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Jun 05, 2023 12:43 PM

OFFICIAL RECORDS

JORDAN Z. MARKS,

SAN DIEGO COUNTY RECORDER

FEES: \$62.00 (SB2 Atkins: \$0.00)

PAGES: 17

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24009343

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. PMT-3172940

GATEWAY CANNABIS OUTLET - PROJECT NO. PRJ-1067659

PLANNING COMMISSION

This Conditional Use Permit No. PMT-3172940 ("Permit") is granted by the Planning Commission of the City of San Diego to Gateway SMP LLC, a California Limited Liability Company, Owner, and Prime Harvest D9 LLC, a California Limited Liability Company, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 4.10-acre site is located at 995 Gateway Center Way in the IL-3-1 Zone, the Airport Influence Area (SDIA Lindbergh Field - Review Area 1), the FAA Part 77 Noticing Area (SDIA - Lindbergh Field 200 feet), the Airport Land Use Compatibility Plan Noise Contours (SDIA - 65-70 CNEL), the Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), Fire - Brush Management (100-Foot Setback and 300-Foot Buffer), and the Fire - Very High Fire Hazard Severity Zone within the Southeastern San Diego Community Plan area. The project site is legally described as:

LOTS 19 AND 20 OF GATEWAY CENTER EAST UNIT NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 11512, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MAY 14, 1986.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to operate a Cannabis Outlet, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 8, 2022, on file in the Development Services Department.

The project shall include:

- a. Operation of a 2,996-square-foot Cannabis Outlet in Suites 107 and 108 within an existing three-story, 42,530-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.

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 Conditional Use Permit (CUP) must be utilized by December 8, 2025.

2. **Expiration Date:** This Conditional Use Permit (CUP) and corresponding use of this site shall expire on December 8, 2027.

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. A valid license at this location granted by the California Department of Cannabis Control (DCC) for the proposed cannabis 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 Business Tax Certificate issued by the City of San Diego for all cannabis businesses operating at this location.
- e. Continued compliance with 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. section 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.

13. Prior to the commencement of operations granted by this Permit, the Owner/Permittee shall be granted occupancy for this cannabis use through a building permit, consistent with all California Codes and Regulations in effect at the time of building permit, satisfactory to the Building Official.

CLIMATE ACTION PLAN REQUIREMENTS:

14. 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 three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

ENGINEERING REQUIREMENTS:

15. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement (EMRA) for any landscape and irrigation located within the City's Right-Of-Way, satisfactory to the City Engineer.

16. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of the existing driveway and the installation of a new City standard driveway, Gateway Center Way, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

17. 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.

18. 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.

19. 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 SDMC 142.0403(b)6.

20. The Brush Management Program shall consist of a standard Zone One of 35-ft. in width, and a Zone Two of 65-ft. in width, extending out from the structure towards the native/naturalized vegetation, consistent with SDMC 142.0412.

21. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including 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 City's Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

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

PLANNING/DESIGN REQUIREMENTS:

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

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

29. 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.

30. An annual operating permit shall be obtained as required pursuant to San Diego Municipal Code Chapter 4, Article 2, Division 15.

31. 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.

32. 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.

33. 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.

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

TRANSPORTATION REQUIREMENTS:

35. 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.

36. 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 the minimum requirements. The project is required to have 2 short-term bicycle parking spaces. Additional short-term bicycle spaces are being provided in excess of the minimum requirement. Three short-term spaces (1 additional for VMT Reduction Measures) are being proposed and their location is shown in Exhibit A.
- c. Provide long-term bicycle parking spaces that are available to the public, at least 10% beyond the minimum requirements. The project is required to have 1 long-term bicycle parking space. Additional long-term bicycle spaces (lockers) are being provided in excess of the minimum requirement. Four long-term bicycle parking spaces (3 additional for VMT Reduction Measures) are being proposed and their location is shown in Exhibit A.

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

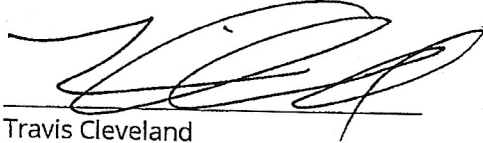
INFORMATION ONLY:

- 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.
- 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, or retail sales of cannabis and any ancillary products in the City. For additional information, contact the Office of the City Treasurer at (619) 615-1580.

APPROVED by the Planning Commission of the City of San Diego on December 8, 2022 and Resolution Number 5226-PC.

Permit Type/PTS Approval No.: Conditional Use Permit No. PMT-3172940
Date of Approval: December 8, 2022

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT



Travis Cleveland
Development Project Manager

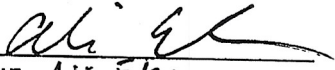
**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

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.

Gateway SMP LLC

A California Limited Liability Company
Owner

By



NAME Ali Ehsan
TITLE CLO / LLC member

SEE ATTACHED
ACKNOWLEDGMENT
CALIFORNIA

Prime Harvest D9, LLC

A California Limited Liability Company
Permittee

By


NAME EUTHYMIUS ALEXANDER
TITLE CEO

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

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 May 15, 2023 before me, Paulina Soto, Notary Public
(insert name and title of the officer)

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

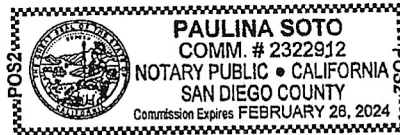
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



ORIGINAL

CALIFORNIA 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 31, 2023 before me, Stacie L. Maxwell, Notary Public

Date

Here Insert Name and Title of the Officer

personally appeared ---Travis Cleveland, 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: Gateway Cannabis Outlet - Project No. 1067659Document Date: December 8, 2022Number of Pages: 17Signer(s) Other Than Named Above: ---Ali Ehsan and Eulenthius Alexander---**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

PLANNING COMMISSION
RESOLUTION NO. 5226-PC
CONDITIONAL USE PERMIT NO. PMT-3172940
GATEWAY CANNABIS OUTLET - PROJECT NO. PRJ-1067659

WHEREAS, GATEWAY SMP LLC, a California Limited Liability Company, Owner, and PRIME HARVEST D9 LLC, a California Limited Liability Company, Permittee, filed an application with the City of San Diego for a Conditional Use Permit to allow the operation of a 2,996-square-foot Cannabis Outlet in Suites 107 and 108 within an existing three-story, 42,530-square-foot commercial building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 3172940), on portions of a 4.10-acre site; and

WHEREAS, the project site is located at 995 Gateway Center Way in the IL-3-1 Zone, Airport Influence Area (SDIA Lindbergh Field – Review Area 1), FAA Part 77 Noticing Area (SDIA – Lindbergh Field 200 feet), Airport Land Use Compatibility Plan Noise Contours (SDIA – 65-70 CNEL), Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), Fire – Brush Management (100-Foot Setback and 300-Foot Buffer), and Fire – Very High Fire Hazard Severity Zone within the Southeastern San Diego Community Plan area; and

WHEREAS, the project site is legally described as Lots 19 and 20 of Gateway Center East Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 11512, filed in the Office of the County Recorder of San Diego County, May 14, 1986; and

WHEREAS, on November 16, 2022, the Hearing Officer of the City of San Diego approved Conditional Use Permit No. PMT-3172940 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, a project appeal was filed by Kara Adams on November 16, 2022, and

WHEREAS, on December 8, 2022, the Planning Commission of the City of San Diego considered the appeal and Conditional Use Permit No. PMT-3172940 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, that it adopts the following findings with respect to Conditional Use Permit No. PMT-3172940:

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 request for a Conditional Use Permit (CUP) to allow the operation of a 2,996-square-foot Cannabis Outlet (CO) in Suites 107 and 108 within an existing three-story, 42,530-square-foot commercial building located at 995 Gateway Center Way (Attachment 1). The 4.10-acre site is in the IL-3-1 Zone, Airport Influence Area (SDIA Lindbergh Field – Review Area 1), FAA Part 77 Noticing Area (SDIA – Lindbergh Field 200 feet), Airport Land Use Compatibility Plan Noise Contours (SDIA – 65-70 CNEL), Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), Fire – Brush Management (100-Foot Setback and 300-Foot Buffer), and Fire – Very High Fire Hazard Severity Zone within the Southeastern San Diego Community Plan area

The project site is within the Industrial Employment land use category per the Land Use and Street System Map (Figure LU-2) of the General Plan. The IL-3-1 zone allows a mix of light industrial, office, and commercial uses. Pursuant to SDMC section 131.0622, retail sales and commercial services are permitted uses in the IL-3-1 Zones. The Southeastern San Diego Community Plan (Community Plan) designates the site as Business Park within the Commercial, Employment and Industrial land use classification. The Business Park designation represents employment-generating uses that will both create jobs and a pleasant and safe streetscape environment. Intended uses include office, research and development, and light manufacturing; storage and distribution are discouraged to minimize truck traffic. Limited retail is allowed to augment commercial uses and serve nearby residential areas but is not intended as a primary use. The proposed CO is classified as retail sales use category, and will be one of the 12 tenants in the commercial building, occupying 7% of the entire premises; therefore, it will not be the primary use of the premises.

The proposed Cannabis Outlet is allowed in the IL-3-1 zone with a CUP pursuant to SDMC sections 131.0622 and 141.0504. The proposed project will promote the policies of the General Plan and the Community Plan because the Cannabis Outlet will supply jobs and encourage/facilitate commerce within the San Diego region. Therefore, the proposed Cannabis Outlet is a compatible use at this location with a CUP, it is consistent with the Community Plan land use policies and 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 proposes interior improvements to an existing tenant space, including entry/exit areas, waiting areas, lobby, cannabis retail sales floor, employee break room, manager's office, janitor's closet, restrooms, storage room, express room, vault/fulfillment room, product transfer corridor, and vendor receiving area. 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.

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 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.

Pursuant to SDMC section 141.0504, Cannabis Outlets are limited to no more than four per Council District (CD), and 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. A total of three CUPs for Cannabis Outlets have been approved in Council District 9; hence, one additional Cannabis Outlet may be approved in Council District 9. Cannabis Outlets require compliance with SDMC section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other 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 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 residentially zoned property or lot. City staff has reviewed the 100/1,000-foot radius map and the 100/1,000-foot radius map spreadsheet submitted by the applicant identifying all the existing surrounding uses, measured uses in accordance with SDMC section 113.0225, and determined that the proposed Cannabis Outlet complies with the minimum separation requirements between uses and residentially zoned lots or premises.

Public improvements include the removal of the two existing driveways and the installation of two 24-foot wide City standard driveways, providing for accessible pathways for pedestrians adjacent to the site on Gateway Center Way, as well as the reconstruction of sidewalk with standard concrete sidewalk, to the satisfaction of the City Engineer.

The discretionary permit controlling the development of this site contains specific regulatory conditions of approval. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large. 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.

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 project is within the scope of Negative Declaration 660383, adopted on August 18, 2021, which determined that the project would not have a significant effect on the environment. Based on the above analysis, the proposed development would not be detrimental to the public 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 to operate a 2,996-square-foot Cannabis Outlet within an existing 42,530-square-foot commercial building, located at 995 Gateway Center Way. The project proposes interior improvements to an existing tenant space, including entry/exit areas, waiting areas, lobby, cannabis retail sales floor, employee break room, manager's office, janitor's closet, restrooms, storage room, express room, vault/fulfillment room, product transfer corridor, vendor receiving area. Building improvements 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.

The project is required to provide 15 parking spaces for the Cannabis Outlet use and maintain a minimum of 155 off-street parking for all uses on the premises, totaling 170 parking spaces required at the site. The project proposes to reconfigure the existing parking lot to satisfy this requirement.

Pursuant to SDMC section 141.0504, Cannabis Outlets are limited to no more than four per Council District (CD), and 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. A total of three CUPs for Cannabis Outlets have been approved in Council District 9; hence, there remains capacity for one additional Cannabis Outlet to be approved in Council District 9. Cannabis Outlets require compliance with SDMC section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other 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 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 residentially zoned property or lot. City staff has reviewed the 100/1,000-foot radius map and the 100/1,000-foot radius map spreadsheet submitted by the applicant identifying all the existing surrounding uses, measured uses in accordance with SDMC section 113.0225, and determined that the proposed Cannabis Outlet complies with the minimum separation requirements between uses and residentially zoned lots or premises.

Iglesia Del Nazareno, 3535 Market Street: a church as defined in SDMC section 113.0103, Iglesia Del Nazareno is within the 1,000-radius of the proposed CO. This church is approximately 854 feet from the project site measured property line to property line. The proposed CO is located on top of a hillside with a slope gradient between 142 to 165 feet high, which is considered a natural topographic barrier that impedes direct access to the proposed Cannabis Outlet (Attachment 7). Per SDMC section 113.0225(c), when measuring distance between uses, natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses can be taken into consideration. In such case, the distance is measured as the most direct route around the barrier in a manner that establishes direct access. A direct public route to the church from the proposed Cannabis Outlet would be greater than 1,500 feet. Therefore, the proposed project complies with the minimum separation requirements.

Dennis V. Allen Neighborhood Park, 800 Boundary Street: This is a population-based city park as defined in the Recreation Element of the City of San Diego General Plan. It was surveyed at 1,014 feet from the project site, measured horizontally in a straight line between the two closest points of property line to property line pursuant to SDMC section 113.0225 (Attachment 7). Therefore, the proposed CO complies with the minimum separation requirements.

Mount Hope Cemetery, 3751 Market Street: Although it is shown as a "resource-based park" on page 19 of the City's Parks Master Plan (PMP), this cemetery is not a City park; and Park Planning Staff have acknowledged that this represents a mapping error in the PMP. Mount Hope Cemetery does not meet the PMP's definition of a "Resource-Based Regional Park" as shown on page 21 of the document, which is "Areas of habitat and resource protection, with compatible recreation". The PMP designates areas such as Mission Bay, Balboa Park, Liberty Station Park, Presidio Park, Chicano Park, and Torrey Pines Golf Course as resource-based parks.

Conversely, other cemeteries such as the El Camino Memorial Park (5600 Carroll Canyon Road), Holy Cross Cemetery (4470 Hilltop Drive), Mount Olivet Cemetery (2127 Iris Avenue), and Miramar National Cemetery (5795 Nobel Drive) are not shown as resource-based parks in the PMP. The intent to define Mount Hope in particular, or cemeteries in general, as resource-based parks is not addressed in the PMP. However, it can be argued that the proposed Cannabis Outlet must be at least 1,000 feet from Mount Hope until such time as the error in the PMP map can be corrected. Therefore, the below analysis treats it as a park.

The proposed cannabis outlet meets the required separation distance to Mount Hope Cemetery due to topography as allowed by the Municipal Code. The proposed outlet is located on top of a hillside with a slope gradient between 142 to 165 feet high. This hillside is considered a natural topographic barrier that impedes direct access to the proposed Cannabis Outlet. Pursuant to SDMC 113.0225(c), when measuring distance between uses, natural topographical barriers that would impede direct physical access between the uses can be taken into consideration. The shortest resulting walking distance is over 1,500 feet.

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 variances or deviations are requested 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.

Pursuant to SDMC section 141.0504, Cannabis Outlets are limited to no more than four per Council District (CD), and 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. A total of three CUPs for Cannabis Outlets have been approved in Council District 9; hence, there remains capacity for one additional Cannabis Outlet to be approved in Council District 9.

Council District 9 contains very few parcels of land that are zoned to allow Cannabis Outlets. The project site and immediate area generally bounded by Interstate 15, Market Street, and Gateway Center Way may be the only available space left in District 9. It would be difficult to achieve the Municipal Code's number of four cannabis outlets allowed per Council District if a cannabis outlet is not able to locate in this area.

The site is currently improved with a three-story commercial building constructed in 1989. The existing uses of the proposed tenant spaces are offices; other existing uses on site include medical, research, and professional offices; surrounding uses include retail, medical clinics, and light industrial businesses.

Finding #A.1 above, hereinafter incorporated by reference, describes how the project meets the land use and employment goals of both the General and Community plans.

Finding #A.2 above, hereinafter incorporated by reference, describes how the project will contain several operational restrictions that ensure the public health, safety, and welfare.

Finding #A.3 above, hereinafter incorporated by reference, describes how the project meets the requirements of the IL-3-1 zone and the required operational conditions and separation distances of SDMC sections 141.0504 and 113.0225.

The proposed Cannabis Outlet is consistent with the underlying IL-3-1 Zone and Community Plan land use designation and objectives of encouraging a range of commercial goods and services, and with a CUP, is a compatible use with the surrounding development. 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 these findings adopted by the Planning Commission, that the appeal is denied, the November 16, 2022 decision of the Hearing Officer is affirmed, and Conditional Use Permit No. PMT-3172940 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. PMT-3172940, a copy of which is attached hereto and made a part hereof.



Travis Cleveland
Development Project Manager
Development Services

Adopted on: December 8, 2022

IO No.: 24009343