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OFFICIAL RECORDS

JORDAN Z. MARKS,

SAN DIEGO COUNTY RECORDER

FEES: \$56.00 (SB2 Atkins: \$0.00)

PAGES: 15

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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: 24009180

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 3142630
8039 BALBOA AVE - PROJECT NO. 1052799
HEARING OFFICER

This Conditional Use Permit No. 3142630 (herein, the "permit") is granted by the Hearing Officer of the City of San Diego to BALBOA AVENUE SAN DIEGO LLC, a California limited liability company, Owner, and AARON MAGAGNA (COSDD61, LLC, a California limited liability company), Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0303(c) and 141.0504. The 1.06-acre site is located at 8039 Balboa Avenue in the CC-2-5 Zone, the Airport Land Use Compatibility Overlay (Montgomery Field), the Airport Influence Area (Montgomery Field - Review Area 1, Safety Zones 1 and 2; MCAS Miramar - Review Area 2, San Diego International Airport), the FAA Part 77 Noticing Area Overlay, the Parking Standards and Transit Priority Area Overlay Zones of the Kearny Mesa Community Plan area. The project site is legally described as: Lots 25 and 26 of Hazard Industrial Tract Unit No. 2, according to Map thereof No. 4350, filed in the office of the County Recorder of San Diego County on September 30, 1959, and more particularly described in Document No. 2011-0079135 O.R., filed February 10, 2011 in the Office of the San Diego County Recorder.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a cannabis outlet described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated February 8, 2023, on file in the Development Services Department.

The project shall include:

- a. Operation of a new Cannabis Outlet in a 3,296-square-foot tenant space within an existing 17,351-square-foot commercial building;
- 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.

ORIGINAL

STANDARD REQUIREMENTS:

1. **Utilization date:** This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by February 23, 2026.

2. **Expiration date:** This Conditional Use Permit [CUP] and corresponding use of this site shall expire on February 23, 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 is not limited to) the following:

- a. The existence and utilization of a valid license for this location issued by the California Department of Cannabis Control (DCC) for the proposed business activities. Once initially obtained, this license must not be allowed to lapse while the associated business is in operation. 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 Cannabis Business Tax owed pursuant to Chapter 3, Article 4, Division 1 of the San Diego Municipal Code.
- d. Possession of a valid and current Business Tax Certificate issued by the City of San Diego for all cannabis businesses operating at this location.
- e. Continued compliance of all permit conditions herein.
- 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 obtain an Encroachment Maintenance Removal Agreement for landscape and irrigation located within the City's right-of-way, satisfactory to the City Engineer.

15. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of the existing driveways adjacent to the project site on Balboa Avenue with City standard driveways, satisfactory to the City Engineer.

16. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of a new City Standard bus pad, adjacent to the project site on Balboa Avenue, satisfactory to the City Engineer.

17. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of non-contiguous sidewalk per current City Standard, adjacent to the project site on Balboa Avenue, satisfactory to the City Engineer.

18. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of City standard curb and gutter adjacent to the project site on Balboa Avenue, satisfactory to the City Engineer.

19. 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.

20. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the removal of existing bollards within the City right-of-way, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

21. Prior to issuance of any construction permit for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Storm Water Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.

22. 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.

23. Prior to issuance of any construction permit for building (including shell), 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.

24. 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.

PLANNING/DESIGN REQUIREMENTS:

25. 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.

26. 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.

27. The Owner/Permittee shall provide a sufficient odor absorbing ventilation and system capable of minimizing excessive or offensive odors emanating outside of the permitted cannabis outlet to the satisfaction of the Development Services Department.
28. Signage: 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. No marketing or advertising for cannabis or cannabis products shall be displayed visible from the public right-of-way. All cannabis licensees, and any person acting on behalf of a licensee, must comply with the State of California statutes and regulations governing commercial cannabis advertising and/or promoting.
29. 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.
30. The cannabis outlet shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
31. 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.
32. An annual operating permit shall be obtained as required pursuant to San Diego Municipal Code Chapter 4, Article 2, Division 15.
33. Deliveries shall be permitted as an accessory use only from the cannabis outlet with a valid Conditional Use Permit unless otherwise allowed pursuant to state law.
34. 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.
35. The Owner/Permittee shall provide daily removal of trash, litter, and debris of the premises. Graffiti shall be removed from the premises within 24 hours.
36. Consultations by medical professionals shall not be a permitted accessory use at the cannabis outlet.

TRANSPORTATION REQUIREMENTS:

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


INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.
- Cannabis businesses that operate or provide services within the City of San Diego are liable for a monthly gross receipts tax. As referenced in San Diego Municipal Code Section 34.0103(b), taxable activities include, but are not limited to, transporting, manufacturing, cultivating, packaging, and/or retail sales of cannabis and any ancillary products in the City of San Diego. 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 February 8, 2023 and Resolution Number HO-7485.

Conditional Use Permit No. 3142630
Date of Approval: February 8, 2023

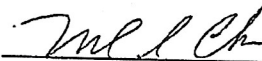
AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT


Francisco Mendoza
Development Project Manager


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

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

BALBOA AVENUE SAN DIEGO LLC
a California limited liability company
Owner

By 
Name: *MARK Chapparon*
Title: *MANAGER member*

COSDD61, LLC
a California limited liability company,
Permittee

By 
Name: *AARON MAGALLON*
Title: *Authorized Signatory*

**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 Diego }On May 3, 2023

Date

before me, Stacie L. Maxwell, Notary Public

Here Insert Name and Title of the Officer

personally appeared ---Francisco Mendoza, 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.



Place Notary Seal and/or Stamp Above

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

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: 8039 Balboa Avenue - Project No. 1052799Document Date: February 8, 2023Number of Pages: 15Signer(s) Other Than Named Above: ---Mark Chapparone and Aaron Magagna---**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: _____

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

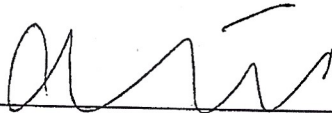
On April 28, 2023 before me, Alisa Winchel, Notary Public
(insert name and title of the officer)

personally appeared Mark Chapparone and Aaron Magagna,
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

HEARING OFFICER RESOLUTION NO. HO-7485
CONDITIONAL USE PERMIT NO. 3142630
8039 BALBOA AVE CO - PROJECT NO. PRJ-1052799

WHEREAS, BALBOA AVENUE SAN DIEGO LLC, a California limited liability company, and AARON MAGAGNA (COSDD61, LLC, a California limited liability company), Permittee, filed an application with the City of San Diego for a Conditional Use Permit to operate a Cannabis Outlet (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 3142630, and hereinafter described as the project), on portions of a 1.06-acre site;

WHEREAS, the project site is located at 8039 Balboa Avenue in the CC-2-5 Zone, the Airport Land Use Compatibility Overlay Zone (Montgomery Field), the Airport Influence Area (Montgomery Field – Review Area 1, Safety Zones 1 and 2, MCAS Miramar – Review Area 2, San Diego International Airport), the FAA Part 77 Noticing Area Overlay, and the Parking Standards and Transit Priority Areas Overlay Zones of the Kearny Mesa Community Plan area;

WHEREAS, the project site is legally described as Lots 25 and 26 of Hazard Industrial Tract Unit No. 2, according to Map thereof No. 4350, filed in the office of the County Recorder of San Diego County on September 30, 1959, and more particularly described in Document No. 2011-0079135 O.R., dated February 10, 2011, filed in the Office of the San Diego County Recorder;

WHEREAS, on December 20, 2022, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) under CEQA Guidelines Section 15332 (Infill Development) 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 February 8, 2023, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 3142630 pursuant to the Land Development Code of the City of San Diego; 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. 3142630:

A. **CONDITIONAL USE PERMIT FINDINGS – SDMC SECTION 126.0305**

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

The project is a Conditional Use Permit (CUP) to allow the operation of a Cannabis Outlet within a 3,298-square-foot tenant space in an existing 17,351-square-foot commercial building. The 1.06-acre project site is located at 8039 Balboa Avenue in the CC-2-5 zone, the Airport Land Use Compatibility Overlay (Montgomery Field), the Airport Influence Area (San Diego International Airport, MCAS Miramar, Montgomery Field), the FAA Part 77 Notification Area, the Parking Standards Transit Priority Area, and the Transit Priority Area Overlay Zones within the Kearny Mesa Community Plan (KMCP).

The KMCP designates the project site as Community Commercial. This designation provides for such uses as commercial shopping areas, offices, hotels, automobile sales, and limited industrial uses. This allows for a variety of uses to provide goods, services, and employment opportunities that serve the community and adjacent communities. The proposed project provides goods and services consistent with the designated land use. The KMCP also contains the following goals, objectives, and policies related to the major goal of creating a connected community:

Streets - Support street design improvements and operational measures that work towards implementing systemic safety actions and countermeasures this could include, but are not limited to, the following: a robust and accessible network of safe, convenient, and comfortable bicycle and pedestrian facilities and amenities.

Urban Design – Public realm: Provide street furniture amenities for public or semi-public space, such as benches, trash and recycling receptacles, and bicycle racks.

Building an Adaptable Community – Auto-oriented commercial sites can be incrementally adapted to provide multimodal access and enhanced pedestrian seating areas that become a new focal point for businesses.

The proposed project will promote the goals, objectives, and policies of the KMCP, because the public improvements fronting the property, including bus stop shelter, bicycle racks, and repair station, are incremental enhancements that support the goal of creating a connected community.

The project site is also designated Commercial Employment, Retail, & Services by the Land Use and Community Planning Element of the General Plan. 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 proposed development will not adversely affect the applicable land use plan.

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

The project will not be detrimental to the public 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 compliance with applicable local, state and federal regulations. These conditions, 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.

Cannabis Outlets are limited to no more than four per each of the nine City Council districts, with existing outlets that change districts as a result of redistricting allowed to remain (36 + 2 existing to remain, for a current total of 38), within commercial and industrial zones to minimize the impact on the City and residential neighborhoods. The project would be the fourth Cannabis Outlet CUP in Council District 6, and the 31st in the City. The project requires compliance with San Diego Municipal Code (SDMC) section 141.0504 which require a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other cannabis outlets, residential care facilities, and schools, and a 100-foot separation from a residential zone.

Approval of this application to allow the sale of cannabis includes conditions to prevent potential adverse impacts on the community. The project 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 SDMC Sections 42.1502 and 11.0210), provision of interior and exterior lighting, operable cameras, alarms, and a security guard; restriction of hours of operation, 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 colors, and alphabetic characters.

The project must also comply with SDMC 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.

Public improvements fronting the property include improvements necessary to meet the Americans with Disabilities Act (ADA) requirements. These improvements, which include a bus stop shelter, non-contiguous parkway, and ADA compliant sidewalk and driveways, improve the safety and welfare of the public. Furthermore, any construction authorized by this permit will be subject to all adopted, applicable building, electrical, mechanical, fire and plumbing codes, which will be enforced through plan review and building inspections completed by the City's building inspectors or the City Engineer.

The City of San Diego conducted an environmental review of this project in accordance with the CEQA Guidelines and the project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 (Infill Development). Based on the above analysis, the proposed development would not be detrimental to the public's health, safety, and welfare.

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

The project proposes a CUP processed pursuant to SDMC 126.0303(b) to allow the operation of a cannabis outlet within an existing structure built in 1989 in accordance with all then applicable development regulations. The project site provides the required number of parking spaces for existing and proposed uses and public improvements are required to be constructed as stated in Finding A2 above to current City standards and to the satisfaction of the City Engineer.

The project 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 project would not require an increase in the number of parking spaces pursuant to Chapter 14, Article 2, Division 5.

Cannabis Outlets are limited to no more than four per each of the nine City Council districts, with existing outlets that change districts as a result of redistricting allowed to remain (36 + 2 existing to remain, for a current total of 38), within certain commercial and industrial zones to reduce impacts to the City and residential zones. The project would be the fourth Cannabis Outlet CUP in Council District 6, and the 31st in the City. The project complies with SDMC Section 141.0504, which requires a 1,000-foot separation 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 measured in accordance with SDMC sections 141.0504 and 113.0225, and a 100-foot separation from a residential zone.

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

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

Cannabis outlets are unique in that there are only four allowed in each Council District. No other retail business regulated by the City of San Diego is subject to such restrictions. The proposed project is located in District 6. Since the City's recreational cannabis regulations were first adopted in 2017, the zoning and separation requirements for cannabis outlets as

applied in Council District 6 have resulted in very few locations that meet all locational criteria. This project site meets all location criteria. City staff has reviewed separation requirements for this project and determined that the proposed Cannabis Outlet complies with SDMC Section 141.0504 separation requirements.

The site is currently improved with a commercial retail building built in 1989. The previous tenant and many existing uses have similar operational characteristics (high frequency retail sales and services). The tenant space is currently vacant. Other existing uses in the vicinity include car dealerships, auto repair shops, and a fitness retail store. The proposed cannabis outlet is within the Parking Standards Transit Priority Area and is not required to provide parking spaces. However, the project site contains 58 existing on-site parking spaces, which will remain.

As stated in Finding A.1., the project will not adversely affect the applicable land use plan. As described in Findings A.2. and A.3., the project has been conditioned so as not to be detrimental to the public health, safety, and welfare and will comply with all the regulations of the Land Development Code. Therefore, for the foregoing reasons, 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 these findings adopted by the Hearing Officer, Conditional Use Permit No. 3142630 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. 3142630, a copy of which is attached hereto and made a part hereof.



Francisco Mendoza
Development Project Manager
Development Services

Adopted on February 8, 2023

IO#: 24009180