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County of San Diego
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Clerk of the Superior Court
By N. Lopez, Deputy Clerk

Attorneys for Petitioner and Plaintiff
TORREY HOLISTICS, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

TORREY HOLISTICS, INC., a California
corporation; and

Petitioner and Plaintiff,

v.

CITY OF SAN DIEGO, a municipal
corporation; CITY OF SAN DIEGO
PLANNING COMMISSION; and DOES 1
through 10, inclusive;

Respondents and Defendants.

Case No. 24CU029405C

**DECLARATION OF WHITNEY A.
HODGES AFFIRMING NOTICE AND IN
SUPPORT OF EX PARTE APPLICATION
FOR A TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW CAUSE
RE PRELIMINARY INJUNCTION**

*[Notice and Motion; Memorandum of Points
and Authorities and [Proposed] Order filed
concurrently herewith]*

Assigned To: Hon. Michael Smyth
Dept.: C-67
Date: March 21, 2025
Time: 9:00 am

Filed: December 18, 2024
Trial Date: Not Assigned

SORRENTO VALLEY INVESTMENT
GROUP, a California partnership, DAVID
SEYRANIAN, an individual; and GOAT
Venture, LLC, a California limited liability
company;

Real Party-in-Interest

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I, WHITNEY A. HODGES, declare as follows:

2. If called as a witness, I could and would competently testify to all facts within my personal knowledge except where stated upon information and belief.

4. On or about February 9, 2023, the California Coastal Commission (“CCC”) approved an amendment to the City’s Local Coastal Program (“LCP”) which would incorporate the cannabis-related amendments to the San Diego Municipal Code (“SDMC”). Attached hereto as Exhibit A is a true and correct copy of the correspondence.

6. On or about September 19, 2024, the Planning Commission denied an appeal to the City's approval of SVIG's amendment to MedMen CUP. Attached hereto as Exhibit C is a true and correct copy of the Staff Report for the aforementioned Planning Commission meeting.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 27th day of February, 2025, at Poway, California.



Exhibit A

Exhibit B



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: September 12, 2024 REPORT NO. PC-24-039

HEARING DATE: September 19, 2024

SUBJECT: 10715 Sorrento Valley Road Cannabis Outlet Amendment Appeal, Process Four Decision

PROJECT NUMBER: [PRJ-1097148](#)

OWNER/APPLICANT: Sorrento Valley Investment Group, Owner and Applicant

REFERENCE: Project Chronology
[Streamlined Process for Cannabis Conditional Use Permit Amendments](#)

SUMMARY

Issue: Should the Planning Commission grant or deny an appeal of the Development Services Department's Process Two decision to approve a Conditional Use Permit amendment to extend operations for an additional 5 years to an existing Cannabis Outlet located at [10715 Sorrento Valley Road](#) in the [Torrey Pines Community Plan](#) area and Council District 1?

Staff Recommendation: Deny the appeal and affirm the Development Services Department's decision to approve Conditional Use Permit No. PMT-3326330 (amendment to Conditional Use Permit No. 1865509).

Fiscal Considerations: None. All staff costs associated with the processing of this appeal are paid from a deposit account maintained by the applicant.

Community Planning Group Recommendation: A formal recommendation was not sought for this project. On May 21, 2024, the Torrey Pines Community Planning Board voted 12-1 to not take a position on the project (Attachment 7). This vote occurred without the applicant present.

Environmental Impact: The project site was previously analyzed within the adopted Negative Declaration No. 82-0331. A consistency evaluation was prepared to determine if conditions specified in the California Environmental Quality Act (CEQA) Statute and Guidelines, Section 15162, would require the preparation of additional CEQA review for the project. The project is consistent with the original adopted/certified ND 82-0331 and would not result in new impacts. Based on the CEQA

Section 15162 consistency analysis, the project would not require any additional environmental review.

Code Enforcement Impact: None associated with this application.

Housing Impact Statement: The project does not propose housing and does not eliminate any existing housing units. The site is zoned IL-3-1 which prohibits housing.

BACKGROUND

This item is an appeal of the Development Services Department's May 2, 2024, decision to approve a Conditional Use Permit (CUP) amendment to allow the continued operation of an existing Cannabis outlet located at 10715 Sorrento Valley Road within Council District 1 (CD1). The appellant is the previous applicant of this CUP. On April 17, 2024, the property owner changed the applicant on this CUP application prior to the project decision. For a history of the project site and prior entitlements and enforcement, please see the Project Chronology (Attachment 1).

Cannabis outlets are limited City-wide to four cannabis outlets per Council District. However, the redistricting that occurred in 2022 (as a result of the 2020 U.S. Census) modified CD1's boundaries, increasing the number of outlets within CD1 (and also CD9) to five cannabis outlets. Subsequent changes to the SDMC were made that allowed the five cannabis outlets in CD1 to remain in a previously conforming status. These changes allowed cannabis outlets within CD1 to be amended every five years. Should any cannabis outlet CUP expire within CD1, however, the limit of four would return; and no new outlets would be allowed.

Cannabis conditional use permits are unique as they contain a five-year expiration date and are required to be renewed every five years through a CUP amendment process. To improve efficiency, the Development Services Department implemented a streamlined amendment process to facilitate rapid review of cannabis CUP amendments. Cannabis CUP amendments where only a five-year extension is requested qualify for the streamlined amendment. The subject appeal is a streamlined amendment application.

Project Location:	10715 Sorrento Valley Road in the IL-3-1 zone, the Coastal Overlay Zone (Non-appealable), the Coastal Height Limitation Overlay Zone, the Coastal Parking Impact Overlay Zone, the MCAS Miramar Airport Land Use Compatibility Overlay Zone (Airport Influence Area - Review Area 1 and Accident Potential Zone 2), a Special Flood Hazard Area (100-Year Floodplain), and Prime Industrial Lands within the Torrey Pines Community Plan area and Council District 1.
Project Scope:	Amendment to CUP No. 1865509 for a 5-year extension to an operating 3,697-square-foot Cannabis Outlet within a 5,451-square-foot commercial building.
Lot Size:	0.37 acres
Zoning:	IL-3-1 (Light Industrial)

Community Plan Designation:	Industrial within the Torrey Pines Community Plan, Prime Industrial Lands and Industrial Employment within the General Plan.
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Legal Standard for Appeal of the Development Services Department Decision

An appeal of the Development Services Department decision may only be granted with evidence supporting one of the following findings:

- (1) Factual Error. The statements or evidence relied upon by the decision maker when approving, conditionally approving, or denying a permit, map, or other matter were inaccurate; or
- (2) New Information. New information is available to the applicant or the interested person that was not available through that person's reasonable efforts or due diligence at the time of the decision; or
- (3) Findings Not Supported. The decision maker's stated findings to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker; or
- (4) Conflicts. The decision to approve, conditionally approve, or deny the permit, map, or other matter is in conflict with a land use plan, a City Council policy, or the Municipal Code.

Pursuant to San Diego Municipal Code Section (SDMC) [Section 112.0506\(c\)](#), the Planning Commission may only deny the appeal and affirm approval of the project if none of the above findings are supported by sufficient evidence or grant the appeal and reverse approval of the project if it finds one of the above findings is supported by sufficient evidence. The below analysis demonstrates how the appellants do not provide facts to support one of the above findings.

PROJECT APPEAL DISCUSSION

On May 15, 2024, Richard Ormond filed an appeal of the Development Services Department's May 2, 2024 decision to approve the project (Attachment 2).

Appeal Issue 1: *Factual Error. The statements or evidence relied upon by the City were inaccurate. For instance, Sure Felt LLC was the valid Applicant for the CUP Amendment.*

Staff Response: Projects are not decided based on who the applicant is, and this has no bearing on the Development Services Department's decision to approve or deny the project. On April 17, 2024, the property owner, Sorrento Valley Investment Group, notified the Development Services Department that Sorrento Valley Investment Group would assume the amendment application as the applicant, and provided an updated ownership disclosure statement, new exhibit drawings, and updated noticing package. The property owner also rescinded the prior applicant, Sure Felt, LLC, as an authorized agent of the owner.

Appeal Issue 2: New Information. *New information is available that was not available through reasonable efforts or due diligence at the time of the decision.*

Staff Response: The appellant has not provided any new information. The property owner has the right to change the applicant of an application.

Appeal Issue 3: Findings Not Supported. *The decision maker's stated findings to disapprove the permit for Sure Felt LLC and approve the permit for Sorrento Valley Investment Group are not supported by the information provided to the decision maker.*

Staff Response: The submitted appeal makes this statement but does not further specify why this is the case. Sufficient information (updated Ownership Disclosure, Exhibits, Noticing Package) was provided for staff to make a decision to amend the existing Conditional Use Permit for an additional 5 years. As a streamlined amendment application, no changes to the development are proposed.

Appeal Issue 4: Conflicts. *The decision to approve the permit for Sorrento Valley Investment Group and deny the permit for Sure Felt LLC is in conflict with a land use plan, a City Council policy, or the Municipal Code.*

Staff Response: The submitted appeal makes this statement but does not further specify why this is the case. The amendment application was not denied under Sure Felt, LLC. Rather, the application was not yet approved before the applicant changed. Per SDMC 113.0103, applicant means any person who has filed an application for a permit, map, or other matter and that is the record owner of the real property that is the subject of the permit, map, or other matter; the record owner's authorized agent; or any other person who can demonstrate a legal right, interest, or entitlement to the use of the real property subject to the application. A property owner may change who the applicant is at any time.

Conclusion:

The appeal provides no evidence of new information that was not available through reasonable efforts or due diligence at the time of the decision.

City staff has reviewed the proposed project, analyzed the appeal issues raised, and determined that the project is in conformance with adopted City Council policies, regulations of the Land Development Code, and the Torrey Pines Community Plan. The appellant did not have sufficient evidence to support any of the four findings that are grounds for appeal. The proposed project is consistent with the recommended land use and development standards in effect for this site, and no deviations are required to approve the project. Therefore, City staff recommends the Planning Commission deny the appeal and uphold the Development Services Department's decision to approve Conditional Use Permit No. PMT-3207339.

Staff has prepared updated draft findings (Attachment 3) to support the proposed development and draft conditions of approval (Attachment 4).

ALTERNATIVES

1. Deny the appeal and affirm the Development Services Department's decision to approve Conditional Use Permit No. PMT-3326330 (amendment to Conditional Use Permit No. 1865509), with modifications.
2. Approve the appeal, reverse the Development Services Department's decision, and deny Conditional Use Permit No. PMT-3326330 (amendment to Conditional Use Permit No. 1865509), if the findings to approve the project cannot be affirmed.

Respectfully submitted,



Lara Gates
Deputy Director
Development Services Department



Francisco Mendoza
Development Project Manager
Development Services Department

Attachments:

1. Project Chronology
2. Copy of Appeal
3. Draft Permit Resolution with Findings
4. Draft Permit with Conditions
5. Ownership Disclosure Statement
6. Copy of Recorded (existing) Permit
7. Community Planning Group Minutes
8. Project Plans
9. Email request to change applicant
10. Notice sent to Owner/Permittee
11. Notice of decision issued May 2, 2024

10715 Sorrento Valley Road Cannabis Outlet Project Chronology	
Project Milestones	Date
Cannabis Outlet / Addendum to Negative Declaration approved/adopted at City Council.	June 18, 2018
Amendment application (streamlined) deemed complete (Permit Expiration of June 18, 2023, automatically extended during processing).	June 6, 2023
Project Review – Determined consistent with prior Negative Declaration.	August 9, 2023
Torrey Pines Community Planning Board Project Review Committee (PRC) voted 3-2-1 to recommend approval with various conditions.	March 12, 2024
Notice of possible revocation of Cannabis Operating Permit and Non-renewal of CUP amendment sent to Property Owner and Prior Applicant due to non-payment of taxes (See Attachment 10).	April 16, 2024
Property Owners notify Development Services Department of change to applicant and rescinding of authorized agent status of Sure Felt LLC (Attachment 9).	April 17, 2024
Development Services Department approves amendment.	May 2, 2024
Richard Ormond files appeal.	May 15, 2024
Torrey Pines Community Planning Board rescinded PRC approval and Voted to not take a position on the CUP (See Attachment 7).	May 21, 2024
Hearing Scheduled for September 19, 2024.	May 23, 2024
Recall of Notice of possible revocation letters from April 16, 2024 by City of San Diego to Owner/Permittee.	June 10, 2024

FORM

DS-3031

November 2022

Development Permit/ Environmental Determination Appeal Application

In order to ensure your appeal application is successfully accepted and processed, you must read and understand Information Bulletin [\(IB\) 505, "Development Permits/Environmental](#)

[Determination Appeal Procedure."](#)

1. Type of Appeal: ☒ Appeal of the Project
☐ Appeal of the Environmental Determination
2. Appellant: Please check one ☐ Applicant ☐ Officially recognized Planning Committee
☒ "Interested Person"
[\(Per San Diego Municipal Code \(SDMC\) § 113.0103\)](#)

Name: Richard Ormond, LASC Receiver

E-mail: Rormond@mmecontractor.com

Address: 1000 Wilshire Blvd, Suite 1500 City: LA State: CA Zip Code: 91436 Telephone: 213.891.5217

3. Project Name:
10715 SORRENTO VALLEY ROAD CANNABIS OUTLET AMENDMENT

4. Project Information:
Amend Conditional Use Permit for Cannabis Outlet for an additional five-year period.

Permit/Environmental Information Determination and Permit/Document No:

PRJ-1097148

Date of Decision/Determination:

May 2, 2024

City Project Manager:

Tyler Sherer

Decision (Describe the permit/approval decision):

AMENDMENT TO CONDITIONAL USE PERMIT, PROCESS TWO

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

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

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in the [SDMC § 112.0501](#). Attach additional sheets if necessary.)

Visit our website: sandiego.gov/DSD.

Upon request, this information is available in alternative formats for persons with disabilities. DS-3031 (11-22)

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

Signature:  Date: 5-15-24

Note: Faxed appeals are not accepted.

Reference Table

- [San Diego Municipal Code](#) (SDMC)
- [Development Permits/Environmental Determination Appeal Procedure](#) (IB-505)

Visit our website: sandiego.gov/DSD.

Upon request, this information is available in alternative formats for persons with disabilities. DS-3031 (11-22)

Development Permit Appeal Application Form DS-3031
PRJ-1097148: 10715 SORRENTO VALLEY ROAD CANNABIS OUTLET
CONDITIONAL USE PERMIT AMENDMENT

Description of Grounds for Appeal from Interested Party

1. Factual Error. The statements or evidence relied upon by the City were inaccurate. For instance, Sure Felt LLC was the valid Applicant for the CUP Amendment.
2. New Information. New information is available that was not available through reasonable efforts or due diligence at the time of the decision.
3. Findings Not Supported. The decision maker's stated findings to disapprove the permit for Sure Felt LLC and approve the permit for Sorrento Valley Investment Group are not supported by the information provided to the decision maker; or
4. Conflicts. The decision to approve the permit for Sorrento Valley Investment Group and deny the permit for Sure Felt LLC is in conflict with a land use plan, a City Council policy, or the Municipal Code.

ATTACHMENT 5
Draft Resolution

PLANNING COMMISSION RESOLUTION NO. PC-_____
CONDITIONAL USE PERMIT NO. PMT-3326330

10715 SORRENTO VALLEY ROAD CANNABIS OUTLET AMENDMENT - PROJECT NO. PRJ-1097148
AMENDMENT TO CONTIONAL USE PERMIT NO. 1865509 (PROJECT NO. 527802)

WHEREAS, SORRENTO VALLEY INVESTMENT GROUP, Owner/Permittee, filed an application with the City of San Diego for a permit to amend Conditional Use Permit No. 1865509, to continue the operation with no changes to the operations or site plan of an existing, 3,697-square-foot cannabis outlet (formerly called a marijuana outlet) within an existing 5,451-square-foot, one-story, commercial building, (as described in and by reference to the approved Exhibit "A" and corresponding conditions of approval for the associated Permit No. PMT-3326330), on portions of a 0.37-acre site; and

WHEREAS, the project site is located at 10715 Sorrento Valley Road in the IL-3-1 of the Torrey Pines Community Plan; and

WHEREAS, the project site is legally described as: All of Lots 12-15, inclusive, in Block 17 of the Town of Sorrento, in the City of San Diego, County of San Diego, State of California, as originally shown on maps thereof Nos. 262 and 483, filed in the office of the County Recorder of San Diego County, September 30, 1887 and February 9, 1880, respectively; and

WHEREAS, on September 12, 2017, the City Council of the City of San Diego approved Resolution No. R-311318 granting an appeal of the Environmental Determination of Exemption from the California Environmental Quality Act (CEQA); and

WHEREAS, pursuant to San Diego Municipal Code section 112.0529(e), the City Council of the City of San Diego retains jurisdiction to act on the environmental determination and associated project at a subsequent hearing; and

WHEREAS, the matter was set for public hearing on December 4, 2017, and at said hearing the applicant elected to change the scope of the project from a Medical Marijuana Consumer

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Draft Resolution

Cooperative to a Marijuana Outlet and requested a continuance to the public hearing of January 9, 2018; and

WHEREAS, on January 9, 2018, the City Council of the City of San Diego returned the matter to the Development Services Department to complete the review of the project as a Marijuana Outlet; and

WHEREAS, on June 18, 2018, the City Council of the City of San Diego considered and approved Conditional Use Permit No. 1865509 – Project No. 527802 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on June 6, 2023, the Owner/Permittee, filed an amendment application prior to the expiration of Conditional Use Permit No. 1865509, automatically extending the expiration of the permit until a decision on the amendment request is final and all available administrative appeals of the project decision have been exhausted; and

WHEREAS, on May 2, 2024, the Development Services Department of the City of San Diego considered Conditional Use Permit No. 2389821 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on May 15, 2024, an appeal of the Development Services Department's decision to approve the project was filed by ; and

WHEREAS, on September 19, 2024, the Planning Commission of the City of San Diego considered the appeal; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. PMT-3326330:

A. CONDITIONAL USE PERMIT [SDMC Section 126.0305]

1. Findings for all Conditional Use Permits:

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Draft Resolution

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

The project is an application for the continued operation with no changes to the operations or site plan of an existing 3,967-square-foot cannabis outlet (CO), previously permitted as a marijuana outlet (MO), within an existing 5,451-square-foot, one-story, commercial building at 10715 Sorrento Valley Road, within the IL-3-1 zone of the Torrey Pines Community Plan (TPCP) area. Overlay zones for the site include: Coastal Overlay Zone (Non-appealable Area 1), MCAS Miramar Land Use Compatibility Overlay Zone (Airport Influence Area - Review Area 1 and Accident Potential Zone 2), Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands

The 0.37-acre site is designated as "Industrial" in the TPCP and as "Industrial Employment" in the General Plan. This land use designation is intended to support a variety of commercial and industrial uses ranging from retail and commercial services to office and industrial. Furthermore, this designation provides for retail sales, commercial services, office uses, and heavier commercial uses such as wholesale, distribution, storage, and vehicular sales and service.

The Sorrento Valley industrial area, including this site is further identified as "Prime Industrial Lands" (PIL) by the General Plan. A General Plan goal of the PIL designation is to protect valuable employment land for base sector industries important to the region's economy. A CO is a commercial retail use not considered as base sector employment. The General Plan also allows development or redevelopment of individual properties pursuant to the development regulations and permitted uses of the existing zone and community plan designation provided a site is not critical to base sector employment. The project site is not critical to achieving the City's base sector employment goal. The existing building was previously used for a credit union business, a commercial service use and is not expected to be reconfigured to accommodate base sector employment uses commonly found in the area such as scientific research. The 0.37-acre site is also relatively small and not expected to be redeveloped into a scientific research facility as new scientific research developments typically occupy multiple acre sites. General plan policies also specifically restrict sensitive receptor land uses such, as residential and public assembly in PIL. A CO is not a sensitive receptor land use.

The proposal to continue cannabis retail operations on the site without changes, is consistent with, and would not adversely affect, the TPCP land use designation. The "industrial" land use designation is intended to support manufacturing, research and development, laboratories, offices, industrial services, incubator industry and business uses, as well as support commercial and retail uses. A TPCP Industrial

ATTACHMENT 5
Draft Resolution

Land Use Element policy is to emphasize the citywide importance of, and encourage the location of, scientific research, biotechnology, and clean manufacturing uses in Sorrento Valley because of its proximity to UCSD and the industrial areas in neighboring University City and Mira Mesa. Due to the existing building configuration and site size, the project site is not suited for use by, or redevelopment of, scientific research or manufacturing uses.

Additionally, page 86 of the TPCP contains a policy that states "development of freestanding retail commercial uses in industrially designated areas shall be restricted to those uses that serve only the immediate Sorrento Valley industrial area." Due to their relative restriction within the City's zoning scheme, CO uses would not be expected to serve "only the immediate Sorrento Valley industrial area." However, the CO would occupy an existing building previously used for a marijuana outlet and a commercial services use prior to that. The continued operation of the CO without changes to its operations or site plan would not result in an intensification of use within the site. The building is not considered freestanding retail as it contains two tenant spaces, the existing CO, and an additional tenant space with separate access to be leased and occupied by a non-retail commercial use and no changes are proposed by this project. Therefore, the continued operation of the CO does not and will not adversely affect the applicable land use plan.

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

Approval of this application would allow the continued sale of cannabis to be conditioned in order to prevent potential adverse impacts on the community. The proposed outlet is subject to specific operational requirements and restrictions as set forth in SDMC Section 141.0504(b)-(m), which have also been incorporated as conditions in the CUP by reference. Current regulations of SDMC 141.0504 include: (1) prohibiting consultation by medical professionals on-site; (2) prohibiting the use of specified vending machines except by a responsible person (as defined by the SDMC); (3) provision of interior and exterior lighting, operable cameras, alarms, and a security guard; (4) restriction of hours of operation to between 7:00 am and 9:00 pm daily; (5) maintenance of the project site and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; and (6) restriction of signage to business name, two-color signs, and alphabetic characters.

Outlets must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation. The CUP is valid for five years and may be revoked if the owner/permittee violates the terms, conditions, lawful requirements, or provision of the permit. Furthermore, construction of the project authorized through this permit will be subject to all adopted building, electrical, mechanical, fire and

ATTACHMENT 5
Draft Resolution

plumbing codes, which will be enforced through plan review and building inspections completed by the City's building inspectors.

The City of San Diego conducted an environmental review of this project in accordance with the State of California Environmental Quality Act (CEQA) guidelines and concluded there would be no environmental impacts associated with the proposed project.

Including the requirements above, the proposed development will not be detrimental to the public's health, safety, and welfare because the discretionary permit controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project's compliance with applicable local, regional, state, and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent adverse impacts to the public and community at large.

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

The proposed cannabis outlet, classified as a retail sales use, is allowed in the IL-3-1 zone with a CUP pursuant to SDMC Section 141.0504. Furthermore, per SDMC Section 141.0504(a), outlets are subject to separation requirements including a 1,000-foot separation from resource and population-based city parks, other outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction kindergarten or grades 1 to 12. There is also a 100-foot minimum separation from a residential zone. The proposed outlet complied with these requirements when first approved under Conditional Use Permit No. 1865509, and this amendment to the Conditional Use Permit for an existing cannabis outlet is not required to demonstrate compliance again per SDMC 141.0504(n)(1).

The project is proposed within an existing structure constructed in 1984 in accordance with all applicable development regulations. The proposed outlet will occupy the existing MO space - approximately 3,697 square feet - within the existing 5,451-square-foot building. An additional building floor area of 703 square feet is to be leased and occupied by a non-retail commercial service use that is allowed by right in the IL-3-1 Zone, with the remaining 1,051 square feet to remain vacant throughout the duration of the CUP. The vacant floor space shall not be used for any purpose, including storage. The project provides 22 off-street parking spaces, which meets the required 22 off-street spaces required for all uses on the premises calculated at a rate of 5.0 automobile parking spaces per 1000 square feet of floor space, and by maintaining 1,051 square feet of building floor area within the building as vacant and unoccupied during the term of the CUP.

The CUP for the project includes various conditions and corresponding exhibits of approval relevant to achieving compliance with the SDMC relative to parking,

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Draft Resolution

signage, lighting, security measures, hours of operation, and site maintenance. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

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

The proposed project is a request for a CUP to continue the operation of a CO, previously permitted as an MO, in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, commercial building. The building is a multi-tenant building and includes an additional 703-square-foot tenant space that would be leased and occupied by a licensed non-retail commercial establishment that is permitted by right in the IL-3- 1 Zone. The existing one-story building was developed in 1984 per Building Permit No. A-10502. The existing use is a marijuana outlet, which is a retail-sales use. The proposed change of use from a marijuana outlet to a cannabis outlet is not an intensification of use as the parking requirement will not change. The project site is adjacent to a commercial office building to the east, research and development establishments to the south, an auto body shop to the north, and railroad tracks to the west across Sorrento Valley Road, and a mix of industrial and commercial uses further west.

The site is designated as "Industrial" in the TPCP, the adopted land use plan for this community. TPCP land use in Sorrento Valley is generally implemented by the IL-3-1 zone which is an industrial zone that allows for both industrial and commercial uses. The site is within the "Industrial Employment" General Plan land use category. As discussed above, the extension of operations for this CO will not adversely affect the TPCP nor General Plan and is a compatible use with the surrounding commercial establishments.

COs are also subject to specific operational requirements and restrictions set forth in SDMC Section 141.0504(b)-(m), which have also been incorporated as conditions in the CUP, including: (1) prohibiting consultation by medical professionals on-site; (2) prohibiting the use of specified vending machines except by a responsible person (as defined by the SDMC); (3) provision of interior and exterior lighting, operable cameras, alarms, and security guards; (4) restriction of hours of operation to between 7:00 am and 9:00 pm daily; (5) maintenance of the project site and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; and (6) restriction of signage to business name, two-color signs, and alphabetic characters. Cannabis outlets must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The SDMC limits cannabis outlets to commercial and industrial zones and the number of outlets is limited to four allowed in Council Districts 2, 3, 4, 5, 6, 7, and 8, and five allowed in Council Districts 1 and 9, or 38 City-wide, in order to minimize the impact on the City and residential neighborhoods. The project, in amending the permit for a previously permitted outlet, does not cause City Council District 1 to exceed this requirement. All surrounding parcels are in the IL-3-1 Zone and the

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Draft Resolution

existing uses are consistent with the Industrial designation of the community plan and compatible uses with an outlet. Therefore, based on the commercial nature of the use, compliance with all development regulations and requirements, and conditions of approval, the proposed development is appropriate at the proposed location.

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

BE IT FURTHER RESOLVED that, based on these findings adopted by the Planning Commission, Conditional Use Permit No. PMT-3326330 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. PMT- 3326330, a copy of which is attached hereto and made a part hereof.

Francisco Mendoza
Development Project Manager
Development Services

Adopted on: September 19, 2024

IO#: 11004381

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 1104183

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. PMT-3326330

10715 SORRENTO VALLEY ROAD CANNABIS OUTLET AMENDMENT - PROJECT NO. PRJ-1097148

AMENDMENT TO CONDITIONAL USE PERMIT NO. 1865509 (PROJECT NO. 527802)

PLANNING COMMISSION

This Conditional Use Permit No. PMT-3326330, an amendment to Conditional Use Permit No. 1865509, recorded by the San Diego County Recorder as Document No. 2018-0500067 on December 5, 2018, is granted by the Development Services Department of the City of San Diego to SORRENTO VALLEY INVESTMENT GROUP, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) sections 126.0303(a), 126.0305, and 141.0504(n). The 0.37-acre site is located at 10715 Sorrento Valley Road, in the IL-3-1 Zone of the Torrey Pines Community Plan (TPCP) area. Overlay zones for the site include: Coastal Overlay Zone (Non-appealable Area 1), MCAS Miramar Land Use Compatibility Overlay Zone (Airport Influence Area - Review Area 1 and Accident Potential Zone 2), Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands. The project site is legally described as: All of Lots 12-15, inclusive, in Block 17 of the Town of Sorrento, in the City of San Diego, County of San Diego, State of California, as originally shown on maps thereof Nos. 262 and 483, filed in the office of the County Recorder of San Diego County, September 30, 1887, and February 9, 1880, respectively.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to operate a cannabis outlet, conditioned to the issuance of a license from the state Department of Cannabis Control, and subject to the City's land use regulations, described and identified by size, dimension, quantity, type, and location on the approved exhibits (Exhibit "A") dated May 2, 2024, on file in the Development Services Department.

The project shall include:

- a. Continued operation of an existing 3,697-square-foot cannabis outlet, (formerly permitted as a marijuana outlet), within an existing 5,451-square-foot, one-story, commercial building on a 0.37-acre site; and
- b. A 703-square-foot additional tenant space within the existing 5,451-square-foot building, as shown on Exhibit "A," maintained and occupied by a licensed, non-retail commercial service use that is allowed by right in the IL-3-1 Zone, and;

- c. 1,051 square feet within the existing 5,451-square-foot building, as shown on Exhibit "A," to remain vacant and unoccupied for the term of the Conditional Use Permit; and
- b. Existing off-street parking.

STANDARD REQUIREMENTS:

1. Utilization Date: 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 September 19, 2027.
2. Expiration Date: This Conditional Use Permit (CUP) and corresponding use of this site shall expire on September 19, 2029. 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, unless the expiration date is extended pursuant to SDMC 141.0504(n). Applications for CUP amendments to extend this Permit's expiration date pursuant to that code section must be deemed complete for processing prior to the expiration date listed above or the Owner and/or Permittee loses all rights vested by this Permit, and all operations must cease at the site.
3. The continued utilization of this CUP to sell cannabis is contingent upon (but not limited to) the following:
 - a. The existence of a valid license to sell cannabis at this location by the California Department of Cannabis Control (DCC). The issuance of this CUP does not guarantee that the DCC will grant a license for this location.
 - b. Compliance with Chapter 4, Article 2, Division 15 of the San Diego Municipal Code, including payment of any fees enacted pursuant to SDMC 42.1506.
 - c. Timely payment of all current and future Cannabis Business Tax owed pursuant to Chapter 3, Article 4, Division 1 of the San Diego Municipal Code.
 - d. Possession of a Business Tax Certificate.
 - e. Fulfillment of all permit conditions.
 - f. Continued compliance with all other applicable federal, state, and local laws.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
9. This Conditional Use Permit No. PMT-3326330 supersedes Conditional Use Permit No. 1865509, which is hereby void.
10. The Owner/Permittee shall secure any 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.
11. 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.
12. 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.

13. 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:

14. A minimum of 703 square feet of tenant space within the 5,451-square-foot building shall be reserved and maintained for occupancy by a non-retail commercial use with a valid business license that is permitted by right in the IL-3-1 Zone and does not trigger additional parking or result in an intensification of the use on the premises.

15. 1,051 square feet of tenant space within the 5,451-square-foot building as shown on Exhibit "A," shall remain vacant throughout the duration of the CUP. The vacant floor space shall not be used for any purpose, including storage.

16. The name and emergency contact phone number of the designated responsible managing operator shall be posted in a location visible from outside the cannabis outlet in character size at least two inches in height.

17. The cannabis outlet shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.

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

19. A permit shall be obtained as required pursuant to Chapter 4, Article 2, Division 15.

20. A Conditional Use Permit for a cannabis outlet shall expire no later than five years from the date of issuance.

21. Deliveries shall be permitted as an accessory use only from cannabis outlets with a valid Conditional Use Permit unless otherwise allowed pursuant to state law.

22. The cannabis outlet, adjacent public sidewalks, and areas under the control of the cannabis outlet, shall be maintained free of litter and graffiti at all times.

23. The cannabis outlet shall provide daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.

24. Consultations by medical professionals shall not be a permitted accessory use at a cannabis outlet.

TRANSPORTATION REQUIREMENTS

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

INFORMATION ONLY:

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

APPROVED by the Development Services Department of the City of San Diego on May 2, 2024,
Resolution No. CM-____.

ATTACHMENT 6
Draft Permit

Conditional Use Permit No. PMT-3326330
Date of Approval: September 19, 2024

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Francisco Mendoza
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.

SORRENTO VALLEY INVESTMENT GROUP
Owner/Permittee

By _____
NAME:
TITLE:

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

	City of San Diego Development Services 1222 First Ave., MS 302 San Diego, CA 92101 (619) 446-5000	Ownership Disclosure Statement	FORM DS-318 October 2017
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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: CO 10715 Sorrento Valley CUP Amendment **Project No. For City Use Only:** PRJ-1097148
Project Address: 10715 Sorrento Valley Road, San Diego

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

☐ Corporation ☐ Limited Liability -or- ☒ General – What State? CA Corporate Identification No. _____
☒ Partnership ☐ Individual

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

Property Owner

Name of Individual: Sorrento Valley Investment Group ☒ Owner ☐ Tenant/Lessee ☐ Successor Agency
 Street Address: 4144 Redwood Road
 City: Oakland State: CA Zip: 94619
 Phone No.: 510-482-8100 Fax No.: _____ Email: dkseyranian@aol.com
 Signature: David Seyranian Date: 04-16-2024
 Additional pages Attached: ☐ Yes ☒ No

Applicant

Name of Individual: Sorrento Valley Investment Group ☒ Owner ☐ Tenant/Lessee ☐ Successor Agency
 Street Address: 4144 Redwood Road
 City: Oakland State: CA Zip: 94619
 Phone No.: 510-482-8100 Fax No.: _____ Email: dkseyranian@aol.com
 Signature: David Seyranian Date: 04-16-2024
 Additional pages Attached: ☐ Yes ☒ No

Other Financially Interested Persons

Name of Individual: David Seyranian ☐ Owner ☐ Tenant/Lessee ☐ Successor Agency
 Street Address: 4144 Redwood Road
 City: Oakland State: CA Zip: 94619
 Phone No.: 510-482-8100 Fax No.: _____ Email: dkseyranian@aol.com
 Signature: David Seyranian Date: 04-16-2024
 Additional pages Attached: ☒ Yes ☐ No

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.

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

DOC# 2018-0500067



Dec 05, 2018 09:57 AM
OFFICIAL RECORDS
Ernest J. Dronenburg, Jr.,
SAN DIEGO COUNTY RECORDER
FEES: \$92.00 (SB2 Atkins: \$0.00)

PAGES: 27

INTERNAL ORDER NUMBER: 24007128 SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 1865509
10715 SORRENTO VALLEY - PROJECT NO. 527802
CITY COUNCIL

This Conditional Use Permit No. 1865509 is granted by the City Council of the City of San Diego to Sorrento Valley Investment Group, Owner, and Sure Felt, LLC, Permittee, pursuant to San Diego Municipal Code (SDMC) section 126.0305. The 0.37-acre site is located at 10715 Sorrento Valley Road in the IL-3-1 Zone, Coastal Overlay Zone (Non-appealable), Coastal Height Limitation Overlay Zone, Coastal Parking Impact Overlay Zone, MCAS Miramar Land Use Compatibility Overlay Zone (Airport Influence Area – Review Area 1 and Accident Potential Zone 2), Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands, within the Torrey Pines Community Plan area. The project site is legally described as: All of Lots 12-15, inclusive, in Block 17 of the Town of Sorrento, in the City of San Diego, County of San Diego, State of California, as originally shown on maps thereof Nos. 262 and 483, filed in the office of the County Recorder of San Diego County, September 30, 1887 and February 9, 1880, respectively.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Marijuana Outlet described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 18, 2018, on file in the Development Services Department.

The project shall include:

- a. Operation of a Marijuana Outlet in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, commercial building on a 0.37-acre site;
- b. A 703-square-foot additional tenant space within the existing 5,451-square-foot building, as shown on Exhibit "A," maintained and occupied by a licensed, non-retail commercial establishment permitted by right in the IL-3-1 Zone;
- c. 1,051 square feet within the existing 5,451-square-foot building, as shown on Exhibit "A," to remain vacant, and unoccupied, for the term of the subject Conditional Use Permit;

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

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by June 18, 2021.
2. This Conditional Use Permit (CUP) and corresponding use of this site shall expire on June 18, 2023.
3. In addition to other provisions of the law, the Marijuana Outlet must comply with Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 5 of the San Diego Municipal Code.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
 - c. A Permit issued by the Development Services Department is approved in accordance with SDMC Section 42.1504.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

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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,

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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.

ENGINEERING REQUIREMENTS:

13. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing driveway with a current City Standard 24-foot wide driveway, adjacent to the site on Sorrento Valley Road, satisfactory to the City Engineer.

14. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing curb ramp with a current City Standard curb ramp, adjacent to the site on Sorrento Valley Road, satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

15. The use within the 3,697-square-foot tenant space shall be limited to the Marijuana Outlet and any use permitted by right in the IL-3-1 Zone.

16. The Owner/Permittee shall configure the building to maintain at least two suites with separate entrances at exterior building facades.

17. A minimum of 703 square feet of tenant space within the 5,451-square-foot building shall be reserved and maintained for occupancy by a non-retail commercial use with a valid business license that is permitted by right in the IL-3-1 Zone, and does not trigger additional parking or result in an intensification of the use on the premises.

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

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

20. Lighting shall be provided to illuminate the interior of the Marijuana Outlet, façade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.

21. Security shall include operable cameras and a metal detector to the satisfaction of Development Services Department. This facility shall also include alarms and two security guards. The security guards shall be licensed by the State of California. The security guards must be on the premises during business hours. One security guard must be on the premises 24 hours a day, seven days a week. The security guards should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the recordings for a minimum of 30 days.

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22. The Owner/Permittee shall install a combination of full-height bullet resistant glass, plastic or laminate shield and bullet resistant armor panels or solid grouted masonry block walls, designed by a licensed professional, at the reception area.
23. The Owner/Permittee shall install full-height bullet resistant armor panels or solid grouted masonry block walls, designed by a licensed professional, at all walls adjoining common areas and other tenants, and vault room.
24. The Owner/Permittee shall post and maintain a sign showing the name and emergency contact phone number of an operator or manager in a location visible from outside the Marijuana Outlet in character size at least two inches in height.
25. The Marijuana Outlet shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
26. The use of vending machines which allow access to marijuana and marijuana products except by a responsible person, as defined in the San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this Section, a vending machine is any device which allows access to marijuana and marijuana products without a human intermediary.
27. The Owner/Permittee shall maintain the Marijuana Outlet, adjacent public sidewalks, and areas under the control of the Owner/Permittee, free of litter and graffiti at all times.
28. The facility shall provide a sufficient odor absorbing ventilation and exhaust system capable of eliminating excessive or offensive odors causing discomfort or annoyance to any reasonable person of normal sensitivities standing outside of the structural envelope of the permitted facility in compliance with SDMC Section 142.0710.
29. The Owner/Permittee shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.
30. Marijuana and marijuana products shall not be consumed anywhere within the 0.37-acre site.
31. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Ground signs shall not be pole signs. A primary sign shall be posted on the outside of the Marijuana Outlet and shall only contain the name of the business, which shall contain only alphabetic characters, and shall be limited to two colors.
32. The Owner/Permittee shall post the name and emergency contact phone number of the operator or manager, in a location visible from outside the Marijuana Outlet, in character size at least two inches in height.

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

TRANSPORTATION REQUIREMENTS:

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

35. The Owner/Permittee shall enter into and maintain a lease for an additional 1,051 square feet within the 5,451-square-foot building and retain it as vacant space. The lease shall specifically state that the additional 1,051 square feet leased space is to be kept vacant and not to be occupied at any time during the entire term, for any use whatsoever, including storage space.

36. Permittee must provide and maintain an accessible path from the building entrance to the public street.

INFORMATION ONLY:

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

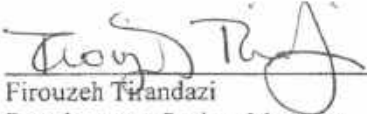
APPROVED by the City Council of the City of San Diego on June 18, 2018 and by Resolution No. R-311819.

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Permit Type/PTS Approval No.: Conditional Use Permit No. 1865509
 Date of Approval: June 18, 2018

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
 DEPARTMENT

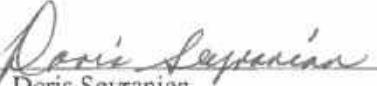

 Firouzeh Tirandazi
 Development Project Manager

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

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

SORRENTO VALLEY INVESTMENT GROUP

Owner

By 
 Doris Seyranian
 General Partner

By _____
 Neil Goodhue
 General Partner

By 
~~Henry Persoglio~~ LEON GERWELL
 General Partner

By 
 Timothy LeVeon
 General Partner

SURE FELT, LLC

Permittee

By _____
 Belinda Jane Appleyard
 Manager

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

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Permit Type/PTS Approval No.: Conditional Use Permit No. 1865509
Date of Approval: June 18, 2018

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Firouzeh Tirandazi
Development Project Manager

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

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

SORRENTO VALLEY INVESTMENT GROUP
Owner

By _____
Doris Seyranian
General Partner

By _____ *SEE ATTACHED NOTARY*
Neil Goodhue *AKA NEIL B GOODHUE*
General Partner

By _____
Henry Persoglio
General Partner

By _____
Timothy Le Veen
General Partner

SURE FELT, LLC
Permittee

By _____
Belinda Jane Appleyard
Manager

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

ORIGINAL

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**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
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SORRENTO VALLEY INVESTMENT GROUP
Owner

By _____
Doris Seyranian
General Partner

By _____
Neil Goodhue
General Partner

By _____
Henry Persoglio
General Partner

By _____
Timothy Le Veen
General Partner

SURE FELT, LLC
Permittee

By Belinda Appleyard
Belinda Jane Appleyard
Manager AKA BELINDA APPELYARD

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

ORIGINAL

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San DiegoOn December 3, 2018

Date

before me,

Rose Marie White, Notary Public

Here Insert Name and Title of the Officer

personally appeared

Krouzek Suarez

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature

Rose Marie White

Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian of Conservator☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian of Conservator☐ Other: _____

Signer is Representing: _____

ORIGINAL

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

On November 28, 2018 before me, Crystal R. Phillips, Notary Public
(insert name and title of the officer)

personally appeared DORIS SEYRANIAN
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Signature Crystal Phillips (Seal)

ORIGINAL

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

On November 30, 2018 before me, Crystal R. Phillips, Notary Public
(insert name and title of the officer)

personally appeared **LEON GERWELL**
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in
his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Crystal R. Phillips (Seal)

ORIGINAL

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

On November 28, 2018 before me, Crystal R. Phillips, Notary Public
(insert name and title of the officer)

personally appeared TIMOTHY LEVEEN,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in
his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Crystal R. Phillips (Seal)

ORIGINAL

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of ALAMEDA

On NOVEMBER 29TH 2018 before me, ALFRED ZOLLAR NOTARY PUBLIC
(insert name and title of the officer)

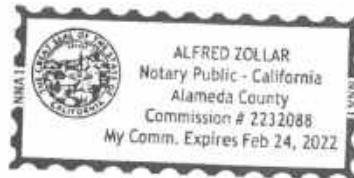
personally appeared NEIL B GOODHUE
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)



ORIGINAL

California All-Purpose Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

State of California
County of San Diego

On 11/28, 2018, before me Alec Mrochek, Notary Public, personally appeared Belinda Jane Appleyard.
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Alec Mrochek
Signature of Notary Public



OPTIONAL

Description of Attached Document

Title or Type of Document _____
Document Date: _____ Number of Pages (including this one) _____
Additional Information _____

Capacity(ies) Claimed by Signer

- ☐ Individual
- ☐ Corporate Officer- Title(s) _____
- ☐ Partner: Limited General
- ☐ Attorney-in-Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other

Signer is representing: _____

Right Thumbprint of
Signer 1

Right Thumbprint of
Signer 2

ORIGINAL

RESOLUTION NUMBER R- 311819

DATE OF FINAL PASSAGE JUN 18 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
DIEGO APPROVING CONDITIONAL USE PERMIT NO.
1865509 FOR A MARIJUANA OUTLET LOCATED AT 10715
SORRENTO VALLEY – PROJECT NO. 527802.

WHEREAS, Sorrento Valley Investment Group, Owner, and Sure Felt, LLC, Permittee, filed an application with the City of San Diego for a Conditional Use Permit to operate a Marijuana Outlet within an existing building known as the 10715 Sorrento Valley project, located at 10715 Sorrento Valley Road, and legally described as All of Lots 12-15, inclusive, in Block 17 of the Town of Sorrento, in the City of San Diego, County of San Diego, State of California, as originally shown on maps thereof Nos. 262 and 483, filed in the office of the County Recorded or San Diego County, September 30, 1887 and February 9, 1880, respectively, in the Torrey Pines Community Plan area, in the IL-3-1 Zone, Coastal Overlay Zone (Non-appealable), Coastal Height Limitation Overlay Zone, Coastal Parking Impact Overlay Zone, MCAS Miramar Land Use Compatibility Overlay Zone (Airport Influence Area – Review Area 1 and Accident Potential Zone 2), Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands; and

WHEREAS, on September 12, 2017, the City Council of the City of San Diego approved Resolution No. R-311318 granting an appeal of the Environmental Determination of Exemption from the California Environmental Quality Act (CEQA); and

WHEREAS, pursuant to San Diego Municipal Code section 112.0520(e), the City Council of the City of San Diego retains jurisdiction to act on the environmental determination and associated project at a subsequent hearing; and

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WHEREAS, the matter was set for public hearing on December 4, 2017, and at said hearing the applicant elected to change the scope of the project from a Medical Marijuana Consumer Cooperative to a Marijuana Outlet and requested a continuance to the public hearing of January 9, 2018; and

WHEREAS, on January 9, 2018 the City Council of the City of San Diego returned the matter to the Development Services Department to complete the review of the project as a Marijuana Outlet; and

WHEREAS, Addendum No. 527802 to Negative Declaration No. 82-0331 was prepared in accordance with CEQA Guidelines Sections 15162 and 15164, and this project was evaluated and subsequently determined to be inclusive of the scope covered under Negative Declaration No. 82-0331, dated July 15, 1982, which was prepared for the original development of the site, and no changes in circumstances have occurred, and no new information of substantial importance has manifested, which would result in new significant or substantially increased adverse impacts as a result of the project; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on June 18, 2018 testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

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BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. 1865509:

CONDITIONAL USE PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)
SECTION 126.0305

(a) **The proposed development will not adversely affect the applicable land use plan.** The project is an application for a Conditional Use Permit (CUP) to allow the operation of a Marijuana Outlet (Outlet) in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, commercial building. The building is a multi-tenant building and includes an additional 703-square-foot tenant space, which will be leased and occupied by a non-retail commercial establishment with a valid business license that is permitted by right in the IL-3-1 Zone. The 0.37-acre project site is located at 10715 Sorrento Valley Road in the IL-3-1 Zone within the Torrey Pines Community Plan (TPCP) area, Coastal Overlay Zone (Non-appealable), and the Coastal Height Limitation Overlay Zone. Additionally, the site is within the Coastal Parking Impact Overlay Zone, MCAS Miramar Land Use Compatibility Overlay Zone (Airport Influence Area – Review Area 1 and Accident Potential Zone 2), Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands.

The site is designated as “Industrial” in the TPCP, the adopted land use plan for this community. TPCP land use in Sorrento Valley is generally implemented by the IL-3-1 zone which is an industrial zone that allows for both industrial and commercial uses. The site is within the “Industrial Employment” General Plan land use category per the Land Use and Street System Map (Figure LU-2).

The Sorrento Valley industrial area, including this site, is further identified as “Prime Industrial Lands” (PIL) by the General Plan. A General Plan goal for identification of PIL designation is to protect valuable employment land for base sector industries important to the region's economy. An Outlet is a commercial retail use not considered as base sector employment. The General Plan also allows development or redevelopment of individual properties pursuant to the development regulations and permitted uses of the existing zone and community plan designation provided a site is not critical to base sector employment. The project site is not critical to achieving the City's base sector employment goal. The existing building was previously used for a credit union business, a commercial service use, and is not expected to be reconfigured to accommodate base sector employment uses commonly found in the area such as scientific research. The 0.37-acre site is also relatively small and not expected to be redeveloped into a scientific research facility as new scientific research developments typically occupy multiple acre sites. General Plan policies also specifically restrict sensitive receptor land uses such as residential and public assembly in PIL. An Outlet is not a sensitive receptor land use.

The proposal to reconfigure an existing commercial building for use as an Outlet is a compatible use within Sorrento Valley and would not adversely affect the TPCP land use. The “industrial” land use designation is intended to support manufacturing, research and development, laboratories, offices, industrial services, incubator industry and business uses, as

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well as support commercial and retail uses. A TPCP Industrial Land Use Element policy is to "emphasize the citywide importance of, and encourage the location of, scientific research, biotechnology, and clean manufacturing uses in Sorrento Valley because of its proximity to UCSD and the University and Mira Mesa communities' industrial areas." Due to the existing building configuration and site size, the project site is not suited for use by, or redevelopment of, scientific research or manufacturing uses.

Additionally, page 86 of the TPCP contains a policy that states "development of freestanding retail commercial uses in industrially designated areas shall be restricted to those uses that serve only the immediate Sorrento Valley industrial area." Due to their relative restriction within the City's zoning scheme, Outlet uses would not be expected to serve "only the immediate Sorrento Valley industrial area." However, the Outlet would occupy an existing building previously used for a commercial services use and the proposed use and space configuration within the building would not result in an intensification of use within the site. Furthermore, the building is not considered freestanding retail as its interior would be minimally modified to include two tenant spaces, the Outlet, and an additional tenant space with separate access to be leased and occupied by a non-retail commercial use. Based on the above, the proposed Outlet is a compatible use at this location with a Conditional Use Permit and is consistent with the TPCP land use policies, and will therefore not adversely affect the applicable land use plan.

(b) The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development will not be detrimental to the public's health, safety and welfare because the discretionary permit controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project's compliance with applicable local, regional, state and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large.

Outlets are restricted to four per Council District, 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. Outlets require compliance with SDMC Section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone.

Approval of this application would allow the sale of marijuana to be conditioned in order to prevent potential adverse impacts on the community. The proposed Outlet is subject to specific operational and security requirements and restrictions as set forth in SDMC Section 141.0504(b) through (m), which have also been incorporated as conditions in the CUP including prohibition of consultation by medical professionals on-site; prohibition of the use of specified vending machines except by a responsible person (as defined by the SDMC); provision of interior and exterior lighting, operable cameras, alarms, and two security guards; restriction of

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hours of operation to between 7:00 am and 9:00 pm daily; maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; and restriction of signage to business name, two-color signs, and alphabetic characters. Outlets must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation. The CUP is valid for five years, however, may be revoked if the use violates the terms, conditions, lawful requirements, or provision of the permit.

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

(c) The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code. The project proposes the operation of an Outlet in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, multi-tenant commercial building. The proposed Outlet, classified as retail sales use, is allowed in the IL-3-1 Zone with a CUP pursuant to SDMC Sections 141.0504. The project has been determined to be exempt from the permit requirements of the Environmentally Sensitive Lands (ESL) regulations pursuant to SDMC sections 143.0110((b)(4) and (c)(1). The proposed change of use from a bank, a commercial service use, to an Outlet which is a retail sales use, is not an intensification of use as the parking requirement for retail sales, commercial services, offices, and mixed use development is the same within the IL-3-1 Zone pursuant to SDMC Chapter 14, Article 2, Division 5. Therefore, a Coastal Development Permit is not required pursuant to SDMC section 126.0704(a). The project is also exempt from the Airport Land Use Compatibility Overlay Zone regulations pursuant to SDMC Section 132.1505(c)(1) and (2).

Pursuant to SDMC Section 141.0504(a), Outlets are subject to separation requirements including a 1,000-foot separation from resource and population-based city parks, other Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone. The proposed Outlet is in compliance with the required separation requirements.

The project is proposed within an existing structure constructed in 1984 in accordance with all applicable development regulations. The proposed Outlet will occupy an approximately 3,697-square-foot space within the existing 5,451-square-foot building. An additional building floor area of 703 square feet is to be leased and occupied by a non-retail commercial service use that is allowed by right in the IL-3-1 Zone, with the remaining 1,051 square feet to remain vacant throughout the duration of the CUP. The vacant floor space is not to be used for any purpose, including storage. The project provides 22 off-street parking spaces, which meets the required 22 off-street spaces required for all uses on the premises calculated at a rate of 5.0 automobile

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parking spaces per 1000 square feet of floor space, and by maintaining 1,051 square feet of building floor area within the building as vacant and unoccupied during the term of the CUP.

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

(d) The proposed use is appropriate at the proposed location. The proposed project is a request for a CUP to operate an Outlet in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, commercial building. The building is a multi-tenant building and includes an additional 703-square-foot tenant space that would be leased and occupied by a licensed non-retail commercial establishment that is permitted by right in the IL-3-1 Zone. The existing one-story building was developed in 1984 per Building Permit No. A-10502. Prior use on the site was a bank, which is a commercial service use. An Outlet is classified as a retail-sales use. The proposed change of use from a bank to an Outlet is not an intensification of use as the parking requirement for retail sales, commercial services, offices, and mixed use development is the same within the IL-3-1 Zone pursuant to SDMC Chapter 14, Article 2, Division 5. The project site is adjacent to a commercial office building to the east, research and development establishments to the south, an auto body shop to the north, and railroad tracks to the west across Sorrento Valley Road, and a mix of industrial and commercial uses further west.

The site is designated as "Industrial" in the TPCP, the adopted land use plan for this community. TPCP land use in Sorrento Valley is generally implemented by the IL-3-1 zone which is an industrial zone that allows for both industrial and commercial uses. The site is within the "Industrial Employment" General Plan land use category per the Land Use and Street System Map (Figure LU-2).

The Sorrento Valley industrial area, including this site, is further identified as "Prime Industrial Lands" (PIL) by the General Plan. A General Plan goal for identification of PIL designation is to protect valuable employment land for base sector industries important to the region's economy. An Outlet is a commercial retail use not considered base sector employment. The General Plan also allows development or redevelopment of individual properties pursuant to the development regulations and permitted uses of the existing zone and community plan designation provided a site is not critical to base sector employment. The project site is not critical to achieving the City's base sector employment goal. The existing building was previously used for a credit union business, a commercial service use, and is not expected to be reconfigured to accommodate base sector employment uses commonly found in the area such as scientific research. The 0.37-acre site is also relatively small and not expected to be redeveloped into a scientific research facility as new scientific research developments typically occupy multiple acre sites. General Plan policies also specifically restrict sensitive receptor land uses such as residential and public assembly in PIL. An Outlet is not a sensitive receptor land use.

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The proposal to reconfigure an existing commercial building for use as an Outlet is a compatible use within Sorrento Valley and would not adversely affect the TPCP land use. The "industrial" land use designation is intended to support manufacturing, research and development, laboratories, offices, industrial services, incubator industry and business uses, as well as support commercial and retail uses. A TPCP Industrial Land Use Element policy is to "emphasize the citywide importance of, and encourage the location of, scientific research, biotechnology, and clean manufacturing uses in Sorrento Valley because of its proximity to UCSD and the University and Mira Mesa communities' industrial areas." Due to the existing building configuration and site size, the project site is not suited for use by, or redevelopment of, scientific research or manufacturing uses.

Additionally, page 86 of the TPCP contains a policy that states "development of freestanding retail commercial uses in industrially designated areas shall be restricted to those uses that serve only the immediate Sorrento Valley industrial area." Due to their relative restriction within the City's zoning scheme, Outlet uses would not be expected to serve "only the immediate Sorrento Valley industrial area." However, the Outlet would occupy an existing building previously used for a commercial services use and the proposed use and space configuration within the building would not result in an intensification of use within the site. Furthermore, the building is not considered freestanding retail as its interior would be minimally modified to include two tenant spaces, the Outlet, and an additional tenant space with separate access to be leased and occupied by a non-retail commercial use. Based on the above, the proposed Outlet is a compatible use at this location with a Conditional Use Permit and is consistent with the TPCP land use policies, and will therefore not adversely affect the applicable land use plan.

The proposed Outlet is allowed in the IL-3-1 Zone with a CUP and is subject to separation requirements set forth in SDMC Section 141.0504, including a 1,000-foot separation from resource and population-based city parks, other Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone.

A minor-oriented facility is defined as any after school program, teen center, club for boys and/or girls, children's theater, children's museum, or other establishment where the primary use is devoted to people under the age of 18. The SDMC further defines a primary use as an allowed use on a premises that occupies a majority of the area of the premises. The proposed Outlet is approximately 755 feet, measured property line to property line, from the New Youth Orchestra (NYO) located at 10855 Sorrento Valley Road. The NYO occupies approximately 2,500 square feet, within Suites 2 and 3, of a 30,000-square-foot multi-tenant building and offers music education program to intermediate and advanced level string or wind instrument performers between the ages of 7 to 25. NYO is not considered any of the specific uses listed above. It is a music instruction studio that occupies approximately 8.3% of the building, and is not considered the primary use on the premises. Therefore, the proposed Outlet is not required to maintain a 1,000-foot distance from this use. Furthermore, City staff cannot locate any building permits for tenant improvements and occupancy establishing an instructional

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studio use at this location and has determined the subject use is not an allowed use at this location designated Prime Industrial Land per SDMC Chapter 13, Article 1, Division 6, Table 131-06B.

Outlets are also prohibited within 1,000 feet of other Outlets. On January 12, 2016, a CUP was issued for the Torrey Holistics Clinic MMCC located at 10671 Roselle Street, which is approximately 300 linear feet, measured property line to property line, from the proposed Outlet. In accordance with SDMC Section 113.0225(c), where there is a natural topographical barrier or constructed barrier, distance between uses can be measured as the most direct route around the barrier in a manner that establishes direct access. City staff has determined there are existing constructed barriers including railroad tracks, six-foot high chain link fence, and a drainage channel that would impede direct physical access between the uses. A direct pedestrian path of travel from the project site along the sidewalk and designated pedestrian crosswalk around these constructed physical barriers measures more than 1,000 feet, and therefore, in compliance with the separation requirements.

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

The SDMC limits Outlets to commercial and industrial zones and the number of Outlets to only four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods. All of the surrounding parcels are in the IL-3-1 Zone and the existing uses are consistent with the Industrial designation of the community plan and compatible uses with an Outlet. Therefore, based on the commercial nature of the use, compliance with the separation requirements, and conditions of approval, the proposed development is appropriate at the proposed location.

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

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BE IT FURTHER RESOLVED, that Conditional Use Permit No. 1865509 is granted to Sorrento Valley Investment Group, Owner, and Sure Felt, LLC, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Corinne L. Neuffer
Deputy City Attorney

CLN:als
0326/2018
05/29/2018 Cor. Copy
11/14/2018 Rev. Copy
Or.Dept:DSD
Doc. No.: 1716538_3

Attachment: Conditional Use Permit No. 1865509

ORIGINAL

Office of
The City Attorney
City of San Diego

MEMORANDUM

DATE: November 14, 2018
TO: Elizabeth Maland, City Clerk
FROM: Corrine L. Neuffer, Deputy City Attorney *CN*
SUBJECT: Item #204-Subitem B – 10715 Sorrento Valley – Project No. 527802 – Council Meeting of June 18, 2018

On June 18, 2018, the above referenced project, as Item 204, was approved by the City Council. Belinda Jane Appleyard, the applicant, is identified as the Permittee in Conditional Use Permit No. 1865509 and Resolution No. R-311818. Since the hearing, but before the recordation of the approvals, the Permittee changed to Sure Felt, LLC.

The Permittee has been revised accordingly in the attached Revised Resolution and Permit and no revisions are required for the other documents.

CLN:als
Doc. No.: 1875185

Attachments: Articles of Organization of a Limited Liability Company (LLC).
Revised Resolution R-2018-450 and Permit

ORIGINAL

Passed by the Council of The City of San Diego on JUN 18 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	☒	☐	☐	☐
Lorie Zapf	☐	☒	☐	☐
Chris Ward	☒	☐	☐	☐
Myrtle Cole	☒	☐	☐	☐
Mark Kersey	☒	☐	☐	☐
Chris Cate	☒	☐	☐	☐
Scott Sherman	☐	☐	☒	☐
David Alvarez	☒	☐	☐	☐
Georgette Gomez	☒	☐	☐	☐

Date of final passage JUN 18 2018

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

(Seal)

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *sk*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 311819

ORIGINAL

Passed by the Council of The City of San Diego on June 18, 2018, by the following vote:

YEAS: BRY, WARD, COLE, KERSEY, CATE, ALVAREZ, GÓMEZ,

NAYS: ZAPF.

NOT PRESENT: SHERMAN.

RECUSED: NONE.

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Matthew R. Hilario, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of

RESOLUTION NO. R-311819, approved on June 18, 2018. The date of final passage
is June 18, 2018.

ELIZABETH S. MALAND

City Clerk of the City of San Diego, California

(Seal)

By: _____, Deputy

ORIGINAL



TORREY PINES COMMUNITY PLANNING BOARD

REGULAR MEETING MINUTES

TUESDAY, May 21, 2024, 6:30 P.M.-8:30 P.M.

In-Person at Del Mar Hills Academy Multi-Use Room: 14085 Mango Drive, Del Mar, 92014

Speakers are requested to fill out Speaker Slips.

1. CALL TO ORDER (6:30 P.M.) Adam Gevanthor, Chair – **call to order at 6:31pm**
2. APPROVAL OF THE AGENDA (6:31 P.M.)
 - a. **Request by City Project Manager for Los Peñasquitos Lagoon Restoration Project to be moved earlier in board meeting.**
 - **Focus of presentation to be on information of project status and CEQA process.**
 - **Requested to provide updated project description to clarify the steps on the Public Review period and Public EIR. Description of public notification period was incorrect and will be clarified during presentation. Project data to be posted on City website and not the State Clearinghouse.**
 - b. **City Planning representative (Grant Ruerode) to present following public forum.**
 - c. **Ian to approve, Duncan to second – approved unanimous.**
3. APPROVAL OF MINUTES – **2 abstentions (Jonathan and Liz).**
 - a. **Adam to verify that past meeting minutes were sent out to Board.**
4. PUBLIC FORUM – Non-agenda items only but within the jurisdiction of the Community Planning Board. Time limit - Board does not respond to speaker per City Council policy (three-minute limit per speaker subject to change based on number of speakers present).
 - a. **Megan Steward – County of SD board of supervisors recognizes May as National Foster Care and Mental Health Awareness month. Discussed health effects of secondhand smoke on public health with nicotine based and ESD based products. Engages planning group to promote smoke free properties (including tobacco, marijuana and ESD products)**
5. LOS PENASQUITOS LAGOON RESTORATION PROJECT (6:35-7:10 P.M.) Mike Hastings, President, Los Peñasquitos Lagoon Foundation, City of San Diego
Project update prior to start of public comment period about planned restoration of salt marsh in lagoon, including sediment, trash, invasive species, removal, flood attenuation, and freshwater management to improve sustainability of restoration and overall lagoon health. Addendum to Program EIR originally prepared for Los Peñasquitos Lagoon Enhancement Plan will be submitted to State Clearing House followed by Notice of

Chair; Adam Gevanthor; Vice Chair, Greg Jabin; Secretary, Jonathan Parot; Treasurer, Brad Remy, Dennis Ridz; Ian Galton, Evan White, Duncan Agnew, Dee Rich, Liz Shopes, Michael Halpern, Eric Thies

www.torreypinescommunity.org

Action Package

- **Reporting each year to state housing needs for 2021-2029. City has permitted over 10,000 units over past year which is highest number in records. Approximately 27% are affordable units.**
- h. **Representative for Senator Toni Atkins (Cole)**
 - **Senate Bill 1428 – gap for health insurance coverage**
 - **Senate Bill 1213 – raise threshold for every woman counts program, passed unanimously**
 - **Senate Bill 1342 – infrastructure bill to permit streamlining San Vicente pumpstation; water treatment plant near border, passed unanimously**
 - **Liz: regarding home fire insurance, is state stopping insurers from leaving market? Home and apartment owners are not able to get fire insurance in certain areas.**
 - **State exploring legislation opportunity**
 - **Inquiring Facility at border**

7. LOSSAN Rail Realignment Project Discussion (7:40-7:45 P.M.) (ACTION ITEM)

Discussion about the upcoming SANDAG Project Scoping Meeting scheduled for June 18th at SD Del Mar Marriot and strategy for preparing formal response by Board.

- a. **June 18th is normal TPCPB meeting date.**
 - **Adam recommendation to change meeting date to following Tuesday, June 25th**
 - **Greg concurs**
 - **Last Tuesday is CPC (Brad)**
 - **Greg proposing Thursday, June 27th**
 - **Follow up via strawpoll**
 - **Dee: notification about scoping meeting on June 18th. Inform more of the community, post on website**
 - **Adam: special meeting on either**
 - **Regular board meeting to be reschedule Tuesday or Thursday following week of scoping meeting, still retain meeting on June 18**
 - **Rail committee to attend scoping meeting and provide feedback (majority of board members)**
- b. **Updated June 2024 meeting to be scheduled via Zoom on June 25.**

Adam motion, Greg – seconds. Location TBD.

8. JUNE MEETING DATE CHANGE (ACTION ITEM)

Discussion about changing the regular June meeting to following Tuesday, June 25th due to conflict with LOSSAN Rail Project Scoping Meeting scheduled for same day.

- a. **Proposed that updated June 2024 meeting to be scheduled via Zoom on June 25.**
- b. **Adam makes motion, Greg – seconds. Unanimous.**

9. MEDMEN, CONDITIONAL USE PERMIT AMENDMENT (7:50-8:15 P.M.)

Chair; Adam Gevanthor; Vice Chair, Greg Jabin; Secretary, Jonathan Parot; Treasurer, Brad Remy, Dennis Ridz; Ian Galton, Evan White, Duncan Agnew, Dee Rich, Liz Shopes, Michael Halpern, Eric Thies

(ACTION ITEM)

Scope/Location: Process Two: Conditional Use Permit amending CUP No. 1865509, PRJ No. 527802 to grant an additional five-year operational term to existing Cannabis Outlet at 10715 Sorrento Valley Road in the IL-3-1 zone within the Torrey Pines Community Planning Area and Council District 1. The project is located within the following overlay zones: Coastal Overlay Zone (Non-appealable), Coastal Height Limitation Overlay Zone, Coastal Parking Impact Overlay Zone, MCAS Miramar Land Use Compatibility Overlay Zone, Airport Influence Area - Review Area 1 and Accident Potential Zone 2, Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands. The project does not propose additional physical development.

Applicant/Representative: Michael Kinoshita michaelk@mkainc.net **Project Manager City of San Diego:** Tyler Sherer, TSherer@sanidiego.gov (619) 446-5378

- **Applicant not present. Adam put on agenda. PRC review project.**
 - **Discussion on concerns that new data regarding the business operations came in on facts that were not presented to the board or PRC**
 - **Past meeting minutes not approved regarding project being forwarded from PRC to Board.**
 - **Dennis shared history on project.**
 - **Madmen in bankruptcy, delisted on stock exchange in Canada, and allegedly owes the City monies for marijuana sales**
 - **Discussion on why would the board consider the project**
 - **PRC concerns: renewal of CDP (5-years), board opposed went to city council. Lost appeal, City council still approved.**
 - **PRC reviewed project as consistent with existing Conditional Use Permit**
 - **Discussion on the business being delinquent in fees and surprised the City looked at it not as a free standing business**
- **PRC Question for staff:**
 - **Project is located on prime industrial land and why is it not considered a freestanding commercial use?**
 - **Additional issues around parking. Clients are using coaster parking, which takes away from riders.**
- **Board to not take position**
- **Eric makes motion to recommend to not approve project– no second**
- **Peggy (member of public): objected to retail in industrial area. Surprised to see come up for renewal**
- **Duncan: to not take a position on the CUP.**
- **Adam makes motion for Board to not take position on project – All concur but Eric opposes.**

10. COMMITTEE & MISC. UPDATES (8:15-8:29 P.M.)

- a. CPC, B. Remy/L. Shopes
 - **City is now allowing Zoom meetings. Need to have as an agenda item for Board to take action on in-person, hybrid, or zoom-only.**
 - **The same resolution that recognizes Torrey Pines as advisory board, allows to meet virtually (hybrid or virtual only)**

Chair; Adam Gevanthor; Vice Chair, Greg Jabin; Secretary, Jonathan Parot; Treasurer, Brad Remy, Dennis Ridz; Ian Galton, Evan White, Duncan Agnew, Dee Rich, Liz Shopes, Michael Halpern, Eric Thies

www.torreypinescommunity.org

- Place meeting methodology as Action items in June.
 - 2/3 participation need to vote to approve zoom meetings, with in person annual meeting every March.
 - Duncan makes motion to approve, Greg seconds– unanimous passes with 2/3 majority.
 - In June, the Board will discuss consistency in meeting methods
 - CPC feedback on meeting 3 times yearly.
- b. Rail Committee / I. Galton
- Meeting with Duncan, Brian, Julio, Adam, Mike, Greg, Dee, Joaquin in discussing about how the Board does not feeling represented vs the City of Del Mar.
 - Take away was that Board members felt tentatively better but will see how it goes from there
 - Overall positive
 - Meeting scoping on June 18th. NOP coming out June 4
- c. San Dieguito EMS District / County Service Area 17 / Liz Shopes
- d. Undergrounding Block 1Y – A. Gevanthor

11. ANNOUNCEMENTS

- a. Attend City workshop training.
- b. Liz to share link and information on webinar for traffic safety from Maryland city planning committee.

12. ADJOURNMENT (8:30 P.M.)

Parking Table per SDMC 142.0530

Automobile Spaces

<u>Use</u>	<u>Number of Spaces Required per SDMC Table 142-05E</u>	<u>SDMC 142.0560(e) Pre-existing Parking Facilities</u>
IL-3-1 Zone	5 spaces per 1,000 SF of floor area outside a transit area	(1) Parking stall dimensions for 90-degree parking are 8'-6" w x 21' l long with 21' aisles; or
	5 x 4,400 = 22 spaces w/ 1 van accessible space	(2) A maximum of 60 percent of the total number of spaces must be wide by 15' long with 18' aisles.

Accessible Parking Spaces per Americans with Disabilities Act (ADA) and SDSA SDM-117

<u>Use</u>	<u>Number of Spaces Required</u>	<u>Number of Spaces Provided</u>
Commercial IL-3-1 Zone	1 accessible parking space for 1-25 parking spaces with at least 1 van accessible parking space for every 6 accessible parking spaces	1 ADA van accessible parking space

Carpool and Zero Emissions Vehicles per SDMC 142.0530(d)(B)(iii)

<u>Use</u>	<u>Number of Spaces Required</u>	<u>Number of Spaces Provided</u>
Commercial IL-3-1 Zone	1 designated space if there are 10-25 parking spaces	1 space

Bicycle Spaces per SDMC 142.0530(e)(1)(A) and 142.0530(e)(2)(A)

<u>Use</u>	<u>Number of Spaces Required</u>	<u>Number of Spaces Provided</u>
Commercial IL-3-1 Zone	Short-term - 2 spaces or 0.1 per 1,000 SF of floor area, whichever is greater	Short-term - 2 spaces
	Long-term - 1 space or 5% of the required automobile parking for any premises with more than 10 full-time employees	Long-term - 1 bike locker

Motorcycle Spaces per SDMC 142.0530(g)

<u>Use</u>	<u>Number of Spaces Required</u>	<u>Number of Spaces Provided</u>
Commercial IL-3-1 Zone	2% of the minimum number of automobile parking spaces required or 2 spaces, whichever is greater	2 spaces

↓ □ ☆ 🗑 | </> ... ✉ From Gina A...1097148.m  Open ▾ Share ▾ X

From: Austin, Gina <gaustin@austinlegalgroup.com>
Sent on: Wednesday, April 17, 2024 12:12:51 AM
To: Sherer, Tyler <TSherer@sandiego.gov>
CC: Gates, Lara <LNGates@sandiego.gov>; dkseyranian@aol.com; Peter Seyranian <pseyranian@aol.com>
Subject: [EXTERNAL] PRJ-1097148
Attachments: ds318 printed.pdf (215.74 KB), ds3032 with attachment.pdf (303.74 KB)

****This email came from an external source. Be cautious about clicking on any links in this email or opening attachments.****

Tyler,

As explained in our phone call and the email from the property owner, the existing tenant at 10715 Sorrento Valley Rd no longer has authority to occupy the property and the property owner has revoked the tenant's authority to continue to take any actions with regard to the property or the CUP. In light of the above, the property owner is substituting the DS-318 and DS-3032 for the CUP renewal PRJ-1097148. When a new operator is chosen by the property owner, a new DS-192 will be submitted in order to obtain a new operating permit.

Please let me know next steps.

Thank you

Gina

Gina Austin, Esq.

Austin Legal Group, APC

Office Phone: 619.924.9600

Cell: 619.368.4800

Office Fax: 619.881.0045

gaustin@austinlegalgroup.com

3990 Old Town Ave, Suite A-101

San Diego, California 92110

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April 16, 2024

Richard Ormond, Medmen, rormond@mmecontractor.com
 Art Luna, Medmen, art@artlunacpa.com
 Amit Pandey, Medmen, amit.pandey@medmen.com>
 David Seyranian, Property Owner, dkseyranian@aol.com

Sent Via Email and Certified Mail

RE: Sure Felt LLC - Notice of possible revocation of Cannabis Operating Permit and Non-Renewal of CUP #1865509 for Conditional Use Permit Conditions Violations

This letter is to inform you that the City may revoke the cannabis operating permit (COP) located at 10715 Sorrento Valley Road, San Diego CA 92121, forcing the outlet to close immediately and recommend denial of conditional use permit (CUP) of (Attachment A) if the following permit violations are not corrected:

1. Default on promissory note (Attachment B) payments: Required payment in the amount of \$32,588.68 due at the end March was not made.
2. Taxes and penalties associated with December sales activity have not been received and were recently referred to the City's Delinquent Accounts Program. The following is a breakdown of taxes and penalties owed for December sales activity:

2019004907 – Sure Felt LLC (ID #5841906)	
December 2023 Tax	\$30,110.28
December 2023 Penalty	\$16,613.34
Total referred -	\$46,723.62

3. Remittance form and associated tax payment was not submitted for February sales activity as required under San Diego Municipal Code (SDMC) section 34.0113. Using track and trace data compiled via the State's METRC portal, it is estimated that the following is owed:

February Estimated Tax	\$13,765.93
February Estimated Penalty	\$3,510.31
Total Estimated Amount Owed	\$17,276.24

SDMC section 42.1504 requires that all local cannabis outlets possess an active CUP and COP to operate. Per San Diego Municipal Code (SDMC) Section 121.0313, if taxes are not paid, the Cannabis Business Division (CBD) may revoke your permits pursuant to section 42.1509 (for the COP) and 121.0314 (for the CUP). Since this CUP is currently processing a Process 2 amendment to renew your CUP staff may not recommend approval of the amendment if these violations are not corrected. Please coordinate with the City's Delinquent Accounts Program to pay the outstanding amount due by May 5, 2024.

Please contact me immediately upon receipt of this letter to resolve the violations associated with CUP #1865509 and your COP. Should you have questions, please contact me at 619-871-7294 or lgates@sanidiego.gov.

Sincerely,

A handwritten signature in cursive script that reads "Lara Gates". The signature is written in dark ink and is positioned above a horizontal line.

Lara Gates
Deputy Director, Cannabis Business Division
Development Services Department

Attachments: A. Conditional Use Permit #1865509
B. Promissory Note

cc: Ricardo Ramos, Deputy Director, Office of the City Treasurer

CITY OF SAN DIEGO
TREASURER'S OFFICE
COLLECTION ID: 5841906

PROMISSORY NOTE

SURE FELT LLC DBA: MEDMEN,

DOES HEREBY ACKNOWLEDGE ITS INDEBTEDNESS TO THE CITY OF SAN DIEGO IN THE SUM OF \$195,532.08 COMPRISED OF PRINCIPAL OF \$189,410.22, COLLECTION REFERRAL FEES OF \$1,000.00 AND INTEREST OF \$5,121.86. THIS INDEBTEDNESS IS BASED ON THE AUDIT CONDUCTED BY THE CITY THAT REFERS TO THE OBLIGATIONS FOR THE AUDIT PERIOD OF 04/01/2019 THROUGH 09/30/2022.

SURE FELT LLC DBA: MEDMEN AGREES TO PAY THAT SUM ON THE FOLLOWING TERMS:

PAY \$195,532.08 PLUS ACCURED INTEREST, DUE ON OR BEFORE 07/30/2024 IN SEVEN MONTHLY INSTALLMENT PAYMENTS. THE FIRST SIX PAYMENTS WILL BE \$32,588.68. EACH PAYMENT IS DUE NO LATER THAN THE THIRTIETH DAY OF EACH MONTH (FEBRUARY'S PAYMENT DUE BY THE TWENTY-NINTH DAY), WITH THE FIRST MONTHLY INSTALLMENT PAYMENT DUE TO THE CITY NO LATER THAN 01/30/2024. INTEREST WILL ACCRUE ON THE UNPAID BALANCE AT 7% PER ANNUM RATE, BASED ON THE PRINCIPAL AMOUNT DUE. THE SEVENTH AND FINAL PAYMENT DUE ON OR BEFORE 07/30/2024 WILL BE FOR ANY REMAINING ACCRUED INTEREST.

IF THE AMOUNTS INDICATED ABOVE ARE NOT PAID IN FULL BY 07/30/2024, AND THE PAYMENTS ARE NOT MADE AS SET FORTH HEREIN, SURE FELT LLC DBA: MEDMEN SHALL BE IN DEFAULT OF THIS AGREEMENT, AND SUBJECT TO LOSS OF ITS BUSINESS CERTIFICATE, REVOCATION OF THE CONDITIONAL USE PERMIT AND SUBJECT TO LEGAL ACTION TO COLLECT THE UNPAID BALANCE. THE CITY IS ALLOWING SURE FELT LLC DBA: MEDMEN TO ENTER INTO THIS AGREEMENT TO MAKE INSTALLMENT PAYMENTS OF THE DELINQUENT AMOUNT OWED AND TO AVOID BEING SUBJECT TO THE ACTIONS LISTED. PROVIDED THE PAYMENTS ARE RECEIVED IN ACCORDANCE WITH THE TERMS OF THIS PROMISSORY NOTE, THE CITY AGREES NOT TO REVOKE THE BUSINESS CERTIFICATE, CONDITIONAL USE PERMIT, OR PURSUE ANY LEGAL ACTION TO COLLECT THE OBLIGATIONS CURRENTLY OWING AND IDENTIFIED IN THIS AGREEMENT.

SHOULD A DEFAULT OF ANY PAYMENT OCCUR, THE ENTIRE OBLIGATION SHALL BE ACCELERATED AND ALL OUTSTANDING AMOUNTS, INCLUDING ACCRUED INTEREST, SHALL BECOME IMMEDIATELY DUE AND PAYABLE. ANY DEFAULT IN THE AGREED UPON TERMS MAY JEOPARDIZE SURE FELT LLC DBA: MEDMEN'S CANNABIS BUSINESS DIVISON OPERATING PERMIT AND CONDITIONAL USE PERMIT (CUP).

SURE FELT LLC DBA: MEDMEN FURTHER AGREES TO MAKE EACH OF ITS ONGOING FUTURE CANNABIS BUSINESS TAX AND RELATED FEE PAYMENTS ON TIME. ANY ADDITIONAL UNPAID AMOUNTS REFERRED TO DELINQUENT ACCOUNTS FOR COLLECTION ARE NOT PART OF THIS AGREEMENT. THE CITY TREASURER'S OFFICE RESERVES THE RIGHT TO PURSUE ALL LEGAL REMEDIES TO COLLECT ANY ADDITIONAL AMOUNTS THAT BECOME DUE TO THE CITY.

SHOULD THE CITY INCUR LEGAL FEES OR UTILIZE LEGAL SERVICES TO ENFORCE THE TERMS OF THIS AGREEMENT, SURE FELT LLC DBA: MEDMEN AGREES TO BE RESPONSIBLE FOR AND PROMPTLY PAY ALL REASONABLE ATTORNEYS’ FEES AND COSTS INCURRED OR EXPENDED BY THE CITY, WHETHER BY DEPUTY CITY ATTORNEYS’ OR BY OUTSIDE COUNSEL.

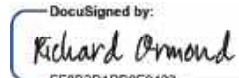
SURE FELT LLC DBA: MEDMEN AGREES TO KEEP THE CITY TREASURER’S OFFICE APPRISED OF ITS CONTACT INFORMATION SHOULD IT CHANGE FROM WHAT IS SET FORTH BELOW.

ANY MODIFICATION TO THIS AGREEMENT MUST BE IN WRITING, AGREED TO, AND SIGNED BY BOTH PARTIES.

I HEREBY CERTIFY THAT I AM AUTHORIZED TO, AND DO, LEGALLY BIND SURE FELT LLC, INDIVIDUALLY AND DOING BUSINESS AS SURE FELT LLC DBA: MEDMEN, TO THIS AGREEMENT AND THAT I HAVE READ, UNDERSTAND, AND AGREE TO ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT.

EXECUTED AT SAN DIEGO, CALIFORNIA.

DATED: 2/23/2024


Richard Ormond, CRO for SURE FELT LLC DBA: MEDMEN

6501 Congress Avenue, Boca Raton, FL 33487
ADDRESS

rormond@mmecontractor.com
E-MAIL ADDRESS

310-913-0515
TELEPHONE NUMBER



THE CITY OF SAN DIEGO

DATE OF NOTICE: May 2, 2024

NOTICE OF DECISION

DEVELOPMENT SERVICES DEPARTMENT

PROJECT NO:	PRJ-1097148
PROJECT NAME:	<u>10715 SORRENTO VALLEY ROAD CANNABIS OUTLET AMENDMENT</u>
PROJECT TYPE:	AMENDMENT TO CONDITIONAL USE PERMIT, PROCESS TWO
APPLICANT:	SORRENTO VALLEY INVESTMENT GROUP
COMMUNITY PLAN AREA:	TORREY PINES
COUNCIL DISTRICT:	1
CITY PROJECT MANAGER:	Tyler Sherer, Development Project Manager
PHONE NUMBER/E-MAIL:	(619) 446-5378 / TSherer@sanidiego.gov

On May 2, 2024, the Development Services Department APPROVED an application to allow a previously approved Marijuana Outlet (MO) to change its use to Cannabis Outlet (CO) and continue operations in a 3,697-square-foot tenant space within an existing commercial building. No other changes to the existing development are proposed, only a change of use and a 5-year extension of operations. The 0.37-acre site is located at 10715 Sorrento Valley Road in the IL-3-1 zone of the Torrey Pines Community Plan area.

If you have any questions about this project, the decision, or wish to receive a copy of the resolution approving or denying the project, contact the Development Project Manager above.

The decision of the Development Services Department Staff can be appealed to the Planning Commission within ten business days from the above date: May 16, 2024. Appeal procedures are described in [Information Bulletin 505](#) (<https://www.sandiego.gov/sites/default/files/dsdib505.pdf>) and can be filed by email/mail or in person:

- 1) Appeals filed via email/mail: Send the fully completed appeal application [DS-3031](#) (including grounds for appeal and supporting documentation in pdf format) via email to PlanningCommission@sanidiego.gov by 4:00 pm on the last day of the appeal period. When received by the City, the appellant will be invoiced for payment of the required Appeal Fee. Timely payment of this invoice is required to complete processing of the appeal. Failure to pay the invoice within 5 business days of invoice issuance will invalidate the appeal application.
- 2) Appeals filed in person: Bring the fully completed appeal application [DS-3031](#) (including grounds for appeal and supporting documentation) to the touchless Payment Drop-Off drop safe in the first-floor lobby of the Development Services Center, located at 1222 First Avenue in Downtown San Diego by 4 p.m. on the last day of the appeal period. The completed appeal package must be clearly marked on the outside as "Appeal" and must include the required

appeal fee per this bulletin in the form of a check payable to the City Treasurer. This safe is checked daily, and payments are processed the following business day. All payments must be in the exact amount, drawn on US banks, and be made out to "City Treasurer." Please include in the memo of the check the invoice # or Project # or attach the invoice to the check. Cash payments are only accepted by appointment; email DSDCashiers@sandiego.gov to schedule an appointment.

The decision made by the Planning Commission is the final decision by the City.

This project was determined to be consistent with Negative Declaration No. 82-0331 pursuant to the California Environmental Quality Act (CEQA) Section 15162 on August 9, 2023.

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

Internal Order No.: 11004381

cc: Adam Gevanthor, Chair, Torrey Pines Community Planning Group



Development Services Department

Tyler Sherer / Project No. PRJ-11097148 10715 Sorrento Valley Road CO
1222 First Avenue, MS 301
San Diego, California 92101-4140

RETURN SERVICE REQUESTED

Exhibit C

REV. COPY

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

DOC# 2018-0500067



Dec 05, 2018 09:57 AM
OFFICIAL RECORDS
Ernest J. Dronenburg, Jr.,
SAN DIEGO COUNTY RECORDER
FEES: \$92.00 (SB2 Atkins: \$0.00)

PAGES: 27

INTERNAL ORDER NUMBER: 24007128 SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 1865509
10715 SORRENTO VALLEY - PROJECT NO. 527802
CITY COUNCIL

This Conditional Use Permit No. 1865509 is granted by the City Council of the City of San Diego to Sorrento Valley Investment Group, Owner, and Sure Felt, LLC, Permittee, pursuant to San Diego Municipal Code (SDMC) section 126.0305. The 0.37-acre site is located at 10715 Sorrento Valley Road in the IL-3-1 Zone, Coastal Overlay Zone (Non-appealable), Coastal Height Limitation Overlay Zone, Coastal Parking Impact Overlay Zone, MCAS Miramar Land Use Compatibility Overlay Zone (Airport Influence Area – Review Area 1 and Accident Potential Zone 2), Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands, within the Torrey Pines Community Plan area. The project site is legally described as: All of Lots 12-15, inclusive, in Block 17 of the Town of Sorrento, in the City of San Diego, County of San Diego, State of California, as originally shown on maps thereof Nos. 262 and 483, filed in the office of the County Recorder of San Diego County, September 30, 1887 and February 9, 1880, respectively.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Marijuana Outlet described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 18, 2018, on file in the Development Services Department.

The project shall include:

- a. Operation of a Marijuana Outlet in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, commercial building on a 0.37-acre site;
- b. A 703-square-foot additional tenant space within the existing 5,451-square-foot building, as shown on Exhibit "A," maintained and occupied by a licensed, non-retail commercial establishment permitted by right in the IL-3-1 Zone;
- c. 1,051 square feet within the existing 5,451-square-foot building, as shown on Exhibit "A," to remain vacant, and unoccupied, for the term of the subject Conditional Use Permit;

ORIGINAL

REV. COPY

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

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by June 18, 2021.
2. This Conditional Use Permit (CUP) and corresponding use of this site shall expire on June 18, 2023.
3. In addition to other provisions of the law, the Marijuana Outlet must comply with Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 5 of the San Diego Municipal Code.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
 - c. A Permit issued by the Development Services Department is approved in accordance with SDMC Section 42.1504.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

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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,

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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.

ENGINEERING REQUIREMENTS:

13. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing driveway with a current City Standard 24-foot wide driveway, adjacent to the site on Sorrento Valley Road, satisfactory to the City Engineer.

14. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing curb ramp with a current City Standard curb ramp, adjacent to the site on Sorrento Valley Road, satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

15. The use within the 3,697-square-foot tenant space shall be limited to the Marijuana Outlet and any use permitted by right in the IL-3-1 Zone.

16. The Owner/Permittee shall configure the building to maintain at least two suites with separate entrances at exterior building facades.

17. A minimum of 703 square feet of tenant space within the 5,451-square-foot building shall be reserved and maintained for occupancy by a non-retail commercial use with a valid business license that is permitted by right in the IL-3-1 Zone, and does not trigger additional parking or result in an intensification of the use on the premises.

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

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

20. Lighting shall be provided to illuminate the interior of the Marijuana Outlet, façade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.

21. Security shall include operable cameras and a metal detector to the satisfaction of Development Services Department. This facility shall also include alarms and two security guards. The security guards shall be licensed by the State of California. The security guards must be on the premises during business hours. One security guard must be on the premises 24 hours a day, seven days a week. The security guards should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the recordings for a minimum of 30 days.

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22. The Owner/Permittee shall install a combination of full-height bullet resistant glass, plastic or laminate shield and bullet resistant armor panels or solid grouted masonry block walls, designed by a licensed professional, at the reception area.
23. The Owner/Permittee shall install full-height bullet resistant armor panels or solid grouted masonry block walls, designed by a licensed professional, at all walls adjoining common areas and other tenants, and vault room.
24. The Owner/Permittee shall post and maintain a sign showing the name and emergency contact phone number of an operator or manager in a location visible from outside the Marijuana Outlet in character size at least two inches in height.
25. The Marijuana Outlet shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
26. The use of vending machines which allow access to marijuana and marijuana products except by a responsible person, as defined in the San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this Section, a vending machine is any device which allows access to marijuana and marijuana products without a human intermediary.
27. The Owner/Permittee shall maintain the Marijuana Outlet, adjacent public sidewalks, and areas under the control of the Owner/Permittee, free of litter and graffiti at all times.
28. The facility shall provide a sufficient odor absorbing ventilation and exhaust system capable of eliminating excessive or offensive odors causing discomfort or annoyance to any reasonable person of normal sensitivities standing outside of the structural envelope of the permitted facility in compliance with SDMC Section 142.0710.
29. The Owner/Permittee shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.
30. Marijuana and marijuana products shall not be consumed anywhere within the 0.37-acre site.
31. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Ground signs shall not be pole signs. A primary sign shall be posted on the outside of the Marijuana Outlet and shall only contain the name of the business, which shall contain only alphabetic characters, and shall be limited to two colors.
32. The Owner/Permittee shall post the name and emergency contact phone number of the operator or manager, in a location visible from outside the Marijuana Outlet, in character size at least two inches in height.

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

TRANSPORTATION REQUIREMENTS:

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

35. The Owner/Permittee shall enter into and maintain a lease for an additional 1,051 square feet within the 5,451-square-foot building and retain it as vacant space. The lease shall specifically state that the additional 1,051 square feet leased space is to be kept vacant and not to be occupied at any time during the entire term, for any use whatsoever, including storage space.

36. Permittee must provide and maintain an accessible path from the building entrance to the public street.

INFORMATION ONLY:

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

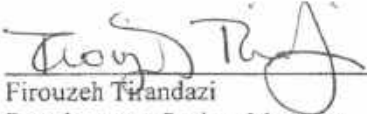
APPROVED by the City Council of the City of San Diego on June 18, 2018 and by Resolution No. R-311819.

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Permit Type/PTS Approval No.: Conditional Use Permit No. 1865509
 Date of Approval: June 18, 2018

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
 DEPARTMENT

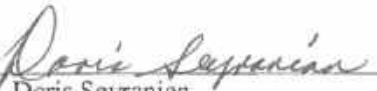

 Firouzeh Tirandazi
 Development Project Manager

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

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

SORRENTO VALLEY INVESTMENT GROUP

Owner

By 
 Doris Seyranian
 General Partner

By _____
 Neil Goodhue
 General Partner

By 
~~Henry Persoglio~~ LEON GERWELL
 General Partner

By 
 Timothy LeVeon
 General Partner

SURE FELT, LLC

Permittee

By _____
 Belinda Jane Appleyard
 Manager

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

ORIGINAL

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Permit Type/PTS Approval No.: Conditional Use Permit No. 1865509
Date of Approval: June 18, 2018

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Firouzeh Tirandazi
Development Project Manager

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

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

SORRENTO VALLEY INVESTMENT GROUP
Owner

By _____
Doris Seyranian
General Partner

By _____ *SEE ATTACHED NOTARY*
Neil Goodhue *AKA NEIL B GOODHUE*
General Partner

By _____
Henry Persoglio
General Partner

By _____
Timothy Le Veen
General Partner

SURE FELT, LLC
Permittee

By _____
Belinda Jane Appleyard
Manager

**NOTE: Notary acknowledgments
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section 1189 et seq.**

ORIGINAL

REV. COPY

Permit Type/PTS Approval No.: Conditional Use Permit No. 1865509
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DEPARTMENT

Firouzeh Tirandazi
Development Project Manager

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this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

SORRENTO VALLEY INVESTMENT GROUP
Owner

By _____
Doris Seyranian
General Partner

By _____
Neil Goodhue
General Partner

By _____
Henry Persoglio
General Partner

By _____
Timothy Le Veen
General Partner

SURE FELT, LLC
Permittee

By Belinda Appleyard
Belinda Jane Appleyard
Manager **AKA BELINDA APPELYARD**

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

ORIGINAL

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San DiegoOn December 3, 2018

Date

before me,

Rose Marie White, Notary Public

Here Insert Name and Title of the Officer

personally appeared

Krouzek Suarez

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature

Rose Marie White

Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian of Conservator☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian of Conservator☐ Other: _____

Signer is Representing: _____

ORIGINAL

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

On November 28, 2018 before me, Crystal R. Phillips, Notary Public
(insert name and title of the officer)

personally appeared DORIS SEYRANIAN
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Signature Crystal Phillips (Seal)

ORIGINAL

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

On November 30, 2018 before me, Crystal R. Phillips, Notary Public
(insert name and title of the officer)

personally appeared **LEON GERWELL**
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in
his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Crystal R. Phillips (Seal)

ORIGINAL

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

On November 28, 2018 before me, Crystal R. Phillips, Notary Public
(insert name and title of the officer)

personally appeared TIMOTHY LEVEEN
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in
his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Crystal R. Phillips (Seal)

ORIGINAL

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of ALAMEDA

On NOVEMBER 29TH 2018 before me, ALFRED ZOLLAR NOTARY PUBLIC
(insert name and title of the officer)

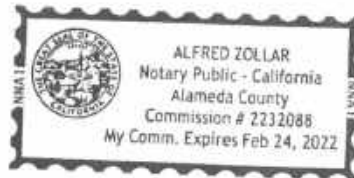
personally appeared NEIL B GOODHUE
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)



ORIGINAL

California All-Purpose Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

State of California
County of San Diego

On 11/28, 2018, before me Alec Mrochek, Notary Public, personally appeared Belinda Jane Appleyard.
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies) and that by his/~~her~~/their signature~~(s)~~ on the instrument the person~~(s)~~ or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Alec Mrochek
Signature of Notary Public



OPTIONAL

Description of Attached Document

Title or Type of Document _____
Document Date: _____ Number of Pages (including this one) _____
Additional Information _____

Capacity(ies) Claimed by Signer

- ☐ Individual
- ☐ Corporate Officer- Title(s) _____
- ☐ Partner: Limited General
- ☐ Attorney-in-Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other

Signer is representing: _____

Right Thumbprint of
Signer 1

Right Thumbprint of
Signer 2

ORIGINAL

RESOLUTION NUMBER R- 311819

DATE OF FINAL PASSAGE JUN 18 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
DIEGO APPROVING CONDITIONAL USE PERMIT NO.
1865509 FOR A MARIJUANA OUTLET LOCATED AT 10715
SORRENTO VALLEY – PROJECT NO. 527802.

WHEREAS, Sorrento Valley Investment Group, Owner, and Sure Felt, LLC, Permittee, filed an application with the City of San Diego for a Conditional Use Permit to operate a Marijuana Outlet within an existing building known as the 10715 Sorrento Valley project, located at 10715 Sorrento Valley Road, and legally described as All of Lots 12-15, inclusive, in Block 17 of the Town of Sorrento, in the City of San Diego, County of San Diego, State of California, as originally shown on maps thereof Nos. 262 and 483, filed in the office of the County Recorder of San Diego County, September 30, 1887 and February 9, 1880, respectively, in the Torrey Pines Community Plan area, in the IL-3-1 Zone, Coastal Overlay Zone (Non-appealable), Coastal Height Limitation Overlay Zone, Coastal Parking Impact Overlay Zone, MCAS Miramar Land Use Compatibility Overlay Zone (Airport Influence Area – Review Area 1 and Accident Potential Zone 2), Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands; and

WHEREAS, on September 12, 2017, the City Council of the City of San Diego approved Resolution No. R-311318 granting an appeal of the Environmental Determination of Exemption from the California Environmental Quality Act (CEQA); and

WHEREAS, pursuant to San Diego Municipal Code section 112.0520(e), the City Council of the City of San Diego retains jurisdiction to act on the environmental determination and associated project at a subsequent hearing; and

(R-2018-450)
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WHEREAS, the matter was set for public hearing on December 4, 2017, and at said hearing the applicant elected to change the scope of the project from a Medical Marijuana Consumer Cooperative to a Marijuana Outlet and requested a continuance to the public hearing of January 9, 2018; and

WHEREAS, on January 9, 2018 the City Council of the City of San Diego returned the matter to the Development Services Department to complete the review of the project as a Marijuana Outlet; and

WHEREAS, Addendum No. 527802 to Negative Declaration No. 82-0331 was prepared in accordance with CEQA Guidelines Sections 15162 and 15164, and this project was evaluated and subsequently determined to be inclusive of the scope covered under Negative Declaration No. 82-0331, dated July 15, 1982, which was prepared for the original development of the site, and no changes in circumstances have occurred, and no new information of substantial importance has manifested, which would result in new significant or substantially increased adverse impacts as a result of the project; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on June 18, 2018 testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

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(R-2018-450)
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BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. 1865509:

CONDITIONAL USE PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)
SECTION 126.0305

(a) **The proposed development will not adversely affect the applicable land use plan.** The project is an application for a Conditional Use Permit (CUP) to allow the operation of a Marijuana Outlet (Outlet) in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, commercial building. The building is a multi-tenant building and includes an additional 703-square-foot tenant space, which will be leased and occupied by a non-retail commercial establishment with a valid business license that is permitted by right in the IL-3-1 Zone. The 0.37-acre project site is located at 10715 Sorrento Valley Road in the IL-3-1 Zone within the Torrey Pines Community Plan (TPCP) area, Coastal Overlay Zone (Non-appealable), and the Coastal Height Limitation Overlay Zone. Additionally, the site is within the Coastal Parking Impact Overlay Zone, MCAS Miramar Land Use Compatibility Overlay Zone (Airport Influence Area – Review Area 1 and Accident Potential Zone 2), Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands.

The site is designated as “Industrial” in the TPCP, the adopted land use plan for this community. TPCP land use in Sorrento Valley is generally implemented by the IL-3-1 zone which is an industrial zone that allows for both industrial and commercial uses. The site is within the “Industrial Employment” General Plan land use category per the Land Use and Street System Map (Figure LU-2).

The Sorrento Valley industrial area, including this site, is further identified as “Prime Industrial Lands” (PIL) by the General Plan. A General Plan goal for identification of PIL designation is to protect valuable employment land for base sector industries important to the region's economy. An Outlet is a commercial retail use not considered as base sector employment. The General Plan also allows development or redevelopment of individual properties pursuant to the development regulations and permitted uses of the existing zone and community plan designation provided a site is not critical to base sector employment. The project site is not critical to achieving the City's base sector employment goal. The existing building was previously used for a credit union business, a commercial service use, and is not expected to be reconfigured to accommodate base sector employment uses commonly found in the area such as scientific research. The 0.37-acre site is also relatively small and not expected to be redeveloped into a scientific research facility as new scientific research developments typically occupy multiple acre sites. General Plan policies also specifically restrict sensitive receptor land uses such as residential and public assembly in PIL. An Outlet is not a sensitive receptor land use.

The proposal to reconfigure an existing commercial building for use as an Outlet is a compatible use within Sorrento Valley and would not adversely affect the TPCP land use. The “industrial” land use designation is intended to support manufacturing, research and development, laboratories, offices, industrial services, incubator industry and business uses, as

(R-2018-450)
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well as support commercial and retail uses. A TPCP Industrial Land Use Element policy is to "emphasize the citywide importance of, and encourage the location of, scientific research, biotechnology, and clean manufacturing uses in Sorrento Valley because of its proximity to UCSD and the University and Mira Mesa communities' industrial areas." Due to the existing building configuration and site size, the project site is not suited for use by, or redevelopment of, scientific research or manufacturing uses.

Additionally, page 86 of the TPCP contains a policy that states "development of freestanding retail commercial uses in industrially designated areas shall be restricted to those uses that serve only the immediate Sorrento Valley industrial area." Due to their relative restriction within the City's zoning scheme, Outlet uses would not be expected to serve "only the immediate Sorrento Valley industrial area." However, the Outlet would occupy an existing building previously used for a commercial services use and the proposed use and space configuration within the building would not result in an intensification of use within the site. Furthermore, the building is not considered freestanding retail as its interior would be minimally modified to include two tenant spaces, the Outlet, and an additional tenant space with separate access to be leased and occupied by a non-retail commercial use. Based on the above, the proposed Outlet is a compatible use at this location with a Conditional Use Permit and is consistent with the TPCP land use policies, and will therefore not adversely affect the applicable land use plan.

(b) The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development will not be detrimental to the public's health, safety and welfare because the discretionary permit controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project's compliance with applicable local, regional, state and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large.

Outlets are restricted to four per Council District, 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. Outlets require compliance with SDMC Section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone.

Approval of this application would allow the sale of marijuana to be conditioned in order to prevent potential adverse impacts on the community. The proposed Outlet is subject to specific operational and security requirements and restrictions as set forth in SDMC Section 141.0504(b) through (m), which have also been incorporated as conditions in the CUP including prohibition of consultation by medical professionals on-site; prohibition of the use of specified vending machines except by a responsible person (as defined by the SDMC); provision of interior and exterior lighting, operable cameras, alarms, and two security guards; restriction of

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hours of operation to between 7:00 am and 9:00 pm daily; maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; and restriction of signage to business name, two-color signs, and alphabetic characters. Outlets must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation. The CUP is valid for five years, however, may be revoked if the use violates the terms, conditions, lawful requirements, or provision of the permit.

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

(c) The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code. The project proposes the operation of an Outlet in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, multi-tenant commercial building. The proposed Outlet, classified as retail sales use, is allowed in the IL-3-1 Zone with a CUP pursuant to SDMC Sections 141.0504. The project has been determined to be exempt from the permit requirements of the Environmentally Sensitive Lands (ESL) regulations pursuant to SDMC sections 143.0110((b)(4) and (c)(1). The proposed change of use from a bank, a commercial service use, to an Outlet which is a retail sales use, is not an intensification of use as the parking requirement for retail sales, commercial services, offices, and mixed use development is the same within the IL-3-1 Zone pursuant to SDMC Chapter 14, Article 2, Division 5. Therefore, a Coastal Development Permit is not required pursuant to SDMC section 126.0704(a). The project is also exempt from the Airport Land Use Compatibility Overlay Zone regulations pursuant to SDMC Section 132.1505(c)(1) and (2).

Pursuant to SDMC Section 141.0504(a), Outlets are subject to separation requirements including a 1,000-foot separation from resource and population-based city parks, other Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone. The proposed Outlet is in compliance with the required separation requirements.

The project is proposed within an existing structure constructed in 1984 in accordance with all applicable development regulations. The proposed Outlet will occupy an approximately 3,697-square-foot space within the existing 5,451-square-foot building. An additional building floor area of 703 square feet is to be leased and occupied by a non-retail commercial service use that is allowed by right in the IL-3-1 Zone, with the remaining 1,051 square feet to remain vacant throughout the duration of the CUP. The vacant floor space is not to be used for any purpose, including storage. The project provides 22 off-street parking spaces, which meets the required 22 off-street spaces required for all uses on the premises calculated at a rate of 5.0 automobile

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parking spaces per 1000 square feet of floor space, and by maintaining 1,051 square feet of building floor area within the building as vacant and unoccupied during the term of the CUP.

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

(d) The proposed use is appropriate at the proposed location. The proposed project is a request for a CUP to operate an Outlet in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, commercial building. The building is a multi-tenant building and includes an additional 703-square-foot tenant space that would be leased and occupied by a licensed non-retail commercial establishment that is permitted by right in the IL-3-1 Zone. The existing one-story building was developed in 1984 per Building Permit No. A-10502. Prior use on the site was a bank, which is a commercial service use. An Outlet is classified as a retail-sales use. The proposed change of use from a bank to an Outlet is not an intensification of use as the parking requirement for retail sales, commercial services, offices, and mixed use development is the same within the IL-3-1 Zone pursuant to SDMC Chapter 14, Article 2, Division 5. The project site is adjacent to a commercial office building to the east, research and development establishments to the south, an auto body shop to the north, and railroad tracks to the west across Sorrento Valley Road, and a mix of industrial and commercial uses further west.

The site is designated as "Industrial" in the TPCP, the adopted land use plan for this community. TPCP land use in Sorrento Valley is generally implemented by the IL-3-1 zone which is an industrial zone that allows for both industrial and commercial uses. The site is within the "Industrial Employment" General Plan land use category per the Land Use and Street System Map (Figure LU-2).

The Sorrento Valley industrial area, including this site, is further identified as "Prime Industrial Lands" (PIL) by the General Plan. A General Plan goal for identification of PIL designation is to protect valuable employment land for base sector industries important to the region's economy. An Outlet is a commercial retail use not considered base sector employment. The General Plan also allows development or redevelopment of individual properties pursuant to the development regulations and permitted uses of the existing zone and community plan designation provided a site is not critical to base sector employment. The project site is not critical to achieving the City's base sector employment goal. The existing building was previously used for a credit union business, a commercial service use, and is not expected to be reconfigured to accommodate base sector employment uses commonly found in the area such as scientific research. The 0.37-acre site is also relatively small and not expected to be redeveloped into a scientific research facility as new scientific research developments typically occupy multiple acre sites. General Plan policies also specifically restrict sensitive receptor land uses such as residential and public assembly in PIL. An Outlet is not a sensitive receptor land use.

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The proposal to reconfigure an existing commercial building for use as an Outlet is a compatible use within Sorrento Valley and would not adversely affect the TPCP land use. The "industrial" land use designation is intended to support manufacturing, research and development, laboratories, offices, industrial services, incubator industry and business uses, as well as support commercial and retail uses. A TPCP Industrial Land Use Element policy is to "emphasize the citywide importance of, and encourage the location of, scientific research, biotechnology, and clean manufacturing uses in Sorrento Valley because of its proximity to UCSD and the University and Mira Mesa communities' industrial areas." Due to the existing building configuration and site size, the project site is not suited for use by, or redevelopment of, scientific research or manufacturing uses.

Additionally, page 86 of the TPCP contains a policy that states "development of freestanding retail commercial uses in industrially designated areas shall be restricted to those uses that serve only the immediate Sorrento Valley industrial area." Due to their relative restriction within the City's zoning scheme, Outlet uses would not be expected to serve "only the immediate Sorrento Valley industrial area." However, the Outlet would occupy an existing building previously used for a commercial services use and the proposed use and space configuration within the building would not result in an intensification of use within the site. Furthermore, the building is not considered freestanding retail as its interior would be minimally modified to include two tenant spaces, the Outlet, and an additional tenant space with separate access to be leased and occupied by a non-retail commercial use. Based on the above, the proposed Outlet is a compatible use at this location with a Conditional Use Permit and is consistent with the TPCP land use policies, and will therefore not adversely affect the applicable land use plan.

The proposed Outlet is allowed in the IL-3-1 Zone with a CUP and is subject to separation requirements set forth in SDMC Section 141.0504, including a 1,000-foot separation from resource and population-based city parks, other Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone.

A minor-oriented facility is defined as any after school program, teen center, club for boys and/or girls, children's theater, children's museum, or other establishment where the primary use is devoted to people under the age of 18. The SDMC further defines a primary use as an allowed use on a premises that occupies a majority of the area of the premises. The proposed Outlet is approximately 755 feet, measured property line to property line, from the New Youth Orchestra (NYO) located at 10855 Sorrento Valley Road. The NYO occupies approximately 2,500 square feet, within Suites 2 and 3, of a 30,000-square-foot multi-tenant building and offers music education program to intermediate and advanced level string or wind instrument performers between the ages of 7 to 25. NYO is not considered any of the specific uses listed above. It is a music instruction studio that occupies approximately 8.3% of the building, and is not considered the primary use on the premises. Therefore, the proposed Outlet is not required to maintain a 1,000-foot distance from this use. Furthermore, City staff cannot locate any building permits for tenant improvements and occupancy establishing an instructional

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studio use at this location and has determined the subject use is not an allowed use at this location designated Prime Industrial Land per SDMC Chapter 13, Article 1, Division 6, Table 131-06B.

Outlets are also prohibited within 1,000 feet of other Outlets. On January 12, 2016, a CUP was issued for the Torrey Holistics Clinic MMCC located at 10671 Roselle Street, which is approximately 300 linear feet, measured property line to property line, from the proposed Outlet. In accordance with SDMC Section 113.0225(c), where there is a natural topographical barrier or constructed barrier, distance between uses can be measured as the most direct route around the barrier in a manner that establishes direct access. City staff has determined there are existing constructed barriers including railroad tracks, six-foot high chain link fence, and a drainage channel that would impede direct physical access between the uses. A direct pedestrian path of travel from the project site along the sidewalk and designated pedestrian crosswalk around these constructed physical barriers measures more than 1,000 feet, and therefore, in compliance with the separation requirements.

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

The SDMC limits Outlets to commercial and industrial zones and the number of Outlets to only four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods. All of the surrounding parcels are in the IL-3-1 Zone and the existing uses are consistent with the Industrial designation of the community plan and compatible uses with an Outlet. Therefore, based on the commercial nature of the use, compliance with the separation requirements, and conditions of approval, the proposed development is appropriate at the proposed location.

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

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BE IT FURTHER RESOLVED, that Conditional Use Permit No. 1865509 is granted to Sorrento Valley Investment Group, Owner, and Sure Felt, LLC, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Corinne L. Neuffer
Deputy City Attorney

CLN:als
0326/2018
05/29/2018 Cor. Copy
11/14/2018 Rev. Copy
Or.Dept:DSD
Doc. No.: 1716538_3

Attachment: Conditional Use Permit No. 1865509

ORIGINAL

Exhibit D-1

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
Including Professional Corporations
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Attorneys for Petitioner and Plaintiff
TORREY HOLISTICS, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

TORREY HOLISTICS, INC., a California
corporation; and

Petitioner and Plaintiff,

v.

CITY OF SAN DIEGO, a municipal
corporation; CITY OF SAN DIEGO
PLANNING COMMISSION; and DOES 1
through 10, inclusive;

Respondents and Defendants.

SORRENTO VALLEY INVESTMENT
GROUP, a California partnership, and DAVID
SEYRANIAN, an individual;

Real Parties-in-Interest

Case No.

**VERIFIED PETITION FOR
PEREMPTORY WRIT OF MANDATE;
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

[Code of Civil Procedure §§ 1085, 1060, 815.6
(Mandatory Duty)]

Filed: December 18, 2024
Trial Date: Not Assigned

1 In support of this Verified Petition for Peremptory Writ of Mandate and Complaint for
2 Declaratory Relief (the “Petition”), Petitioner and Plaintiff TORREY HOLISTICS, INC. (“Torrey
3 Holistics”) alleges as follows:

4 **I. INTRODUCTION**

5 1. Torrey Holistics is an established and licensed cannabis operator of cannabis outlet
6 located at 10671 Roselle Street, Suite 100 in the Torrey Pones Community Plan area of the City of
7 San Diego, State of California. As a trusted and reputable member of the burgeoning cannabis
8 industry, Torrey Holistics obtained a conditional use permit (CUP No. 1371299) (as amended,
9 “Torrey Holistics CUP”) from Respondent and Defendant CITY OF SAN DIEGO (“City”) in
10 accordance with the rules and regulations put forward by the San Diego Municipal Code (“SDMC”) and all applicable land use plans, including, but not limited to, the City of San Diego Local Coastal
11 Program (“LCP”). Torrey Holistics continues to operate its cannabis outlet at the aforementioned
12 site in good standing.

14 2. In this action, Torrey Holistics respectfully petitions this Court for a peremptory writ
15 of mandate and declaratory judgment to set aside and vacate the decision of Respondent and
16 Defendant CITY OF SAN DIEGO PLANNING COMMISSION (“Planning Commission”) (collectively with the City, “Respondents”) to deny the appeal challenging the City of San Diego
17 Development Services Department’s (“DSD”) decision to approve a conditional use permit (CUP
18 No. 18655099) (“MedMen CUP”) amendment to extend the operations of the cannabis outlet
19 located at 10715 Sorrento Valley Road in the Torrey Pones Community Plan area of the City of San
20 Diego, State of California.

22 3. The Planning Commission’s September 19, 2024, unlawful decision to deny the
23 appeal and affirm DSD’s approval leave Torrey Holistics with no options and no adequate remedy
24 short of filing this Petition. Torrey Holistics therefore requests that the Court issue a writ of mandate
25 directing the Respondents to comply with its mandatory duties under the SDMC and all applicable
26 land use plans, including, but not limited to LCP. Additionally, because of the highly arbitrary and
27 capricious nature of the Respondents’ actions serving no legitimate government interest in flagrant
28

1 violation of the law, Torrey Holistics seeks injunctive relief expressly authorized by law as alleged
2 herein.

3 **II. PARTIES**

4 4. Petitioner and Plaintiff Torrey Holistics, Inc. is a California corporation with a legal
5 property interest in real property located at 10671 Roselle Street, Suite 100, in the Torrey Pones
6 Community Plan area of the City of San Diego, State of California. It is the permittee of certain
7 entitlements, including the Torrey Holistics CUP identified in Paragraph 1, and licenses for the
8 development of and operation of a cannabis outlet at the aforementioned site.

9 5. Respondent and Defendant City of San Diego is a municipal corporation
10 incorporated under the laws of the State of California, located in the County of San Diego, and is a
11 political subdivision of the State of California. Respondent and Defendant City of San Diego,
12 pursuant to its police powers granted under the California Constitution, is the entity responsible for
13 the authorizations and approvals necessary for the operation of cannabis outlets within its
14 jurisdictional boundaries as identified herein.

15 6. Respondent and Defendant San Diego Planning Commission is a seven-member
16 body, with each member appointed by the Mayor of the City of San Diego, that authorized to
17 exercise certain powers on behalf of the City, and was the final decision-maker for the appeal of
18 DSD's approval of the amendment to the MedMen CUP.

19 7. Real Party-in-Interest Sorrento Valley Investment Group self-identifies as a
20 California-based partnership with legal property interest in real property located at 10715 Sorrento
21 Valley Road in the Torrey Pones Community Plan area of the City of San Diego, State of California.
22 Sorrento Valley Investment Group is the new applicant on the application to amend and extend the
23 MedMen CUP at issue in this case, as identified in the application's Ownership Disclosure
24 Statement.

25 8. Defendant and Respondent David Seyranian is an individual and is a "Financially
26 Interested Person" on the application to amend and extend the MedMen CUP at issue in this case,
27 as identified in the application's Ownership Disclosure Statement. Together, with Sorrento Valley
28 Investment Group, Mr. Seyranian shall be referred to herein as ("SVIG").

1 9. Torrey Holistics does not know the true names and capacities of the Respondents and
2 Defendants named as Does 1 through 10 and, therefore, sues Respondents and Defendants by
3 fictitious names. Torrey Holistics is informed and believes, and thereon alleges that each Doe is in
4 some way responsible for the events described herein. Torrey Holistics will seek leave to amend
5 this Petition when the true names and capacities of these parties have been ascertained.

6 **III. JURISDICTION AND VENUE**

7 10. The Court has general subject matter jurisdiction over state law claims, including the
8 administrative and traditional mandamus claims pursuant to Code of Civil Procedure sections 1085,
9 1094.5 and 1060.

10 11. The Court has personal jurisdiction over all Respondents and Defendants pursuant to
11 Code of Civil Procedure section 410.10.

12 12. Venue for this action properly lies with this Court pursuant to Code of Civil
13 Procedure sections 392, 393(b), 394 and 395. Venue is appropriate in the County of San Diego
14 Superior Court because the property that is the subject of the City's administrative action, the City
15 and the actions that resulted in this legal dispute are located or occurred within the County of San
16 Diego.

17 13. Torrey Holistics has performed any and all conditions precedent to filing this action
18 and have exhausted any and all available administrative remedies to the extent required by law.

19 14. This Petition is timely under all relevant statutes of limitations, including, but not
20 limited to, Code of Civil Procedure sections 1085, 1094.5, 1060 and 815.6.

21 15. Torrey Holistics seeks to enforce important rights affecting the public interest.

22 16. If this Petition is granted, a significant benefit will be conferred on the general public,
23 and a large class of citizens.

24 17. Torrey Holistics has no plain, speedy, or adequate remedy in the ordinary course of
25 law.

1 **IV. STATEMENT OF FACTS**

2 **A. *History of California Cannabis Legalization***

3 18. In 1996 the voters of the State of California, including voters in the City of San
4 Diego, passed Proposition 215, the Compassionate Use Act (“CUA”), which allows the use of
5 cannabis for medical purposes when recommended by a physician and excludes from criminal
6 prosecution the patient and the primary caregiver, as defined in the CUA.

7 19. Effective January 1, 2004, the State of California enacted Senate Bill 420, the
8 Medical Marijuana Program Act (“MMPA”), which, among other things: (i) established
9 requirements for the issuance of voluntary identification cards; (ii) provided a defense to criminal
10 charges related to the cultivation, possession, sale, or storage of medical cannabis; (iii) prohibited
11 the distribution of cannabis for profit; (iv) exempted from prosecution qualified patients and
12 designated primary caregivers who associate to collectively or cooperatively cultivate cannabis
13 for medical purposes; (v) required the Attorney General to issue guidelines for the security and
14 non-diversion of medical cannabis; and (vi) allowed cities to adopt and enforce laws consistent
15 with the MMPA.

16 20. In 2015, the State of California enacted Senate Bill 643, Assembly Bill 266, and
17 Assembly Bill 243, comprising the Medical Cannabis Regulation & Safety Act (“MCRSA”)
18 (formerly known as the Medical Marijuana Regulation and Safety Act), which, among other things,
19 established a comprehensive regulatory framework for the production, transportation, and sale of
20 medical cannabis.

21 21. In November 2016, the Adult Use of Marijuana Act (“AUMA”) was adopted by
22 the voters of the State of California, which decriminalized non-medicinal cannabis and established
23 a regulatory system for non-medicinal cannabis businesses in California.

24 22. Thereafter, in June 2017, the California State Legislature enacted the Medicinal and
25 Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) to establish a comprehensive set of
26 laws regulating both individual and commercial medicinal and non-medicinal cannabis activity
27 throughout the State of California.
28

1 23. California Business and Professions Code section 26200(a)(1) authorizes local
2 jurisdictions to either permit and regulate or prohibit the operation of cannabis businesses within
3 their boundaries.

4 ***B. City Cannabis Regulations***

5 24. The City has a substantial interest in promoting compliance with state and local laws
6 intended to regulate cannabis sales and use and in discouraging the illegal purchase of cannabis
7 products.

8 25. As such, the City Council has adopted a comprehensive set of requirements,
9 restrictions, and enforcement procedures with regard to cannabis activity within the City in order to
10 protect public safety, health, and other law enforcement interests.

11 26. Specifically, with the passage of AUMA in 2016, the City SDMC regulations to
12 allow specific types of commercial cannabis businesses, including cannabis outlets, cannabis
13 production facilities and cannabis testing facilities to operate in specific land use zones of the City.
14 As separately regulated uses, all new “Cannabis Outlets” and “Cannabis Production Facilities”
15 require approval of a Process Three conditional use permit (“CUP”). These CUPs are granted for
16 five (5) years at a time, and renewals/amendments must be processed to continue cannabis
17 operations for additional 5-year increments. As originally adopted, the SDMC allowed for thirty-
18 six (36) Cannabis Outlet storefront retailers (four [4] per Council District) for medicinal and adult-
19 use sales, and a total of forty (40) Cannabis Production Facilities Citywide for cannabis cultivation,
20 manufacturing, and distribution activities. (See SDMC §§ 141.0504, 141.1004.) There are no limits
21 on the number of cannabis testing facilities, and they are allowed by right in certain zones.

22 27. Section 5.1 of the San Diego City Charter requires the creation of a Redistricting
23 Commission at the beginning of each decade, after the U.S. Census, to adopt plans that specify the
24 boundaries of districts for the City Council. The redrawing of district boundaries is designed to
25 ensure local legislatures are representative of the City’s diverse population. On Wednesday,
26 December 15, 2021, the City of San Diego Redistricting Commission voted 7-0-2 to approve the
27 certain redistricting actions as identified in “Map 92973.” These new boundaries took effect after
28 the City’s general election in November 2022.

1 28. Redistricting, as approved and implemented, forced (1) additional Cannabis Outlet
2 CUP over the existing cap in District 1, the district in which both the Torrey Holistics CUP and
3 MedMen CUP were awarded.

4 29. On or about February 3, 2021, the San Diego City Attorney's Office issued a
5 memorandum on the outcome of redistricting on cannabis CUPs in relation to redistricting. As such,
6 City proposed amendments to SDMC to address the Cannabis Outlet cap to comply with the City
7 Attorney's Office memorandum.

8 30. As part of this amendment process, the City recognized: "There have been several
9 instances where cannabis...facilities have not paid their taxes, but the operator(s) have continued to
10 operate cannabis businesses... As a result, the Treasurer's Office and the [Cannabis Business
11 Division] evaluated the current Municipal Code language and has determined that amendments to
12 the code should be adopted in order to prohibit an operator from opening...new cannabis operations
13 within the City if there is an outstanding tax liability owed to the City." As such, staff proposed
14 amendments to SDMC sections 42.1502, 42.1504 and 42.1507.

15 31. SDMC section 141.0504 places a five (5) year time limit on Cannabis Outlet CUPs,
16 but states these CUPs can be amended for another five-year term. SDMC section 126.0114(d), which
17 outlines the process for amending CUPs to extend expiration dates, states an amendment to an
18 existing development permit will not affect the original expiration date of the permit unless a change
19 is specifically requested. In such cases, the application must be deemed complete prior to the
20 development permit expiration date and the development permit will automatically be extended until
21 a decision on the amendment request is final, and all available administrative appeals of the project
22 decision have been exhausted.

23 32. As part of the aforementioned amendment process, the City found allowing CUPs to
24 remain in effect while their amendments are being processed is reasonable. However, SDMC
25 section 126.0114 did not provide for a time limit on this extension and allowed applicants to take as
26 long as they like to process. In the context of a five-year time limit, this can lead to applicants taking
27 an extended amount of time to process their amendments, effectively extending their CUPs for up
28 to a year or more in some cases. City research indicated that amendments cost sixty-three percent

(63%) as much as the original permit, but they take 108 days (3.6 months) longer to process. The average cost paid by a successful applicant for a new Cannabis CUP in the City is approximately \$22,371, with an average processing time of 447 days (14.7 months). As of the date the City was considering amending its cannabis regulations, approximately eleven (11) CUP amendments have been processed to a decision, with an average cost of \$14,165 and an average processing time of 555 days (18.2 months). In short, amendments cost less, but take more time.

33. Staff admitted it had significant equity and due process concerns with these extended amendment periods and how they can function as “holding” a spot. Specifically, staff has found that applicants have used this code process to continue extending their CUP application while not actually seeing the amendment application through to decision. Because there is a cap on the number of cannabis CUPs, this prevents other applicants from applying for a CUP because there are no permits available.

34. Therefore, staff proposed changes to address the issue. Specifically, SDMC section 141.0504(n)(4)¹ outlines the cannabis CUP amendment process, and states that an application to extend the expiration date of a CUP must be submitted and deemed complete prior to the CUP expiration date, and the existing CUP is automatically extended until a decision on the amendment request is final, and all available administrative appeals of the project decision have been exhausted. SDMC section 141.0504(n)(4) was to be amended to prohibit the indefinite extensions of cannabis CUPs as to allow other eligible applicants to be able to process their permits.

35. On or about December 14, 2022, the City Council adopted Ordinance O-21591, which amended SDMC section 141.0504 related to “Cannabis Outlets.” Under the amendment, existing Cannabis Outlets that changed districts as a result of City Council redistricting are allowed to remain in certain circumstances, which may result in more than four (4) existing in a district.²

¹ As amended, SDMC § 141.0504(n)(4)(B) states: “An amendment application to extend the expiration date of a Conditional Use Permit must be submitted and deemed complete prior to the Conditional Use Permit expiration date. The Conditional Use Permit shall automatically be extended until a decision on the amendment request is final, and all available administrative appeals of the project decision have been exhausted. This automatic extension does not apply to development permit applications that are closed in accordance with Section 126.0115.” (Emphasis added.)

² As amended, SDMC § 141.0504 states: “No more than four cannabis outlets are permitted in each City Council District except that any permitted cannabis outlet that changes City Council District as a result of redistricting may remain at

1 The SDMC contains the following note after Section 141.0504: “Amendments as adopted by O-
2 21591 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission
3 certifies it as a Local Coastal Program Amendment.”

4 36. On or about February 9, 2023, the California Coastal Commission (“CCC”) approved
5 an amendment to the City’s LCP, which would incorporate the aforementioned cannabis-related
6 SDMC amendments.

7 37. In its action, the CC certified the request to amend the City’s certified LCP
8 implementation plan. Specifically, the amendment included code amendments related to redistricting
9 and conditional use permit extensions for Cannabis Outlets. It was the CCC’s understanding and intent
10 to certify the proposed ordinance that “would allow permitted cannabis outlets to continue operating if
11 their location is redistricted into a new City Council district that is at or over the cannabis outlet limit.”

12 38. Since the amendment request was intended to take effect automatically upon CCC
13 certification, and the Commission certified the amendment as submitted (without any suggested
14 modifications or other terms).

15 **C. MedMen CUP Amendment**

16 39. On or about June 18, 2018, the City of San Diego City Council (“City Council”)
17 considered and approved the MedMen CUP with SVIG listed as the property owner and Sun Felt,
18 LLC listed as the permittee.

19 40. On or about June 6, 2023, Sure Felt, LLC filed an amendment application prior to
20 the expiration of the MedMen CUP (June 18, 2023). The City deemed the Sure Felt, LLC application
21 deemed complete the same day, automatically extending the lifespan of the MedMen CUP for the
22 processing period of that application.

23 41. Upon information and belief, Torrey Holistics alleges that in or around September 2023,
24 the City alerted Sure Felt, LLC that a City audit found discrepancies in monies due the City under the
25 MedMen CUP-related operating licenses. The City stated that because amounts were owed, the City
26 could deny the MedMen CUP amendment application. The City stopped processing the MedMen CUP

27 _____
28 its originally permitted location for the duration of its permit, regardless of the number of permitted cannabis outlets
within the new City Council District boundary, and subject to continued compliance with this section.”

1 amendment application until a promissory note was negotiated. It then took the City (4) four months to
2 draft, negotiate, and finalize said promissory notes with Sure Felt, LLC.

3 42. Upon information and belief, Torrey Holistics alleges that on or about April 10, 2024
4 Cannabis Business Division (“CBD”) Director Lara Gates alerted Sure Felt, LLC that it was behind on
5 promissory note payments, and the City would again stop processing the MedMen CUP amendment
6 application. In addition, Ms. Gates threatened that the City was referring the matter to the District
7 Attorney’s office and seeking criminal prosecution.

8 43. On or about April 16, 2024, the City sent Sure Felt, LLC and *Notice of Possible*
9 *Revocation of the Cannabis Operating Permit and Non-Renewal of CUP #1865509 for Conditional*
10 *Use Permit Violations* (“Revocation Notice”) due to non-payment of taxes, among other things.

11 44. On or about April 17, 2024, SVIG notified the City of changes to the previously
12 deemed-complete Sure Felt, LLC amendment application. These changes removed Sure Felt, LLC
13 as the applicant of the MedMen CUP amendment and rescinded its authorized agent status.

14 45. Upon information and belief, Torrey Holistics alleges that on or about April 25, 2024,
15 Sure Felt, LLC was granted a Receivership Order and Preliminary Injunction that included the property
16 located at 10715 Sorrento Valley Road. The City was promptly made aware of the stay on all actions
17 concerning said property.

18 46. The City then reviewed the amended application and, on or about May 2, 2024, DSD
19 approved the amended MedMen CUP amendment application in favor of SVIG. This approval
20 occurred using the same City project number as Sure Felt, LLC’s application despite the material
21 changes to the application.

22 47. On or about May 15, 2024, Sure Felt, LLC filed an appeal of DSD’s approval.

23 48. Upon information and belief, Torrey Holistics alleges that on or about May 20, 2024, the
24 City informed Sure Felt, LLC that it had not transferred the MedMen CUP to SVIG, but that it had
25 accepted and approved a new application and site plan for the MedMen CUP storefront (using the Sure
26 Felt, LLC project application number despite the rescission of its authorized agent status).

27 49. On or about May 21, 2024, the Torrey Pines Community Planning Board rescinded
28 its March 12, 2024 approval of the MedMen CUP amendment application.

1 50. On or about September 19, 2024, the Planning Commission held a publicly noticed
2 hearing to consider the appeal and public testimony in opposition of the MedMen CUP amendment
3 application. The Planning Commission denied Sure Felt, LLC's appeal and affirmed DSD's
4 approval of the MedMen CUP amendment application despite the identification of numerous
5 violations of application regulations.

6 51. In advance of this hearing, Torrey Holistics submitted correspondence to the
7 Planning Commission consider the failure of SVIG to remit the required taxes under the original
8 MedMen CUP, as well as the fact approval of the extension would violate SDMC section 141.0504
9 and the LCP.

10 52. Torrey Holistics also provided oral testimony regarding the MedMen CUP
11 amendment application at the Planning Commission hearing.

12 **V. FIRST CAUSE OF ACTION**
13 **Petition for Writ of Mandate – Code of Civil Procedure § 1085**
 Against All Respondents and Defendants

14 53. Torrey Holistics re-alleges and incorporates herein by this reference Paragraphs 1
15 through 52 of this Petition as set forth herein in full.

16 54. The City's authority to approve an extension or amendment to a Cannabis Outlet
17 CUP is subject to the requirements set forth in the City's regulations and published policies,
18 including the SDMC and the City's LCP. The City is responsible for administering regulations and
19 published policies and California law, and is obligated to perform the duties of: (1) awarding
20 entitlements for applications in compliance with the City's regulations and published policies; and
21 (2) not awarding entitlements for applications that do not meet the requirements prescribed in the
22 City's regulations and published policies.

23 55. The City's approval of the MedMen CUP amendment application is in violation of
24 the City's regulations and published policies, and California law is illegal, arbitrary, capricious,
25 lacking in evidentiary support, and inconsistent with the rules of interpretation for at least five (5)
26 reasons.

27 56. First, the application to amend the MedMen CUP expired as of April 17, 2024, when
28 SVIG made material changes to the application that was deemed complete as of June 6, 2023.

1 Because these material changes that required a new determination of completeness were made *after*
2 the original MedMen CUP was set, the application was no longer subject to the automatic extension
3 provided by SDMC. Therefore, without an application deemed complete prior to June 18, 2023,
4 there was no longer a valid MedMen CUP to extend.

5 57. Second, as identified in the Staff Report dated September 12, 2024, and prepared in
6 relation to Sure Felt, LLC's appeal, Sure Felt, LLC and SVIG failed to pay approximately
7 \$96,588.54 related to a promissory note, taxes and penalties, exclusive of any interest that is
8 accruing.

9 58. Pursuant to MedMen CUP, which was issued to both Sure Felt, LLC and SVIG, the
10 entitlement is a covenant running with the land and binding on *both* Sure Felt, LLC and SVIG. (See
11 Condition of Appeal ["COA"] No. 6.) Under the CUP, Sure Felt LLC and SVIG are subject to the
12 regulations of the City and prohibited from violating federal, state or City "laws, ordinances,
13 regulations, or policies." (See COA Nos. 7, 8.)

14 59. SDMC Chapter 3, Article 4, Division 1 ("Cannabis Business Tax Ordinance")
15 outlines the requirements for taxation on the retail and wholesale sales of cannabis and cannabis
16 products in the City of San Diego. These taxes must be paid in addition to the general sales tax.
17 Failure to remit these taxes in a timely manner can lead to penalties issued by the City Treasurer's
18 office and can also lead to administrative action on an annual "Operating Permit" or CUP, up to and
19 including revocation, per SDMC section 121.0313 (if taxes are not paid, the necessary permits for
20 operation may be revoked).

21 60. As discussed above, because neither Sure Felt, LLC nor SVIG complied with the
22 Cannabis Business Tax Ordinance, the City issued the Revocation Notice, which stated the
23 outstanding amounts were to be paid no later than May 5, 2024. There is no evidence these amounts
24 have or will be paid to the City.

25 61. Despite this, the City took the position that, because the applicant of the renewal
26 application switched from Sure Felt, LLC to SVIG, the switch in the named applicant somehow
27 relieved the holders of the MedMen CUP from the obligations set forth in the Revocation Notice.
28 However, this is fallacy as both Sure Felt, LLC *and* SVIG were required to comply with the

1 Cannabis Business Tax Ordinance under the conditions of the CUP. Removing Sure Felt, LLC from
2 the application does not somehow remediate that fact that a CUP holder presently seeking an
3 amendment is not in default of paying close to \$100,000 in monies owed to the City.

4 62. Assuming *en arguendo* that the change in the named applicant resolved the issue on
5 unpaid taxes and money owed, which it does not, approving the amendment to extend the life of the
6 original MedMen CUP would set a dangerous precedent that could destabilize and jeopardize the
7 cannabis industry within the City. Specifically, it would allow an end run around financial
8 obligations intentionally embedded in the entitlements granted to cannabis operators and identified
9 in the SDMC. Eventually, such loophole could be weaponized by operators in other industries and
10 bilk the City out of hundreds of thousands, if not millions of dollars in taxes. Such precedent would
11 be in violation of the intent of the 2022 amendments to tax requirements as discussed above that
12 were enacted to protect against this very scenario.

13 63. Third, given the fact SVIG remains out of compliance with the obligations
14 established within the CUP as of the date of this filing, the June 10, 2024 recall of the Revocation
15 Notice should not have been issued. As such, SVIG is in violation of the MedMen CUP and the
16 SDMC and should be ineligible for the amendment it obtained for the MedMen CUP. Put
17 alternatively, the MedMen CUP should be deemed expired/revoked as of May 5, 2024 (deadline to
18 repay the City under the Revocation).

19 64. Fourth, as discussed above, the redistricting that the occurred in 2022 resulted in
20 changes to the SDMC made to the cap on Cannabis Outlets permitted in certain Council Districts.
21 Specifically, SDMC was amended to allow the five (5) Cannabis Outlets located in the redistricted
22 Council District 1 to remain in previously conforming status. However, should any Cannabis Outlet
23 not subject to the redistricting be facing expiration or revocation of its CUP, the original cap of four
24 (4) Cannabis Outlets is reinstated. Amendments to both the SDMC and LCP related to the
25 exceedance of the cap threshold clearly and unambiguously applies to only those Cannabis Outlets
26 subject to redistricting. The MedMen CUP was never subject to redistricting.

27 65. Additionally, in order to maintain a previously conforming status, a permittee or
28 property owner cannot be in violation of the SDMC (unless the violation is related to the

1 nonconforming status). Here, SVIG is in violation of the Cannabis Business Tax Ordinance and the
2 prior MedMen CUP, at minimum, and should be deemed ineligible for an amendment to extend the
3 lifespan of the CUP by five (5) years – resulting in an expiration of the CUP. There is also an
4 argument that the CUP should be considered revoked as of May 5, 2024. Therefore, the
5 authorization to allow five (5) Cannabis Outlets in Council District 1 is no longer applicable, and
6 the cap is reduced to four (4). As there are already four (4) permitted Cannabis Outlets in good
7 standing within Council District 1,³ SVIG was barred from seeking an extension for the MedMen
8 CUP or from reapplying for a CUP under SDMC without also applying for an amendment to the
9 SDMC or a variance – neither of which was before the Planning Commission.

10 66. Lastly, as the property subject to the MedMen CUP is within the Coastal Overlay
11 Zone, under the Coastal Act (Pub. Res. Code §§ 30001 *et seq.*), the CCC is required to certify an
12 authorized exceedance of the Cannabis Outlet cap that is not otherwise permitted by the SDMC and
13 LCP. No such certification was sought or obtained. Therefore, the approval of the MedMen CUP
14 amendment application is in violation of the Coastal Act and the California Environmental Quality
15 Act (Pub. Res. Code §§ 21000 *et seq.*) (“CEQA”). (See *e.g.*, *Union of Medical Marijuana Patients,*
16 *Inc.* (2019) 7 Cal.5th 1171.)

17 67. Therefore, the City’s arbitrary and capricious approval of the application to amend
18 the MedMen CUP lacked evidentiary support.

19 68. The City also required to provide substantial evidence in the administrative record to
20 support its rules and regulations. (*W. States Petroleum Ass’n v. Super. Ct.* (1995) 9 Cal.4th 559,
21 571-574.) “Evidence is substantial if a reasonable trier of fact could conclude that the evidence is
22 reasonable, credible, and of solid value.” (*Plastic Pipe and Fittings Ass’n v. Cal. Bldg. Standards*
23 *Comm.* (2004) 124 Cal.App.4th 1390, 1407.) The City’s interpretation of the City’s regulations and
24 published policies is not supported by any evidence, much less substantial evidence.

25 69. As a past, current and future applicant under the City’s regulations and published
26 policies, Torrey Holistics has a clear, present, legal, and beneficial right in seeing that the City is
27

28 ³ See <https://www.sandiego.gov/sites/default/files/cannabis-outlet-locations.pdf?v=1>.

1 required to follow the City’s regulations and published policies and California law, and properly
2 issues cannabis-relate entitlements.

3 **VI. SECOND CAUSE OF ACTION**
4 **Government Code § 815.6 – Violation of Mandatory Duties**
5 **Against All Respondents and Defendants**

6 70. Torrey Holistics re-alleges and incorporates herein by this reference Paragraphs 1
7 through 69 f this Petition as set forth herein in full.

8 71. Government Code section 815.6 provides: “Where a public entity is under a
9 mandatory duty imposed by an enactment that is designed to protect against the risk of a particular
10 kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure
11 to discharge the duty unless the public entity establishes that it exercised reasonable diligence to
12 discharge the duty.”

13 72. As explained herein, SDMC and the LCP impose mandatory and obligatory duties
14 on the City that required it to approve permits necessary for amendment of the MedMen CUP based
15 on clear implementation guidelines that involved the application of purely objective standards that
16 required no substantial expertise or judgment by the City.

17 73. The mandatory duties on the City imposed by the SDMC and LCP, as well as the
18 State Legislature’s enactment and various amendments cannabis legislation, are “designed” to
19 protect against the particular injury that occurred – wrongful approval of the extension of a cannabis
20 outlet CUP.

21 74. Torrey Holistics and all similarly situated cannabis operators have incurred and will
22 continue to incur injury as a proximate result of the City’s violation of its mandatory duties to deny
23 the CUP amendment applications that are not in compliance with all applicable requirements,
24 including the SDMC and LCP, and all applicable objective planning and zoning requirements.

25 75. The City failed to exercise reasonable diligence in approving the amendment to the
26 MedMen CUP in violation of its mandatory duties under the SDMC and LCP.

27 76. Torrey Holistics therefore is entitled to judgment ordering the City to comply with
28 its mandatory duty to revoke the approval of the MedMen CUP amendment and any subsequently
granted cannabis operating approvals.

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78. An actual controversy has arisen and now exists between Torrey Holistics and respondents regarding whether the SDMC and LCP allows for the City to approve an amendment to an existing Cannabis Outlet CUP: (i) when the applicant is out of compliance with SDMC's tax requirements; (ii) when a material change in the application occurs *after* the expiration date of the original Cannabis Outlet CUP; (iii) when the application is out of compliance with the COAs in the original Cannabis Outlet CUP; (v) when the original Cannabis Outlet CUP was never subject to redistricting but the extension of the CUP would result in continued exceedance of the Cannabis Outlet cap established by the SDMC and LCP; and (vi) the City acted arbitrarily and capriciously in light of state and local laws related to cannabis operations.

80. Torrey Holistics further seeks a declaratory judgment that, upon satisfaction of all other requisites, the City must revoke the approval for the MedMen CUP amendment and any subsequently issued cannabis operating approvals.

81. A judicial determination of the rights and obligations of the parties hereto is necessary and appropriate so that the parties may ascertain those rights and act accordingly.

WHEREFORE: Torrey Holistics prays for Judgment against respondents and defendants as follows:

1. As to the First Cause of Action: for judgment and a writ of mandate directing the City to comply with the SDMC and LCP by revoking the approval of the MedMen CUP amendment and any subsequently granted cannabis operating approvals.

2. As to the Second Cause of Action: for judgment and a writ of mandate directing the City to comply with the SDMC and LCP by revoking the approval of the MedMen CUP amendment and any subsequently granted cannabis operating approvals.

3. As to the Third Cause of Action: for judgment and a writ of mandate directing the City to comply with the SDMC and LCP by revoking the approval of the MedMen CUP amendment and any subsequently granted cannabis operating approvals.

4. As to all claims for damages, to the extent authorized or applicable, an award of any general, special, incidental or other damages the Court deems appropriate.

5. For costs of suit.

6. For attorneys' fees as authorized by Code of Civil Procedure section 1021.5 and as authorized by any other applicable provisions of law.

7. For such other relief as the Court deems just and proper.

Dated: December 18, 2024

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By */s/Whitney A. Hodges*

Whitney A. Hodges
Allison C. Wong

Attorneys for Petitioners and Plaintiffs
TORREY HOLISTICS, INC.

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VERIFICATION

I, Tony Hall, declare as follows:

I am the CEO of Torrey Holistics and tenant under the rental agreement. I have read the Verified Petition for Peremptory Writ of Mandate (the “Petition”) and know its contents. The facts alleged in the Petition are true of my own knowledge and belief, except as to those matters alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 18th day of December, 2024, at San Digeo, California.

DocuSigned by:
Tony Hall
06947AC758F6489...

TONY HALL

Exhibit D-2

From: [Belinda Jolivet](#)
To: [Whitney Hodges](#)
Subject: FW: First Legal Order Submitted - 397040 - Torrey Holistics, Inc v. City of San Diego et al. - Not Assigned
Date: Thursday, December 19, 2024 12:13:30 AM
Attachments: [image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)

Hi Whitney,

Whew! We just made it - your filing has been submitted. *See below.* I will send conformed copies upon receipt. My hours are listed below. Please let me know if you need further assistance. If I am unavailable and you need further assistance, please reach out to Support and anyone will be happy to help. Thanks Whitney. b

Belinda J. Jolivet | Practice Specialist II

Hours of Operation with S@S 5:30 P.M. – 2:00 A.M. (CST)

+1 469-391-7522 | direct

BJolivet@sheppardmullin.com

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2200 Ross Ave, 20th Floor

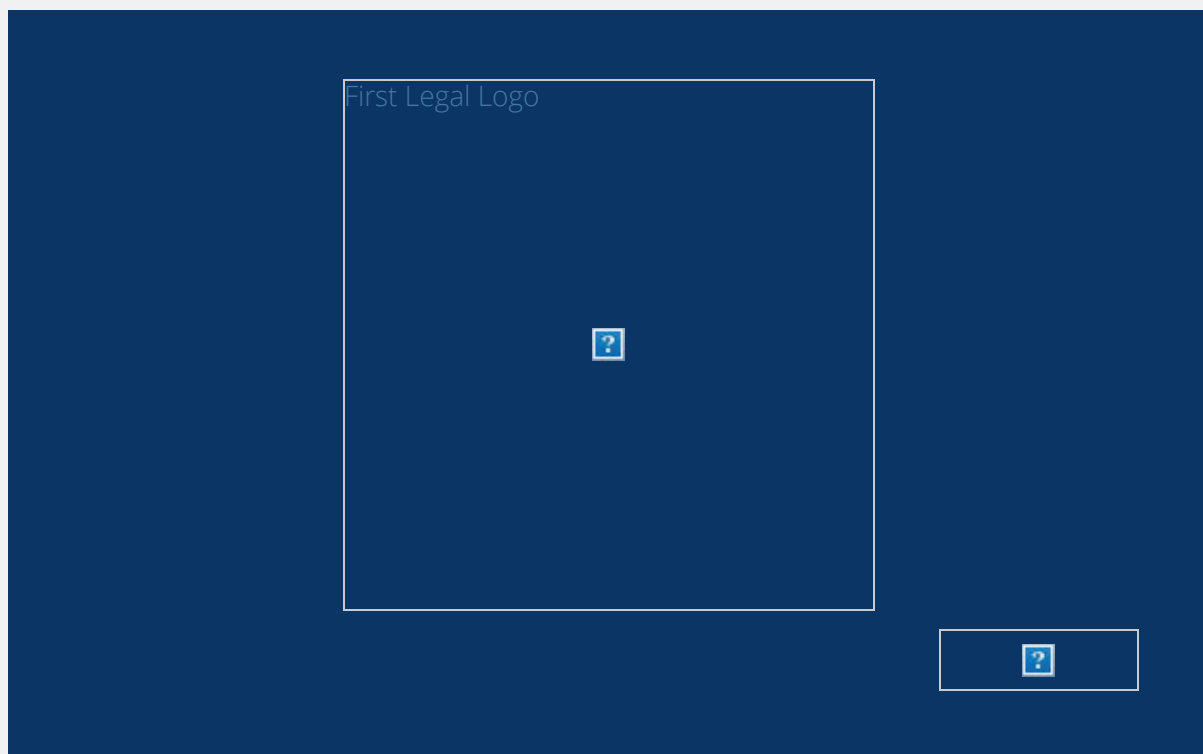
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First Legal Control #: **397040**

Court	SDSC-SAN DIEGO
Case Number	Not Assigned
Case Name	Torrey Holistics, Inc v. City of San Diego et al.
Client Matter	TH SORRENTO
Portal Reference Number	10977035
Court Transaction / Envelope Number(s)	17670054
Submitted On	2024-12-18 23:57

Document(s):

[Petition](#)

[Civil Case Cover Sheet](#)

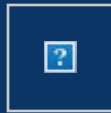
[Summons \(Civil\)](#)

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