

DOC# 2020-0093971



Feb 25, 2020 10:26 AM

OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

FEES: \$59.00 (SB2 Atkins: \$0.00)

PAGES: 16

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: 24007352

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 2038237

MARIJUANA OUTLET 11189 SORRENTO VALLEY ROAD, UNIT 103 - PROJECT NO. 559038
HEARING OFFICER

This Conditional Use Permit No. 2038237 ("Permit") is granted by the Hearing Officer of the City of San Diego to Beachwalk Properties, Inc., a California Corporation, Owner, and STWC Sorrento Valley, LLC, a California Limited Liability Company, Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0305. The 3.2-acre site is located at 11189 Sorrento Valley Road, Unit 103, in the IL-3-1 Zone, Airport Influence Area (Miramar - Review Area 1), Airport Land Use Compatibility Overlay Zone (Marine Corps Air Station (MCAS) - Miramar), Accident Potential Zone 2 (Miramar), Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), Transit Priority Area, Parking Impact Overlay Zone (Coastal), Coastal Height Limitation Overlay Zone, Coastal Overlay (Non-Appealable) Zone, and Prime Industrial Lands within the Torrey Pines Community Plan area. The project site is legally described as Unit 103 as shown and defined on that certain condominium plan Venture Commerce Center Sorrento, recorded August 21, 2008 as instrument No. 2008-0449961 of official records, together with an appurtenant undivided 23.95%, percentage interest in and to the common area, being a portion of lot 3 of "Torrey Knolls Park", in the City of San Diego, County of San Diego, State of California, according to map thereof no. 7991, filed in the Office of the County Recorder of San Diego County on July 31, 1974; and said common area is further defined and described in that certain Declaration of Covenants and Restrictions establishing plan for condominium ownership for Venture Commerce Center - Sorrento, recorded August 21, 2008 as instrument no. 2008-0449962 of official records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to operate a Marijuana Outlet in a 1,767-square-foot tenant space within an existing five-unit commercial condominium complex, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated November 20, 2019, on file in the Development Services Department.

The project shall include:

- a. Operation of a Marijuana Outlet in a 1,767-square-foot tenant space, Unit 103, within an existing five-unit commercial condominium complex. The operation shall include the

requirements consistent with the State of California statutes and California Departments of Food and Agriculture, Consumer Affairs and Public Health regulations;

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

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by December 5, 2022.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on December 5, 2024.
3. 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. An annual Operational Permit issued by the Development Services Department is approved in accordance with SDMC Section 42.1504.
4. 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.
5. 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.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. The Owner/Permittee shall secure all necessary construction 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.
8. 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.
9. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

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

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

PLANNING/DESIGN REQUIREMENTS:

11. The sale of marijuana and marijuana products shall be prohibited without a valid license from the State authorizing such activity.
12. Consultations by medical professionals shall not be a permitted accessory use at the Marijuana Outlet.
13. Lighting shall be provided to illuminate the interior, façade, and the immediate surrounding area of the Marijuana Outlet, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented to deflect light away from adjacent properties.
14. Security shall be provided at the Marijuana Outlet which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the premises during business hours. The security guards shall only be engaged in activities related to providing security for facility, except on an incidental basis.
15. 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. Primary signs 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.
16. 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.
17. The Marijuana 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 marijuana and marijuana products except by a responsible person, as defined in the San Diego Municipal Code Section 42.1502, is prohibited. A vending machine is any device which allows access to marijuana and marijuana products without a human intermediary.
19. 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.
20. The Owner/Permittee shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.
21. The Owner/Permittee shall provide a sufficient odor absorbing ventilation and exhaust system capable of minimizing excessive or offensive odors emanating outside of the permitted Marijuana Outlet to the satisfaction of the Development Services Department.

22. The Owner/Permittee shall comply with Coastal Development Permit No. 471795, as shown on the approved Exhibit "A" for Coastal Development Permit No. 471795.

LANDSCAPE REQUIREMENTS:

23. Prior to issuance of any construction permits, the Owner/Permittee shall submit to the Development Services Department for approval a Site Plan that documents existing landscape to remain, consistent with Exhibit 'A,' on file in the Office of the Development Services Department. The site plan shall include reconstruction of existing driveways at Sorrento Valley Road per current City Standard and demonstrate a minimum 5 foot clearance from the trunks of adjacent, existing trees to remain protected in place.

24. The Owner/Permittee shall be responsible for the maintenance of all previously required landscape improvements as shown on the approved plans. All required landscape shall be maintained in a disease, weed and litter free condition at all times consistent with the City of San Diego Landscape Regulations and Standards.

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

ENGINEERING REQUIREMENTS:

26. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing driveways, per current City Standard, adjacent to the site on Sorrento Valley Road, satisfactory to the City Engineer.

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

TRANSPORTATION REQUIREMENTS

28. 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.
- Marijuana businesses that operate or provide services within the City of San Diego are liable for a monthly gross receipts tax. As referenced in San Diego Municipal Code Section 34.0103(b), taxable activities include but are not limited to, transporting, manufacturing, cultivating, packaging, or retail sales of marijuana and any ancillary products in the City. For additional information, contact the Office of the City Treasurer at (619) 615-1580.

APPROVED by the Hearing Officer of the City of San Diego on November 20, 2019 and Resolution No. HO-7293.

CALIFORNIA 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 Diego

On February 20, 2020 before me, Rose Marie White, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Sammi Ma
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.

Signature

Rose Marie White
 Signature of Notary Public

Place Notary Seal and/or Stamp Above

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 or Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

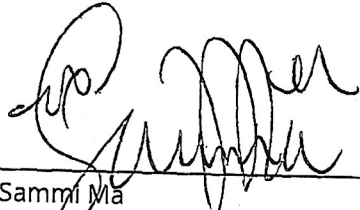
☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

Permit Type/PTS Approval No.: Conditional Use Permit No. 2038237
Date of Approval: November 20, 2019

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

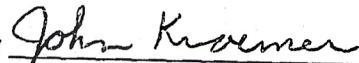


Sammi Ma
Development Project Manager

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

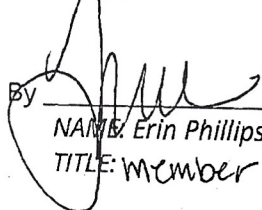
The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

Beachwalk Properties, Inc.
Owner

By 

NAME: John Kraemer
TITLE: President
AKA John Thomas Kraemer

STWC Sorrento Valley, LLC
Permittee

By 

NAME: Erin Phillips
TITLE: member

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

CALIFORNIA NOTARY ACKNOWLEDGEMENT (INDIVIDUAL)

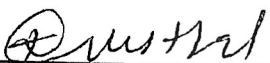
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

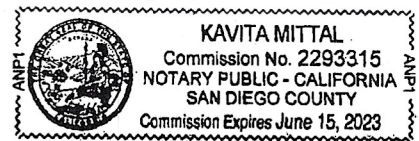
State of California
County of San Diego

On 19th Feb. 2022 before me, Kavita Mittal, Notary Public (insert name and title of the officer), personally appeared John Thomas Ksaeimer, 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

**COLORADO NOTARY ACKNOWLEDGEMENT
(REPRESENTATIVE CAPACITY)**

State of Colorado

County of Broomfield

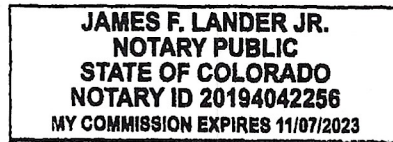
This record was acknowledged before me on February 18th 2020 (date) by
Erin Phillips (name[s] of individual[s]) as Member
(type of authority, such as officer or trustee) of STWC Sorrento Valley LLC (name of party
on behalf of whom record was executed).

J.F. Lander Jr.
Signature of Notarial Officer

(Seal)

Notary
Title of Office

My Commission Expires: 11/7/23



ORIGINAL

HEARING OFFICER
RESOLUTION NO. HO-7293
CONDITIONAL USE PERMIT NO. 2038237
MARIJUANA OUTLET 11189 SORRENTO VALLEY ROAD, UNIT 103 - PROJECT NO. 559038

WHEREAS, BEACHWALK PROPERTIES, INC., a California Corporation, Owner, and STWC SORRENTO VALLEY, LLC, a California Limited Liability Company, Permittee, filed an application with the City of San Diego for a Conditional Use Permit to operate a Marijuana Outlet in a 1,767-square-foot tenant space, Unit 103, within an existing five-unit commercial condominium complex located at 11189 Sorrento Valley Road, (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 2038237), on portions of a 3.2-acre site;

WHEREAS, the project site is located at 11189 Sorrento Valley Road in the IL-3-1 Zone, Airport Influence Area (Miramar – Review Area 1), Airport Land Use Compatibility Overlay Zone (Marine Corps Air Station (MCAS) – Miramar), Accident Potential Zone 2 (Miramar), Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), Transit Priority Area, Parking Impact Overlay Zone (Coastal), Coastal Height Limitation Overlay Zone, Coastal Overlay (Non-Appealable) Zone, and Prime Industrial Lands within the Torrey Pines Community Plan;

WHEREAS, the project site is legally described as Unit 103 as shown and defined on that certain condominium plan Venture Commerce Center Sorrento, recorded August 21, 2008 as instrument No. 2008-0449961 of official records, together with an appurtenant undivided 23.95%, percentage interest in and to the common area, being a portion of lot 3 of "Torrey Knolls Park", in the City of San Diego, County of San Diego, State of California, according to map thereof no. 7991, filed in the Office of the County Recorder of San Diego County on July 31, 1974; and said common area is further defined and described in that certain Declaration of Covenants and Restrictions

establishing plan for condominium ownership for Venture Commerce Center – Sorrento, recorded August 21, 2008 as instrument no. 2008-0449962 of official records;

WHEREAS, on June 12, 2019, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) under CEQA Guideline Section 15301 (Existing Facilities), and the Environmental Determination was appealed to City Council, which heard and denied the appeal on September 16, 2019, pursuant to Resolution No. 312655;

WHEREAS, on November 20, 2019, the Hearing Officer of the City of San Diego considered and Approved Conditional Use Permit No. 2038237 pursuant to the Land Development Code of the City of San Diego, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the Hearing Officer having fully considered the matter and being fully advised concerning the same;

WHEREAS, on December 4, 2019, Stefanie N. West, on behalf of the Venture Commerce Center – Sorrento Valley, filed a Development Permit Appeal Application (Appeal) on the project; and

WHEREAS, on February 12, 2020, Stefanie N. West, on behalf of the Venture Commerce Center – Sorrento Valley, submitted a request to withdraw her Appeal pursuant to San Diego Municipal Code Section 112.0506(d); and

NOW, THEREFORE, BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. 2038237:

A. CONDITIONAL USE PERMIT [SDMC Section 126.0305]

1. Findings for all Conditional Use Permits:

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

The project (Project) is a request for a Conditional Use Permit (CUP) to allow the operation of a Marijuana Outlet (Outlet) in a 1,767-square-foot tenant space in Unit 103 within an existing five-unit commercial condominium complex located at 11189 Sorrento Valley Road. The developed 3.2-acre project site is located in the IL-3-1 zone of the Torrey Pines Community Plan (TPCP).

The TPCP designates the site as Industrial Element. The industrial land use allows light industrial, retail, and commercial uses. Industrial development in Sorrento Valley includes manufacturing firms, research and development, laboratories, offices, industrial services, incubator industry and business uses, and supports commercial and retail uses. Pursuant to San Diego Municipal Code (SDMC) §131.0622, retail sales and commercial services are permitted uses in the IL-3-1 Zone. The proposed Outlet is an allowed use in the IL-3-1 Zone with a CUP pursuant to SDMC Sections §131.0622 and §141.0504. The Sorrento Valley industrial area, including this site, is identified as Prime Industrial Lands (PIL) by the General Plan, which encourages the protection of valuable employment land for base sector industries important to the region's economy. An Outlet is not considered a base sector employment. The General Plan 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 General Plan policies also specifically restrict sensitive receptor land use such as residential and public assembly in PIL. An Outlet is not a sensitive receptor land use.

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 the limited amount of Marijuana Outlets permitted in each Council District, and the use restricted to a few zones with a CUP, the proposed Outlet would serve the community. The proposed Outlet is a compatible use at this location with a CUP and is consistent with the community plan. Therefore, the proposed Outlet will not adversely affect the applicable land use plan.

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

The Project proposes the operation of an Outlet in a 1,767 square-foot tenant space in Unit 103, within an existing five-unit, 46,995 square-foot building located at 11189 Sorrento Valley Road. The Project proposes interior improvements to an existing tenant space, including a secure check-in/waiting room, office area, dispensary retail area, restrooms, product check-in area, product receiving area, and safe room.

The proposed Project will not be detrimental to the public health, safety and welfare because the discretionary permit controlling the development and continued use of the site contains specific regulatory conditions of approval. 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.

Approval of the CUP includes required conditions to allow the sale of marijuana and marijuana products in order to prevent potential adverse impacts on the community. The conditions include the following: prohibiting consultation by medical professionals on-site, prohibiting the use of specified vending machines, interior and exterior lighting, alarms, restriction of hours of operation to between 7:00 a.m. to 9:00 p.m. daily, maintenance of area and adjacent public sidewalks free of litter and graffiti, removal of graffiti within 24 hours, and restriction of signage to business name, two-color signs, and alphabetic characters.

In addition to the above, the CUP includes additional security conditions to improve the safety of the building and surrounding neighborhood, including the provision of operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the premises during business hours. Outlets must also operate in compliance with the SDMC Chapter 4, Article 2, Division 14, which provides requirements for lawful operation. Furthermore, 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 construction review and building inspections.

Outlets must comply with SDMC §141.0504(a), which requires a 1,000-foot separation, measured between property lines from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. Outlets must also be a minimum distance of 100 feet from a residential zone. The proposed Outlet complies with the separation requirements between sensitive uses set forth in SDMC §141.0504(a).

The Project will be required to comply with development conditions as described in CUP No. 2038237 which is valid for five years and may be revoked if the Owner or Permittee violates the terms, conditions, lawful requirements, or provisions of the Permit.

The referenced regulations and conditions have been determined as necessary to avoid adverse impact upon the health, safety, and welfare. Therefore, the proposed Outlet will not be detrimental to the public health, safety and welfare.

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

The Project proposes a CUP to operate an Outlet in a 1,767-square-foot tenant space in Unit 103 within an existing five-unit commercial condominium complex located at 11189 Sorrento Valley Road. The site was developed in 1982.

The developed 3.2-acre site is located in the IL-3-1 zone and an Outlet is allowed with a CUP pursuant to SDMC Sections 131.0622 and 141.0504. The Project has been determined to be exempt from the Environmentally Sensitive Lands (ESL) regulations of

the Special Flood Hazard Area (100 Year Floodplain and 100 Year Floodway) pursuant to SDMC Sections 143.0110 (b)(4) and (c)(1), because there is no addition or modification to the existing development. Only interior tenant improvements are proposed. Furthermore, the proposed Outlet is exempt from the Airport Land Use Compatibility Overlay Zone regulations set forth in Chapter 13, Article 2, and Division 15 of the SDMC pursuant to Section 132.1505 (c)(1) as the Project is limited to interior modifications and will not increase the density, floor area ratio, or height of the existing structure.

Outlets must comply with SDMC §141.0504(a), which requires a 1,000-foot separation, measured between property lines from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. Outlets must also be a minimum distance of 100 feet from a residential zone. The proposed Outlet complies with the separation requirements between sensitive uses set forth in SDMC §141.0504(a). Outlets must also operate in compliance with the SDMC Chapter 4, Article 2, Division 14, which provides requirements for lawful operation.

The CUP for the Project includes various conditions and corresponding exhibits of approval relevant to achieving compliance with all relevant regulations of the SDMC for an Outlet. No variance or deviations are requested as part of this application, nor are any required to approve the CUP. Therefore, the proposed development will comply with the regulations of the Land Development Code.

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

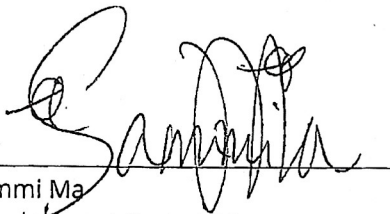
The Project proposes a CUP to allow the operation of an Outlet in a 1,767-square-foot tenant space in Unit 103 within an existing five-unit, 17,389-square-foot commercial condominium complex located at 11189 Sorrento Valley Road. The 3.2-acre site is in the IL-3-1 Zone of the TPCP.

Outlets must comply with SDMC §141.0504(a), which require a 1,000-foot separation, measured between property lines from resource and population-based City parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, residential care facilities, and schools. Outlets must also be a minimum distance of 100 feet from a residential zone. The proposed Outlet complies with the separation requirements between sensitive uses set forth in SDMC §141.0504(a). Outlets must also operate in compliance with the SDMC Chapter 4, Article 2, Division 14, which provides requirements for lawful operation.

The proposed Outlet is consistent with all land development regulations relevant for the site and the use. No variance or deviations are requested as part of this application, nor are any required to approve the CUP. The proposed Outlet is classified as retail sales use and marijuana retail sales are allowed at this location with a CUP. Therefore, based on all the facts cited above and conditions of approval, the proposed Outlet is an appropriate use at the proposed location.

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

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 2038237 is hereby GRANTED by the HEARING OFFICER to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Conditional Use Permit No. 2038237, a copy of which is attached hereto and made a part hereof.

A handwritten signature in black ink, appearing to read 'Sammi Ma', is written over a horizontal line.

Sammi Ma
Development Project Manager
Development Services

Adopted on: November 20, 2019

IO#: 24007352