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Attention: Firouzeh Tirandazi

INTERNAL ORDER NUMBER: 12004502

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Corrective

**CONDITIONAL USE PERMIT NO. 1846240
SITE DEVELOPMENT PERMIT NO. 1952275
SDMM CUP - PROJECT NO. 523179**

Document Number 2017-0442742 is being *corrected* as an incorrect approval number for the Conditional Use Permit is referenced on Page 1 of the document. The correct approval number is Conditional Use Permit No. 1846240.

ORIGINAL

RECORDING REQUESTED BY
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WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24007021

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 1846240
SITE DEVELOPMENT PERMIT NO. 1952275
SDMM CUP - PROJECT NO. 523179
PLANNING COMMISSION

This Conditional Use Permit No. 1846240 and Site Development Permit No. 1952275 is granted by the Planning Commission of the City of San Diego to Mission Valley South, LTD, Owner, and Sean St. Peter, Permittee pursuant to San Diego Municipal Code [SDMC] sections 126.0305 and 126.0504. The 6.65-acre site is located at 1233 Camino Del Rio South, in the MVPD-MV-CO-CV Zone, and the Airport Land Use Compatibility (Montgomery Field), Airport Influence Area (Montgomery Field Review Area 2 and SDIA-Lindbergh Field Review Area 2), and the Federal Aviation Authority (FAA) Part 77 (Montgomery Field and SDIA-Lindbergh Field) Overlay Zones within the Mission Valley Community Plan Area. The project site is legally described as: Lot 1 of Mission Valley South, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 5984, Filed in the Office of the county Recorder of San Diego County, October 31, 1967.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to operate a Marijuana Outlet within an existing building described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated August 31, 2017, on file in the Development Services Department.

The project shall include:

- a. Operation of a Marijuana Outlet in a 5,074-square-foot tenant space located on the second floor of an existing 71,130-square-foot, two-story commercial office building;
- b. Existing landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act

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

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by August 31, 2020.
2. This Conditional Use Permit [CUP] and corresponding use of this Marijuana Outlet shall expire on August 31, 2022. The Owner/Permittee may request that the expiration date be extended in accordance with SDMC Section 141.0504 (n).
3. In addition to other provisions of the law, the Marijuana Outlet must comply with Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 5 of the San Diego Municipal Code.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
 - c. A Marijuana Outlet Permit Issued by the Development Services Department is approved for all responsible persons in accordance with SDMC Section 42.1504.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

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

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

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

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

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

PLANNING/DESIGN REQUIREMENTS:

13. The use within the 5,074-square-foot tenant space shall be limited to the Marijuana Outlet and any use permitted by right in the MVPD-MV-CO Zone.

14. The sale of recreational marijuana shall be prohibited without a valid license from the State authorizing such activity.
15. Consultations by a medical professional shall not be a permitted accessory use at the Marijuana Outlet.
16. 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.
17. Security shall include operable cameras and a metal detector to the satisfaction of Development Services Department. This facility shall also include alarms and two armed security guards to the extent the possession of a firearm is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R. § 478.11. Nothing herein shall be interpreted to require or allow a violation of federal firearms laws. The security 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 records for a minimum of 30 days.
18. 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.
19. The Owner/Permittee shall install full-height bullet resistant armor panels or solid grouted masonry block walls, designed by a licensed professional, in common areas with other tenants, and vault room.
20. 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.
21. 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.
22. The Marijuana Outlet shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
23. 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.

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

TRANSPORTATION REQUIREMENTS:

26. 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.
27. The Owner/Permittee must construct and maintain an accessible path from the building entrance to the public street.
28. Prior to any work starting in the City street right-of-way, the applicant shall apply for a "Public Right-of-Way Permit for Traffic Control."

ENGINEERING REQUIREMENTS:

29. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, the reconstruction of the existing driveways with current City Standard 25-foot wide driveways, adjacent to the site on Camino Del Rio South, satisfactory to the City Engineer.
30. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, the reconstruction of the existing AC curb, gutter and sidewalk with current City Standard curb, gutter and sidewalk, adjacent to the site on Camino Del Rio South, satisfactory to the City Engineer.
31. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.
32. 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.

INFORMATION ONLY:

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

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

APPROVED by the Planning Commission of the City of San Diego on August 31, 2017 and Resolution No. 4886-PC.

Permit Type/PTS Approval No.: CUP No. 1846240 and SDP No. 1952275
Date of Approval: August 31, 2017

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.**

MISSION VALLEY SOUTH, LTD
Owner

By


Edward Goldberg
Chief Executive Officer
ASSET MANAGER
AKA Edward L. Goldberg

SEAN ST. PETER
Permittee

By


Sean St. Peter

AKA Sean Anthony St. Peter

**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 October 6, 2017 before me, Rose Marie White, Notary Public

Date

Here Insert Name and Title of the Officer

personally appeared Ferozch Tirandazi

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 Above

OPTIONAL

Though this section is 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: _____

ORIGINAL

ACKNOWLEDGMENT

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State of California

County of San Diego

On OCT. 6, 2017

before me,

Bridget G. Kotz (Notary Public)

(insert name and title of the officer)

personally appeared

Edward L. Goldberg

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.

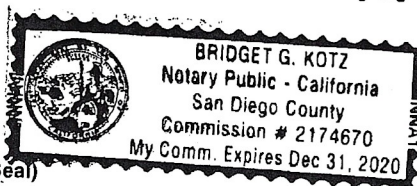
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Bridget G. Kotz

(Seal)



Conditional Use Permit # 1846240

Site Development Permit # 1952275

SDMM Cup Project # 523179

Property owner: Mission Valley South, Ltd.

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 San Diego

On Oct. 6, 2017 before me, Bridget G. Kotz (notary public)
(insert name and title of the officer)

personally appeared Sean Anthony St. Peter
who proved to me on the basis of satisfactory evidence to be the person ~~or~~ 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

Bridget G. Kotz

(Seal)



Conditional Use Permit #1846240

Site Development Permit #1952275

SDMM Cup Project #523179

Property Owner: Mission Valley South, Ltd.

ORIGINAL

PLANNING COMMISSION RESOLUTION NO. 4886-PC
CONDITIONAL USE PERMIT NO. 1846240
SITE DEVELOPMENT PERMIT NO. 1952275
SDMM CUP - PROJECT NO. 523179

WHEREAS, MISSION VALLEY SOUTH, LTD, Owner, and SEAN ST. PETER, Permittee, filed an application with the City of San Diego for a permit to operate a Marijuana Outlet in a 5,074-square-foot tenant space located on the second floor of an existing 71,130-square-foot, two-story commercial office building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 1846240 and 1952275), on portions of a 6.65-acre site;

WHEREAS, the project site is located at 1233 Camino Del Rio South, in the Mission Valley Planned District (MVPD) MV-CO-CV Zone, and the Airport Land Use Compatibility (Montgomery Field), Airport Influence Area (Montgomery Field Review Area 2 and SDIA-Lindbergh Field Review Area 2), and the Federal Aviation Authority (FAA) Part 77 (Montgomery Field and SDIA-Lindbergh Field) Overlay Zones within the Mission Valley Community Plan Area;

WHEREAS, the project site is legally described as Lot 1 of Mission Valley South, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 5984, filed in the Office of the County Recorder of San Diego County, October 31, 1967;

WHEREAS, on April 21, 2017, 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 15303 (New Construction or Conversion of Small Structures), and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

WHEREAS, on June 28, 2017, the Hearing Officer of the City of San Diego approved Conditional Use Permit No. 1846240 and Site Development Permit No. 1952275 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, appeals of the Hearing Officer's decision were filed by Susan Wilcox on June 30, 2017, and Michael Morton on July 7, 2017;

WHEREAS, on August 31, 2017, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 1846240 and Site Development Permit No. 1952275 pursuant to the Land Development Code of the City of San Diego;

NOW THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission denies the appeals and affirms the Hearing Officer's decision and adopts the following written Findings, dated August 31, 2017.

FINDINGS:

Conditional Use Permit Approval – 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) and Site Development Permit (SDP) to allow the operation of a Marijuana Outlet (Outlet) in a 5,074-square-foot tenant space on the second floor of an existing 71,130-square-foot, two-story commercial office building. The 6.65-acre project site is located at 1233 Camino Del Rio South within the Mission Valley Community Plan (MVCP) area.

The project site is designated for Commercial Office/Recreation use in the MVCP. This land use designation is intended to support multi-tenant office buildings, single purpose office-administrative facilities, professional-medical buildings, and financial institutions, as well as lodging, entertainment and recreational facilities. The MVCP further encourages a range of retail uses and multi-use development in which commercial uses are combined or integrated with other uses. The proposed Outlet, classified as a retail sales use category, is consistent with the community plan objective of encouraging a range of retail uses integrated with other uses, and is a compatible use with the surrounding commercial establishments at this location with a CUP and SDP. 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 proposed Outlet 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.

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 requirements as set forth in SDMC Section 141.0504 (b) – (m), which have also been incorporated as conditions in the Permit 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 a security guard; restriction of hours of operation to between 7:00 am and 9:00 pm; maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; and restriction of signage to business name, two colors, and alphabetic characters.

The Permit includes additional security conditions including the provision of operable surveillance cameras and a metal detector, use of cameras with a recording device that maintains records for a minimum of 30 days, two armed security guards to the extent the possession of a firearm is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R § 478.11 with

one security guard present on the premises 24 hours a day, seven days a week, installation of bullet resistant glass, plastic, or laminate shield and bullet resistant armor panels or solid grouted masonry block walls, designed by a licensed professional, in common areas with other tenants, reception area, and vault room. The Outlet must also comply with Chapter 4, Article 2, and Division 15 which provides guidelines for lawful operation. The Permit is valid for five years, however, may be revoked if the use violates the terms, conditions, lawful requirements, or provision of the permit.

Furthermore, any project construction related activities 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.

The City of San Diego conducted an environmental review of this project in accordance with the CEQA Guidelines, and concluded there would be no environmental impacts associated with the proposed project. Based on the above analysis, the proposed development would not be detrimental to the public's 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 within an existing 5,074-square-foot tenant space on the second floor of an existing 71,130-square-foot, two-story commercial office building. The proposed Outlet, classified as retail sales, is allowed in the MVPD MV-CO-CV Zone with a CUP pursuant to SDMC Sections 141.0504 and 1514.0305(b). The proposed project is considered a change in use from a bar (Club Fuego) to a Marijuana Outlet and subject to the MVPD Ordinance, including Development Intensity District (DID) requirements. The project requires a SDP pursuant to SDMC 1514.0201(d) due to the estimated traffic resulting in a value in excess of the allowed Threshold 1 and less than Threshold 2 for the designated DID.

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) and (2) as: 1) the project is limited to interior modifications and will not increase the density, floor area ratio or height of the existing structure, and 2) the proposed change in non-residential occupancy would not require an increase in the number of parking spaces pursuant to Chapter 14, Article 2, Division 5.

Pursuant to SDMC Section 141.0504(a), Outlets are subject to separation requirements including a 1,000-foot separation from resource and population-based 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 1971 in accordance with all applicable development regulations. The project site is in compliance with the required

274 off-street parking spaces, 13 spaces for the proposed 5,074-square-foot Outlet and 261 spaces for the remaining 99,836 square feet of combined commercial services and office uses within both buildings on the project site.

The Permit 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 and SDP to operate an Outlet in an existing 5,074-square-foot tenant space on the second floor of an existing 71,130-square-foot, two-story commercial office building. The existing two-story office building was constructed in 1971, and includes a fitness club, and several professional office, commercial service, and retail suites. The project site is surrounded by a multi-story commercial office building and the Sheraton San Diego to the east, a multi-story commercial office building and fast food restaurant to the west, open space/hillside to the south, and Camino Del Rio South and Interstate 8 to the north.

The project site and surrounding parcels to the east, west, and north are designated for Commercial Office/Recreation use in the MVCP. This land use designation is intended to support multi-tenant office buildings, single purpose office-administrative facilities, professional-medical buildings, and financial institutions, as well as lodging, entertainment and recreational facilities. The MVCP further encourages a range of retail uses and multi-use development in which commercial uses are combined or integrated with other uses. The proposed Outlet, classified as a retail sales use category, is consistent with the community plan objective of encouraging a range of retail uses integrated with other uses, and is a compatible use with the surrounding commercial establishments.

The project site abuts the OR-1-1 (Open Space-Residential) Zone to the south, and designated for Open Space use in the Uptown Community Plan. The OR-1-1 Zone is an open space base zone intended to preserve privately owned property that is designated as open space in a land use plan. The existing hillside has a slope gradient greater than 50% and an elevation difference of approximately 220 feet, with City-owned designated park sites and residential development located on top of the hillside.

The proposed Outlet is allowed in the MVPD MV-CO-CV Zone with a CUP and SDP and is subject to separation requirements set forth in SDMC Section 141.0504(a) including a 1,000-foot separation from resource and population-based 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 project site is not located within 100 feet of a residential zone, or within 1,000 feet of the aforementioned uses, and therefore, is in compliance with the minimum separation requirements.

Outlets are also subject to specific operational requirements set forth in SDMC Section 141.0504 (b) – (m), which have also been incorporated as conditions in the Permit 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 a security guard; restriction of hours of operation to between 7:00 am and 9:00 pm; maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; and restriction of signage to business name, two colors, and alphabetic characters. The Outlet must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The SDMC limits Outlets to commercial and industrial zones and the quantity of Outlets to only four per each City Council District (36 city-wide) in order to minimize the impact on the City and residential neighborhoods. The proposed Outlet is a compatible use with the surrounding commercial establishments. 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.

Site Development Permit Approval – Part 1 SDMC Section 126.0504

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

The 6.65-acre project site is located at 1233 Camino Del Rio South within the MVCP area, and designated for Commercial Office/Recreation use in the MVCP. This land use designation is intended to support multi-tenant office buildings, single purpose office-administrative facilities, professional-medical buildings, and financial institutions, as well as lodging, entertainment and recreational facilities. The MVCP further encourages a range of retail uses and multi-use development in which commercial uses are combined or integrated with other uses. The proposed Outlet, classified as a retail sales use category, is consistent with the community plan objective of encouraging a range of retail uses integrated with other uses, and is a compatible use with the surrounding commercial establishments at this location with a CUP and SDP. 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 proposed Outlet 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.

Approval of this Permit 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 requirements as set forth in SDMC Section 141.0504 (b) – (m), which have also been incorporated as conditions in the Permit 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 a security guard; restriction of hours of operation to between 7:00 am and 9:00 pm; maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; and restriction of signage to business name, two colors, and alphabetic characters.

The Permit includes additional security conditions including the provision of operable surveillance cameras and a metal detector, use of cameras with a recording device that maintains records for a minimum of 30 days, two armed security guards to the extent the possession of a firearm is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R § 478.11., 4) with one security guard present on the premises 24 hours a day, seven days a week, installation of bullet resistant glass, plastic, or laminate shield and bullet resistant armor panels or solid grouted masonry block walls, designed by a licensed professional, in common areas with other tenants, reception area, and vault room. The Outlet must also comply with Chapter 4, Article 2, and Division 15 which provides guidelines for lawful operation. The Permit is valid for five years, however, may be revoked if the use violates the terms, conditions, lawful requirements, or provision of the permit.

Furthermore, any project construction related activities 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.

The City of San Diego conducted an environmental review of this project in accordance with the CEQA Guidelines, and concluded there would be no environmental impacts associated with the proposed project. Based on the above analysis, the proposed development would not be detrimental to the public's 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 within an existing 5,074-square-foot tenant space on the second floor of an existing 71,130-square-foot, two-story commercial office building. The proposed Outlet, classified as retail sales, is allowed in the MVPD MV-CO-CV Zone with a CUP pursuant to SDMC Sections 141.0504 and 1514.0305(b). The proposed project is considered a change in use from a bar (Club Fuego) to a Marijuana Outlet and subject to the MVPD Ordinance, including Development Intensity District (DID) requirements. The project requires a SDP pursuant to SDMC 1514.0201(d) due to the estimated traffic resulting in a value in excess of the allowed Threshold 1 and less than Threshold 2 for the designated DID.

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) and (2) as: 1) the project is limited to interior modifications and will not increase the density, floor area ratio or height of the existing structure, and 2) the proposed change in non-residential occupancy would not require an increase in the number of parking spaces pursuant to Chapter 14, Article 2, Division 5.

Pursuant to SDMC Section 141.0504(a), Outlets are subject to separation requirements including a 1,000-foot separation from resource and population-based 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 1971 in accordance with all applicable development regulations. The project site is in compliance with the required 274 off-street parking spaces, 13 spaces for the proposed 5,074-square-foot Outlet and 261 spaces for the remaining 99,836 square feet of combined commercial services and office uses within both buildings on the project site.

The Permit 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.

Site Development Permit Approval – Part 2, SDMC Section 1514.0201

(a) The proposed development is consistent with the Mission Valley Community Plan and the Progress Guide and General Plan.

The project site is located at 1233 Camino Del Rio South within the MVCP area, and designated for Commercial Office/Recreation use in the MVCP. This land use designation is intended to support multi-tenant office buildings, single purpose office-administrative facilities, professional-medical buildings, and financial institutions, as well as lodging, entertainment and recreational facilities. The MVCP further encourages a range of retail uses and multi-use development in which commercial uses are combined or integrated with other uses. The proposed Outlet, classified as a retail sales use category, is consistent with the community plan objective of encouraging a range of retail uses integrated with other uses.

The MVPD Ordinance limits development intensity to levels allowed under the adopted Mission Valley Community Plan, and includes three traffic areas (Area 1, Area 2, and Area 3) and thirteen DIDs, A through M, with two thresholds within each DID. A SDP is required due to estimated traffic resulting in a value in excess of the allowed Threshold 1 for the designated DID. The proposed project is located in Area 3 – DID J. The expected trip generation for the proposed 5,074-square-foot Marijuana Outlet is approximately 203 average daily trips (ADT), at 40 trips per 1,000 square feet. The combined trip value calculated for the existing uses and proposed use is 588 trips per acre (AC); above Threshold 1 (200 trips/AC) and below Threshold 2 (671 trips/AC).

The proposed Outlet is a compatible use with the surrounding commercial establishments at this location, consistent with the community plan land use designation and within the development intensity intended for the site, therefore, the proposed development is consistent with Mission Valley Community Plan and Progress Guide and General Plan.

- (b) **The proposed development provides the required public facilities and is compatible with adjacent open space areas.**

The existing two-story commercial office building was constructed in 1971, and includes a fitness club, and several professional office, commercial service, and retail suites. The area south of the project site consists of steep slope and is designated as open space within the Uptown Community Plan. The Outlet is proposed within an existing building and no exterior building improvements are proposed, and would not affect the abutting open space area. The project will provide an ADA accessible path of travel from the Camino Del Rio South public right-of-way to the building entrance. Public improvements include replacement of the damaged portions of the sidewalk and existing driveways along Camino Del Rio South with City standard sidewalk and driveways. The existing building was constructed in compliance with all development regulations in effect at the time and therefore, the proposed development continues to provide the required public facilities and is compatible with adjacent open space areas.

- (c) **The proposed development meets the purpose, intent and criteria of the Mission Valley Planned District Ordinance including the applicable "Guidelines for Discretionary Review" adopted as part of the planned District.**

Marijuana Outlets are allowed in the MVPD MV-CO-CV Zone with a CUP and SDP. A SDP is required due to the estimated traffic resulting in a value in excess of the allowed Threshold 1 for the designated DID. The project will result in a development intensity intended for the site.

Guidelines for Discretionary Review has have been fulfilled as the project has successfully submitted a deemed complete application for review through the City of San Diego and brought forward to a decision maker for decision in accordance to SDMC Section 1514.0201, Permit Application, Review, and Issuance. Therefore, the proposed development meets the purpose, intent and criteria of MVPD Ordinance including the application "Guidelines for Discretionary Review" adopted as a part of this planned district.

- (d) **The proposed development will comply with all other relevant regulations in the San Diego Municipal Code.**

The proposed Outlet, classified as retail sales, is allowed in the MVPD MV-CO-CV Zone with a CUP pursuant to SDMC Sections 141.0504 and 1514.0305(b). The proposed project is considered a change in use from a bar (Club Fuego) to a Marijuana Outlet and subject to the MVPD Ordinance, including DID requirements. The project requires a SDP pursuant to SDMC 1514.0201(d) due to the estimated traffic resulting in a value in excess of the allowed Threshold 1 and less than Threshold 2 for the designated DID.

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) and (2) as: 1) the project is limited to interior modifications and will not increase the density, floor area ratio or height of the existing structure, and 2) the proposed change in non-residential occupancy would not require an increase in the number of parking spaces pursuant to Chapter 14, Article 2, Division 5.

Pursuant to SDMC Section 141.0504(a), Outlets are subject to separation requirements including a 1,000-foot separation from resource and population-based 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 1971 in accordance with all applicable development regulations. The project site is in compliance with the required 274 off-street parking spaces, 13 spaces for the proposed 5,074-square-foot Outlet and 261 spaces for the remaining 99,836 square feet of combined commercial services and office uses within both buildings on the project site.

The Permit 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. Marijuana Outlets must also comply with chapter 4, Article 2, Division 15, which provides guidelines for lawful operation. Therefore, the proposed development will comply with all other relevant regulations in the San Diego Municipal Code.

BE IT FURTHER RESOLVED that, the Planning Commission denies the appeals, upholds the Hearing Officer's decision, and based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 1846240 and Site Development Permit No. 1952275 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 1846240 and 1952275, a copy of which is attached hereto and made a part hereof.



Firouzeh Tirandazi
Development Project Manager
Development Services

Adopted on: August 31, 2017

IO#: 24007021