

THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE:

March 25, 2015

REPORT NO. HO-15-036

ATTENTION:

Hearing Officer

SUBJECT:

3515 HANCOCK STREET MMCC

PROJECT NUMBER: 368338

LOCATION:

3515 Hancock Street

APPLICANT:

Brad Termini

SUMMARY

<u>Issue(s)</u>: Should the Hearing Officer approve a Conditional Use Permit and a Variance to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in a 3,425 square foot tenant space within an existing 26,300 square foot building within the Midway/Pacific Highway Corridor Community Plan Area?

<u>Staff Recommendation</u>: DENY Conditional Use Permit No. 1293508 and Variance No. 1351898. (NOTE: There are four competing MMCCs within 1,000 feet of each other on today's docket. The Hearing Officer can approve only one of these MMCC's pursuant to the San Diego Municipal Code's 1,000 foot minimum distance separation requirement).

Community Planning Group Recommendation: On July 16, 2014, the Midway Community Planning Group voted 10-0-0 to approve the project with the conditions (attachment 10).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15303, New Construction or Conversion of Small Structures on October 22, 2014 (Attachment 8). An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on January 13, 2015. The scope of the Hearing Officer's decision only includes the project, and not the environmental determination.

BACKGROUND

In 1996 the people of the State of California passed Proposition 215, the Compassionate Use Act, which allows the use of marijuana for medical purposes when recommended by a physician

and excludes the patient and the primary caregiver from criminal prosecution. In 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP) became law. The MMP requires the California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. In 2008 the California Attorney General established guidelines for Medical Marijuana Collective Operations and allowed cities to adopt and enforce laws consistent with the MMP.

On March 25, 2014 the City of San Diego adopted Ordinance No. O-20356, to implement zoning regulations for Medical Marijuana Consumer Cooperatives (MMCC). MMCC's are allowed with a Conditional Use Permit, Process 3, Hearing Officer Decision. A limit of four MMCC's per Council District (36 city-wide) was adopted in order to minimize the impact on the City and residential neighborhoods.

This proposed project is a request for a Conditional Use Permit (CUP) and a Variance to operate a MMCC in a 3,425 square foot tenant space located at 3515 Hancock Street is within an existing two-story building on a 0.06-acre site that does not meet the minimum 1,000 foot distance requirement from a park (Mission Bay). The MMCC site is located at 3515 Hancock Street, south of Interstate 8, west of Interstate 5 and north of Sport Arena Boulevard (Attachment 2). The site is in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area. The site was developed in 1972 per Building Permit No. G96078.

The site is designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. This community portion contains little residential development. The adjacent parcels to the MMCC are in the IS-1-1 zone and the existing uses are consistent with the Light Industrial designation of the community plan. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit within this community plan.

DISCUSSION

The project site located at 3515 Hancock Street is a 0.06-acre site developed with a 26,300 square foot two-story building which is currently being used as office, warehouse, and retail. The MMCC proposes interior improvements that include a reception area, dispensary area, storage, employee lounge and restroom. Public improvements include replacement of the two northwesterly driveways on Hancock Street with the same width in compliance City standard driveways and removal/relocation of an existing wood fence located in the public right-of-way adjacent the most southerly driveway.

MMCC's must comply with San Diego Municipal Code (SDMC), Section 141.0614 which requires a 1,000 foot separation, measured between property lines, from; public parks, churches,

child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCC's prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard for the tenant/facility space and directly adjacent area. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCC Conditional Use Permits expire five years from date of issuance. MMCC's must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The proposed MMCC is within 1,000 feet of Mission Bay Park. Mission Bay Park is a public park (publicly owned area that is designated as a park) located north of Interstate 8. The regulations for MMCCs and the definition contained in SDMC 113.0103 do not differentiate between passive and active parks. Portions of Mission Bay Park within 1,000 feet of this MMCC are used for passive and active uses. This portion of Mission Bay Park includes the San Diego River and a bike path.

The proposed MMCC is separated from Mission Bay Park by Interstate 8. The interstate does provide a built barrier that separates the MMCC from the park, as there is no direct access between the two. SDMC 113.0225, requires that the distance from property line to property line be measured horizontally without regard to topography or structures that would interfere with a straight-line measurement.

Although the proposed MMCC is consistent with the land use designation of light industrial, it does not meet the minimum distance requirement based on a horizontal measurement across Interstate 8 to Mission Bay Park without taking into account the Interstate. Therefore the proposed project does not comply with the regulations of the Land Development Code.

The applicant is requesting a Variance for the required 1,000 foot distance requirement. Staff is unable to support the Variance as there are no special circumstances or conditions applying to the land or premises for which the variance is sought that would deprive the applicant of reasonable use of the land or premises. The 0.06-acre site is consistent with the size, shape and topography of surrounding parcels, all within the IS-1-1 Zone. The existing 26,300 square foot building was constructed in 1972 per Building Permit No. G96078 in compliance with all development regulations. This proposed tenant space does not qualify for a MMCC CUP however; there are a wide range of industrial and nonindustrial land uses allowed in this zone.

The applicant has voluntarily agreed to the following conditions in order avoid adverse impact to the community: 1) operable surveillance cameras and a metal detector to the satisfaction of the San Diego Police Department 2) the cameras shall have and use a recording device that maintains the records for a minimum of 30 days 3) an armed security guard to the extent the possession of a firearm by the security guard is not in conflict with 18 U. S.C. § 922(g) and 27 C.F.R. § 478.11. Nothing herein shall be interpreted to require or allow a violation of federal firearms laws 4) the security guard is required to be on the premises 24 hours a day, seven days a week and 5) graffiti must be removed within 24 hours (Attachment 4, Conditions Number 16 & 20).

The City of San Diego, Development Services staff has reviewed the 1,000 foot radius map (Attachment 6) and 1,000 foot spreadsheet exhibit (Attachment 7) provided by the applicant identifying all the existing uses. Staff has determined that the proposed MMCC does not meet the minimum distance requirements. If the Hearing Officer determines that the findings can be made, the permit has been conditioned to include all development restrictions and the applicant has willingly proposed additional conditions in order to avoid adverse impacts upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area.

CONCLUSION

The Conditional Use Permit for the proposed MMCC may be approved if the Hearing Officer finds that the MMCC meets all applicable regulations. Staff has reviewed the proposed MMCC and has determined that it does not meet all applicable sections of the San Diego Municipal Code, the Midway/Pacific Highway Corridor Community Plan and the General Plan. Staff is recommending denial of the project as proposed.

ALTERNATIVE

- 1. Approve Conditional Use Permit No. 1293508 and Variance No. 1351898, with modifications.
- 2. Deny Conditional Use Permit No. 1293508 and Variance No. 1351898, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

Edith Gutierrez, Development Project Manager

Attachments:

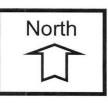
- 1. Aerial Photograph
- 2.
- Project Location Map Community Plan Land Use Map 3.
- Draft Permit with Conditions 4.
- Draft Permit Resolution with Findings 5.
- 1000 Foot Radius Map 6.
- 1000 Foot Radius Map Spreadsheet 7.
- Notice of Right to Appeal Project Site Plan(s) 8.
- 9.
- Community Planning Group Recommendation 10.
- Ownership Disclosure Statement 11.
- Not Used 12.
- **Applicant Variance Findings** 13.

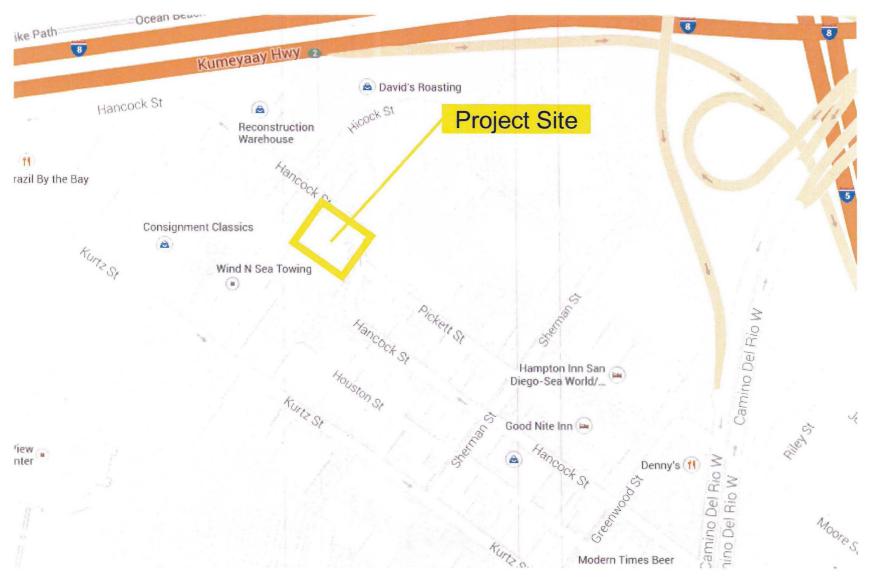




Location Aerial Photo

<u>3515 HANCOCK ST MMCC – 3515 Hancock Street</u> PROJECT NO. 368338

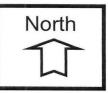




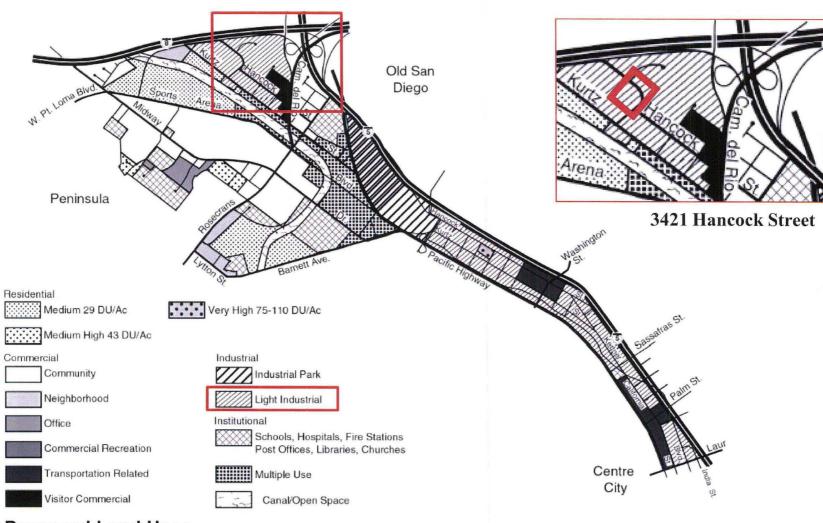


Project Location Map

<u>3515 HANCOCK ST MMCC – 3515 Hancock Street</u> PROJECT NO. 368338







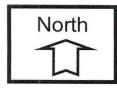
Proposed Land Uses
Midway / Pacific Highway Corridor Community Plan

City of San Diego • Community and Economic Development



Land Use Map

3515 HANCOCK ST MMCC - 3515 Hancock Street PROJECT NO. 368338



RECORDING REQUESTED BY

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

PROJECT MANAGEMENT PERMIT CLERK MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004651

CONDITIONAL USE PERMIT NO. 1293508 AND VARIANCE NO. 1351898 3515 HANCOCK STREET MMCC- PROJECT NO. 368338 HEARING OFFICER

This Conditional Use Permit No. 1293508 and Variance No. 1351898 are denied by the Hearing Officer of the City of San Diego to 3515 LTD., A CALIFORNIA LIMITED PARTNERSHIP, Owner and BRAD TERMINI, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305 and 126.0805. The 0.06-acre site is located at 3515 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area. The project site is legally described as: Lots 1-4 of Pickett Industrial Center, Map No. 6709, August 19, 1970.

Subject to the terms and conditions set forth in this Permit, permission is denied to Owner/Permittee to operate a Medical Marijuana Consumer Cooperative (MMCC) and subject to the City's land use regulations described and identified by size, dimension, quantity, type, and location on the denied exhibits [Exhibit "A"] dated March 25, 2015, on file in the Development Services Department.

The project shall include:

- a. Operation of a Medical Marijuana Consumer Cooperative (MMCC) in a 3,425 square foot tenant space within an existing 26,300 square foot building on a 0.06- acre site;
- b. Existing landscaping (planting, irrigation and landscape related improvements);
- c. Existing off-street parking

d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

- 1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by April 10, 2018.
- 2. This Conditional Use Permit [CUP] and corresponding use of this MMCC shall expire on April 10, 2020.
- 3. In addition to the provisions of the law, the MMCC must comply with; Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 6 of the San Diego Municipal Code.
- 4. No construction, occupancy, or operation of any facility or improvement described herein shall commence, 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.
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
 - c. A MMCC Permit issued by the Development Services Department is denied for all responsible persons in accordance with SDMC, Section 42.1504.
- 5. While this Permit is in effect, the MMCC 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 MMCC 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" conditions(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.

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

PLANNING/DESIGN REQUIREMENTS:

- 13. The use within the 3,425 square foot building shall be limited to the MMCC and any use permitted in the IS-1-1 Zone.
- 14. Consultations by medical professionals shall not be a permitted accessory use at the MMCC.
- 15. Lighting shall be provided to illuminate the interior of the MMCC, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
- 16. Security shall include operable cameras and a metal detector to the satisfaction of the San Diego Police Department, alarms, and an armed security guard to the extent the possession of a firearm by the security guard is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R. § 478.11 Nothing herein shall be interpreted to require or allow a violation of federal firearms laws. The security guard shall be licensed by the State of California and be on the premises 24 hours a day, seven days a week. The security guard should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the records for a minimum of 30 days.
- 17. The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the MMCC in character size at least two inches in height.
- 18. The MMCC shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
- 19. The use of vending machines which allow access to medical marijuana except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this section and condition, a vending machine is any device which allows access to medical marijuana without a human intermediary.
- 20. The Owner/Permittee or operator shall maintain the MMCC, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed within 24 hours.
- 21. Medical marijuana shall not be consumed anywhere within the 0.06-acre site.
- 22. The Owner/Permittee or operator shall post anti-loitering signs near all entrances of the MMCC.
- 23. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Sign colors and typefaces are limited to two. Ground signs shall not be pole signs. A sign is required to be posted on the outside of the MMCC and shall only contain the name of the business.

ENGINEERING REQUIREMENTS:

- 24. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the replacement of the two northwesterly driveways with the same width current City standard driveways, on Hancock Street, per Standard Drawing SDG-159, satisfactory to the City Engineer.
- 25. Prior to the issuance of any building permit, the Owner/Permittee shall remove/relocate the existing wood fence, located adjacent the most southerly driveway, from Hancock Street right-of-way, satisfactory to the City Engineer.

TRANSPORTATION REQUIREMENTS:

26. No fewer than 26 parking spaces including 2 accessible space (43 spaces, including 2 accessible spaces are proposed), shall be maintained on the property at all times in the approximate locations shown on Exhibit "A". 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 Development Services Department.

POLICE DEPARTMENT RECOMMENDATION:

27. The San Diego Police Department recommends that a Crime Prevention Through Environmental Design (CPTED) review be requested by their department and implemented for the MMCC.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use 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.

DENIED by the Hearing Officer of the City of San Diego on March 25, 2015 and Resolution No. HO-XXXX.

Conditional Use Permit No.1293508 & Variance No. 1351898/PTS No. 368324 Date of Denial: March 25, 2015

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Edith Gutierrez	
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.

3515 LTD, A CALIFORNIA LIMITED PARTNERSHIP Owner

Ву	William T. Fiedler Holder
BR	AD TERMINI Permittee
Ву	Brad Termini

Permittee

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

HEARING OFFICER RESOLUTION NO. HOCONDITIONAL USE PERMIT NO. 1293508 AND VARIANCE NO. 1351898 3515 HANCOCK STREET MMCC- PROJECT NO. 368338

WHEREAS, 3515 LTD., A CALIFORNIA LIMITED PARTNERSHIP, Owner and BRAD TERMINI filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) in a 3,425 square foot tenant space within an existing 26,300 square foot building (as described in and by reference to the Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1293508), on portions of a 0.06-acre site;

WHEREAS, the project site is located at 3515 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area;

WHEREAS, the project site is legally described as Lots 1-4 of Pickett Industrial Center, Map 6709, August 19, 1970;

WHEREAS, on March 25 2015, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1287965 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on October 22, 2014, 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 15303 (New Construction or Conversion of Small Structures); and the Environmental Determination was appealed to City Council, which heard and denied the appeal on January 13, 2015 pursuant to Resolution No. 309477;

NOW, THEREFORE, BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer approves the following written Findings, dated March 25, 2015.

FINDINGS:

Conditional Use Permit Approval – Section §126.0305

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

The proposed project is a request for a Conditional Use Permit to operate a MMCC in a 3,425 square foot building. The 0.06-acre site is located at 3515 Hancock Street in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area.

The site is designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. This community portion contains little residential development. All of the surrounding parcels are in the IS-1-1 zone and the existing uses are consistent with the Light Industrial designation of the community plan. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit and is consistent with the community plan, therefore 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 proposed 3,425 square foot tenant space located at 3515 Hancock Street is within an existing two-story building. The project proposes interior improvements to include a reception area, dispensary area, storage, employee lounge and restroom. Public improvements include replacement of the two northwesterly driveways on Hancock Street with the same width in compliance City standard driveways and removal/relocation of an existing wood fence located in the public right-of-way adjacent the most southerly driveway.

The City of San Diego conducted an environmental review of this site in accordance with the California Environmental Quality Act (CEQA) guidelines. The project was determined to be categorically exempt from CEQA pursuant to Section 15303 (New Construction or Conversion of Small Structures).

MMCCs are restricted to four per Council District, 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. MMCCs require compliance with San Diego Municipal Code (SDMC), section 141.0614 which require a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The proposed interior improvements include a reception area, dispensary area, storage, employee lounge and restroom and will require a ministerial building permit. The building permit will require compliance with the California Uniform Building Code, Fire, Plumbing, Electrical, and Mechanical Codes.

The project requires compliance with the development conditions in effect for the subject property as described in Conditional Use Permit No. 1293508. The Conditional Use Permit is valid for five years, however may be revoked if the use violates the terms, conditions, lawful requirements, or provisions of the permit.

The referenced regulations and conditions have been determined as necessary to avoid adverse impact upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area and therefore, the proposed MMCC will 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 proposed 3,425 square foot tenant space located at 3515 Hancock Street is within an existing two-story building on a 0.06-acre site. The site is in the IS-1-1 Zone and was developed in 1972 per Building Permit No. G96078. The project proposes interior improvements that include a reception area, dispensary area, storage, employee lounge and restroom. Public improvements include replacement of the two northwesterly driveways on Hancock Street with the same width in compliance City standard driveways and removal/relocation of an existing wood fence located in the public right-of-way adjacent the most southerly driveway.

MMCCs are allowed in the IS-1-1 Zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to comply with SDMC, section 141.0614 which requires a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minororiented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The proposed MMCC is within 1,000 feet of Mission Bay Park. Mission Bay Park is a public park (publicly owned area that is designated as a park) located north of Interstate 8. The regulations for MMCCs and the definition contained in SDMC 113.0103 do not differentiate between passive and active parks. Portions of Mission Bay Park within 1,000 feet of this MMCC are used for passive and active uses. This portion of Mission Bay Park includes the San Diego River and a bike path.

The proposed MMCC is separated from Mission Bay Park by the interstate. The interstate does provide a built barrier that separates the MMCC from the park, as there is no direct access between the two. SDMC 113.0225, requires that the distance from property line to property line be measured horizontally without regard to topography or structures that would interfere with a straight-line measurement.

Although the proposed MMCC is consistent with the land use designation of light industrial, it does not meet the minimum distance requirement based on a horizontal measurement across Interstate 8 to Mission Bay Park without taking into account the Interstate. Therefore the proposed project does not comply with the regulations of the Land Development Code.

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

The proposed 3,425 square foot tenant space located at 3515 Hancock Street is within an existing two-story building on a 0.06-acre site. The site is in the IS-1-1 Zone and designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The Midway/Pacific Highway Corridor Community Plan area includes a variety of commercial uses such as retail shopping centers, discount stores, adult entertainment uses, hotels, motels, restaurants and both heavy and light industrial uses. This community portion contains little residential development. The proposed MMCC, classified as commercial

services, is consistent with the community plan. All of the surrounding parcels are in the IS-1-1 zone and the existing uses are consistent with the Light Industrial designation of the community plan.

The San Diego Municipal code limits MMCCs to commercial and industrial zones and the number of MMCCs to only four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods.

MMCCs are allowed in the IS-1-1 Zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to comply with SDMC, section 141.0614 which requires a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The proposed MMCC is within 1,000 feet of Mission Bay Park. Mission Bay Park is a public park (publicly owned area that is designated as a park) located north of Interstate 8. The regulations for MMCCs and the definition contained in SDMC 113.0103 do not differentiate between passive and active parks. Portions of Mission Bay Park within 1,000 feet of this MMCC are used for passive and active uses. This portion of Mission Bay Park includes the San Diego River and a bike path.

The proposed MMCC is separated from Mission Bay Park by the interstate. The interstate does provide a built barrier that separates the MMCC from the park, as there is no direct access between the two. However, SDMC 113.0225, requires that the distance from property line to property line be measured horizontally without regard to topography or structures that would interfere with a straight-line measurement.

Although the proposed MMCC is allowed in the IS-1-1Zone and consistent with the land use designation of Light Industrial, it does not meet the minimum distance requirement based on a horizontal measurement across Interstate 8 to Mission Bay Park. The proposed project does not comply with the minimum distance requirement of SDMC, Section 141.0614, as it is within 1,000 feet of a park and therefore the proposed MMCC is not an appropriate location.

Variance Approval – Section §126.0805

1. There are special circumstances or conditions applying to the land or premises for which the variance is sought that are peculiar to the land or premises and do not apply generally to the land or premises in the neighborhood, and these conditions have not resulted from any act of the applicant after the adoption of the applicable zone regulations.

The existing 26,300 square foot two-story building located at 3515 Hancock Street is on at 0.06-acre site in the IS-1-1 Zone, Airport Influence Area (San Diego International Airport) and Coastal Height Limitation Overlay Zone within the Midway/Pacific Highway Corridor Community Plan Area. MMCCs are allowed in the IS-1-1 Zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to

comply with SDMC, section 141.0614 which requires a 1,000 foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. This site is within 1,000 feet of a public park and therefore does not comply with the distance requirement. There are no special circumstances or conditions applying to the land or premises for which the variance is sought that would deprive the applicant of reasonable use of the land or premises. The 0.06-acre site is consistent with the size, shape and topography of surrounding parcels, all within the IS-1-1 Zone. The existing 26,300 square foot building was constructed in 1972 per Building Permit No. G96078 in compliance with all development regulations. This proposed tenant space does not qualify for a MMCC CUP however, there are a wide range of industrial and nonindustrial land uses allowed in this zone.

2. The circumstances or conditions are such that the strict application of the regulations of the Land Development Code would deprive the applicant of reasonable use of the land or premises and the variance granted by the City is the minimum variance that will permit the reasonable use of the land or premises.

There are no special circumstances or conditions applying to the land or premises for which the variance is sought that would deprive the applicant of reasonable use of the land or premises. The 0.06-acre site is consistent with the size, shape and topography of surrounding parcels, all within the IS-1-1 Zone. The existing 26,300 square foot building was constructed in 1972 per Building Permit No. G96078 in compliance with all development regulations. This proposed tenant space does not qualify for a MMCC CUP however, there are a wide range of industrial and nonindustrial land uses allowed in this zone.

3. The granting of the variance will be in harmony with the general purpose and intent of the regulations and will not be detrimental to the public health, safety, or welfare.

Granting a variance for 3515 Hancock Street would not be in harmony with the general purpose and intent of the regulations and would be detrimental to the public health, safety and welfare of the Midway/Pacific Highway Corridor Community Plan Area as it does not meet the distance requirements for a MMCC. There are several other sites within the immediate area that meet all of the development regulations for a MMCC without the request for a variance.

4. The granting of the variance will not adversely affect the applicable land use plan. If the variance is being sought in conjunction with any proposed coastal development, the required finding shall specify that granting of the variance conforms with, and is adequate to carry out, the provisions of the certified land use plan.

The site is designated Light Industrial within the Midway/Pacific Highway Corridor Community Plan. The proposed MMCC, classified as commercial services, is a compatible use in the Light Industrial designation with a Conditional Use Permit; however the community plan also requires that proposed uses comply with the development regulations of the municipal code. This site does not meet the required 1,000 foot separation, measured between property lines, from a public park. Therefore, granting of the variance would adversely affect the land use plan

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1293508 is hereby DENIED by the Hearing Officer to the referenced

ATTACHMENT 5

Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1293508, a copy of which is attached hereto and made a part hereof.

Edith Gutierrez
Development Project Manager
Development Services

Adopted on: October 29, 2014

Job Order No. 24004715



441-582-09-00	Kenton Properties L L C	3417 Hancock St	Differential Systems
441-582-08-00	Kenton Properties L L C	3419 Hancock St	Sik World Productions
441-581-15-00	Calderon Family Bypass Trust B 08-16-88		Purosino Furniture
441-582-38-00	Greenfield, P J Family Trust 06-17-99	3421 Hancock St	Light The Way
441-581-04-00	Richard N White	3424 Pickett St	Autopower Industries
441-582-37-00	Young D & Sophia Suhr	3425 Hancock St	World Parts Depot
441-581-14-00	Wells-San Marcos L L C	3430 Hancock St	Video Equipment Rentals
441-582-25-00	Clark Trust	3430 Kurtz St	Orion Woodcraft & Closet
441-582-36-00	Kurtz Street Properties L L C	3450 Kurtz St	Sunglass & Optical Warehouse
441-581-12-00	Sinner Brothers Inc	3452 Hancock St	Cemetery Products
441-582-05-00	Schreffler Trust	3455 Hancock St	Euro Sport Body Shop
441-582-04-00	Kirsner Trust	3459 Hancock St	Otero's Custom Cabinets
441-581-23-00	Wells-San Marcos L L C	3464 Pickett St	Patriot Environmental Service
441-582-03-00	Vogan Properties L L C	3465 Hancock St	Your Mama's Cookies
441-330-11-00	Kenton Properties L L C	3467 Kurtz St	Brothers Auto Repair
441-581-10-00	Anderson, Gerald L Family Trust 07-22-93		Williams Form Engineers
760-217-05-00	City Of San Diego	3468 Hancock St Adi To	City use
441-582-02-00	Kurtz Street Properties L L C Etal	3477 Hancock St	Better Halfshell Wholesale Food
441-582-29-00	Kurtz Street Partners	3486 Kurtz St	Orion Woodcraft & Closet
441-330-12-00	Rolls L L C	3487 Kurtz St	Adult Depot, Six19 Printer
441-581-07-00	Wells-Sherman L L C	3492 Pickett St	EF Whalen, Calatrol Electronics
441-582-01-00	Donald R White	3495 Hancock St	Rescue Towing
441-330-01-00	Kenton Properties L L C	3495 Kurtz St	Central Freight Lines
441-340-22-00	Midway-Frontier L L C	3501 Hancock St	Candles4Less
441-340-08-00	Midway-Frontier L L C	3502 Kurtz St	State Corrections Department
441-340-24-00	Midway-Frontier L L C	3505 Hancock St	Candles4Less
441-530-64-00	Hansen Trust	3510 Hancock St 3520	College Dairy Products
441-340-23-00	Midway-Frontier L L C	3511 Hancock St	Gate Gourmet International
441-530-51-00	3515 Limited	3515 Hancock St	Richard Yen Architects
441-340-30-00	Midway-Frontier L L C	3520 Kurtz St	Vacant office - commercial
441-340-31-00	Midway-Frontier L L C	3520 Kurtz St	Vacant office - commercial
760-245-11-00	Brinker Restaurant Corporation Dba Chili	3530 Sports Arena Blvd	Chick Fil A
760-245-08-00	Aeg Management Sd Llc	3530 Sports Arena Blvd 3580	Parking lot - Sports Arena
441-530-53-00	Dezz Holdings L L C	3538 Hancock St	Environmental Engineering Labs
441-340-29-00	Midway-Frontier L L C	3540 Kurtz St	Wind N Sea Towing
441-340-28-00	Midway-Frontier L L C	3550 Kurtz St	Wind N Sea Towing
760-245-07-00	Aeg Management Sd Llc	3550 Sports Arena Blvd	Valley View Casino Arena
441-530-52-00	Ayoub Family Trust	3556 Hancock St	GA Coachworks
760-245-10-00	Chick-Fil-A Inc Lf Aeg Management Sd Llc	3570 Sports Arena Blvd	Restaurant
441-530-47-00	David Genzler	3571 Hancock St	Accurate Auto Body Collison
760-245-09-00	Arena Fuels Llc Lf Aeg Management Sd	3580 Sports Arena Blvd	Arena Fuels LLC (ARCO)

Auto related Adult Novelties

Alternative Medicine - Food

Auto Repair

Auto Repair Gas Station

441-530-33-00	Jeffrey Taich	3584 Hancock St	Total Secure Shredding
441-530-46-00	Morris Family Trust 06-01-05	3585 Hancock St	R&R Wine Marketing
441-530-45-00	Wells-Kemper L L C	3597 Hancock St	City Wide Cycles, Rail Tech, & Fleet Weldin
441-340-05-01	Peters Trust	3602 Kurtz St	Consignment Classics
441-340-05-02	Butler Trust	3602 Kurtz St	Consignment Classics
441-340-10-01	Butler Trust	3608 Kurtz St	Warehouse
441-340-10-02	Peters Trust	3608 Kurtz St	warehouse
441-530-66-00	Grafton Trust	3610 Hancock St	Cement Cutting Inc
441-340-03-01	Butler Trust	3612 Kurtz St	Anderson News Company
441-340-03-02	Peters Trust	3612 Kurtz St	Anderson News Company
441-340-19-00	Peters Trust	3620 Kurtz St	Advantage Towing
441-530-43-00	Brown Trust	3627 Hancock St	Storage Yard
441-530-35-00	Berlage Frank No 33818	3630 Hancock St	PlusOne Surfboards
441-530-42-00	Brown Trust	3647 Hancock St	Construction Fence Rental
760-102-02-00	City Of San Diego	3650 Hancock St	Reconstruction Warehouse
441-530-62-00	Moses Khouli	3650 Hancock St 3660	Reconstruction Warehouse
441-530-41-00	Groepper Revoc Trust 07-31-07	3665 Hancock St	Traditional Boat Works
441-530-65-00	Steve Family Trust 3	3691 Hancock St	Eberhard Benton Roofing
760-102-06-00	Sports Arena Village Ltd	3730 Sports Arena Blvd 3760	Ments Fashion Depot
760-102-69-00	Matthew C & Iris Strauss	3760 Hancock St 3780	Sunglass & Optical Warehouse
441-530-22-00	Jeffrey Taich	3801 Pickett St	Road One Towing
441-581-16-00	Calderon Family Trust B 08-16-88	3822 Sherman St	Calderon Building Maintenance
441-581-01-00	Lougeay Family Trust 12-18-95	3826 Sherman St	Green Fix Organic Smoothie
441-540-13-00	Wells-Sherman L L C	3860 Sherman St	Sunbelt Rentals
441-540-14-00	Wells-Sherman L L C	3870 Houston St	Sunbelt Rentals
441-540-21-00	Good Nite Inn Sea World Partners Etal	3880 Greenwood St	Good Nite Inn
441-540-24-00	Ess Prisa L L C	3883 Sherman St	Extra Space Storage
441-540-23-00	Newport Taft Inc	3888 Greenwood St	Hampton Inn
441-530-32-00	Leduc Trust	3910 Hicock St 3918	Guthrie & Sons Heating & Air
441-530-67-00	Bradley T Wright	3950 Hicock St 3970	Loch Motorsports
441-540-18-00	P S Ivanhoe L L C	3970 Sherman St 3990	HP Enterprise Services
441-530-28-00	Bradley T Wright	3990 Hicock St	Greenworks Dispensary
441-530-56-00	George & Kim Ayoub	4009 Hicock St	SD Water Sport Boat Rentals
441-530-63-00	George & Kim Ayoub	4009 Hicock St	SD Water Sport Boat Rentals
441-530-69-00	C & G Hicock Llc	4010 Hicock St	Unoccupied
441-530-59-00	Moore Family Trust 03-12-04	4019 Hicock St	Marty Moores Motor Homes
441-530-68-00	C & G Hicock Llc	4020 Hicock St	S&F Motorsports
441-530-38-00	City Of San Diego	Hancock	City use
435-480-17-00	City Of San Diego	Sea World Dr	City use
441-590-04-00	City Of San Diego	Sports Arena Blvd	City use

Retail Retail Consignment Store Consignment Store Wharehouse Wharehouse Construction Offices Retail/Office Retail/Office Towing Construction Offices Surfboard Mfg Construction Retail Construction Retail Construction Retail Boat Builder Construction Offices Retail Retail Towing Office Building Restaurant

Motel Storage Motel

Office Building Marijuana Dispensary Boat Rental Boat Rental

Automotive Sales Automotive



THE CITY OF SAN DIEGO

Date of Notice: October 22, 2014

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT SAP No. 24004651

PROJECT NAME/NUMBER: 3515 Hancock Street MMCC/368338

COMMUNITY PLAN AREA: Midway/Pacific Highway Corridor Community Plan

COUNCIL DISTRICT: 2

LOCATION: The project is located at 3515 Hancock Street, San Diego, CA 92110

PROJECT DESCRIPTION: The proposed project is a request for a Conditional Use Permit (CUP) for a Medical Marijuana Consumer Cooperative (MMCC). The facility is proposing to operate the MMCC within 3,425 sq. ft. of a 26,300 sq. ft. existing building located at 3515 Hancock Street. The 0.06-acre site is located within the Midway/Pacific Highway Corridor Community Plan Area, IS-1-1 Zone, the Airport Influence Area for San Diego International Airport, the Part 77 Noticing Area, and the Coastal Height Limitation Overlay Zone. The community plan designates the site as Light Industrial.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Designated Staff

ENVIRONMENTAL DETERMINATION: CEQA Exemption 15303 (New Construction or Conversion of Small Structures)

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment. The project meets the criteria set forth in CEQA Section 15303 which allows for the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The exceptions listed in CEQA Section 15300.2 would not apply.

DEVELOPMENT PROJECT MANAGER:

MAILING ADDRESS:

Edith Gutierrez

1222 First Avenue, MS 501

San Diego, CA 92101

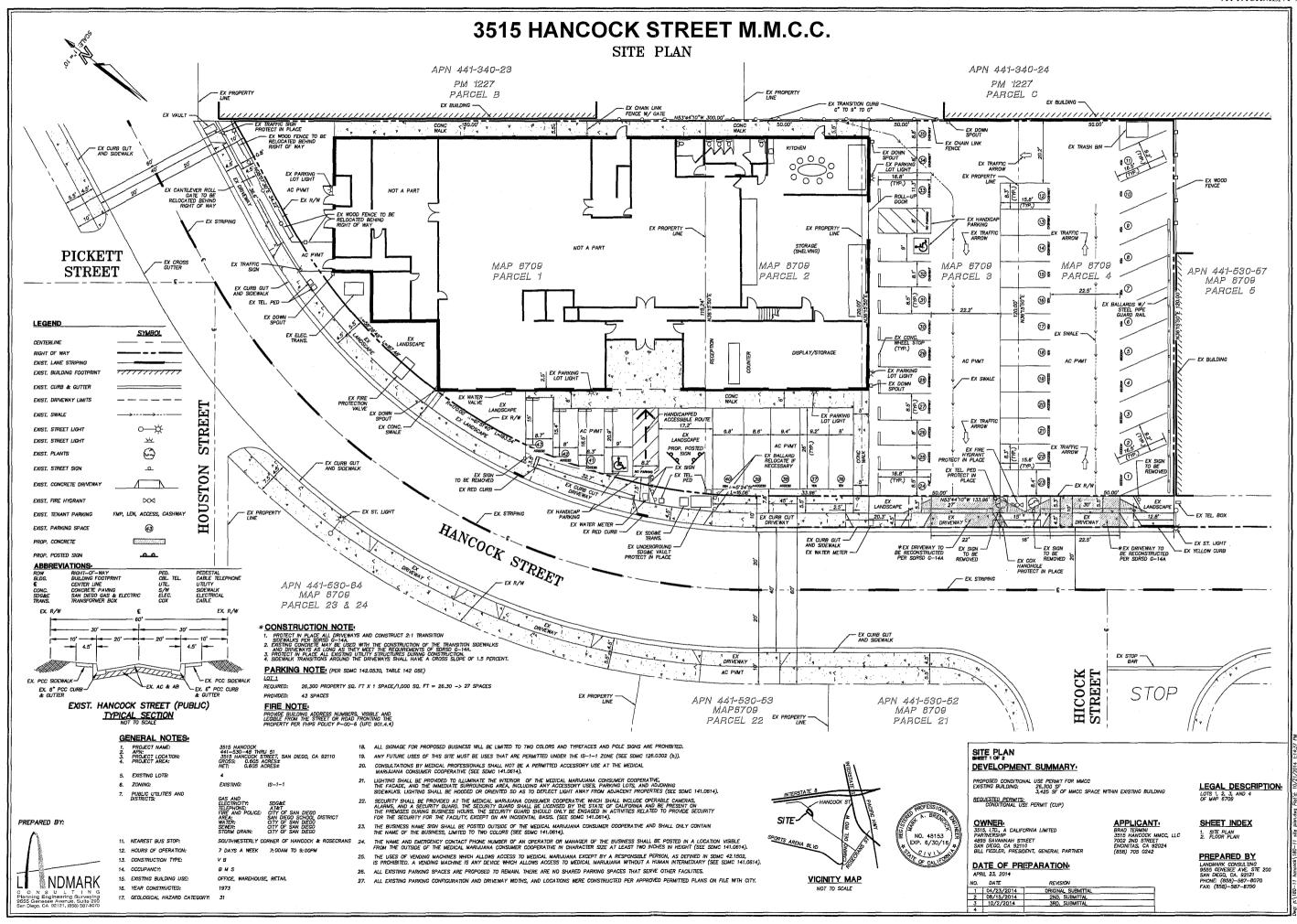
(619) 446-5147

PHONE NUMBER:

pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

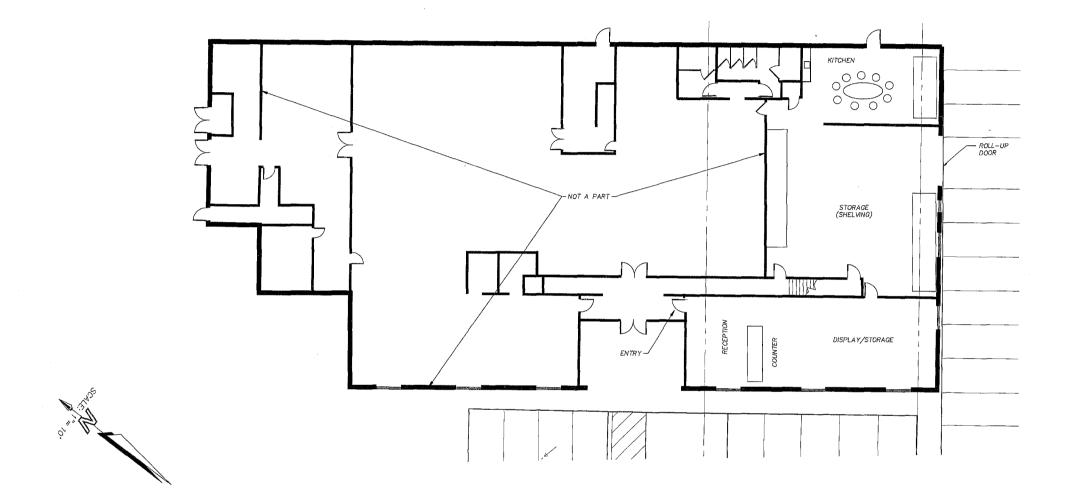
Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (November 5, 2014). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.



3515 HANCOCK STREET M.M.C.C.

FLOOR PLAN





FLOOR PLAN SHEET 2 OF 2

DEVELOPMENT SUMMARY

PROPOSED CONDITIONAL USE PERMIT FOR MMCC
EXISTING BUILDING: 26,300 SF
3,425 SF OF MMCC SPACE WITHIN EXISTING BUILDING

REQUESTED PERMITS: CONDITIONAL USE PERMIT (CUP)

OWNER: 3515, LTD., A CALIFORNIA LIMITED PARTNERSHIP 4895 SAVANNAH STREET SAN DIEGO, CA 92110 BILL FIEDLER, PRESIDENT, GENERAL PARTNER

APPLICANT:
BRAD TERMINI
3515 HANCOCK MMCC, LLC
7002 2ND STREET
ENCINITAS, CA 92024
(858) 705 0242

DATE OF PREPARATION

NO.	DATE	REVISION	
1	04/23/2014	ORIGINAL SUBMITTAL	
. 2	08/15/2014	2ND. SUBMITTAL	
3	10/2/2014	3RD. SUBMITTAL	
			_

LEGAL DESCRIPTION: LOTS 1, 2, 3, AND 4 OF MAP 6709

SHEET INDEX

SITE PLAN
 FLOOR PLAN

PREPARED BY
LANDMARK CONSULTING
9555 GENESEE AVE. STE 200
SAN DIEGO, CA. 92121
PHONE: (858)-587-8070
FAX: (858)-587-8750

PREPARED BY: NDMARK





THE CITY OF SAN DIGITE

City of San Diego Development Services 1927 First Ave., MS-302 San Diego, CA 92101

Community Planning Committee Distribution Form Part 2

Project Name:			Project Number:		Distribution Date:	
1516 Hancock St MMCC		363338		58338	5/9/14	
Project Scope/Location:						
MIDWAY-PACIFIC HIGH bVA - Continunal Use Point (Process 3) for a Medical Murijuana Consumer Cooperative (MMCC) to exercise in a 3-425 square for multi-within the existing 26,300 square foot building located at 3515 Hancock Street. The 6-60 acres site is located at the left 1 during within the Midway/Nicrih Bay Continunity Plan Area. Council District 2. Notice Cardina.						
Applicant Name:	AND THE PERSON NAMED IN COLUMN TWO IS NOT THE PERSON NAMED IN COLUMN TWO IS		Applicant Phone Number:			
Lingmore, Brian			(858) 603-9478			
Project Manager:	Phone Sumb	er:	Fax	Number:	E-mail Address:	
Guterrez Edith	(619) 446-5	147	(1)), 146-5245	EGutierrez@sandiego.gov	
Committee Recommendations (To be completed for	Initial Review	·):				
☐ Vote to Approve	Membe	rs Yes	1	lembers No	Members Abstain	
Vide to Approve With Conditions Listed Below	Ntember /	rs Yes	1	lembers No	Members Abstain	
With Non-Binding Recommunications Listed Belo	Membe	rs Yes	- Shortisterior	Iembers No	Members Abstain	
☐ Vote to Deny	Membe	rs Yes	,	lembers No	Members Abstain	
No Action (Please specify e.g., Need further information, Split vote, Lack of quorum, etc.)						
Sée arrached sheet						
Melane Nickel				1 (T),E:	Chair	
SIGNATURE 776 Cores Micke	y'			DATE: .	7-16-14	
Much Additional Pages It Newssary.	Please return to: Project Management Division City of San Diego Development Services Department 1222 First Avenue, MS 362 San Diego, CA 92101					
hand the delper train	at a glasses, i	5 61	i.	1 1 2 19 106	Inservices,	

Midway Community Planning Group action on project # 368338, 3515 Hancock St.

Note the Planning Group based its review entirely on compliance with the Midway/ Pacific Highway Community Plan. We did not attempt to apply the additional restrictions in the MMCC ordinance, which will be up to the city to evaluate.

Our approval is CONDITIONAL. The conditions are:

- That the City does not find this business to be located within 1,000 square feet of any use designated as needing a minimum separation requirement.
- 2. That the city should evaluate Valley View Casino Center (Sports Arena) to see if it qualifies as a 'minor oriented facility".
- 3. That the City finds that this application meets all of the Medical Marijuana ordinance requirements.
- That there will be a minimum of 10 parking spaces (9 plus one ADA space) designated to this facility



City of San Diego **Development Services** 1222 First Ave., MS-302 San Diego, CA 92101 (619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropr	iate box for type of approval (s) reque	sted: Neighborhood Use F	Permit Coastal Development Permit
Neighborhood Development	Permit Site Development Permit Vesting Tentative Map Map W	t Planned Development F	Permit Conditional Use Permit
Project Title			Project No. For City Use Only
3515 Hanc	ock mnce, L	LC	368338
Project Address:	A CONTRACTOR OF THE CONTRACTOR		
3515 Hanco	ock MMCC, L ck St., San D	iego, CA 92	2110
Part I - To be completed who	en property is held by Individua	l(s)	
			permit, map or other matter, as identified
below the owner(s) and tenant(s) who have an interest in the proper individuals who own the property from the Assistant Executive Dire Development Agreement (DDA) Manager of any changes in owner.	(if applicable) of the above reference rty, recorded or otherwise, and state to a signature is required of at least of ctor of the San Diego Redevelopmenth has been approved / executed by the riship during the time the application if the days prior to any public hearing of in the hearing process.	ed property. The list must inc he type of property interest (e one of the property owners. It t Agency shall be required for e City Council. Note: The ap s being processed or conside	encumbrance against the property. Please list stude the names and addresses of all persons .g., tenants who will benefit from the permit, all Attach additional pages if needed. A signature all project parcels for which a Disposition and uplicant is responsible for notifying the Project red. Changes in ownership are to be given to the provide accurate and current ownership
Name of Individual (type or p	rint):	Name of Individual (t	ype or print):
Bill Fiedler, 35			
Owner Tenant/Lesse	e Redevelopment Agency	Owner Ten	ant/Lessee Redevelopment Agency
Street Address: Savanna	h 87.	Street Address:	
City/State/Zip:	A	City/State/Zip:	
Phone No: (491276.2533	- U/23/2011	Phone No:	Fax No:
Signature:	Left e	Signature :	Date:
Name of Individual (type or p	rint):	Name of Individual (t	ype or print):
Owner Tenant/Lessee	Redevelopment Agency	Owner Tena	nt/Lessee Redevelopment Agency
Street Address:		Street Address:	And the second s
City/State/Zip:		City/State/Zip:	All Indiana and All Indiana an
Phone No:	Fax No:	Phone No:	Fax No:
Signature :	Date:	Signature :	Date:

Project Title: 3515 Houcock MMCC, LLC	Project No. (For City Use Only)				
Part II - To be completed when property is held by a corporation or partnership					
Legal Status (please check):					
Corporation Limited Liability -or- General) What State	e? CA Corporate Identification No. 95-1709478				
in a partnership who own the property). A signature is required of property. Attach additional pages if needed. Note: The applicant if ownership during the time the application is being processed or confidence at least thirty days prior to any public hearing on the sub-	subject property with the intent to record an encumbrance against fall persons who have an interest in the property, recorded or no will benefit from the permit, all corporate officers, and all partners of at least one of the corporate officers or partners who own the seresponsible for notifying the Project Manager of any changes in considered. Changes in ownership are to be given to the Project				
Corporate/Partnership Name (type or print):	Corporate/Partnership Name (type or print):				
Owner Tenant/Lessee	Owner Tenant/Lessee				
Street Address: 4895 Savannah St.	Street Address:				
Som Diese, CA 92110	City/State/Zip:				
Phone No: Fax No: 649 . 276 . 2535	Phone No: Fax No:				
Name of Corporate Officer/Partner (type or print):	Name of Corporate Officer/Partner (type or print):				
Title (type or print):	Title (type or print):				
Stypature! Date: 4/23/14	Signature : Date:				
Corporate/Partnership Name (type or print):	Corporate/Partnership Name (type or print):				
Owner Tenant/Lessee	Owner Tenant/Lessee				
Street Address:	Street Address:				
City/State/Zip:	City/State/Zip:				
Phone No: Fax No:	Phone No: Fax No:				
Name of Corporate Officer/Partner (type or print):	Name of Corporate Officer/Partner (type or print):				
Title (type or print):	Title (type or print):				
Signature : Date:	Signature: Date:				
Corporate/Partnership Name (type or print):	Corporate/Partnership Name (type or print):				
Owner Tenant/Lessee	Owner Tenant/Lessee				
Street Address:	Street Address:				
City/State/Zip:	City/State/Zip:				
Phone No: Fax No:	Phone No: Fax No:				
Name of Corporate Officer/Partner (type or print):	Name of Corporate Officer/Partner (type or print):				
Title (type or print):	Title (type or print):				
Signature : Date:	Signature : Date:				

FINDINGS TO SUPPORT VARIANCE FROM § 141.0614(a)(1) FOR APPLICATION BY 3515 HANCOCK MMCC, LLC, FOR A MEDICAL MARIJUANA CONSUMER COOPERATIVE

Background facts: The proposed site for a medical marijuana consumer cooperative to be located at 3515 Hancock Street is located within 1,000 feet of the extreme southern end of the San Diego River, which is technically part of Mission Bay Park. As a consequence, the City, in its letter dated June 13, 2014, has stated that the application of 3515 Hancock MMCC, LLC, cannot be approved, because the minimum separation requirements of Section 141.0614(a)(1) (which mandates, *inter alia*, that the property lines of medical marijuana consumer cooperatives be at least 1,000 feet from public parks). 3515 Hancock Street is, however, separated from the San Diego River by eight lanes of the I-8 freeway, as well as fences and concrete barriers bordering that freeway. There is absolutely no way that one can access 3515 Hancock from the closest point along the San Diego River section of Mission Bay Park by traveling 1,000 feet "as the crow flies." (See Attachment A.)

Applicant's response: Applicant is supplementing its application by requesting a variance from the 1,000 foot separation requirement as it pertains to proximity to the San Diego River. (Section 126.0802 provides that a "variance may be requested for proposed *development* that would not comply with an applicable development regulation of the Land Development Code")

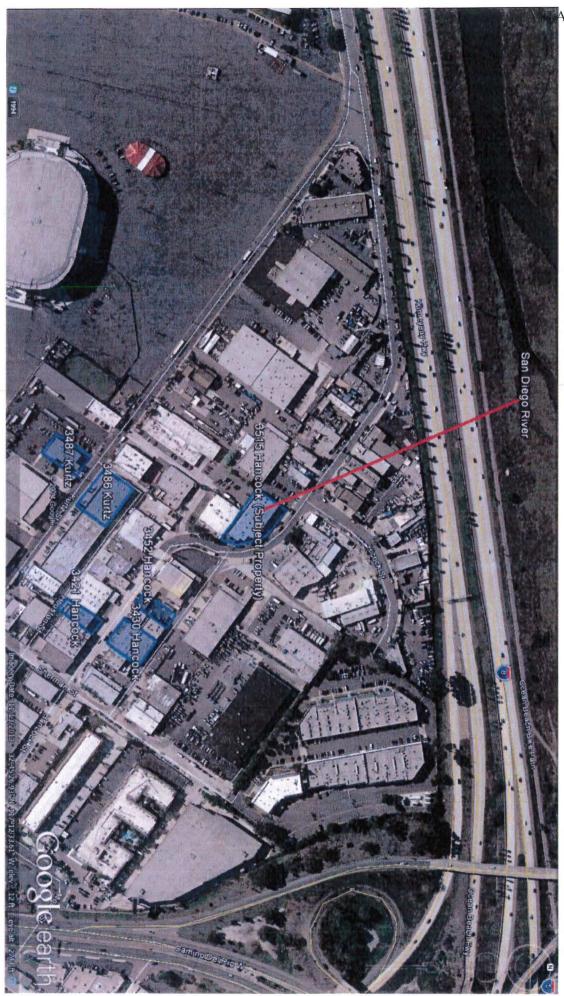
Proposed findings to support a variance: Pursuant to Section 126.0801, the "purpose of variance procedures is to provide relief for cases in which, because of special circumstances applicable to the property including size, shape, topography, location or surroundings, the strict application of the development regulations would deprive the property of privileges enjoyed by other property in the vicinity and under the same land use designation and zone."

(a) There are at least five (5) other applications for medical marijuana consumer cooperatives pending in the same land use designation in the Midway-Pacific Highway Corridor Community Plan (Light Industrial) and in the same zone (IS-1-1), that are located within blocks of 3515 Hancock Street that are at least as accessible to users of the San Diego River as is 3515 Hancock, but which are not barred as a location for a medical marijuana consumer cooperative under the 1,000-foot separation requirement imposed by Section 141.0614(a)(1). These five applications include the following: 3421 Hancock Street [Project No. 368301], 3430 Hancock Street [Project No. 368291], 3452 Hancock Street [Project No. 368344], 3486 Kurtz Street [Project No. 368321], and 3487 Kurtz Street [Project No. 368326]). (See Attachments A through G.) In fact, there is an impassable barrier - the eight-lane I-8 freeway along with concrete barriers and fences - between the San Diego River section of Mission Bay Park and any of the pending applications for cooperatives south of that freeway. The three other identified project applicants on Hancock Street and Kurtz Street whose sites are not within 1,000 feet "as the crow flies" of the San Diego River section of Mission Bay Park are actually more accessible to Mission Bay Park than is 3515 Hancock Street. (See Attachments B, C, D, E and discussion below under (c).) Similarly, the two identified project applicants on Kurtz Street are also not within 1,000 feet "as the crow flies" of the San Diego River section of Mission Bay Park and are as accessible to Mission Bay Park as is 3515 Hancock Street. (See

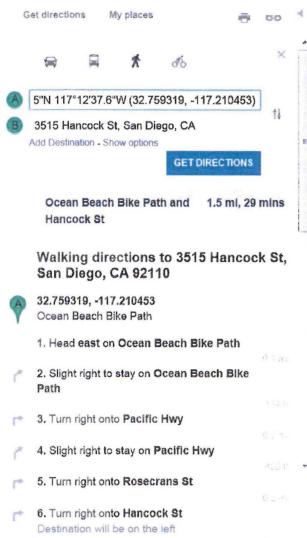
- Attachments F & G.) Thus, there is a special circumstance or condition location within 1,000 feet "as the crow flies" of the San Diego River that does not apply to other premises in the same neighborhood, and this condition has not resulted from any act of the applicant.
- (b) Strict application of the 1,000 foot separation requirement from the San Diego River would deprive 3515 Hancock MMCC, LLC, of reasonable use of its property for a medical marijuana dispensary, and the variance from that requirement is the minimum variance that will permit that reasonable use of the property at 3515 Hancock Street. If a medical marijuana consumer cooperative is a "reasonable use" of 3421 Hancock Street, 3430 Hancock Street, 3452 Hancock Street which are actually more accessible from Mission Bay Park than is 3515 Hancock Street (see Attachments B, C, D, and E and discussion under (c) below), then strict application of Section 141.0614(a)(1) with respect to proximity to Mission Bay Park would deprive the applicant of reasonable use of its property. Similarly, if a medical marijuana consumer cooperative is a "reasonable use" of 3486 Kurtz Street and 3487 Kurtz Street which are equally as accessible in terms of walking distance to Mission Bay Park as is 3515 Hancock Street (see Attachments F and G), then strict application of Section 141.0614(a)(1) with respect to proximity to Mission Bay Park would deprive the applicant of reasonable use of its property.
- (c) The granting of the requested variance will be in harmony with the general purpose and intent of the separation requirements of the provisions of the Municipal Code allowing medical marijuana consumer cooperatives (Section 141.0614), in that the obvious intent of the requirement that such uses be at least 1,000 feet from a public park was to prevent the location of a cooperative within easy walking distance of minors using such a public park. Here, there is absolutely no way a minor (or anyone of any age) could travel 1,000 feet by foot, bike, scooter, or otherwise (except perhaps by helicopter) from any part of Mission Bay Park and access 3515 Hancock Street. Rather, the shortest route to access 3515 Hancock Street from the most proximate part of the San Diego River area of Mission Bay Park (specifically, the Ocean Beach bike path) is 1.5 miles following a route shown on Attachment B (and this route takes 28 minutes by foot). Indeed, it should be noted that the three above-identified other applicants located at 3421 Hancock Street, 3430 Hancock Street, and 3452 Hancock are actually more accessible to the San Diego River section of Mission Bay Park than is 3515 Hancock (even though 3421, 3430, and 3452 Hancock are not within 1,000 feet "as the crow flies" from the San Diego River). Specifically, as shown by Attachments C, D and E, 3421 Hancock Street, 3430 Hancock Street and 3452 Hancock Street are *closer* in actual travel distance and travel time - 1.3 miles and 27 minutes for both 3421 and 3430 Hancock, and 1.4 miles and 27 minutes for 3452 Hancock Street - than is 3515 Hancock Street. See Attachments B, C, D and E. Also, the two project applicants at 3468 Kurtz Street and 3487 Kurtz Street are just as close in travel distance from Mission Bay Park as is 3515 Hancock Street - 1.5 miles - yet those properties on Kurtz Street are not within 1,000 feet "as the crow flies" from the San Diego River.

(d) The granting of the requested variance will not adversely affect the Midway/Pacific Highway Corridor Community Plan. City Council, in adopting Ordinance Number O-20356, determined that medical marijuana consumer cooperatives were considered to be commercial retail facilities and should be located within certain specified industrial and commercial zoning districts, including IS-1-1. The site that is the subject of 3515 Hancock MMCC, LLC's application is designated for Light Industrial use in the Midway/Pacific Highway Corridor Community Plan. Therefore, the use is consistent with the Midway/Pacific Highway Corridor Community Plan and there are no policies in that plan that would suggest that the proposed use is not appropriate at 3515 Hancock.

ATTACHMENT A



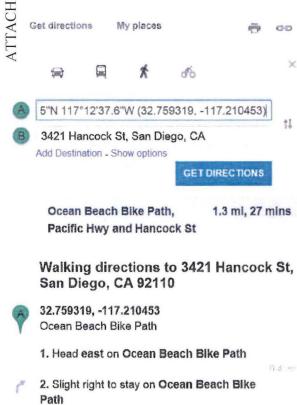
ATTACHMENT B



3515 Hancock St San Diego, CA 92110



ATTACHMENT C



3. Turn right onto Pacific Hwy

4. Slight right to stay on Pacific Hwy

5. Turn right onto Rosecrans St

6. Turn right onto Hancock St Destination will be on the left

3421 Hancock St San Diego, CA 92110



ATTACHMENT D



My places













5"N 117°12'37.6"W (32.759319, -117.210453)



3430 Hancock St, San Diego, CA

Add Destination - Show options

GET DIRECTIONS

Ocean Beach Bike Path and 1.3 mi, 27 mins Hancock St

Walking directions to 3430 Hancock St, San Diego, CA 92110



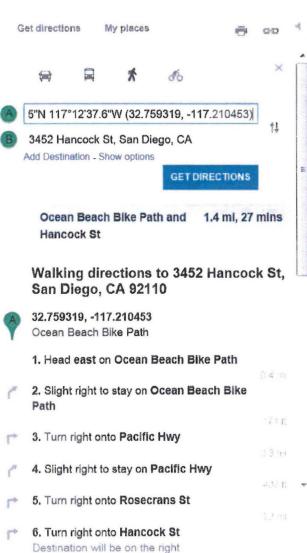
32.759319, -117.210453 Ocean Beach Bike Path

- 1. Head east on Ocean Beach Bike Path
- 2. Slight right to stay on Ocean Beach Blke Path
- 3. Turn right onto Pacific Hwy
- 4. Slight right to stay on Pacific Hwy
- 5. Turn right onto Rosecrans St
- 6. Turn right onto Hancock St Destination will be on the right

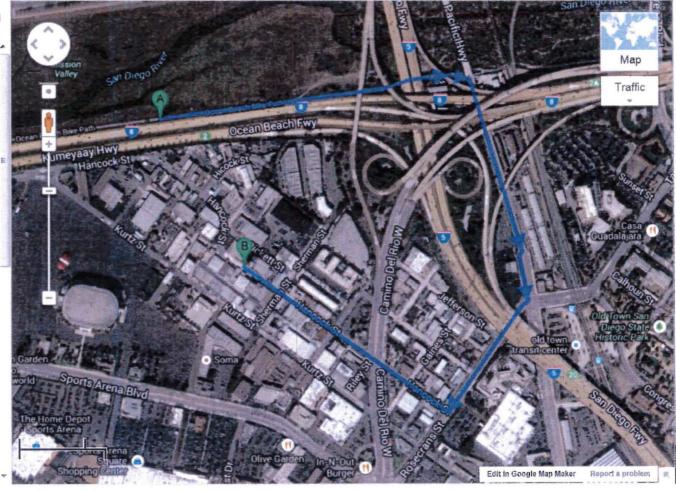




ATTACHMENT E



3452 Hancock St San Diego, CA 92110



ATTACHMENT F

Get directions

My places













5"N 117°12'37.6"W (32.759319, -117.210453)



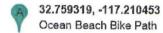
3486 kurtz St, San Diego, CA

Add Destination - Show options

GET DIRECTIONS

Ocean Beach Bike Path and 1.5 mi, 29 mins Kurtz St

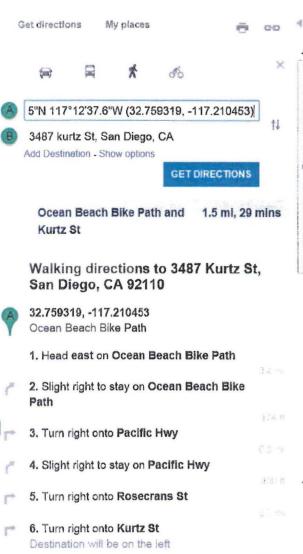
Walking directions to 3486 Kurtz St, San Diego, CA 92110



- 1. Head east on Ocean Beach Bike Path
- Slight right to stay on Ocean Beach Bike
 Path
- 3. Turn right onto Pacific Hwy
- 4. Slight right to stay on Pacific Hwy
- 5. Turn right onto Rosecrans St
- 6. Turn right onto Kurtz St Destination will be on the right
- 3486 Kurtz St San Diego, CA 92110



ATTACHMENT G



3487 Kurtz St San Diego, CA 92110

