

DOC# 2023-0257536



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

PROJECT MANAGEMENT
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Sep 21, 2023 03:41 PM
OFFICIAL RECORDS
JORDAN Z. MARKS,
SAN DIEGO COUNTY RECORDER
FEES: \$65.00 (SB2 Atkins: \$0.00)

PAGES: 18

INTERNAL ORDER NUMBER: 24009184

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 3143607
2555 KETTNER BOULEVARD CANNABIS OUTLET - PROJECT NO. 1053097
HEARING OFFICER

This Conditional Use Permit No. 3143607 is granted by the Hearing Officer of the City of San Diego to JASPAL S. WALIA, Owner, and BLUE SQUARE ASSETS, LLC, Permittee, pursuant to San Diego Municipal Code (SDMC) section(s) 126.0301 et seq. and 141.0405. The 0.12-acre (5,013-square-foot) site is located at 2555 Kettner Boulevard in the IS-1-1 zone of the Midway-Pacific Highway Community Plan. The project site is legally described as: Lot 2 in Block 78 of Middletown, in the City of San Diego, County of San Diego, State of California, according to Map made by J.E. Jackson on file in the office of the County Recorder of San Diego County.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to operate a 1,513-square-foot cannabis outlet in an existing, 1,513-square-foot, two-story commercial building, described and identified by size, dimension, quantity, type, and location on the approved exhibits (Exhibit "A") dated January 25, 2023, on file in the Development Services Department.

The project shall include:

- a. A 1,513-square-foot cannabis outlet in an existing 1,513-square-foot, two-story commercial building;
- b. 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. **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

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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 Conditional Use Permit (CUP) must be utilized by February 9, 2026.

2. **Expiration Date:** This Conditional Use Permit (CUP) and corresponding use of this site shall expire on February 9, 2028.

This expiration date can be extended by filing for a CUP amendment pursuant to SDMC 126.0114(c), 126.0114(d), and 141.0504(n). To allow the use to continue to operate while an amendment is processed, an amendment application must be deemed complete by the close of business on the expiration date. Otherwise, this permit will expire, and all operation of the use must cease.

An amendment application should be filed at least 90 days before expiration to allow time to be deemed complete.

3. The continued utilization of this CUP is contingent upon (but not limited to) the following, with non-compliance with any of the following being cause to revoke this permit:

- a. The existence of a valid license at this location by the California Department of Cannabis Control (DCC) for any operating business. 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 for any operating business.
- 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. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
10. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
11. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

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

12. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee

shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENVIRONMENTAL / MITIGATION REQUIREMENTS:

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

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any building permit the Owner/Permittee shall grant to the City 2-foot irrevocable offer of dedication for Right-of-Way purposes along Kettner Boulevard, satisfactory to the City Engineer.

15. Prior to the issuance of any building permit the Owner/Permittee shall assure, by permit and bond, the construction of a new 14-foot driveway per current City Standards, adjacent to the site on Kettner Boulevard.

16. Prior to issuance of any building Permit the Owner/Permittee shall construct new curb/gutter and sidewalk per current City Standards along frontage on Kettner Boulevard.

17. Prior to the issuance of any building permit the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for non-standard driveway and private pavers in the Kettner Boulevard Right-of-Way.

18. 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 Two Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

19. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water and sewer service(s) outside of any driveway or drive aisle and the abandonment of any existing unused water and sewer services within the right-of-way adjacent to the project site, in a manner satisfactory to the Public Utilities Department and the City Engineer.

20. Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner

satisfactory to the Public Utilities Department and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

21. All proposed private water and sewer facilities are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

22. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.

23. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private sewer laterals encroaching into the Public Right-of-Way.

LANDSCAPE REQUIREMENTS:

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

25. Prior to issuance of any Building Permit, the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)6.

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

27. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed, 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.

PLANNING/DESIGN REQUIREMENTS:

28. Lighting shall be provided to illuminate the interior, facade, and the immediate surrounding area of the cannabis outlet, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented to deflect light away from adjacent properties.
29. Security shall be provided at the cannabis 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 guard shall only be engaged in activities related to providing security for the facility, except on an incidental basis.
30. Primary signs shall be posted on the outside of the cannabis outlet and shall only contain the name of the business, which shall contain only alphabetic characters, and shall be limited to two colors. Secondary signs advertising cannabis, window signs and any display visible from the public right-of-way, are not permitted.
31. 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.
32. The cannabis outlet shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
33. 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.
34. An annual operating permit shall be obtained as required pursuant to San Diego Municipal Code Chapter 4, Article 2, Division 15.
35. Deliveries shall be permitted as an accessory use only from a cannabis outlet with a valid Conditional Use Permit unless otherwise allowed pursuant to state law.
36. 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.
37. The Cannabis Outlet shall provide daily removal of trash, litter, and debris from the premises. Graffiti shall be removed from the premises within 24 hours.
38. Consultations by medical professionals shall not be a permitted accessory use at the cannabis outlet.

TRANSPORTATION REQUIREMENTS

39. 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.

40. The Owner/Permittee will provide the following Vehicle Miles Traveled (VMT) reduction measures:

- a. Provide one on-site bicycle repair station in the location shown in Exhibit A.
- b. Provide short-term bicycle parking spaces that are available to the public, at least 10% beyond minimum requirements. The project is required to provide a minimum of 2 short-term bicycle parking spaces based on the San Diego Municipal Code Section 142.0530(e)(1). Additional short-term bicycle parking spaces are being provided in excess of the minimum requirement. Three short-term bicycle parking spaces are being proposed and their locations are shown in Exhibit A.
- c. Provide long-term bicycle parking spaces at least 10% beyond minimum requirements. Long-term bicycle parking spaces are not required since the project proposes less than 10 employees and therefore any long-term bicycle parking spaces provided would be in excess of the minimum requirement. Two long-term bicycle parking spaces (bicycle lockers) are being proposed and their locations are shown in Exhibit A.

These improvements shall be completed and operational prior to first occupancy.

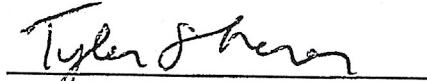
INFORMATION ONLY:

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

APPROVED by the Hearing Officer of the City of San Diego on January 25, 2023 and Resolution No. HO-7478.

Conditional Use Permit No. 3143067
Date of Approval: January 25, 2023

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT


Tyler Sherer
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.**

JASPAL S. WALIA
Owner

By _____
Jaspal Walia
Owner

BLUE SQUARE ASSETS, LLC
Permittee

By 
Rakesh Goyal
Agent

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

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Conditional Use Permit No. 3143067
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**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.**

JASPAL S. WALIA AKA Jaspal Singh Walia
Owner

By 
Jaspal Walia
Owner

BLUE SQUARE ASSETS, LLC
Permittee

By _____
Rakesh Goyal
Agent

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

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.

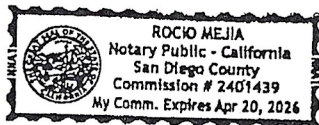
State of California

County of San DiegoOn March 23, 2023

Date

before me, Rocio Mejia, Notary Public*Here Insert Name and Title of the Officer*personally appeared --- Tyler Sherer, Development Project Manager ---*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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

*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 DocumentTitle or Type of Document: 2555 Kettner Boulevard Cannabis Outlet- Project Number 1053097Document Date: January 25, 2023Number of Pages: 11Signer(s) Other Than Named Above: --- Jaspal S. Walia & Rakesh Goyal ---**Capacity(ies) Claimed by Signer(s)**

Signer's Name: _____

Signer's Name: _____

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

Signer is Representing: _____

Signer is Representing: _____

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CALIFORNIA ALL-PURPOSE CERTIFICATE OF 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 March 14, 2023 before me, Maihar Meakha (Notary Public)
(Here insert name and title of the officer)

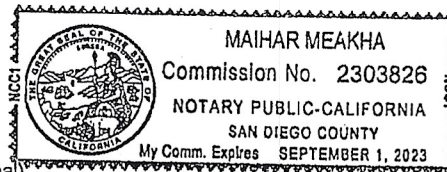
personally appeared Rakesh Goyal
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) 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]
Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Conditional use permit
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 8 Document Date 01/25/2023

CAPACITY CLAIMED BY THE SIGNER

- ☒ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

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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 02/24/2023

Date

before me,

Natasha Newman, notary public

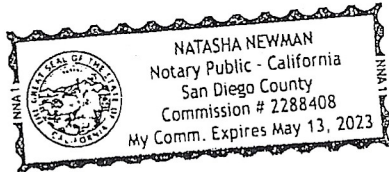
Here Insert Name and Title of the Officer

personally appeared

Jaspal Singh Walia

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

Natasha

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: conditional use permit 3143607

Document Date: 02/24/2023

Number of Pages: 8

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: _____

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HEARING OFFICER RESOLUTION HO-7478
CONDITIONAL USE PERMIT NO. 3143607
2555 KETTNER BOULEVARD CANNABIS OUTLET - PROJECT NO. 1053097

WHEREAS, JASPAL S. WALIA, Owner, and BLUE SQUARE ASSETS, LLC, Permittee, filed an application with the City of San Diego for a permit to operate a 1,513-square-foot cannabis outlet in an existing, 1,513-square-foot, two-story commercial building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 3143607), on portions of a 0.12-acre (5,013-square-foot) site;

WHEREAS, the project site is located at 2555 Kettner Boulevard in the IS-1-1 zone of the Midway-Pacific Highway Community Plan;

WHEREAS, the project site is legally described as: Lot 2 in Block 78 of Middletown, in the City of San Diego, County of San Diego, State of California, according to Map made by J.E. Jackson on file in the office of the County Recorder of San Diego County;

WHEREAS, on January 25, 2023, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 3143607 pursuant to the Land Development Code of the City of San Diego;

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. 3143607:

A. **CONDITIONAL USE PERMIT FINDINGS [SDMC Section 126.0305]**

1. **Findings for all Conditional Use Permits:**

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

The project is a request for a Conditional Use Permit (CUP) to allow the operation of a cannabis outlet within a 1,513-square-foot building at 2555 Kettner Boulevard within the Midway-Pacific Highway Community Plan (MPHCP).

The MPHCP designates the site as Urban Industrial to accommodate small- and medium-sized industrial and business uses with an urban development character.

Furthermore, the MPHCP designates the site as being within the Kettner District with policies to:

- Ensure that future uses, building intensity, and structure heights are compatible with the safety zones, noise contours, and airspace protection surfaces identified in the Airport Land Use Compatibility Plan for San Diego International Airport;
- Emphasize Pacific Highway as a linear gateway with streetscape, signage, pedestrian, and bicycle improvements; and
- Encourage development with varying building facades and a pedestrian scale, without a front setback or with a limited setback to form a defined street wall. Additionally, the IS base zone is intended to provide a wide range of small and medium sized industrial and commercial uses to promote economic vitality and a neighborhood scale in development.

As a retail establishment specialized in the sale of cannabis, a cannabis outlet fits the Urban Industrial and Small-Scale Industrial designations. The use would serve the needs of residents who want to purchase recreational cannabis and will also provide jobs to area residents. City and state requirements for security systems, guards, and secured facilities will ensure that the potential for criminal activity is minimized, and conditions of the permit will ensure prompt resolution of litter and graffiti if it occurs onsite. Furthermore, the project proposes an abundance of trees, shrubs, and ground cover to conform with the policies of the Kettner District, (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 3143607).

The City's General Plan Land Use and Community Planning Element designates the site Industrial Employment. The proposed project will promote the policies of the General Plan because cannabis outlets supply jobs and encourage and facilitate commerce within the San Diego region.

Therefore, the project 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 interior improvements to an existing tenant space, including entry/exit areas, waiting areas, a cannabis retail sales floor, and employee and storage areas. 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.

A cannabis outlet in the IS-1-1 zone is allowed with a CUP at this location and consistent with the goals and policies of the MPHCP. 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. These conditions are specifically intended to reduce, mitigate, or prevent all adverse impacts to the public and community at large.

Pursuant to SDMC section 141.0504, cannabis outlets are limited to no more than four per each of the nine City Council districts (36) within commercial and industrial zones to minimize the impact on the City and residential neighborhoods. Existing permits are also allowed to remain if redistricting causes them to change districts (2), for a total of 38 currently allowed city-wide. There are currently two approved outlets in District 2. The project will be the third cannabis outlet CUP to be approved within District 2.

Cannabis outlets require compliance with the separation requirements of SDMC section 141.0504(a). The project was deemed complete on March 18, 2022 and is subject to the regulations in effect at that time. At that time, SDMC 141.0504(a) read as follows:

(a) Cannabis outlets shall maintain the following minimum separation:

(1) 1,000 feet from resource and population-based city parks, other cannabis outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools. For purposes of this section, school means any public or private institution of learning providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes. The distance shall be measured between the property lines, in accordance with Section 113.0225.

(2) 100 feet from the property line of a residentially zoned lot or premises. The distance shall be measured horizontally in a straight line between the two closest points of the property lines without regard to topography or structures that would interfere with a straight-line measurement.

During project review, staff identified no potential conflicts with the separation requirements.

The proposed cannabis outlet is within the Parking Standards Transit Priority Area and is not required to provide parking spaces. However, the project has five existing on-site parking spaces, which will remain. The project will provide public improvements, which include the reconstruction of the driveway to meet current accessibility standards. CUP No. 3143607 contains specific regulatory conditions of approval. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate, or prevent all adverse impacts to the public and community at large.

The proposed cannabis 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, security guard; restriction of hours of operation to between 7:00 a.m. and 9:00 p.m. daily; maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; restriction of signage to business name, two-color signs, and alphabetic characters; and signage advertising cannabis may not be visible from the public right-of-way. cannabis 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, project features and conditions of approval, the proposed development 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 is located within the IS-1-1 zone, which allows cannabis outlets with the approval of a Conditional Use Permit per SDMC Table 131-06B. No deviations are requested or required by this project. As outlined in Finding 2 above, the project complies with the separation requirements of the Land Development Code.

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

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

Cannabis outlets are unique in that there are only four allowed per council district, or 36 city-wide, with existing outlets that change districts because of redistricting allowed to remain. Redistricting effective 12/12/2022 resulted in 5 existing outlets in

Districts 1 and 9, for a total of 38 outlets allowed city-wide. No other retail business regulated by the City of San Diego is subject to such restrictions.

The proposed project is in District 2. At this time, District 2 has only two permitted cannabis outlets, located at 3452 Hancock Street and 3500 Estudillo Street. Since the City's recreational cannabis regulations were first adopted in 2017, the zoning and separation requirements for cannabis outlets have resulted in very few locations that meet all locational criteria. This project is one of those locations.

The site is currently improved with a commercial retail building built in 1940. The previous tenant and many existing uses have similar operational characteristics (high frequency retail sales and services). The tenant space is currently occupied by a car rental service and a residence. Other existing uses in the vicinity include car rental services, airport parking, and retail. The proposed cannabis outlet is within the Parking Standards Transit Priority Area and is not required to provide parking spaces. However, the project has five existing on-site parking spaces, which will remain. The project will provide public improvements, which include the reconstruction of the driveway, sidewalk, gutter, and the addition of an abundance of trees, shrubs, and ground cover to meet current accessibility standards and that will conform with the Kettner District design policies. Furthermore, the project is located within an established commercial area with nearby access to transit nodes (Middletown Trolley Station) and freeways (Interstate 5).

As stated in findings 2 and 3 above, the project meets all separation requirements for cannabis outlets, as well as the requirements of the applicable land uses plans and the Land Development Code. Therefore, based on the above analysis, the proposed use is appropriate at the proposed location.

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

BE IT FURTHER RESOLVED that, based on the findings herein before adopted by the Hearing Officer, Conditional Use Permit No. 3143607 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 3143607, a copy of which is attached hereto and made a part hereof.


Tyler Sherer
Development Project Manager
Development Services

Adopted on: January 25, 2023
IO#: 24009184

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