

THE CITY OF SAN DIEGO

### **REPORT TO THE HEARING OFFICER**

HEARING DATE: December 17, 2014

REPORT NO. HO-14-078

ATTENTION: Hearing Officer

SUBJECT: 658 E. SAN YSIDRO MMCC PROJECT NUMBER: 368312

LOCATION: 658 E. San Ysidro Boulevard

APPLICANT: Wayne Scherer

### SUMMARY

<u>Issue(s)</u>: Should the Hearing Officer approve a Conditional Use Permit to allow a Medical Marijuana Consumer Cooperative (MMCC) to operate in a 6,868 square foot tenant space within an existing 16,302 square foot, one-story building on a 0.85-acare site within the San Ysidro Community Plan area?

Staff Recommendation: APPROVE Conditional Use Permit No. 1298246.

<u>Community Planning Group Recommendation</u>: On June 16, 2014, the San Ysidro Community Planning Group voted 8-1-0 to deny the project (Attachment 10).

<u>Environmental Review</u>: 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 (Attachment 8). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on October 31, 2014, the opportunity to appeal that determination ended on November 17, 2014.

### 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). MMCCs are allowed with a Conditional Use Permit, Process 3, Hearing Officer Decision. A limit of four MMCCs 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) to operate in a 6,868 square foot tenant space within an existing 16,302 square foot, one-story building on a 0.85-acare site. The site is located at 658 E. San Ysidro Blvd (Attachment 1), south of Virginia Ave, east of Interstate 5, north of Camino De La Plaza and west of East San Ysidro Blvd (Attachment 2). The site is in the CSR-3 Zone of the San Ysidro Planned District and the Coastal Height Limitation Overlay Zone within the San Ysidro Community Plan area. The site contains three existing buildings constructed between 1981-1985, per Building Permit No's. S12918, A30938 & A41689; Building A, one-story, 16,302 square feet, Building B one-story, 1,891 square feet, Building C, two-story, 5,830 square feet. The proposed 6,868 square foot tenant space is located in Building A and is currently being used for retail (Bargain Mart).

The existing businesses within the 0.85-acre site include retail, commercial services and professional offices. The CSR zone is intended to allow for commercial strip development which includes retail, wholesale and commercial services. The Recreational-Commercial Category-3 is intended to provide for establishments catering to the lodging, dining, and general entertainment uses of the community and for visitors to the community. The proposed MMCC is a commercial service, therefore consistent with the zone.

The site is designated Border Commercial by the San Ysidro Community Plan and is also within an area known as the Casas de Cambio and Visitor Serving District 3. This area is known for uses which include Mexican insurance establishments, curio shops, motels, fast-food franchises and discount clothing stores. The goal of the community plan is to preserve and enhance the community-oriented character in the historic commercial district; encourage the maintenance of existing uses and the development of new community-serving commercial uses which meet the needs of the residents. The proposed MMCC, commercial services, is consistent with the land use designation.

#### DISCUSSION

The project site located at 658 E. San Ysidro Boulevard is on a 0.85-acre site. The proposed 6,868 square foot tenant space, within an existing 16,302 square foot one-story building is currently being used for retail (Bargain Mart). The project proposes interior improvements that include a reception area, dispensary area, office, storage and restrooms. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards.

Public improvements include replacing the existing westerly driveway, serving the project site on E. San Ysidro Boulevard, with an ADA-compliant City standard driveway.

MMCCs 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, 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. MMCC Conditional Use Permits expire five years from date of issuance. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

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 existing uses. Staff has determined that the proposed MMCC meets all applicable development regulations, including the minimum distance requirements. The permit has been conditioned to include all development restrictions in order to avoid adverse impacts upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area.

### SAN YSIDRO COMMUNITY PLANNING GROUP

On June 16, 2014, the San Ysidro Community Planning Group voted 8-1-0 to deny the project. The majority of the members agreed that a MMCC would not fit well in the primarily tourist-focus shopping area of San Ysidro.

### CONCLUSION

The Conditional Use Permit for the proposed MMCC may be approved if the Hearing Officer determines that the findings can be made. Staff has reviewed the proposed MMCC and has determined that it meets all applicable sections of the San Diego Municipal Code, San Ysidro Community Plan and the General Plan. Staff is recommending that the Hearing Officer approve the project as proposed.

### ALTERNATIVE

- 1. Approve Conditional Use Permit No. 1298246, with modifications.
- 2. Deny Conditional Use Permit No. 1298246, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

Edith Gutierrez, Development Project Manager

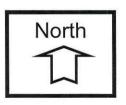
#### Attachments:

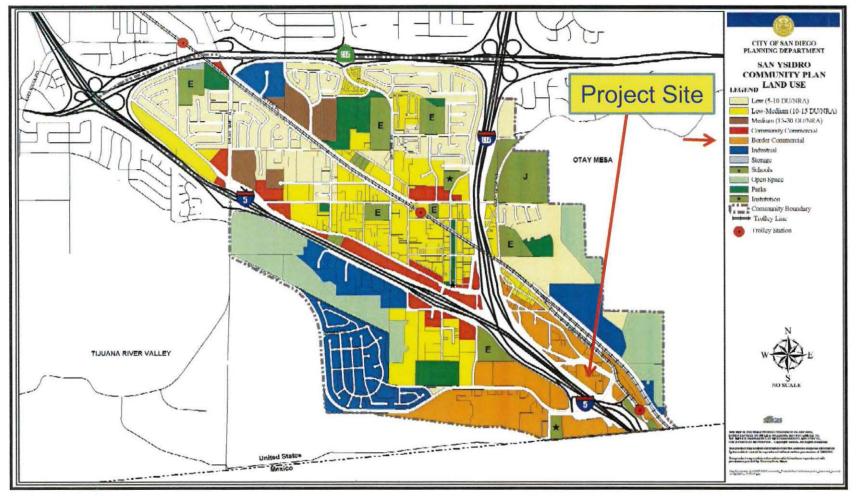
- Aerial Photograph 1.
- Project Location Map 2.
- Community Plan Land Use Map 3.
- Draft Permit with Conditions 4.
- 5. Draft Permit Resolution with Findings
- 1000 Foot Radius Map 6.
- 1000 Foot Radius Map Spreadsheet 7.
- Notice of Right to Appeal Environmental Determination 8.
- Project Site Plan(s) 9.
- Community Planning Group Recommendation 10.
- Ownership Disclosure Statement 11.





Location Aerial Photo 658 E San Ysidro MMCC – 658 East San Ysidro Boulevard PROJECT NO. 368312

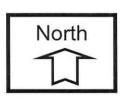


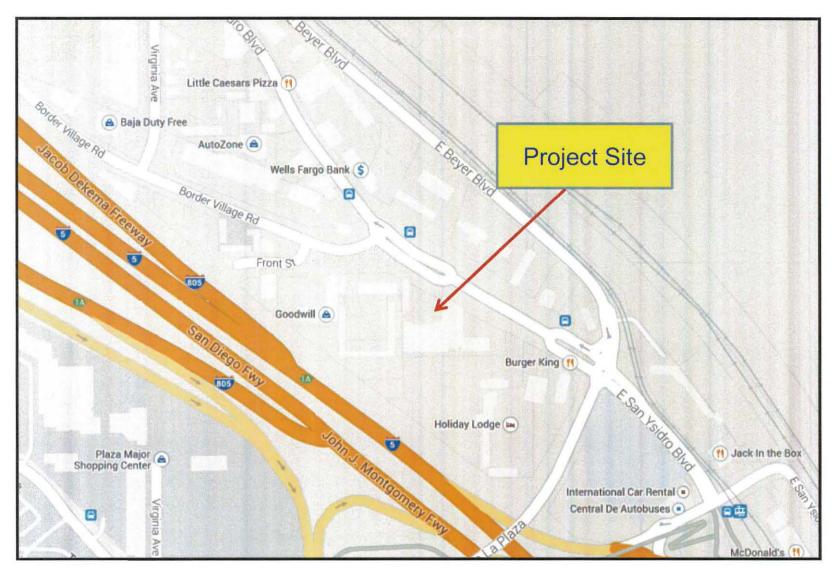




### Land Use Map

<u>658 E San Ysidro MMCC – 658 East San Ysidro Boulevard</u> PROJECT NO. 368312

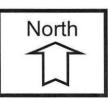






**Project Location Map** 

<u>658 E San Ysidro MMCC – 650 and 654 East San Ysidro Boulevard</u> PROJECT NO. 368312



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: 24004630

### CONDITONAL USE PERMIT NO. 1298246 658 E. SAN YSIDRO MMCC - PROJECT NO. 368312 HEARING OFFICER

This Conditional Use Permit No. 1298246 is granted by the Hearing Officer of the City of San Diego to TRUSTEES OF THE LIGHTHOUSE FAMILY TRUST, Owner and WAYNE ALEXANDER SCHERER, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 0.85-acre site is located at 658 E. San Ysidro Blvd in the CSR-3 Zone of the San Ysidro Planned District and the Coastal Height Limitation Overlay Zone within the San Ysidro Community Plan area. The project site is legally described as all that portion of the Northeast Quarter of the Southeaster Quarter of Section 1, Township 19 South, Range 2 West, San Bernardino Base and Meridian, State of California, June 17, 1953, Document No. 1953-082665 in Book 4893, Page 306.

Subject to the terms and conditions set forth in this Permit, permission is granted 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 approved exhibits [Exhibit "A"] dated December 17, 2014, on file in the Development Services Department.

The project shall include:

- Operation of a Medical Marijuana Consumer Cooperative (MMCC) in a 6,868 square foot tenant space within an existing 16,302 square foot, one-story building on a 0.85acare 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 \_\_\_\_\_.

2. This Conditional Use Permit [CUP] and corresponding use of this MMCC shall expire on

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 approved 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 determinednecessary 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.

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

### PLANNING/DESIGN REQUIREMENTS:

13. The use within the 6,868 square foot tenant space shall be limited to the MMCC and any use permitted in the CSR-3 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, 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 should only be engaged in activities related to providing security for the facility, except on an incidental basis.

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 48 hours.

21. Medical marijuana shall not be consumed anywhere within the 0.85-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 existing westerly driveway, serving the project site at E. San Ysidro Boulevard, maintaining the current width with a City standard driveway, per Standard Drawing SDG-159, satisfactory to the City Engineer.

#### **TRANSPORTATION REQUIREMENTS:**

25. No fewer than 9 parking spaces (including 1 van accessible space) for the proposed 6,868 square foot MMCC, and 32 parking spaces (including 2 accessible spaces) for the entire 0.85-acre site (with 32 parking spaces including 2 accessible spaces provided), 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 by the appropriate City decision maker in accordance with the SDMC.

### **POLICE DEPARTMENT RECOMMENDATION:**

26. 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.

APPROVED by the Hearing Officer of the City of San Diego on December 17, 2014 and Resolution No. HO-XXXX.

Conditional Use Permit No. 1298246 /PTS No. 368312 Date of Approval: December 17, 2014

### 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.

## TRUSTEES OF THE LIGHTHOUSE FAMILY TRUST

Owner

By

Constantine A. Coss Trustee

Owner

By \_\_\_\_

Sophia L. Coss Trustee

### WAYNE ALEXANDER SCHERER Permittee

By Wayne Alexander Scherer Permittee

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

### HEARING OFFICER RESOLUTION NO. HO-CONDITONAL USE PERMIT NO. 1298246 658 E. SAN YSIDRO MMCC PROJECT NO. 368312

WHEREAS, TRUSTEES OF THE LIGHTHOUSE FAMILY TRUST, Owner and WAYNE ALEXANDER SCHERER, Permittee, filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) in a 6,868 square foot tenant space within an existing 16,302 square foot, one-story building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1298246), on portions of a 0.85-acre site;

WHEREAS, the project site is located 658 E. San Ysidro Boulevard in the CSR-3 Zone of the San Ysidro Planned District and the Coastal Height Limitation Overlay Zone within the San Ysidro Community Plan area;

WHEREAS, the project site is legally described as all that portion of the Northeast Quarter of the Southeaster Quarter of Section 1, Township 19 South, Range 2 West, San Bernardino Base and Meridian, State of California, June 17, 1953, Document No. 1953-082665 in Book 4893, Page 306;

WHEREAS, on December 17, 2014, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1298246 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on October 31, 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 there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

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

That the Hearing Officer adopts the following written Findings, dated December 17, 2014.

#### FINDINGS:

#### Conditional Use Permit Approval - Section §126.0305

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

This proposed project is a request for a Conditional Use Permit (CUP) to operate in a 6,868 square foot tenant space within an existing 16,302 square foot, one-story building on a 0.85-acare site. The site is in the CSR-3 Zone of the San Ysidro Planned District and the Coastal Height Limitation Overlay Zone within the San Ysidro Community Plan area.

### **ATTACHMENT 5**

The site is designated Border Commercial by the San Ysidro Community Plan and is also within an area known as the Casas de Cambio and Visitor Serving District 3. This area is known for uses which include Mexican insurance establishments, curio shops, motels, fast-food franchises and discount clothing stores. The goal of the community plan is to preserve and enhance the community-oriented character in the historic commercial district; encourage the maintenance of existing uses and the development of new community-serving commercial uses which meet the needs of the residents. The proposed MMCC, commercial services, is consistent with the land use designation.

The proposed use is allowed with an approved CUP within the CSR-3 zone of the San Ysidro Planned District and is consistent with the community plan designation, therefore the proposed MMCC 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 6,868 square foot MMCC site located at 658 E. San Ysidro Boulevard is within an existing 16, 302 square foot two-story building on a 0.85-acre site. The existing tenant space is currently vacant. The project proposes interior improvements that include a lobby/information center, office, storage, retail room and restrooms. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. Public improvements include replacing the most westerly driveway, serving the project site on E. San Ysidro Boulevard, with an ADA-compliant City standard 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 project requires compliance with the development conditions in effect for the subject property as described in Conditional Use Permit No. 1310456. 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 6,868 square foot MMCC located at 658 E. San Ysidro Boulevard is within an existing two-story building. The 0.85-acre site is zoned CSR-3 Zone of the San Ysidro Planned District. The site contains three existing buildings constructed between 1981-1985, per Building Permit No's S12918, A30938 & A41689; Building A, one-story, 16,302 square feet, Building B one-story, 1,891 square feet, Building C, two-story, 5,830 square feet. The proposed 6,868 square foot tenant space is located in Building A and is currently vacant.

The existing businesses within the 0.85-acre site include retail, commercial services and professional offices. The CSR zone is intended to allow for commercial strip development which includes retail, wholesale and commercial services. The Recreational-Commercial Category-3 is intended to provide for establishments catering to the lodging, dining, and general entertainment uses of the community and for visitors to the community.

The project proposes interior improvements that include a reception area, dispensary area, office, storage and restrooms. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. Public improvements include replacing the existing westerly driveway, serving the project site on E. San Ysidro Boulevard, with an ADA-compliant City standard driveway.

MMCCs are allowed in the CSR-3 zone of the San Ysidro Planned District 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 consistent with the land use designation of Border Commercial. The proposed MMCC meets all development regulations, no deviations are requested, and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code. The proposed MMCC therefore complies with the regulations of the Land Development Code.

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

The proposed 6,868 square foot MMCC located at 658 E. San Ysidro Boulevard is within an existing two-story building on a 0.85-acre site. The site is zoned CSR-3 Zone of the San Ysidro Planned District. The site is designated Border Commercial by the San Ysidro Community Plan and is also within an area known as the Casas de Cambio and Visitor Serving District 3. This area is known for uses which include

Mexican insurance establishments, curio shops, motels, fast-food franchises and discount clothing stores. The goal of the community plan is to preserve and enhance the community-oriented character in the historic commercial district; encourage the maintenance of existing uses and the development of new community-serving commercial uses which meet the needs of the residents.

MMCCs, classified as commercial services, are allowed in the CSR-3 Zone of the San Ysidro Planned District with an approved Conditional Use Permit (CUP) and are consistent with the land use designation of Border Commercial. 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.

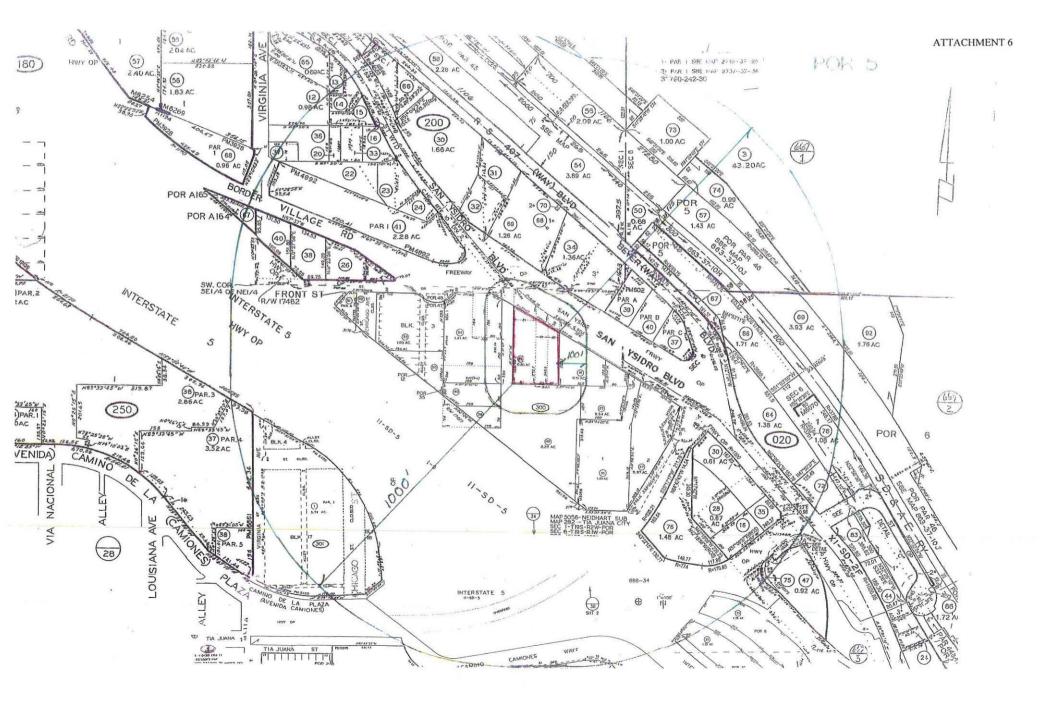
The San Diego Municipal code limits MMCCs to commercial and industrial zones and the number of MMCCs to only four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods. The proposed MMCC is in a 6,868 square foot tenant space within an existing 16,302 square foot building. The uses within the building include mostly retail, commercial services and professional offices. The proposed MMCC is a permitted use in the CSR-3 Zone of the San Ysidro Planned District with an approved CUP and is consistent with the community plan designation, therefore the use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1298246 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1298246, a copy of which is attached hereto and made a part hereof.

Edith Gutierrez Development Project Manager Development Services

Adopted on: December 17, 2014

Job Order No. 24004630



Project Title	e: 658 E. San Ysidro Boulevard MMCC	Project Number: 368312	The second s	4/22/2014; Corrected 7/20/2014
Zone	Business Type	Address	APN	Business Name
SYIO-CSR-3	Public Transport	729 East San Ysidro Blvd, San Ysidro, CA 92173	6670207800	San Diego Transit Center
SYIO-CSR-3	Auto Vehicle Paid Parking Lot	729 East San Ysidro Blvd, San Ysidro, CA 92173	6670207800	ACE Parking
SYIO-CSR-3	Fast Food	727 East San Ysidro Blvd, San Ysidro, CA 92173	6670204400	McDonalds
SYIO-CSR-3	Duty Free Liquor Sales	723 East San Ysidro Blvd, San Ysidro, CA 92173	6670208300	Baja Duty Free
SYIO-CSR-3	Fast Food	721 East San Ysidro Blvd, San Ysidro, CA 92173	6670207200	Jack in the Box
SYIO-CSR-3	Auto Rental	710 East San Ysidro Blvd, San Ysidro, CA 92173	6670203500	USA International Car Rental
SYIO-CSR-3	Auto Vehicle Paid Parking Lot	710 East San Ysidro Blvd, San Ysidro, CA 92173	6670203500	Park Me
SYIO-CSR-3	Hotel/Motel & Vehicle Paid Parking Lot	701 East San Ysidro Blvd, San Ysidro, CA 92173	6670206400	Gateway Inn / Gateway Parking
SYIO-CSR-3	Fast Food	674 East San Ysidro Blvd, San Ysidro, CA 92173	6663004700	Burger King
SYIO-CSR-3	Retail Clothing Apparel	674 East San Ysidro Blvd, San Ysidro, CA 92173	6663004700	Kids Club
SYIO-CSR-3	Hotel/Motel & Vehicle Paid Parking Lot	672 East San Ysidro Blvd, San Ysidro, CA 92173	6663005500	Holiday Lodge Motel
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	670 East San Ysidro Blvd, San Ysidro, CA 92173	6663002300	Celcetin Y Cachucha
SYIO-CSR-3	Business Association(s)	663 East San Ysidro Blvd, San Ysidro, CA 92173	7602423000	San Ysidro Business Association
SYIO-CSR-3	Fast Food	660 East San Ysidro Blvd, San Ysidro, CA 92173	6663001800	Subway
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	660 East San Ysidro Blvd, San Ysidro, CA 92173	6663001800	Fashion Glow
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	660 East San Ysidro Blvd, San Ysidro, CA 92173	6663001800	Lee's Fasion
SYIO-CSR-3	Bus Transportation Sales	660 East San Ysidro Blvd, San Ysidro, CA 92173	6663001800	El Corral Camino
SYIO-CSR-3	Legal Services	650 East San Ysidro Blvd, San Ysidro, CA 92173	6663005300	Antonio Cervantes Attorney at Law
SYIO-CSR-3	Income Tax Services	650 East San Ysidro Blvd, San Ysidro, CA 92173	6663005300	Sylvia Cervantes Tax Services
SYIO-CSR-3	Retail Clothing Apparel	650 East San Ysidro Blvd, San Ysidro, CA 92173	6663005300	La Estrella
SYIO-CSR-3	Tax Services	650 East San Ysidro Blvd, San Ysidro, CA 92173	6663005300	CC Tax Service
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	650 East San Ysidro Blvd, San Ysidro, CA 92173	6663005300	Bargain Mart
SYIO-CSR-3	International Currency Conversion	650 East San Ysidro Blvd, San Ysidro, CA 92173	6663005300	JSD
SYIO-CSR-3	Retail Convenience Store	644 East San Ysidro Blvd, San Ysidro, CA 92173	6663005400	7-11 Market
SYIO-CSR-3	Tax Services	644 East San Ysidro Blvd, San Ysidro, CA 92173	6663005400	E. Lozano Inc
SYIO-CSR-3	Bank	644 East San Ysidro Blvd, San Ysidro, CA 92173	6663005400	Citibank
SYIO-CSR-3	Mobile Phone Sales & Services	644 East San Ysidro Blvd, San Ysidro, CA 92173	6663005400	Simple Mobile Solutions
SYIO-CSR-3	Storage Facility	644 East San Ysidro Blvd, San Ysidro, CA 92173	6663005400	San Ysidro Self Storage
SYIO-CSR-3	Hotel/Motel	643 East San Ysidro Blvd, San Ysidro, CA 92173	6662006900	Rhodeway Inn
SYIO-CSR-3	Retail/Wholesale Perfume Sales	641 East San Ysidro Blvd, San Ysidro, CA 92173	6662006900	Perfume Center
SYIO-CSR-3	Mail and Shipping Services	641 East San Ysidro Blvd, San Ysidro, CA 92173	6662006900	Postal Annex
SYIO-CSR-3	Mobile Phone Sales & Services	641 East San Ysidro Blvd, San Ysidro, CA 92173	6662006900	Cricket Mobile

SYIO-CSR-3	Bank	641 East San Ysidro Blvd, San Ysidro, CA 92173	6662006900 Bank of America
	Retail/Wholesale Clothing Apparel	641 East San Tsidro Blvd, San Tsidro, CA 92173	6662006900 Solach Boutique
SYIO-CSR-3		640 East San Ysidro Blvd, San Ysidro, CA 92173	6662002400 US Bank
	Vehicle Part and Accessory Store	636 East San Ysidro Blvd, San Ysidro, CA 92173	6662002200 Autozone
SYIO-CSR-3	Tax Services	631 East San Ysidro Blvd, San Ysidro, CA 92173	6662003000 H&R Block
	Fast Food	631 East San Ysidro Blvd, San Ysidro, CA 92173	6662003000 Little Cesaers
	Shoe Sales	631 East San Ysidro Blvd, San Ysidro, CA 92173	6662003000 Foot Locker
SYIO-CSR-3	Retail Market Store	631 East San Ysidro Blvd, San Ysidro, CA 92173	6662003000 Duty Free City
SYIO-CSR-3	Auto Insurance Services	631 East San Ysidro Blvd, San Ysidro, CA 92173	6662003000 R-Safe Auto Insurance
SYIO-CSR-3	Accessories and Apparrel	631 East San Ysidro Blvd, San Ysidro, CA 92173	6662003000 West Point Imports & Accessories
SYIO-CSR-3	Mail and Shipping Services	628 East San Ysidro Blvd, San Ysidro, CA 92173	6662001600 Correo National Express
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	628 East San Ysidro Blvd, San Ysidro, CA 92173	6662001600 Todo Fashion Wholesale
SYIO-CSR-3	Pawn Shop	561 East San Ysidro Blvd, San Ysidro, CA 92173	6662006600 Casa de Empeño
SYIO-CSR-3	Tax Services	524 East San Ysidro Blvd, San Ysidro, CA 92173	6662001500 H&R Block
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	524 East San Ysidro Blvd, San Ysidro, CA 92173	6662001500 Yesterdays Bargain
SYIO-CSR-3	Mobile Phone Sales & Services	524 East San Ysidro Blvd, San Ysidro, CA 92173	6662001500 Metro PCS
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	524 East San Ysidro Blvd, San Ysidro, CA 92173	6662001500 Freestyle Fashion
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	524 East San Ysidro Blvd, San Ysidro, CA 92173	6662001500 Sweet & Glamour
SYIO-CSR-3	Legal Document Preparation Services	524 East San Ysidro Blvd, San Ysidro, CA 92173	6662001500 Multi-Purpose Center
SYIO-CSR-3	Shoe Sales	524 East San Ysidro Blvd, San Ysidro, CA 92173	6662001500 K Shoes
SYIO-CSR-3	Retail/Wholesale Intimate Apparel	524 East San Ysidro Blvd, San Ysidro, CA 92173	6662001500 Coqueta Intima
SYIO-CSR-3	Sports Clothing and Accessories	524 East San Ysidro Blvd, San Ysidro, CA 92173	6662001500 JIRE Sports
SYIO-CSR-3	Small Loan Lending and Payments	517 East San Ysidro Blvd, San Ysidro, CA 92173	6662001300 Progreso Financiero
SYIO-CSR-3	Mail and Shipping Services	514 East San Ysidro Blvd, San Ysidro, CA 92173	6662001300 Mr. Mail
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	507 East San Ysidro Blvd, San Ysidro, CA 92173	6662001300 Fajas Colombianas
SYIO-CSR-3	Auto Insurance Services	505 East San Ysidro Blvd, San Ysidro, CA 92173	6662001300 Adrianas Insurance
SYIO-CSR-3	Shoe Sales	501 East San Ysidro Blvd, San Ysidro, CA 92173	6662001300 Payless Shoes
SYIO-CSR-3	Retail Item Donations and Sales	628 Front Street, San Ysidro, CA 92173	6663003300 Goodwill Industries
SYIO-CSR-3	Retail Item Donations and Sales	626 Front Street, San Ysidro, CA 92173	6663003300 Goodwill Industries
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	3060 East Beyer Blvd, San Ysidro, CA 92173	6670203700 Bargain Zone
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	3020 East Beyer Blvd, San Ysidro, CA 92173	6670204000 Fashion Xperts
SYIO-CSR-3	Retail/Wholesale Clothing Apparel	3010 East Beyer Blvd, San Ysidro, CA 92173	6670203900 Bargain Zone
SYIO-CSR-3	Fast Food	4698 Border Village Road, San Ysidro, CA 92173	6662002500 Kentucky Fried Chicken
SYIO-CSR-3	Adult Store	4650 Border Village Road, San Ysidro, CA 92173	6662002500 International Prime

SYIO-CSR-3	Adult Store	4650 Border Village Road, San Ysidro, CA 92173	6662002500 Roys Adult Fantasy Outlet
SYIO-CSR-3	Mobile Phone Sales & Services	4650 Border Village Road, San Ysidro, CA 92173	6662002500 Boost Mobile
SYIO-CSR-3	Check Cashing and Small Loan	4650 Border Village Road, San Ysidro, CA 92173	6662002500 Check Mate
SYIO-CSR-3	Immigration Services	4635 Border Village Road, San Ysidro, CA 92173	6662002500 Alianza Latina
SYIO-CSR-3	Barber Shop	4635 Border Village Road, San Ysidro, CA 92173	6662002500 Felipes Barber Shop
SYIO-CSR-3	Wholesale Liquor Sales	4630 Border Village Road, San Ysidro, CA 92173	6662004100 UETA Duty Free
SYIO-CSR-3	Retail Musical Instrument Sales	4630 Border Village Road, San Ysidro, CA 92173	6662004100 Guitar Choice
SYIO-CSR-3	Tax Services	4630 Border Village Road, San Ysidro, CA 92173	6662004100 SOS Tax
SYIO-CSR-3	Health Services	4630 Border Village Road, San Ysidro, CA 92173	6662004100 Su Doctor
SYIO-CSR-3	Tax Services	4630 Border Village Road, San Ysidro, CA 92173	6662004100 Correo South Pacific
SYIO-CSR-3	Tax and Notary Services	4630 Border Village Road, San Ysidro, CA 92173	6662004100 Terra Nova
SYIO-CSR-3	Financial Service Advisors	4630 Border Village Road, San Ysidro, CA 92173	6662004100 M&P Financial Advisors
SYIO-CSR-3	Tax Services	4630 Border Village Road, San Ysidro, CA 92173	6662004100 Herreras Consulting Services
SYIO-CSR-3	Auto Sales & Financing Office	4630 Border Village Road, San Ysidro, CA 92173	6662004100 Leader Auto Sales
SYIO-CSR-3	Hotel/Motel	4625 Border Village Road, San Ysidro, CA 92173	6662002600 Flamingo Motel
SYIO-CSR-3	Duty Free Retail Item Sales	4605 Border Village Road, San Ysidro, CA 92173	6661806700 Image Duty Free
SYIO-CSR-3	Auto Part Store	4550 Border Village Road, San Ysidro, CA 92173	6661806800 O'Rielly Auto Parts
SYIO-CSR-3	Used Clothing Apparel	29 Virginia Avenue, San Ysidro, CA 92173	6662003700 La Frontera Ropa Usada
SYIO-CSR-3	Wholesale Ice Cream Cart Vendor	137 Virginia Avenue, San Ysidro, CA 92173	6662001200 Circus Ma'am Ice Cream
SYIO-CT-2-3	Retail/Wholesale Clothing Apparel	4460 Camino De La Plaza, San Ysidro, CA 92173	6662503700 OshKosh B'Gosh



THE CITY OF SAN DIEGO

Date of Notice: October 31, 2014 This notice was originally posted on October 27, 2014. It is being reposted with the correct project site address. The public appeal period will be extended to November 17, 2014.

# NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT SAP No. 24004630

PROJECT NAME/NUMBER: 658 East San Ysidro MMCC/368312 COMMUNITY PLAN AREA: San Ysidro Community Plan COUNCIL DISTRICT: 8 LOCATION: The project is located at 658 East San Ysidro Boulevard, San Diego, CA 92173

**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 a 6,800 sq. ft. suite in a 70,400 sq. ft. existing building located at 658 E. San Ysidro Boulevard. The 0.85-acre site is located within the San Ysidro Community Plan Area and SYIO-CSR-3 Zone. The community plan designates the site as Border Commercial.

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:

**PHONE NUMBER:** 

Edith Gutierrez 1222 First Avenue, MS 501 San Diego, CA 92101 (619) 446-5147

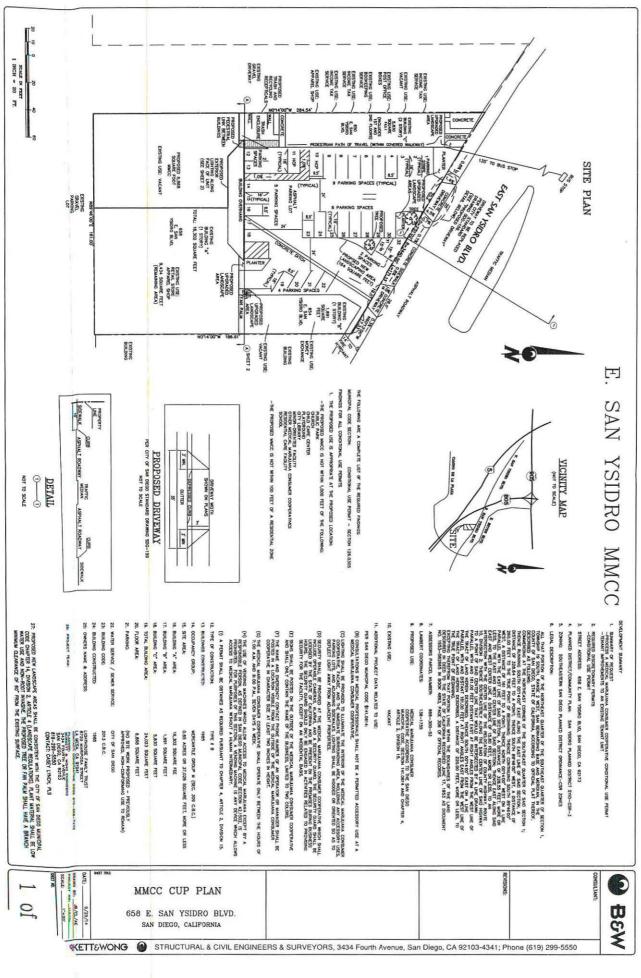
On October 27, 2014, the City of San Diego made the above-referenced environmental determination

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.

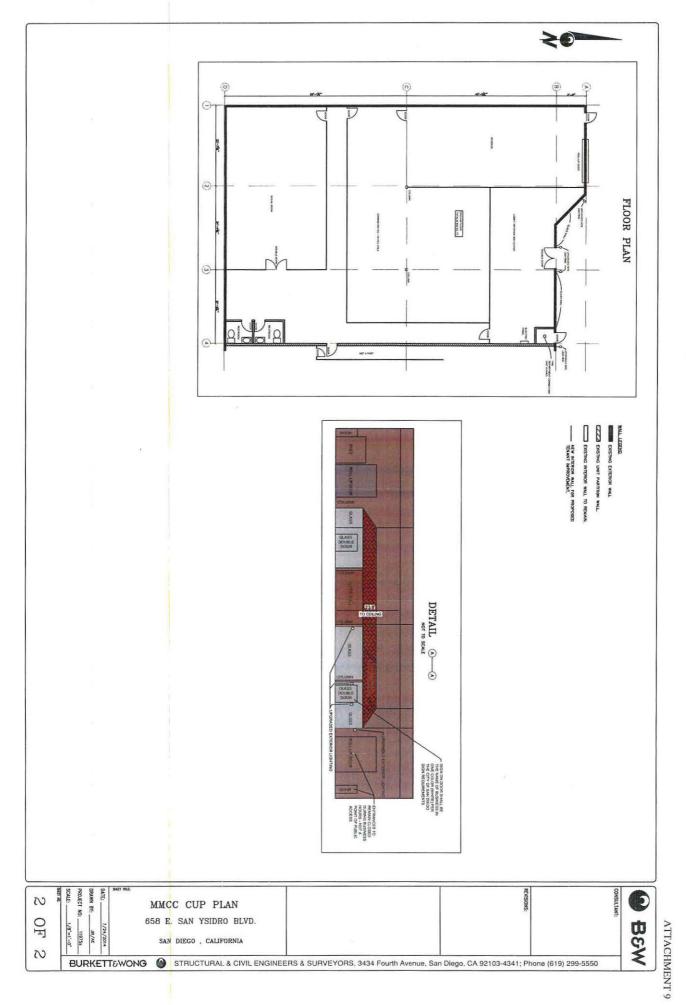
Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (November 17, 2014). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

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

Posted	OCT	31	2014	me
Removed	NOV	18	2014	



**ATTACHMENT 9** 



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THE CITY OF SAN DIEGO

City of San Diego Development Services 1222 First Ave., MS-302 San Diego, CA 92101

### Community Planning Committee Distribution Form Part 1

Project Name:	1	Project Number	r:	Distribution Date:
650 E San Ysidro MMCC		368312		5/22/14
Project Scope/Location: SAN YSIDRO Conditional Use Permit (Process 3) square foot suite within an existing 70,400 square SYIO-CSR-3 Zone within the San Ysidro Planned Card=1.	foot building locate	d at 650 E. San	Ysidro. The	0.85-acare site is located in the
Applicant Name:		Applicant	Phone Nu	mber:
Scherer, Scott		(858) 260	-8815	
Project Manager:	Phone Number:	Fax Num	ber: E-	mail Address:
Gutierrez, Edith	(619) 446-5147	7 (619) 446-	-5245 EG	Sutierrez@sandiego.gov
Project Issues (To be completed by Communit	y Planning Comm	ittee for initial	review):	
Attach Additional Pages If Necessary.	Pléase ru Project City of S Develop 1222 Fir San Dieg	eturn to: Management Div San Diego ment Services De 'st Avenue, MS 34 go, CA 92101	ision partment D2	
Upon request, this information	and a rest of rest of the state of the second second second	the second s	and a second s	and the second se

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THE CITY OF SAN DIEGO

City of San Diego Development Services 1222 First Ave., MS-302 San Diego, CA 92101

### Community Planning Committee Distribution Form Part 2

Project Name:		Pro	ject N	Number:	Distribution Date:
650 E San Ysidro MMCC			36	68312	5/22/14
Project Scope/Location:					
SAN YSIDRO Conditional Use Permit (Process 3) for a square foot suite within an existing 70,400 square foot the SYIO-CSR-3 Zone within the San Ysidro Planned D Card=1.	building loc	ated at 650	) E. S	an Ysidro. Th	ne 0.85-acare site is located in
Applicant Name:				Applicant I	Phone Number:
Scherer, Scott				(858) 260-8	3815
Project Manager:	Phone No	umber:	Fax	Number:	E-mail Address:
Gutierrez, Edith	(619) 44	6-5147	(619	9) 446-5245	EGutierrez@sandiego.gov
Committee Recommendations (To be completed for	r Initial Re	view):			
Vote to Approve	Mer	mbers Yes	M	lembers No	Members Abstain
Vote to Approve With Conditions Listed Below	Me	mbers Yes	M	lembers No	Members Abstain
Vote to Approve With Non-Binding Recommendations Listed Bel	1.1.00000000	mbers Yes	M	lembers No	Members Abstain
Vote to Deny	Mei	mbers Yes	M	lembers No	Members Abstain
No Action (Please specify, e.g., Need further info quorum, etc.)	ormation, S	Split vote,	Lack	of	Continued
CONDITIONS:					
NAME: MICHAEL R. FREE	DMA	FN		TITLE: C	HAIRMAN
SIGNATURE Aichael R. Alle	Am	ed		DATE:	6/16/2014
Attach Addhional Pages If Necessary.	Proje City o Devel 1222	e return to: ct Managen of San Diego opment Ser First Avenu Diego, CA S	nent I vices ie, MS	Department 5 302	
Printed on recycled paper. Visit o Upon request, this information is av					

To: Constantine Page 1 of 2

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Neighborhood Use Permit. C.castal Development Permit Land Development Permit C.castal Development Permit Land Use Plan Amendment • Other Project No. For City Use Only 36.8312 In application for a permit, mag or other matter, as identified intent to record an encumbrance against the property. Plane, is:
Inted Development Permit X Conditional Use Permit Land Use Plan Amendment • Other Project No. For City Use Only 368312
Project No. For City Use Only 368312
in application for a permit, map or other matter, as identified intent to record an encumbrance against the property. Please is:
intent to record an encumbrance against the property. Please lis
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intent to record an encumbrance against the property. Please lis
intent to record an encumbrance against the property. Please lis
intent to record an encumbrance against the property. Please lis
ty. The list must include the names and addresses of all persons property interest (e.g., tenants who will benefit from the permit, all property owners. Attach additional pages if needed. A signature shall be required for all project parcels for which a Dispositon and mode. Note: The applicant is responsible for notifying the Project nocessed or considered. Changes in ownership are to be given to ject property. Failure to provide accurate and current ownership
reld by a Family trust.
me of individual (type or print):
Owner TTenant/Lessee Redevelopment Agency
eet Address:
y/Stale/Zip:
i bx ny.
nature : Date:
me of Individual (type or print):
Owner Tenant/Lessee Redevelopment Agency
eet Address:
y/State/Zip:
DIRE No: Fax No:
nature': Date: