4. NO BUS STOPS EXIST ON OR ADJACENT TO THE SUBJECT PROPERTY. NEARBY BUS STOPS ARE SHOWN ON THE VICINITY MAP. 5. FUTURE USES FOR THE SITE MAY INCLUDE ANY USE PERMITTED IN THE IS-1-1 ZONE, WHETHER BY RIGHT OR BY CONDITIONAL USE PERMIT. 6. ALL SIGNAGE WILL BE LIMITED TO TWO COLORS AND TYPEFACES. POLE SIGNS ARE PROHIBITED. THE POLE SIGN ON SITE IS EXISTING. 7. CONSULTATIONS BY MEDICAL PROFESSIONALS SHALL NOT BE A PERMITTED ACCESSORY USE AT THE MEDICAL MARIJUANA CONSUMER COOPERATIVE. 8. LIGHTING SHALL BE PROVIDED TO ILLUMINATE THE INTERIOR OF THE MEDICAL MARIJUANA CONSUMER COOPERATIVE, FACADE, AND THE IMMEDIATE SURROUNDING AREA, INCLUDING ANY ACCESSORY USES, PARKING LOTS, AND ADJOINING SIDEWALKS. LIGHTING SHALL BE HOODED OR ORIENTED SO AS TO DELECT LIGHT AWAY FROM ADJACENT PROPERTIES. 9. SECURITY SHALL BE PROVIDED AT THE MMCC WHICH SHALL INCLUDE OPERABLE CAMERAS, ALARMS, AND A SECURITY GUARD. THE SECURITY GUARD SHALL BE LICENSED BY THE STATE OF CALIFORNIA AND BE PRESENT ON THE PREMISES DURING BUSINESS HOURS. THE SECURITY GUARD SHOULD ONLY BE ENGAGED IN ACTIVITIES RELATED TO PROVIDING SECURITY FOR THE FACILITY, EXCEPT ON AN INCIDENTAL BASIS. 10. ALL SIGNS ASSOCIATED WITH THIS DEVELOPMENT SHALL BE CONSISTENT WITH SIGN CRITERIA ESTABLISHED BY CITY-WIDE SIGN REGULATIONS AND SHALL FURTHER BE RESTRICTED BY THIS PERMIT. SIGN COLORS AND TYPEFACES ARE LIMITED TO TWO. ANY GROUND SIGNS SHALL NOT BE POLE SIGNS. A SIGN IS REQUIRED TO BE POSTED ON THE OUTSIDE OF THE MMCC AND SHALL ONLY CONTAIN THE NAME OF THE BUSINESS. 11. 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UPON EXPIRATION OF THIS PERMIT, THE FACILITIES AND IMPROVEMENTS DESCRIBED HEREIN SHALL BE REMOVED FROM THIS SITE AND THE PROPERTY SHALL BE RESTORED TO ITS ORIGINAL CONDITION PRECEDING APPROVAL OF THIS PERMIT. 16. 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 OWNER OR OPERATOR SHALL ELIMINATE GRAFFITI WITHIN 48 HOURS OF APPLICATION. 18. IN ADDITION TO THE CONDITIONAL USE PERMIT, A SITE DEVELOPMENT PERMIT WILL BE REQUIRED.</div>	<div>SCOPE OF WORK</div> <div>CONDITIONAL USE PERMIT & SITE DEVELOPMENT PERMIT FOR A MEDICAL MARIJUANA CONSUMER COOPERATIVE IN AN EXISTING TWO-STORY, 2,844 S.F., BUILDING IN ACCORDANCE WITH INFORMATION BULLETIN 170. NO CONSTRUCTION WORK PROPOSED.</div>	<div>PROJECT DATA</div> <div>PROJECT LOCATION: 4417 RAINIER AVENUE SAN DIEGO, CA 92120 JURISDICTION: CITY OF SAN DIEGO LEGAL DESCRIPTION: LOTS 4 AND 5, BLOCK 13, MAP 778 APN: 456-521-2600 SITE AREA: 7,000 S.F., 16 ACRES LOT SIZE AND DIMENSIONS ARE EXISTING NON-CONFORMING ZONING: IL3-1 OVERLAY ZONES: AIRPORT INFLUENCE AREA (MONTGOMERY FIELD), COMMUNITY PLAN IMPLEMENTATION OVERLAY ZONE TYPE A, NAVAJO COMMUNITY PLAN AREA GEOLOGIC HAZARD ZONE: 53 TYPE OF CONSTRUCTION: V-B PRIOR OCCUPANCY: B. RETAIL BUSINESS USE PROPOSED OCCUPANCY: B. MMCC USE PER INFORMATION BULLETIN 170 OCCUPANT LOAD: 4 BUILDING AREA: 2,844 S.F. EXISTING AREA OF USE: 2,844 S.F. PROPOSED MMCC USE NUMBER OF STORIES: 2 STORY BUILDING HEIGHT: TWO STORY, NO PROPOSED ALTERATION AREA OF WORK: 50 SQUARE FEET GOVERNING CODES: 2013 CBC, CEC, CFC, CMC, CPC, 2008 EES, 2010 TITLE 24 CBC, 2013 CAL GREEN BUILDING STANDARDS DATE OF CONSTRUCTION: 1878 NO EXTERIOR MODIFICATIONS PROPOSED PARKING: PER SDMC SECTION 142.0540(a) & TABLE 142.05H 1 PARKING STALL FOR EVERY 10' OF ALLEY FRONTAGE MINUS ONE STALL IS REQUIRED 50' ALLEY FRONTAGE = (5 STALLS) • 1 = 4 REQUIRED PARKING STALLS # OF STALLS PROVIDED: 4 STANDARD STALLS, 1 ACCESSIBLE STALL</div>	<div>PROJECT DIRECTORY</div> <div>ARCHITECT: POINT OF DEPARTURE 3712 30TH STREET SAN DIEGO, CA 92104 619.294.2900 OWNER: LIVING GREEN WELLNESS COOPERATIVE</div>	<div>INDEX TO DRAWINGS</div> <table><thead><tr><th>SHT. #</th><th>TITLE SHEET</th></tr></thead><tbody><tr><td>T1.0</td><td>TITLE SHEET</td></tr><tr><td>A1.0</td><td>SITE PLAN</td></tr><tr><td>A2.1</td><td>FLOOR PLAN</td></tr><tr><td>A3.0</td><td>EXTERIOR ELEVATIONS</td></tr><tr><td>A3.1</td><td>ELEVATION PHOTOS</td></tr></tbody></table>	SHT. #	TITLE SHEET	T1.0	TITLE SHEET	A1.0	SITE PLAN	A2.1	FLOOR PLAN	A3.0	EXTERIOR ELEVATIONS	A3.1	ELEVATION PHOTOS	<div>VICINITY MAP</div> <div>4417 RAINIER AVE SAN DIEGO, CA 92120</div>	<div>SYMBOL LEGEND</div> <div><div><div><div>(A100)</div><div>DOOR TYPE REFER TO THE DOOR SCHEDULE SHEET</div></div><div><div><div>XX</div><div>XX</div></div><div>DETAIL REFERENCE UPPER PORTION INDICATES DETAIL NUMBER</div><div>SHEET WHERE DETAIL IS DRAWN</div></div><div><div>X</div><div>WALL TYPE SYMBOL</div></div></div><div><div><div>B</div><div>C</div><div>D</div></div><div>INTERIOR ELEVATION REFERENCE ELEVATED WALLS ARE SHOWN SHADED UPPER PORTION INDICATES DETAIL NUMBER SHEET WHERE INTERIOR ELEVATION IS DRAWN</div><div><div>XX</div><div>XX</div></div><div>WALL SECTION REFERENCE UPPER PORTION INDICATES DETAIL NUMBER SHEET WHERE WALL SECTION IS DRAWN</div></div></div>	<div>REVISION 5: 03-14-15 REVISION 4: 11-25-14 REVISION 3: 11-06-14 REVISION 2: 9-24-14 REVISION 1: 7-31-14 ORIGINAL DRAWING PREPARATION DATE: 7-9-14 SHEET #: 1 OF: 5 SHEET TITLE: TITLE SHEET 4417 RAINIER AVENUE, SAN DIEGO, CA POINT OF DEPARTURE ARCHITECTURE</div>	<div>Point of Departure ARCHITECTURE 3712 30th Street San Diego, CA 92104 www.pod-architecture.com</div> <div>4417 RAINIER AVE San Diego, CA 92120</div> <div>LIVING GREEN WELLNESS COOPERATIVE CONDITIONAL USE PERMIT TITLE SHEET</div> <div>LICENCED ARCHITECT LAWRENCE F. SMITH NO. 10000 RENEW 10-31-14 STATE OF CALIFORNIA</div> <div>SUBMITTAL</div> <div>T-1.0</div>
SHT. #	TITLE SHEET																					
T1.0	TITLE SHEET																					
A1.0	SITE PLAN																					
A2.1	FLOOR PLAN																					
A3.0	EXTERIOR ELEVATIONS																					
A3.1	ELEVATION PHOTOS																					

KEY NOTES

- EXISTING 20" CURB CUT (PER SDMC TABLE 142.05N) TO BE REMOVED
- ACCESSIBLE PATH OF TRAVEL
- EXISTING SIDEWALK
- EXISTING STREET FRONTAGE WITHOUT SIDEWALK
- EXIST. CURB AND GUTTER
- EXISTING CONCRETE RAMP TO BE WIDENED
- EXISTING FENCE
- DEMO AND REMOVE EXISTING PAVING AC PAVING AND CONCRETE PAVING. RE-PAVE AREA FOR NEW LEVEL ACCESSIBLE PARKING STALL.
- INSTALL NEW DROUGHT RESISTANT XERISCAPING W/ DECOMPOSED GROUND COVER
- NEW CITY STANDARD SIDEWALK. SLOPE SHALL BE MINIMUM OF 5 PERCENT IN THE DIRECTION OF TRAVEL WITH A MAX CROSS SLOPE OF 2 PERCENT
- NEW ACCESSIBLE PARKING STALL (PERMITTED TO ENCR OACH 5 FEET INTO STANDARD FRONT YARD SETBACK PER SDMC 131.0643 b)
- EXISTING AC PAVING, NOT IN SCOPE
- EXISTING ASPAVED DRIVEWAY
- NEW 38" HANDRAIL
- NEW CMU RETAINING WALL AND CONCRETE DRIVEWAY
- NEW CURB AND GUTTER PER SD REGIONAL STANDARD G-2
- TURNAROUND AREA PER SDMC 142.05.60(d)3

GENERAL NOTES

- NO HAZARDOUS MATERIALS WILL BE STORED AND/OR USED WITHIN THE BUILDING.
- NO EASEMENTS EXIST ON THE SUBJECT PROPERTY.
- PROVIDE BUILDING ADDRESS NUMBERS, VISIBLE AND LEGIBLE FROM THE STREET OR ROAD FRONTING THE PROPERTY PER FHPS POLICY P-00-8 (UFG 901.4.4)
- NO BUS STOPS EXIST ON OR ADJACENT TO THE SUBJECT PROPERTY. NEARBY BUS STOPS ARE SHOWN ON THE VICINITY MAP.
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- THIS PROJECT DOES NOT PROPOSE NEW IMPERVIOUS AREA. NO BMPs REQUIRED.
- IN ADDITION TO THE CONDITIONAL USE PERMIT, A SITE DEVELOPMENT PERMIT WILL BE REQUIRED.

PARKING CALCULATIONS

PER SDMC SECTION 142.0540(a) & TABLE 142.05H
1 PARKING STALL FOR EVERY 10' OF ALLEY FRONTAGE MINUS ONE STALL IS REQUIRED

$\frac{54' \text{ ALLEY FRONTAGE}}{10'} = (5 \text{ STALLS}) - 1 = 4 \text{ REQUIRED PARKING STALLS}$

OF STALLS PROVIDED: 4 STANDARD STALLS, 1 ACCESSIBLE STALL

REVISION 5:	03-14-15
REVISION 4:	11-25-14
REVISION 3:	11-06-14
REVISION 2:	9-24-14
REVISION 1:	7-31-14

ORIGINAL DRAWING PREPARATION DATE: 7-9-14

SHEET #: 2 OF: 5

SHEET TITLE: SITE PLAN

4417 RAINIER AVENUE, SAN DIEGO, CA
POINT OF DEPARTURE ARCHITECTURE

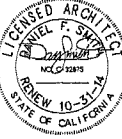
Point of Departure
ARCHITECTURE
3712 30th Street
San Diego, CA 92104
www.pod-architecture.com



4417 RAINIER AVE
San Diego, CA 92120

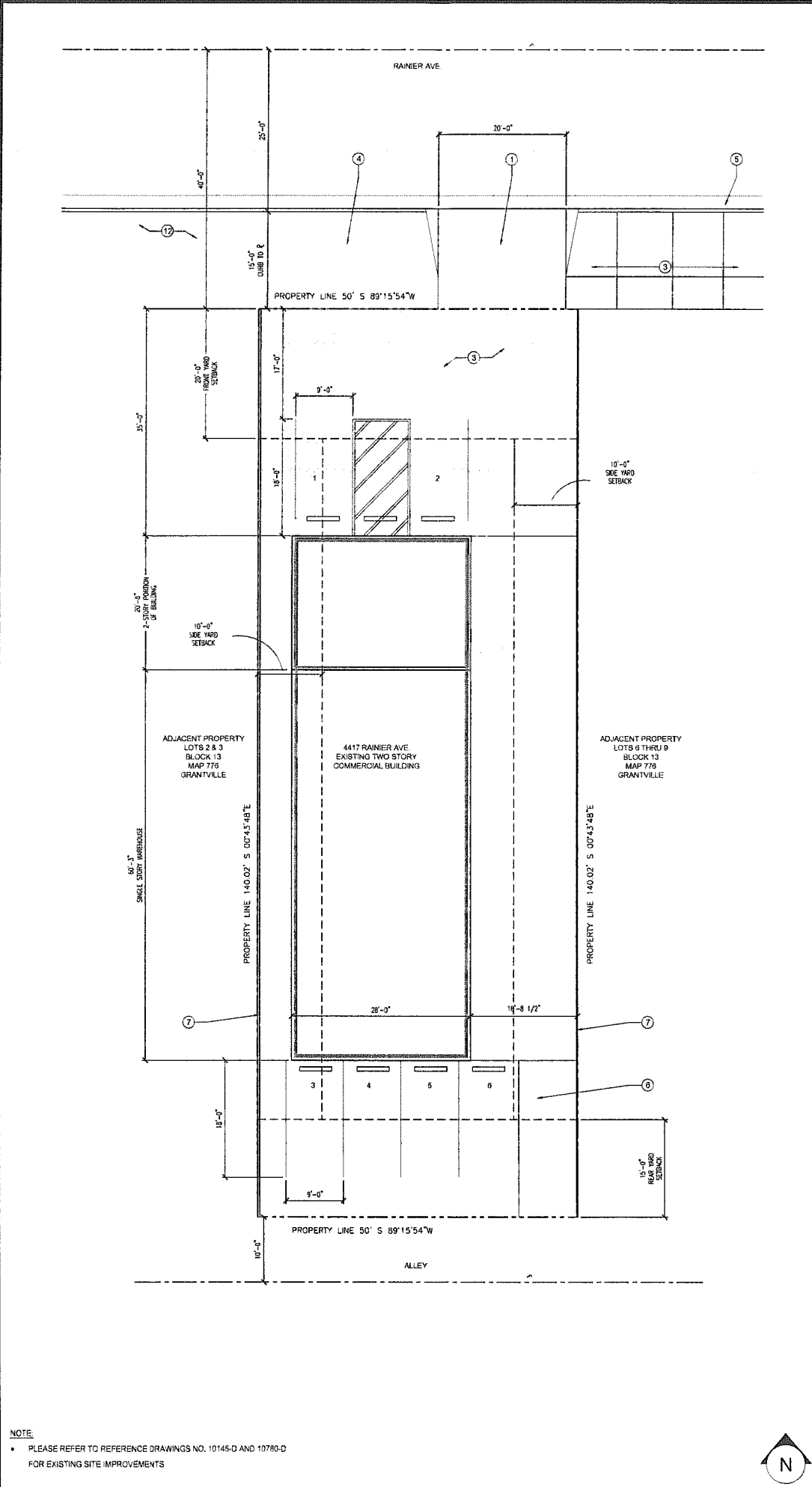
LIVING GREEN WELLNESS COOPERATIVE
CONDITIONAL USE PERMIT

SITE PLAN



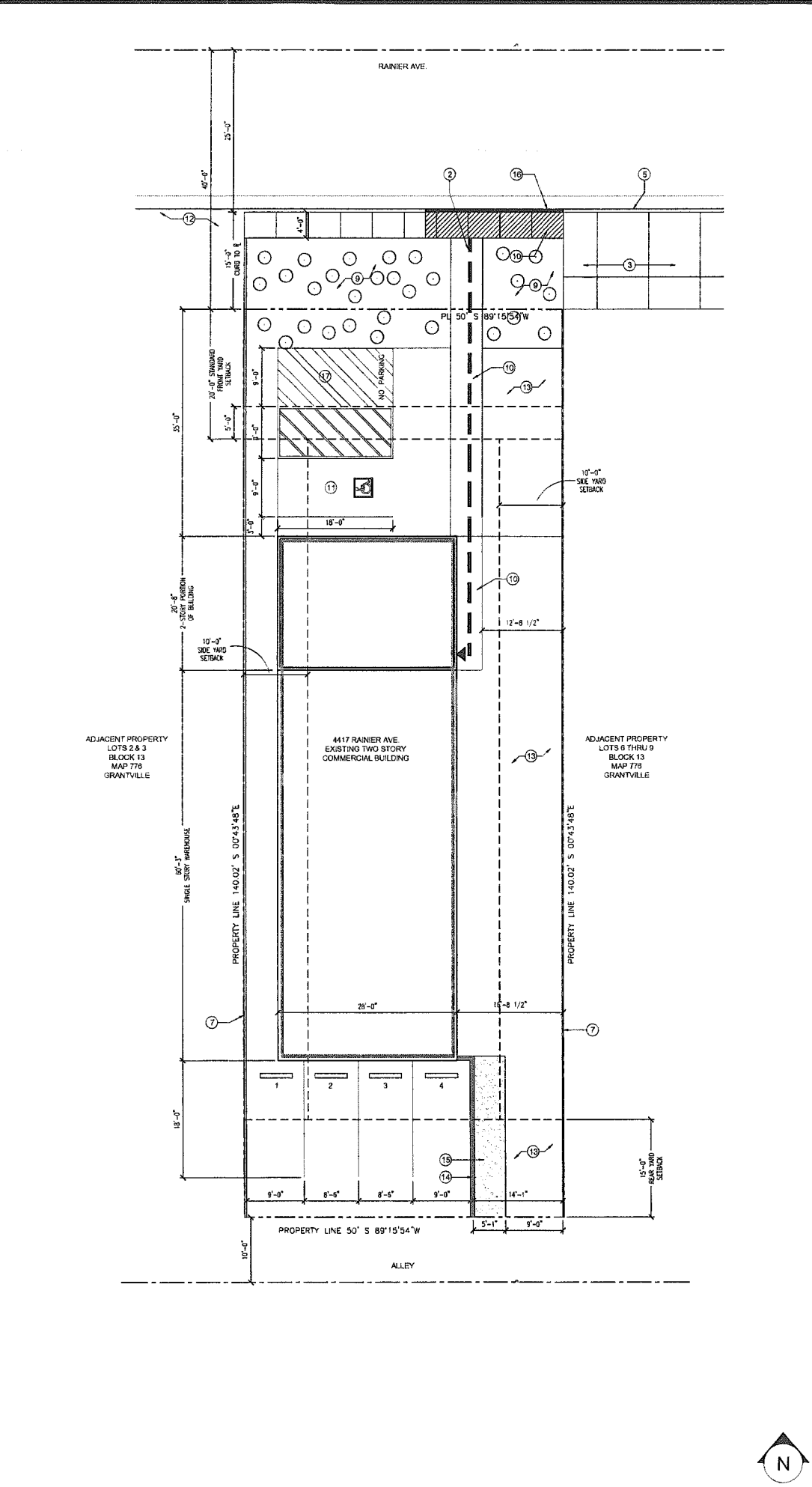
SUBMITTAL

A-1.0



NOTE:
• PLEASE REFER TO REFERENCE DRAWINGS NO. 10145-D AND 10780-D FOR EXISTING SITE IMPROVEMENTS

EXISTING SITE PLAN - SCALE: 1"=10'-0"



PROPOSED SITE PLAN - SCALE: 1"=10'-0"

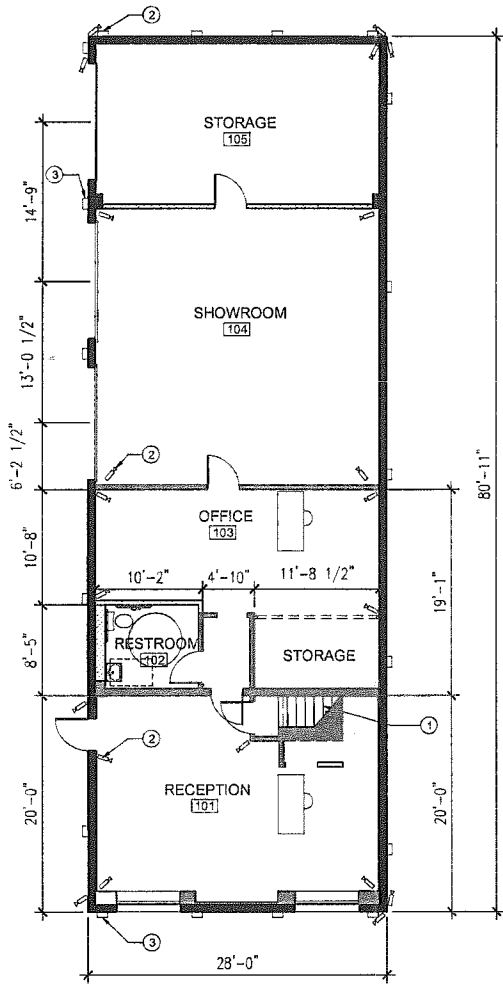
LIVING GREEN WELLNESS COOPERATIVE
CONDITIONAL USE PERMIT

FLOOR PLAN

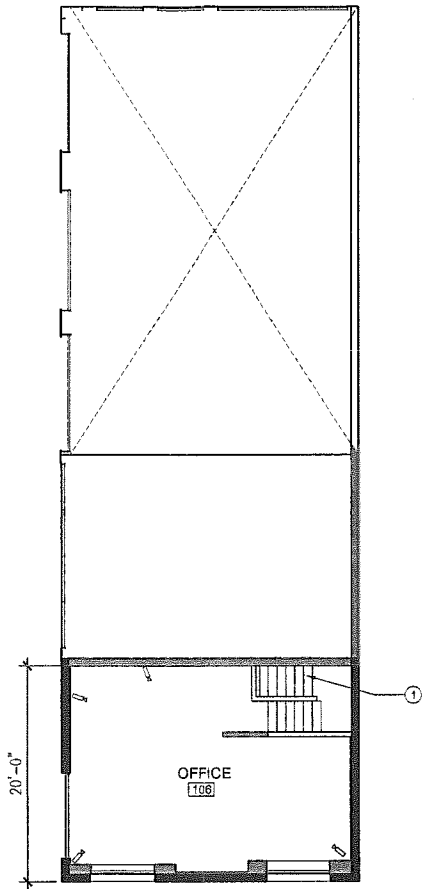


SUBMITTAL

A-2.1



1 1ST FLOOR PLAN scale: 1/8" = 1'-0"



2 2ND FLOOR PLAN scale: 1/8" = 1'-0"

KEY NOTES

- 1 EXISTING STAIR
- 2 SECURITY CAMERA - TYP
- 3 OUTDOOR WALLPACK LIGHT FIXTURE - TYP

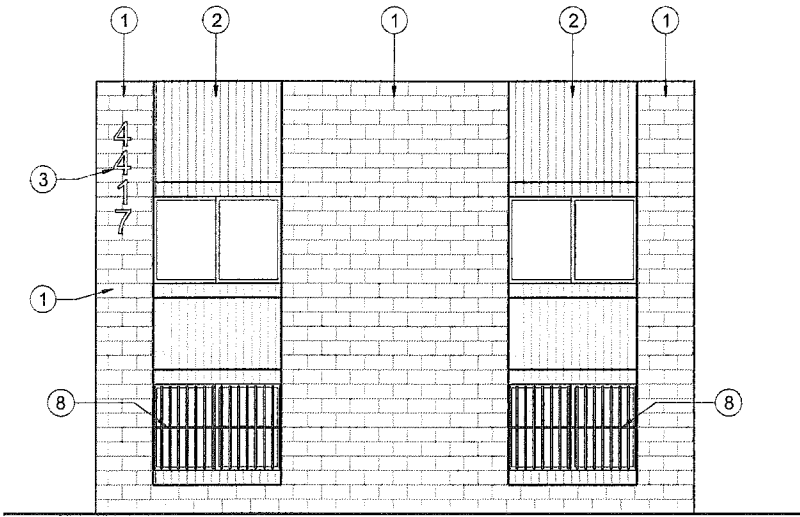
WALL LEGEND

- EXISTING EXTERIOR WALL
- EXISTING INTERIOR WALL
- NEW INTERIOR WALL

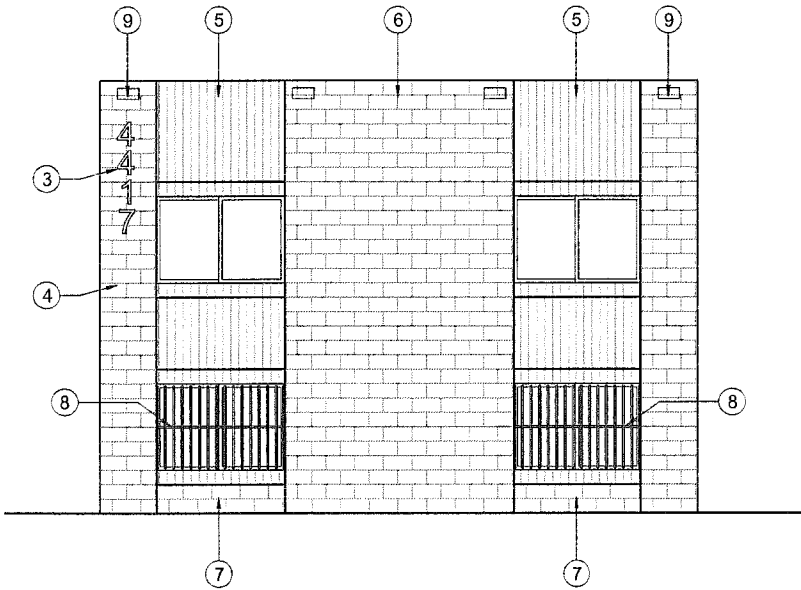
REVISION 5:	03-14-15
REVISION 4:	11-25-14
REVISION 3:	11-06-14
REVISION 2:	9-24-14
REVISION 1:	7-31-14

ORIGINAL
DRAWING
PREPARATION
DATE: 7-9-14
SHEET #: 3 OF: 5
SHEET TITLE: FLOOR PLAN

4417 RAINIER AVENUE, SAN DIEGO, CA
POINT OF DEPARTURE ARCHITECTURE



1 EXISTING NORTH ELEVATION SCALE: 1/4"=1'-0"



1 PROPOSED NORTH ELEVATION SCALE: 1/4"=1'-0"

KEY NOTES

- 1 EXISTING CMU WALL, CURRENTLY PAINTED TAN
- 2 EXISTING WOOD SIDING, CURRENTLY PAINTED BLACK
- 3 EXISTING ADDRESS SIGNAGE, PAINTED GREEN
- 4 EXISTING CMU WALL, TO RETAIN CURRENT PAINT COLOR
- 5 EXISTING WOOD SIDING, TO BE PAINTED W/ PT-1
- 6 EXISTING CMU WALL, TO BE PAINTED W/ PT-2
- 7 EXISTING CMU WALL, TO BE PAINTED W/ PT-1
- 8 EXISTING WINDOW BARS (BLACK)
- 9 NEW WALLPACK FIXTURE

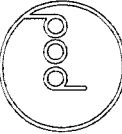
FINISH SCHEDULE

WALL FINISH

PT-1 PAINT
MFGR: FRAZEE ENVIROCOAT
COLOR: CL 1987N
FINISH: FLAT

PT-2 PAINT
MFGR: FRAZEE ENVIROCOAT
COLOR: 0220001 WHITE
FINISH: FLAT

Point of Departure
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3712 30th Street
San Diego, CA 92104
www.pod-architecture.com



4417 RAINIER AVE
San Diego, CA 92120

LIVING GREEN WELLNESS COOPERATIVE
CONDITIONAL USE PERMIT

EXTERIOR ELEVATIONS



SUBMITTAL

REVISION 5:	03-14-15
REVISION 4:	11-25-14
REVISION 3:	11-06-14
REVISION 2:	9-24-14
REVISION 1:	7-31-14

ORIGINAL
DRAWING
PREPARATION
DATE: 7-9-14

SHEET #: 4 OF 5
SHEET TITLE: EXTERIOR ELEVATIONS

4417 RAINIER AVENUE, SAN DIEGO, CA
POINT OF DEPARTURE ARCHITECTURE

A-3.0

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3712 30th Street
San Diego, CA 92104
www.pod-architecture.com



4417 RAINIER AVE
San Diego, CA 92120

LIVING GREEN WELLNESS COOPERATIVE
CONDITIONAL USE PERMIT

BUILDING PHOTOS



SUBMITTAL

A-3.1



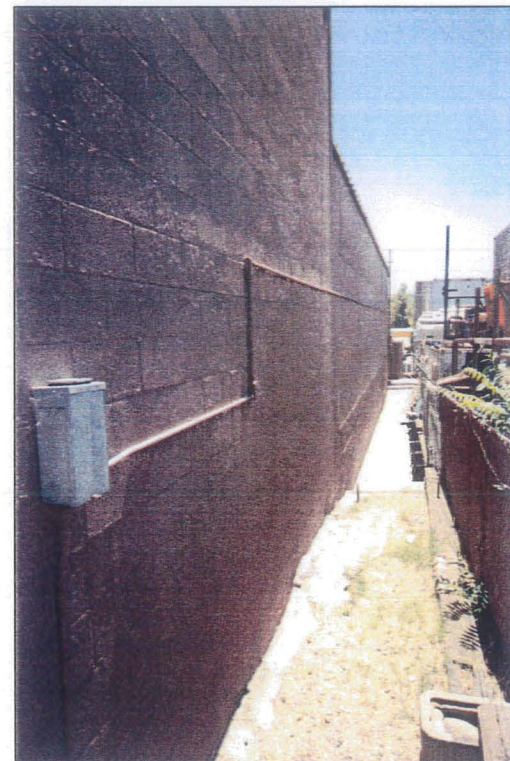
1 NORTH SIDE



2 EAST SIDE



3 SOUTHEAST CORNER



4 WEST SIDE

REVISION 5: 03-14-15
REVISION 4: 11-25-14
REVISION 3: 11-06-14
REVISION 2: 9-24-14
REVISION 1: 7-31-14
ORIGINAL
DRAWING
PREPARATION
DATE: 7-9-14
SHEET #: 5 OF 5
SHEET TITLE: BUILDING PHOTOS

4417 RAINIER AVENUE, SAN DIEGO, CA
POINT OF DEPARTURE ARCHITECTURE



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

Community Planning Committee Distribution Form Part 2

Project Name: Living Green Coop MMCC		Project Number: 379530	Distribution Date: 09/30/2014
Project Scope/Location: NAVAJO Conditional Use Permit (Process 3) for a Medical Marijuana Consumer Cooperative (MMCC) to operate in an existing 2,844 square foot, two story building located at 4417 Rainier Avenue. The 0.16 acre site is located in the IL-3-1 zone and Airport Influence Area (Montgomery Field) within the Navajo Community Plan area. Council District 7. Notice Card=1.			
Applicant Name:		Applicant Phone Number:	
Project Manager: Edith Gutierrez	Phone Number: (619) 446-5147	Fax Number: (619) 446-5245	E-mail Address: EGutierrez@sandiego.gov
Committee Recommendations (To be completed for Initial Review):			
<input type="checkbox"/> Vote to Approve	Members Yes	Members No	Members Abstain
<input 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 checked="" type="checkbox"/> Vote to Deny	16	0	0
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)			<input type="checkbox"/> Continued
CONDITIONS:			
NAME: MATTHEW J. ADAMS		TITLE: CHAIR	
SIGNATURE: <i>[Signature]</i>		DATE: 12-16-14	
Attach Additional Pages If Necessary.		Please return to: Project Management Division City of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101	
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.			



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

Ownership Disclosure Statement

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

Project Title

Project No. For City Use Only

MMCC, CUP, Living Green Cooperative

379530

Project Address:

4417 Rainier Avenue, San Diego CA 92120

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

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ Yes ☒ No

Name of Individual (type or print):

Brad Brown

☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

5015 Santa Cruz, #208

City/State/Zip:

San Diego, CA 92107

Phone No:

(619)261-6979

Fax No:

Signature:

Brad Brown

Date:

7/4/14

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

Living Green Cooperative, Inc., Cary Weaver-President

☐ Owner ☒ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

4417 Rainier Avenue

City/State/Zip:

San Diego, CA 92120

Phone No:

(619)677-3163

Fax No:

Signature:

Cary Weaver

Date:

07/02/2014

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

11/27

RESOLUTION NUMBER R- 307902DATE OF FINAL PASSAGE NOV 30 2012

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE DECLARATION OF THE
DEDICATION OF LAND THEREBY DEDICATING _____
ACRES OF REAL PROPERTY OWNED IN FEE BY THE CITY
FOR PARK AND RECREATION PURPOSES PURSUANT TO
SENATE BILL NO. 1169.

WHEREAS, San Diego Charter section 55 (Charter) provides that all real property owned in fee by the City may be dedicated in perpetuity by ordinance of the City Council or by statute of the State Legislature for park and recreation purposes; and

WHEREAS, Senate Bill No. 1169 (SB 1169) approved by Governor Jerry Brown on September 7, 2012, amends California Fish and Game Code section 2831 to provide that lands designated as open space lands in a document entitled "Declaration of the Dedication of Land" (Declaration) and approved by resolution of the City Council as of January 1, 2013, are dedicated for park and recreation purposes under the Charter; and

WHEREAS, SB 1169 further provides that such approval of the Declaration is to be by resolution of the City Council in the same manner in which the City Council processes approval of dedicated open space, reserving to the City Council the authority to grant easements for utility purposes in, under, and across dedicated property, if those easements and facilities to be located thereon do not significantly interfere with the park and recreational use of the property; and

WHEREAS, the Charter provides that all property dedicated for park and recreational use shall not be used for any but park and recreation purposes without such changed use or purpose having been first authorized or later ratified by a vote of two-thirds of the qualified electors of the City voting at an election for such purpose; and

WHEREAS, Council Policy 700-17, Policy on Dedication and Designation of Park Lands, sets forth conditions that property owned in fee by the City must meet to be considered for dedication pursuant to the Charter; and

WHEREAS, in accordance with the Charter and Council Policy 700-17, 11,432 acres of real property owned in fee by the City have been reviewed by staff to determine which properties meet the conditions for dedication; and

WHEREAS, it is not the intent of the City to dedicate any real property that is encumbered by an easement for solely private purposes or any real property that is not owned in fee by the City; NOW, THEREFORE,

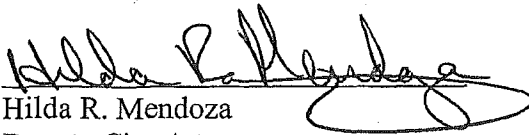
BE IT RESOLVED, by the Council of the City of San Diego, that the Declaration of the Dedication of Land, including parcels with assessor parcel numbers 348-010-65 and 348-840-07 in site codes L310RU, L312RU, L313RU, L314RU, and L315RU, on file in the Office of the City Clerk as Document No. RR- 307902, is approved, thereby dedicating 6567.27 acres of real property owned in fee by the City for park and recreation purposes pursuant to SB 1169; however, the approval of the Declaration does not extend to any real property that is encumbered by an easement for solely private purposes or any real property that is not owned in fee by the City, as determined by a court of competent jurisdiction or the City Council by resolution or ordinance.

BE IT FURTHER RESOLVED, that the Council of the City of San Diego reserves the authority to grant easements for utility purposes in, under and across the dedicated property so

long as such easements and facilities to be located thereon do not significantly interfere with the park and recreational use of the property.

APPROVED: JAN I. GOLDSMITH, City Attorney

By


Hilda R. Mendoza
Deputy City Attorney

HRM:als

11/28/12

11/28/12 COR.COPY

11/30/12 REV. COPY


Or.Dept: Park & Rec

Doc. No.: 458904_7

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 27 2012.

ELIZABETH S. MALAND
City Clerk

By


Deputy City Clerk

Approved:

11-30-12
(date)


JERRY SANDERS, Mayor

Vetoed:

(date)

JERRY SANDERS, Mayor

 City of San Diego Development Services 1222 First Ave. 3rd Floor San Diego, CA 92101 <small>THE CITY OF SAN DIEGO</small>	Development Permit/ Environmental Determination Appeal Application	FORM DS-3031 OCTOBER 2012
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See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

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

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

Name: Living Green Cooperative, Inc. E-mail Address: livinggreencooperative@yahoo.com
 Address: 4417 Rainier Avenue City: San Diego State: CA Zip Code: 92120 Telephone: (619) 850-7557

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

Cary Weaver

4. Project Information

Permit/Environmental Determination & Permit/Document No.: <u>579530</u> Conditional Use Permit No. 1333320; SDP No. 1390091	Date of Decision/Determination: 4/22/2015	City Project Manager: Edith Gutierrez
---	--	--

Decision (describe the permit/approval decision):
Denial of Conditional Use Permit by Hearing Officer

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

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

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

Hearing Officer erroneously denied the CUP based on its proximity to the Mission Valley Riparian open space area. This area is not a "public park" as defined by the MMCC Ordinance. For that reason, it complies with all of the MMCC ordinance's minimum separation requirements and should have been approved.

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 APR 28 2015
 DEVELOPMENT SERVICES

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

Signature: Cary Weaver Date: 04/28/2015

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

 THE CITY OF SAN DIEGO	City of San Diego Development Services 1222 First Ave. 3rd Floor San Diego, CA 92101	Development Permit/ Environmental Determination Appeal Application	FORM DS-3031 OCTOBER 2012
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See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

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

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

Name: TED GRISWOLD E-mail Address: TED.GRISWOLD@PROCOPIO.COM
 Address: 525 B STREET, SUITE 2200 City: SAN DIEGO State: CA Zip Code: 92101 Telephone: (619) 515-3277

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

LIVING GREEN MMCC

4. Project Information

Permit/Environmental Determination & Permit/Document No.: PROJECT NO. 379530; CUP 1333320	Date of Decision/Determination: APRIL 22, 2015	City Project Manager: E. GUTIERREZ
--	---	---------------------------------------

Decision (describe the permit/approval decision):
HO-15-049 DENIAL, OF CUP 1333320 and SDP 139 0091

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

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

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)
Hearing Officer denied project because of the inability to make the findings required under SDMC 141.0614,

requiring a minimum separation of 1,000 ft. from a "park." In rendering the decision on only this basis, the Hearing Officer implied that the other findings could be made for this project. We disagree with these implied findings for the reasons stated in the attached information, that the project: 1) complies with the Land Development Code; 2) that the project is not detrimental to the public health, safety and welfare; and 3) that the proposed project is appropriate for the proposed location cannot be made. On this basis, the Hearing Officer made a factual (and legal) error regarding the ability of the project to use an alley as primary and sole vehicle access, and the implied findings made by the Hearing Officer were not supported by the factual information before him. The denial should be upheld on these bases.

(See attached)

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MAY 05 2015

DEVELOPMENT SERVICES

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

Signature:  Date: 5/6/15

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



www.procopio.com



ATTACHMENT 14
Procopio, Cory, Hargreaves & Savitch LLP
525 B Street, Suite 2200
San Diego, CA 92101
T. 619.238.1900
F. 619.235.0398

Theodore J. Griswold
Direct Dial: (619) 515-3277
E-Mail: ted.griswold@procopio.com

May 6, 2015

Hand Delivered

Planning Commission Appeals
Development Services Department
1222 First Avenue, Third Floor
San Diego, CA 92101

Re: Living Green MMCC - Project No. 379530; Hearing Officer Date: April 22, 2015;
Report No. HO-15-049; Planning Commission Hearing Date June 25, 2015

Dear Planning Commissioners:

We respectfully appeal the above-referenced decision of the hearing officer on the basis that, while we agree with the denial of the project CUP and CDP, the basis for the decision is erroneous. The hearing officer, in making his decision to deny the project, only addressed his inability to make the finding based on the project's proximity to a San Diego "park" property. In failing to address the myriad of parking, traffic, access and health and safety issues that were raised by the opponents for this project from the surrounding community, the hearing officer implied that the findings were made that 1) the project was compliant with the Land Development Code; 2) that the project was not detrimental to the health, safety and welfare of the public; and that the project was appropriate for the proposed location. Given the record on this project and the written and oral testimony provided by the Navajo Community members at this hearing, these implied findings were not supported by the evidence before the hearing officer. As a result, we respectfully request that the Planning Commission find that these findings cannot be made, and are the basis for denial of this proposed project.

SUPPORT FOR APPEAL

1. **Hearing officer cannot make the finding that the proposed development complies with the Land Development code because it relies on alternative access parking calculations.**
 - a. Alley access alternative parking is not allowed in the IL-3-1 zone.

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- i. The property is zoned IL-3-1 Zone (see Attachment 1) which requires 5 spaces per 1000 sf (or 14 parking spaces). Zone IL-3-1 does not allow for alternate parking based on alley access. (see table 142.05E, which has no reference to the alley parking).
 - ii. This limitation on the applicability of alternative Alley Access parking is supported by Table 142-05G, which also references the ability to have Alley Access, but only within the IS zone or for Wholesale and distribution uses (see Table 142-05G).
 - iii. The City's processing of the Living Project with alternative parking based on alley access violates the city's own code provisions.
- b. Even if the property was zoned to allow for the alley alternative parking, SDMC section 142.0540 qualifies the exceptions allowed for in Table 142-05H, requiring findings for small lots to include that, among other findings:
 - i. The City Engineer has determined that "the lot has adequate alley access according to accepted engineering practices."
 - ii. These findings have not been made and were not provided for in the staff report or produced to the public as part of the project review.
- c. Even if the property was zoned to allow for the alley alternative parking, the alternate parking based on alley access would not apply because the alley is the primary and only access for the property.
 - i. SDMC defines "Alley" as a "public way that is no wider than 25 feet that is dedicated as a secondary means of access to an abutting property." (SDMC 113.0103)
 - ii. This project uses the alley as its primary and only vehicle access.
 - iii. Given that the property does not use the alley as secondary access, it cannot use the alley-access alternate parking requirements allowed under SDMC.
 - iv. This alley access as secondary is consistent with every other MMCC project with alley access that has been approved by the City. For example, Project 368344 (3452 Hancock) was not provided alternative alley access

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parking at all; and Project 368301 (3421 Hancock St), which was afforded the alternative alley access parking, used the alley as secondary access.

2. **The Hearing Officer cannot make the finding that the proposed development will not be detrimental to the public health, safety and welfare because it puts community members and customers in harm's way.**
- a. The project proposes to operate access through on a long, narrow lot with an extended narrow driveway/emergency access way, and all access to the operation through a narrow, busy industrial alley. (See Attachment 2, Access Overview of Living Green Project).
 - b. By definition, the Project will serve medical patients, many of which may be in a compromised state physically or medically,
 - c. Yet the Project has only one parking place in the reasonable proximity of the facility entrance. All other customers must park at one of the 4 spaces the far end of the building in the alley. Having only one accessible parking place within 100 feet of the site entrance is detrimental to the health and safety of customers.
 - d. Customers parking in the alley must exit their cars into the alley (into traffic) and walk (or wheelchair) within the site's only driveway to the far end of the property to be served. Walking through these traffic areas is detrimental to health and safety.
 - e. The ramp from the alley is NOT ADA compliant. Requiring medical patients to travel through non-ADA compliant access ways is detrimental to the health and safety of customers.
 - f. The alley parking places are located next to a solid fence which extends to the edge of the alley causing blind entry and exit from the spaces, which is detrimental to traffic in the alley and those using the parking spaces.
 - g. The alley parking spaces are also in a busy industrial alley, creating traffic conflicts.
 - h. The alley parking is hidden and unsecure, creating opportunities for criminal activity upon unsuspecting customers.
 - i. Given the tortured site constraints for parking, this location for this facility would be detrimental to the public health, safety and welfare.

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3. **The Hearing Officer cannot make the finding that the proposed development will not be detrimental to the public health, safety and welfare because it will cause traffic hazards and block emergency access ways.**
- a. The Project estimates at least 100 customers per day, (their previous operation use was 2-3 times this). These visits are not evenly spaced through the day. (See additional testimony from Hearing, Attachment 3)
 - b. At least 80% of these customers will have to park in the alley parking spaces (if they can find them) and walk the length of the building before reaching the building entrance.
 - c. Given the applicant's estimate of 15 minutes for servicing the average client, plus the extended travel time to the front door from the parking location, it is likely that each of the parking places will be occupied for 20-25 minutes at a time.
 - d. The heavy in-flow of customers will face insufficient parking offered by the Project. If the five parking places are full from customers and employee parking, new customers arriving to the site will cause congestion either onsite (idling in the driveway and blocking the emergency access road) or within the adjacent alley.
 - e. Such congestion will cause the alley to become a bumper-to-bumper zone with traffic spilling over from the Project's vicinity and causing complications with local traffic and deliveries to neighboring industrial properties.
 - f. With medical patients as customers, it is reasonably foreseeable that emergency medical will be visiting this site (but blocked by cars).
 - g. Given the nature of the business and the likelihood of idling cars and loitering, it is likely that police access will be required (but blocked by cars).
 - h. Those cars that do not line up in the emergency access or alley area would burden adjacent parking by parking illegally on surround properties.
 - i. This location invites traffic congestion and altercations and is detrimental to the public health, safety and welfare.

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4. **In light of the above, and in light of the other testimony and concerns raised today, it is clear that the City cannot find that the proposed development is appropriate for the proposed location.**
 - a. This is not an issue of whether an MMCC should be allowed—It is an issue if the use, as proposed by the applicant, is appropriate for this locations.
 - b. Given the extraordinary site constraints, inadequate parking, dangerous design of access in and out of the facility, and likely high number of customers, it is clear that the proposed use is NOT appropriate for this location.
5. **Hearing Officer cannot make the finding that the proposed development complies with the Land Development code because the Community Planning Group was never able to provide meaningful input regarding the project.**
 - a. The very issues raised above (parking concerns and violations of existing ordinance) were raised by the Community Planning Group and it sought answers by the City Staff and the Applicant at its November 2014 Planning Group Meeting. The Planning Group refused to provide a recommendation on the project until the answers were received.
 - b. The Applicant promised to return to the Planning Group to address the concerns at the next meeting; however instead, the day after the Planning Group meeting, applicant informed the City Staff that the “Planning Group appearance was satisfied” and received sign-off from the City Staff based on that representation.
 - c. When, without explanation, the Applicant failed to appear before its December 2014 Planning Group agenda item, the planning group voted unanimously to deny the project as incomplete and noncompliant with the City Zoning requirements. But the project moved forward with processing because it had received the City sign-off on the Planning Group recommendation the day after the November Planning Group meeting.
 - d. The Planning Group Chair (Matt Adams) and the Community were incensed when he later learned of the Applicant’s dismissal of the Planning Group concerns.
 - e. The failure of the project to follow through the land development process does not comply with the land development code.

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We urge the Planning Commission to rely on reasons provided herein as the full basis for the denial of the project.

Very truly yours,



Theodore J. Griswold

TJG/pat

Enclosures

Table 142-05G
Parking Ratios for Specified Non-Residential Uses

Use	Parking Spaces Required per 1,000 Square Feet of <i>Floor Area</i> Unless Otherwise Noted (<i>Floor Area</i> Includes <i>Gross Floor Area</i> plus below <i>Grade Floor Area</i> , and Excludes <i>Floor Area</i> Devoted to Parking)		
	Required Automobile Parking Spaces ⁽¹⁾		
	Minimum Required Outside a <i>Transit Area</i>	Minimum Required Within a <i>Transit Area</i> ⁽²⁾	Maximum Permitted
Institutional			
Separately regulated uses			
Botanical Gardens and Arboretums	3.3	2.8	N/A
<i>Churches</i> and places of religious assembly	1 per 3 seats; or 1 per 60 inches of pew space; or 30 per 1,000 square feet assembly area if seating is not fixed	85% of Minimum	N/A
Educational facilities:			
Kindergarten through grade 9	2.0 per classroom if no assembly area or 30 per 1,000 square feet assembly area	85% of Minimum	N/A
Grade 10 through grade 12	1 per 5 students at maximum occupancy	85% of Minimum	N/A
Vocational/trade schools	1 per student at maximum occupancy	85% of Minimum	N/A
Exhibit Halls & Convention Facilities	1 per 3 seats; 30.0 if no fixed seats	85% of Minimum	N/A
Hospitals	2 per bed	85% of Minimum	N/A
Intermediate care facilities and nursing facilities	1 per 3 beds	85% of Minimum	N/A
Interpretive Centers	3.3	2.8	N/A
Museums	3.3	2.8	N/A
Radio & Television Broadcasting	3.3	2.9	5.0
Retail Sales: See Table 142-05E			
Commercial Services			
Eating & Drinking Establishments	See Table 142-05F		

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(1-2015)


Chapter 14: General Regulations

Public assembly & entertainment			
Theaters	1-3 screens: 1 per 3 seats 4+ screens: 1 per 3.3 seats Per assembly area if not fixed seats: 50.0	85% of Minimum	N/A
Health clubs	5.0 Clubs with Courts: 1 additional space per the maximum number of authorized players (Amateur Athletic Union) per court	85% of Minimum	N/A
Swimming pools	Commercial: 1 per 100 sq. ft. of pool surface area Community: 1 per 175 sq. ft. of pool surface area	85% of Minimum	N/A
All other public assembly and entertainment	1 per 3 seats; 30.0 if no fixed seats	85% of Minimum	N/A
Visitor accommodations	1 per <i>guest room</i> Conference Area: 10.0	1 per <i>guest room</i> Conference Area: 10.0	N/A
Separately Regulated Uses			
Child Care Centers	1 per staff	85% of Minimum	N/A
Funeral parlors & Mortuaries	1 per 3 seats; 30.0 for assembly area if no fixed seats	85% of minimum	N/A
Private clubs, lodges, fraternal organizations (except fraternities and sororities)	1 per <i>guest room</i> , or 2.5, whichever is greater ⁽³⁾	85% of Minimum	N/A
Single room occupancy hotels (For <i>SRO Hotels</i> that meet the criteria for Reduced Parking Demand Housing stated in Section 142.0527, see Section 142.0527 for parking requirements.)	1 per room	0.5 per room	N/A

Veterinary clinics & hospitals	2.5	2.1	N/A
Offices⁽⁴⁾			
Business & professional/ Government/ Regional & corporate headquarters (except in IS Zone)	3.3	2.9	5.0
Medical, dental, & health practitioners (except in IS Zone)	4.0	3.5	6.0
All office uses in the IS Zone	1.0 ⁽⁵⁾	1.0 ⁽⁵⁾	5.0
Vehicle & Vehicular Equipment Sales & Service			
Automobile service stations	2 per Station: with Maintenance Facility, 3 per Station Plus 1 per Service Bay Retail Sales: 3.0	85% of Minimum	N/A
Vehicle repair & maintenance	5.0	4.3	N/A
Vehicle sales & rentals	1 per each 10 display cars	85% of Minimum	N/A
Wholesale, Distribution, and Storage⁽⁴⁾			
All wholesale, distribution and storage uses	1.0 ⁽⁵⁾	1.0 ⁽⁵⁾	4.0
Self Storage Facilities	1.0 space/10,000 sq ft plus 3.3 space per 1,000 square foot of accessory office space	N/A	N/A
Industrial			
Heavy Manufacturing (except in IS Zone)	1.5	1.5	4.0
Light manufacturing (except in IS Zone)	2.5	2.1	4.0
Research & development (except in IS Zone)	2.5	2.1	4.0
All industrial uses in the IS Zone	1.0 ⁽⁵⁾	1.0 ⁽⁵⁾	4.0

* Alley parking Limited to IS Zones
and whole sale/distribution situations

Footnotes For Table 142-05G

- ¹ Parking spaces for carpool vehicles and zero emissions vehicles are required in accordance with Section 142.0530(d). Bicycle parking is required in accordance with Section 142.0530(e).
- ² *Transit Area.* The *transit area* minimum parking ratios apply in the *Transit Area* Overlay Zone (Chapter 13, Article 2, Division 10) and in the Urban Village Overlay Zone (Chapter 13, Article 2, Division 11).
- ³ In the beach impact area, one parking space per *guest room* or 5.0, whichever is greater.
- ⁴ Accessory Retail Sales, Commercial Services, and Office Uses. On-site accessory retail sales, commercial services, and office uses that are not open to the public are subject to the same parking ratio as the primary use.
-  ⁵ *Alley Access.* For properties with *alley* access, one parking space per 10 linear feet of *alley* frontage may be provided instead of the parking ratio shown in Table 142-05G. Within the beach impact area of the Parking Impact Overlay Zone, application of this policy shall not result in a reduction of required on-site parking.

(d) Parking Spaces for Carpool Vehicles and Zero Emissions Vehicles

- (1) Designated parking spaces for carpool vehicles (vehicles containing two or more persons) and zero emissions vehicles (any vehicles certified to zero-emissions standards) shall be provided for non-residential *development* at the ratio indicated in Section 142.0530(d)(1)(B), unless exempt under Section 142.0530(d)(1)(C).
- (A) The required designated parking spaces for carpool vehicles and zero emissions vehicles are to be provided within the overall minimum parking requirement, not in addition to it.
- (B) The required number of designated parking spaces for carpool vehicles and zero emissions vehicles shall be calculated based on the total number of automobile parking spaces required for the *premises* as follows:
- (i) Zero designated parking spaces for carpool vehicles and zero emissions vehicles if there are 0-9 automobile parking spaces on the *premises*.
 - (ii) One designated parking space for carpool vehicles and zero emissions vehicles if there are 10-25 automobile parking spaces on the *premises*.
 - (iii) Three designated parking spaces for carpool vehicles and zero emissions vehicles if there are 26-50 automobile parking spaces on the *premises*.

Table 142-05E
Parking Ratios for Retail Sales, Commercial Services, and Mixed-Use Development

Zone	Parking Spaces Required per 1,000 Square Feet of <i>Floor Area</i> Unless Otherwise Noted (<i>Floor Area</i> Includes <i>Gross Floor Area</i> plus below <i>Grade Floor Area</i> and Excludes <i>Floor Area</i> Devoted to Parking)		
	Required Automobile Parking Spaces ⁽¹⁾		
	Minimum Required Outside a <i>Transit Area</i>	Minimum Required Within a <i>Transit Area</i> ⁽²⁾	Maximum Permitted
Commercial Zones			
CC-1-1 CC-2-1 CC-4-1 CC-5-1	2.5	2.1	6.5
CC-1-2 CC-2-2 CC-4-2 CC-5-2	2.5	2.1	6.5
CC-1-3 CC-2-3 CC-4-3 CC-5-3	5.0 ⁽³⁾	4.3	6.5
CC-3-4 CC-4-4 CC-5-4	2.5	2.1	6.5
CC-3-5	1.0 ⁽⁴⁾	1.0 ⁽⁴⁾	5.5
CC-3-5/Beach impact area ⁽⁵⁾	2.5	2.1	6.5
CC-4-5	1.0 ⁽⁴⁾	1.0 ⁽⁴⁾	5.5
CC-5-5	1.25	1.25	5.5
CN-1-1	1.0 ⁽⁴⁾	1.0 ⁽⁴⁾	5.5
CN-1-2	5.0	4.3	6.5
CN-1-3	2.5	2.1	6.5
CR-1-1 CR-2-1	5.0 ⁽³⁾	4.3	6.5
CO-1-1 CO-1-2	5.0	4.3	6.5
CV-1-1	5.0	4.3	6.5


San Diego Municipal Code
(1-2015)

Chapter 14: General Regulations

CV-1-2	2.5	2.1	6.5
Industrial Zones			
IH-1-1 IH-2-1	5.0	4.3	6.5
IL-1-1 IL-2-1 IL-3-1	5.0	4.3	6.5
IP-1-1 IP-2-1	5.0	4.3	6.5
IS-1-1	1.0 ⁽⁴⁾	1.0 ⁽⁴⁾	5.5
IBT-1-1	5.0	4.3	6.5
Planned Districts			
Barrio Logan: Subdistrict B	1.0 ⁽⁴⁾	1.0 ⁽⁴⁾	5.5
Barrio Logan: Except Subdistrict B	2.5	2.1	6.5
Carmel Valley	5.0	4.3	6.5
Cass Street	2.0	2.0	6.5
Central Urbanized	2.5	2.1	6.5
Golden Hill	1.25	1.25	5.5
La Jolla	1.7	1.7	5.5
La Jolla Shores	1.0	1.0 ⁽⁴⁾	5.5
Mid-City: CN-3 and CV-3	1.25	1.25	5.5
Mid-City: Except CN-3, CV-3	2.5	2.1	6.5
Mount Hope	3.3	2.8	6.5
Mission Valley: CV	2.5	2.1	6.5
Mission Valley: Except CV	5.0	4.3	6.5
Old Town	4.0	3.4	6.5
Southeast San Diego	2.5	2.1	6.5
San Ysidro	2.5	2.1	6.5
West Lewis Street	1.0 ⁽⁴⁾	1.0 ⁽⁴⁾	5.5

↑ only zones allowing "Alley Access" alternative parking requirements.

Footnotes For Table 142-05E

- ¹ Parking spaces for carpool vehicles and zero emissions vehicles are required in accordance with Section 142.0530(d). Bicycle parking is required in accordance with Section 142.0530(e).
- ² *Transit Area*. The *transit area* minimum parking ratios apply in the *Transit Area* Overlay Zone (Chapter 13, Article 2, Division 10) and in the Urban Village Overlay Zone (Chapter 13, Article 2, Division 11).
- ³ Uses Located above *Ground Floor*. The minimum parking ratio for retail sales and commercial services uses above the ground floor is 4.0 spaces per 1,000 square feet of *gross floor area*.
-  ⁴ *Alley Access*. For properties with *alley* access, one parking space per 10 linear feet of *alley* frontage may be provided instead of the parking ratio shown in Table 142-05E. Within the beach impact area of the Parking Impact Overlay Zone, application of this policy shall not result in a reduction of required on-site parking.
- ⁵ Beach Impact Area. For area of applicability, see Chapter 13, Article 2, Division 8 (Parking Impact Overlay Zone).

- (b) Eating and Drinking Establishments. Table 142-05F establishes the required ratio of parking spaces to building *floor* area in the commercial zones, industrial zones, and planned districts shown, for eating and drinking establishments that are the *primary use* on a *premises*.

§142.0540 Exceptions to Parking Regulations for Nonresidential Uses

- (a) Commercial Uses on Small Lots. Outside the beach impact area of the Parking Impact Overlay Zone, for *lots* that are 10,000 square feet or less, that existed before January 1, 2000, the parking requirements set forth in Table 142-05H may be applied to all commercial uses at the option of the *applicant* as an alternative to the requirements set forth in Section 142.0530. The type of access listed in Table 142-05H determines the minimum number of required *off-street parking spaces*.

Table 142-05H
Alternative Parking Requirement for
Commercial Uses on Small Lots

Type of Access	Minimum Number of Parking Spaces
With <i>Alley</i> Access ⁽¹⁾	1 space per 10 feet of <i>alley</i> frontage, minus one space
Without <i>Alley</i> Access	none required

Footnote to Table 142-05H

- ¹ The City Engineer will determine whether a *lot* has adequate *alley* access according to accepted engineering practices.

Alley defined term
as Secondary Access

- (b) Exceeding Maximum Permitted Parking. Development proposals may exceed the maximum permitted automobile parking requirement shown in Tables 142-05E, 142-05F, and 142-05G with the approval of a Neighborhood Development Permit, subject to the following:
- (1) The *applicant* must show that the proposed parking spaces are required to meet anticipated parking demand, will not encourage additional automobile trips, and will not result in adverse site design impacts; and
 - (2) The number of automobile parking spaces provided shall not be greater than 125 percent of the maximum that would otherwise be permitted.

Advertising display sign means a sign where the sign copy does not pertain to the use of the property, a product sold, or the sale or lease of the property on which the sign is displayed and which does not identify the place of business as purveyor of the merchandise or services advertised on the sign. Such signs include vehicle-mounted signs and billboards.

Affiliate means business entities, organizations, or individuals who either directly or indirectly (1) control one another or have the power to control one another or (2) are controlled by a third party or are subject to control by a third party. Affiliates include chief executive officers and members of boards of directors or their equivalents.

Affordable housing cost shall mean (1) for ownership housing, a housing payment which includes loan principal, loan interest, property taxes, property and mortgage insurance, and homeowners association dues which allows a household with a gross income at not more than one hundred percent (100%) of the area median income to purchase a home and (2) for rental or cooperative housing, a housing payment including a reasonable allowance for utilities, which does not exceed thirty percent (30%) of not more than fifty percent (50%) of the area median income for very low income households and thirty percent (30%) of not more than eighty percent (80%) of the area median income for low income households.

Alley means a public way that is no wider than 25 feet that is dedicated as a secondary means of access to an abutting property.

Amended map means a map as set forth in the Subdivision Map Act, Section 66469 through 66472.1, that is used to correct errors or to amend an existing final map or parcel map.

Antenna means a device or system used for the transmission or reception of radio frequency signals for wireless communications. It may include an Omni-directional (whip), directional (panel), dish, or GPS antenna. It does not include the support structure.

Appealable area means the area, as defined by California Public Resources Code Section 30603, within the coastal zone that constitutes the appeal jurisdiction of the Coastal Commission. This area includes lands between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff. The appealable area is shown on Map Drawing No. C-730, on file in the office of the City Clerk as Document No. 00-17067-1; however, this map may be updated as appropriate and may not include all lands involving post-LCP certification appeal jurisdiction.

Article 3: Land Development Terms
(Added 12-9-1997 by O-18451 N.S.)

Division 1: Definitions
(“Definitions” added 12-9-1997 by O-18451 N.S.)

§113.0101 Purpose of Definitions

The purpose of this division is to provide clear and concise definitions of words and phrases that have meanings specifically related to the Land Development Code and to apply these terms in a consistent way throughout the Land Development Code.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§113.0102 Identification of Definitions

Each word or phrase that is defined in this division appears in the text of the Land Development Code in italicized letters.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§113.0103 Definitions

Abutting property means a lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land.

Accessory building means an accessory structure which is also a “building” as defined in the California Building Code.

Accessory structure means a structure attached to or detached from a primary structure located on the same premises that is customarily incidental and subordinate to the primary structure or use. The term accessory structure includes accessory buildings.

Accessory use means a use of land or building, or portion thereof, that is customarily incidental to, related to, and clearly subordinate to a primary use of the land or building located on the same premises.





Riverdale Commerce Park
6302-6360 Riverdale Street
San Diego, CA 92120

April 22, 2015

Hearing Officer
City of San Diego
Development Services Department
1222 First Avenue, MS 501
San Diego, CA 92101

Re: Living Green Cooperative - Project No. 379530
Hearing Date: April 22, 2015
Report No. HO-15-049

Dear Hearing Officer:

I am the owner of the Riverdale Commerce Park, located near the above-referenced proposed project in Grantville at 4417 Rainier Avenue. I have owned and operated Riverdale Commerce Park for over 7 years in the Grantville area, and I am very familiar with the neighborhood, its patrons and businesses, and traffic flows within the area. I support the staff recommendation to deny the Conditional Use Permit 133320 and the Site Development Permit No. 1390091 for this project. However, the basis for the denial extends well beyond staff's recommendation.

The basis for denial is that the City cannot make the necessary findings required under San Diego Municipal Code 126.0305, which are required for conditional use permit approval. Specifically, the proposed development will:

- (1) adversely affect the applicable land use plan by imposing excess parking burdens on surrounding properties;
- (2) the proposed development will be detrimental to the public health and safety due to the increased traffic, grossly inadequate parking, and potential criminal activity that would arise from the proposed facility at this location and in this configuration; and
- (3) the proposed use is not appropriate for the proposed location given the constrained property requirements and access requirements that would be necessary to fit this round peg into a square hole.

Hearing Officer
City of San Diego
April 21, 2015
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way to

The design of this project and its access creates a storefront for patrons to the facility that is a functional failure and there is no fix it. The project provides no vehicular access from Rainier Avenue, yet provides a street address on Rainier Avenue and the land development plan requires that it provide signage, frontage and additional facades to notify the public of the entrance on Rainier Avenue. Access off of Rainier Avenue is, in fact, precluded by the City given the configuration of the property. Instead, the limited parking for the project is hidden in the alley at the back of the project. As a result, patrons to the property will locate the project on Rainier Avenue, and then seek to park on Rainier Avenue in order to visit the facility. However, Rainier Avenue is already an over-parked street with multiple driveways and scant few locations for the public parking. As a result, patrons to the facility will either double-park on Rainier Avenue, more likely, find adjacent properties in and around Rainier Avenue to use as their parking to use the facility. This is a very predictable and inevitable pattern for the facility at this location, and it creates an unjust operational and economic burden on surrounding property owners.

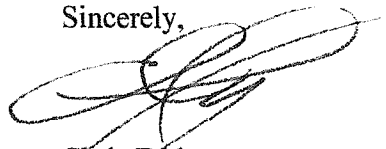
I own Riverdale Commerce Park, a business park that is approximately 120 feet from the proposed Living Green Facility. It has over 200 parking places, all of which are highly critical to the success of the businesses operating within the park. It is fair to say that was a major factor in selecting this location for their business. A few years ago, the Living Green Wellness Cooperative was housed in the most remote suite on my property and I was able to personally witness the parking activities of the patrons for the facility. It didn't work. Few parking rules were followed, and parking outside of designated areas was a regular occurrence. Parking was very heavy and in many cases, individuals would be left outside with the cars as one of the parties from the car would run into the facility and spend the necessary time to obtain the medical marijuana prescription. I am certain that this same type of parking activity that I sought to eliminate will now overflow onto my property given its proximity, design and frontage for this project. As a result of this situation, as a neighboring property owner I will have to hire security, install multiple cameras, additional lighting, new signage and contract with a towing company to have unauthorized parked cars removed. This should not be my responsibility when the approval of this Conditional Use Permit will create the problem.

It is human nature that patrons to this facility, once they identify the location of the facility, will find the easiest parking place possible which will be on other properties. By approving this project at this location, the City would be imposing parking for this facility on surrounding property owners. This is completely inconsistent with the current land use plan and it is a strong indication that the proposed use is inappropriate for the proposed location, given the property's configuration and confusing vehicular access off of the back part of the property through the alley to nearly non-existent parking, given the anticipated flow of patients and their ride-alongs.

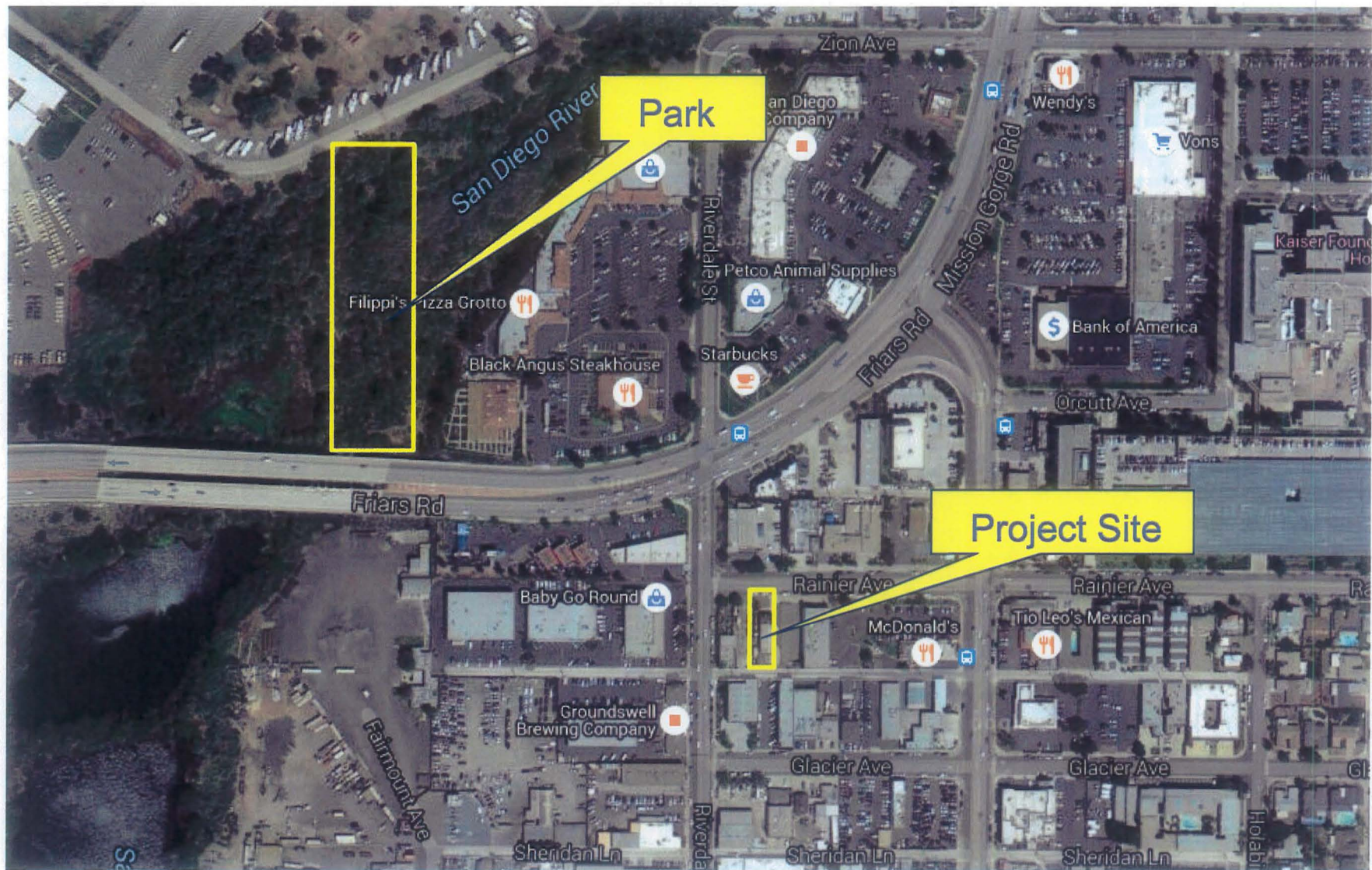
Hearing Officer
City of San Diego
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Your proposed findings require that the project has "demonstrated at the location of the proposed MMCC will not be detrimental to neighboring properties or the community." Given the design and access of the facility at this property and the constricted and confusing location of the insufficient four (4) parking places, this finding is impossible for this facility at this location. I respectfully request that the Hearing Officer deny the permit for this project and consistent with staff's recommendation on the basis that the proposed project will be detrimental to the neighboring properties and community in this location, would adversely affect the applicable land use plan and would adversely affect the public health, safety, and welfare of the community. Thank you.

Sincerely,



Chris Eddy
Riverdale Commerce Park



Mission Valley Riparian within 1,000 feet

LIVING GREEN COOP MMCC - 4417 RAINIER AVENUE

PROJECT NO. 379530

