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12 **CITRUS ST PARTNERS, LLC**

JAN 13 2020 9:51

F I L E D

Clerk of the Court

JAN 13 2020

By: K. Roberts, Deputy

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF SAN DIEGO, CENTRAL COUNTY DIVISION**

15 **CITRUS ST PARTNERS, LLC,**

16 PETITIONER,

17 v.

18 **CITY OF LEMON GROVE; CITY**
19 **COUNCIL OF THE CITY OF LEMON**
20 **GROVE; AND DOES 1-10,**

21 RESPONDENTS.

22 _____
23 **DOES 11-20,**

24 REAL PARTIES IN INTEREST.
25 _____
26 _____
27 _____
28 _____

) **CASE No: 37-2019-00064690-CU-MC-CTL**
)
) **PETITIONER'S NOTICE RE AND EX**
) **PARTE APPLICATION FOR**
) **TEMPORARY RESTRAINING ORDER**
) **AND ORDER TO SHOW CAUSE RE**
) **PRELIMINARY INJUNCTION**
) (Code Civ. Proc. §§ 526, 527; Cal. Rules of
) Court 3.1150, 3.1200 *et seq.*)
)
) Judge: Hon. Kenneth J. Medel
) Dept.: C-66
) Hearing Date: January 14, 2020
) Time: 8:30 a.m.
)
) Petition filed: November 25, 2019

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Petitioner, CITRUS ST PARTNERS, LLC, by and through their attorneys of record, will and hereby does apply ex parte for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction pending a hearing in the above-entitled court as authorized by Code Civ. Proc. Sections 526 and 527 and Cal. Rules of Court 3.1150, 3.1200 *et seq.*

The Ex Parte Application seeks a Temporary Restraining Order and OSC Re Preliminary Injunction enjoining Respondents, CITY OF LEMON GROVE and CITY COUNCIL OF THE CITY OF LEMON GROVE, and their respective agents, instrumentalities, and assigns, from conducting or performing any acts, discretionary or ministerial, which would disturb, extinguish, interfere with, or otherwise prejudice Zoning Clearance ZCM-180-0005 issued by the City of Lemon Grove on March 28, 2019, until a determination is made regarding the OSC Re Preliminary Injunction. This Application is based on this Notice Re and Ex Parte Application, Memorandum of Points and Authorities, Declaration of Wayne Rosenbaum, Declaration of Grant Olsson, and Declaration of Ebon Johnson filed concurrently herewith, all of the pleadings, files, and records in this proceeding, all other matters of which the Court may take judicial notice, and any argument or evidence.

The hearing regarding the Ex Parte Application will be held on January 14, 2020 at 8:30 a.m. in Department 66 of the Superior Court for the County of San Diego, located at 330 West Broadway, San Diego, CA 92101.

Respondents are represented in this action by Kristen Steinke of Lounsbery Ferguson Altona & Peak, 960 Canterbury Place Suite 300, Escondido, CA 92025, telephone number (760) 743-1226 ext. 124.


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There have been no previous applications for injunctive relief in this action. Opposition to the Application is expected.

DATED: January 15, 2020

VARCO & ROSENBAUM
ENVIRONMENTAL LAW GROUP LLP

By: 

Suzanne R. Varco
Attorneys for Petitioner and Plaintiff
Citrus St Partners, LLC

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ATTORNEYS FOR PETITIONERS
CITRUS ST PARTNERS, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL COUNTY DIVISION

CITRUS ST PARTNERS, LLC,

PETITIONER,

v.

CITY OF LEMON GROVE; CITY
COUNCIL OF THE CITY OF LEMON
GROVE; AND DOES 1-10,

RESPONDENTS.

) **CASE No: 37-2019-00064690-CU-MC-CTL**
)
) **PETITIONER'S MEMORANDUM OF**
) **POINTS AND AUTHORITIES IN**
) **SUPPORT OF EX PARTE**
) **APPLICATION FOR TEMPORARY**
) **RESTRAINING ORDER AND ORDER**
) **TO SHOW CAUSE RE PRELIMINARY**
) **INJUNCTION**
)
) **Judge: Hon. Kenneth J. Medel**
) **Dept.: C-66**
) **Date: January 14, 2020**
) **Time: 8:30 a.m.**
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) **Petition filed: November 25, 2019**

DOES 11-20,

REAL PARTIES IN INTEREST.

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TABLE OF CONTENTS

INTRODUCTION 4

FACTUAL AND PROCEDURAL HISTORY 5

ARGUMENT 8

 I. Legal Standard for Injunctive Relief..... 8

 II. An Injunction Will Preserve the Status Quo..... 9

 III. A Temporary Restraining Order is Necessary to Prevent Immediate
 and Irreparable Harm..... 10

 IV. Injury Threatened to Petitioner if Preliminary Injunction is
 Denied is Greater Than Harm to the City Should Relief be Granted 11

 V. Petitioner Will Succeed on the Merits 11

 A. Administrative Mandamus Standard of Review 12

 B. No Substantial Evidence Supports the City’s Decision to Deny
 the Application..... 13

 1) Finding 1..... 13

 2) Finding 2..... 16

CONCLUSION..... 18

TABLE OF AUTHORITIES

Cases

1		
2	Cases	
3	<i>Associated Cal. Loggers, Inc. v. Kinder</i>	
4	(1978) 79 Cal.App.3d 34	11
5	<i>Bennett v. Lew</i>	
6	(1984) 151 Cal.App.3d 1177	9
7	<i>Butt v. State of California</i>	
8	(1992) 4 Cal.4th 668	12
9	<i>City and County of San Francisco v. Evankovic</i>	
10	(1977) 69 Cal.App.3d 41	9
11	<i>Continental Baking Co. v. Katz</i>	
12	(1968) 68 Cal.2d 512	9
13	<i>Franklin & Franklin v. 7-Eleven Owners for Fair Franchising</i>	
14	(2000) 85 Cal.App.4th 1168	8
15	<i>Fretz v. Burke</i>	
16	(1967) 247 Cal.App.2d 741	9
17	<i>Hoitt v. Department of Rehabilitation</i>	
18	(2012) 207 Cal.App.4th 513	13
19	<i>Hongsathavij v. Queen of Angels/Hollywood Presbyterian Medical Center</i>	
20	(1998) 62 Cal.App.4th 1123	13
21	<i>Huong Que, Inc. v. Luu</i>	
22	(2007) 150 Cal.App.4th 400	11
23	<i>Korean Philadelphia Presbyterian Church v. California Presbytery</i>	
24	(2000) 77 Cal.App.4th 1069	10
25	<i>Kutze v. City of San Diego</i>	
26	(2017) 11 Cal.App.5th 1034	12
27	<i>Layton v. Merit System Commission</i>	
28	(1976) 60 Cal.App.3d 58	13
	<i>Lickiss v. Fin. Indus. Regulatory Auth.</i>	
	(2012) 208 Cal.App.4th 1125	8
	<i>Oregel v. American Isuzu Motors, Inc.</i>	
	(2001) 90 Cal.App.4th 1094	12
	<i>Robbins v. Sup. Ct. County of Sacramento</i>	
	(1985) 38 Cal.3d 199	10
	<i>San Diego Navy Broadway Complex Coalition v. California Coastal Com.</i>	
	(2019) 40 Cal.App.5th 563	12

1	<i>Sierra Club v. California Coastal Com.</i> (1993) 19 Cal.App.4th 547	13
2		
3	<i>Socialist Workers etc. Committee v. Brown</i> (1975) 53 Cal.App.3d 879	9
4	<i>Southern Christian Leadership Conference v. Al Malaikah Auditorium Co.</i> (1991) 230 Cal.App.3d 207	9
5		
6	<i>Topanga Assn. for a Scenic Community v. County of Los Angeles</i> (1974) 11 Cal.3d 506	12, 13
7	<i>Voorhies v. Greene</i> (1983) 139 Cal.App.3d 989	9
8		
9	<i>Young v. Gannon</i> (2002) 97 Cal.App.4th 209	12
10	Statutes	
11	California Rule of Court	
	Rule 3.1200	4
12	Rule 3.1202	5
13	Code of Civil Procedure	
	§ 526	8
14	§ 527	8
15	§ 1094.5	4, 12, 13
16	Other Authorities	
17	Lemon Grove Municipal Code	
	§ 17.24.010	14, 17
18	§ 17.24.080	13
	§ 17.28.050	6, 13
19	§ 17.32.090	5, 7

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1 INTRODUCTION

2 By this Ex Parte Application, Petitioner, Citrus St Partners, LLC (“Petitioner”), seeks a
3 Temporary Restraining Order (“TRO”) and Order to Show Cause (“OSC”) Re Preliminary
4 Injunction for the urgent reason that the City of Lemon Grove and its City Council (collectively,
5 “City” or “Respondent”) are set to hear and vote on a project, the approval of which would
6 jeopardize Petitioner’s right and ability to obtain relief relative to its claim that the City abused
7 its discretion in denying Petitioner’s application for a conditional use permit.

8 The underlying action upon which this application is based is a Petition for Writ of
9 Mandate challenging the decision by the City to deny Petitioner’s Conditional Use Permit
10 Application CUP-190-0001 (“Application”) to establish a medical marijuana dispensary
11 (“MMD”) at 7309 Broadway in Lemon Gove (the “Project”). The Petition alleges that the City
12 abused its discretion in failing to proceed in the manner required by law in disregarding evidence
13 in the record¹ and denying Petitioner’s Application.

14 Despite the instant action having been properly filed, a temporary restraining order is
15 necessary to preserve the status quo – a status quo that, without a temporary restraining order and
16 injunction, a writ of mandate cannot alone protect. On January 9, 2020, the City published notice
17 of its intent to hear and vote on another application for an MMD conditional use permit.
18 (Declaration of S. Wayne Rosenbaum (“Rosenbaum Dec.”), Ex. A.) That hearing is scheduled to
19 occur on January 21, 2020. (Rosenbaum Dec., Ex. A.) Because of City regulations limiting the
20 locations of permitted MMDs, injunctive relief in the form of a TRO is imperative to prevent the
21 City from taking any action, either ministerial or discretionary, which cannot be undone and
22 which would prejudice Petitioner’s ability to obtain an effective remedy in this action.

23 Ex parte relief is governed by the California Rules of Court, Rule 3.1200 et seq., and is
24 appropriate when an applicant presents evidence demonstrating that, absent such relief, the

25 _____
26 ¹ At this stage, the administrative record has not yet been prepared by the City pursuant to Code
27 Civ. Proc. § 1094.5; however, the transcript of the hearing has been prepared by Petitioner. This
28 transcript and other relevant documents in Petitioner’s possession that could have been and were
relied on by the City in its deliberative process are attached as exhibits to the Declaration of S.
Wayne Rosenbaum in support of Petitioner’s Ex Parte Application (“Rosenbaum Dec.”) and the
Declaration of Ebon Johnson (“Johnson Dec.”), and form the evidentiary basis for this Ex Parte
Application.

1 applicant would suffer irreparable harm or immediate danger. (Rule 3.1202(c).) Given that the
2 City is set to hear and potentially approve a permit for an MMD within 1,000 feet of the Project
3 on January 21, 2020 (Rosenbaum Dec., Ex. A), Petitioner would suffer irreparable harm if not
4 permitted to file this application ex parte. Petitioner’s counsel has notified both the City attorney
5 and counsel for the applicant (Kim Investments, LLC) for the MMD CUP set for hearing on
6 January 21, 2020, of the of this ex parte application. (Rosenbaum Dec., ¶ 9; Declaration of Grant
7 R. Olsson, ¶ 2.) No previous applications for ex parte relief have been submitted to the Court in
8 this matter. (Rosenbaum Dec., ¶ 10.)

9 **FACTUAL AND PROCEDURAL HISTORY**

10 Following the passage of the Compassionate Use Act in 1996 and the Medical Marijuana
11 Regulation and Safety Act in 2015, localities began implementing their own ordinances to
12 regulate the sale of cannabis for medicinal purposes. In the City of Lemon Grove, voters passed
13 Measure V in 2016, removing the City’s prohibition on MMDs and establishing performance
14 standards and the permit process by which MMDs may be established. As part of this
15 referendum, the Lemon Grove Municipal Code (“LGMC”) was updated to allow MMDs to be
16 established by conditional use permit (“CUP”) in general commercial zones. (LGMC §
17 17.32.090(A).) However, the City’s regulations prohibited the establishment of an MMD within
18 1,000 feet of another MMD or other pre-existing “protected use”². (LGMC § 17.32.090(B).) To
19 this end, the City requires that a project proponent submit a “Zoning Clearance” application prior
20 to CUP application submittal to determine if the proposed site meets zoning and separation
21 criteria; only upon obtaining a determination that the Zoning Clearance is complete may an
22 application be submitted for a CUP. (Rosenbaum Dec., Ex. B, p. 2.)

23 Petitioner submitted a application for a Zoning Clearance on December 20, 2018. On
24 March 28, 2019, the City notified Petitioner that Zoning Clearance ZCM-180-0005 was deemed
25 complete and Petitioner was eligible to proceed with an application for a CUP to establish an
26 MMD at 7309 Broadway in Lemon Grove. (Rosenbaum Dec., Ex. B, p.2 and Ex. C.) Zoning

27 ² Municipal code 17.32.090 recognizes the following pre-existing protected uses: public parks,
28 playgrounds, licensed day care facilities, schools, and alcohol and substance abuse treatment
centers.

1 Clearance ZCM-180-0005 represents the City's determination that no MMD or other protected
2 use existed within 1,000 feet of the Project. (Rosenbaum Dec., Ex. B, p. 2 and Ex. C.) Petitioner
3 then filed the Application for a CUP to establish an MMD at 7309 Broadway in Lemon Grove on
4 April 3, 2019; City staff deemed the Application complete on October 9, 2019. (Rosenbaum
5 Dec., Ex. B, p. 2.) Following Petitioner's submission, another entity, Kim Investments, LLC,
6 filed its own application for a CUP to establish an MMD at 3515 Harris Street in Lemon Grove –
7 less than 1,000 feet from Petitioner's Project (the "Harris Street MMD"). (Rosenbaum Dec., Ex.
8 D.) The Harris Street MMD application was submitted on May 9, 2019 and deemed complete by
9 City staff on November 7, 2019. (Rosenbaum Dec., Ex. D.)

10 During the application process, Petitioner provided the City with a report of the Project's
11 anticipated parking and traffic impacts from Linscott, Law, & Greenspan, an engineering firm
12 specializing in these studies, for the purpose of complying with the City's General Plan and
13 applicable regulations (the "Linscott Report"). (Rosenbaum Dec., Ex. E.) In the City Council
14 Staff Report prepared in advance of the November 19, 2019 City Council hearing on the Project
15 CUP, City staff reviewed this assessment in depth, as well as other Project considerations, and
16 found the Project consistent with the requirements in LGMC § 17.28.050. (Rosenbaum Dec., Ex.
17 B, pp. 8-9.) For example, while the Project is only required to have three parking spaces per
18 LGMC § 17.28.050, City staff noted that the Project exceeds the code requirements, providing
19 five parking spaces.³ (Rosenbaum Dec., Ex. B, p. 4.) Moreover, the Project's proposed parking
20 configuration is consistent with parking configurations for other commercial businesses along
21 Broadway, and the amount of parking provided is adequate based on traffic counts at other
22 MMDs. (Rosenbaum Dec., Ex. B, pp. 5-6; Ex. E, p. 4.) Accordingly, City staff recommended
23 approval of the Application. (Rosenbaum Dec., Ex. B, p. 10.) City staff's recommendations were
24 unsurprising, as Petitioner had coordinated extensively with City staff to ensure that the Project
25 would incorporate parking spaces sufficient to meet anticipated demand and comply with City
26 regulations. (Declaration of Ebon Johnson ("Johnson Dec."), Ex. A.)

27 _____
28 ³ The applicant also agreed to additional parking requirements including the provision of offsite
parking and shuttle service to the MMD for employees. (Rosenbaum Dec., Ex. B, p. 4.)

1 Despite City staff's recommendation and the evidence upon which it was based, on
2 November 19, 2019, the City voted to deny Petitioner's Application to establish an MMD. The
3 City determined, without regard to the evidence before it, that the parking provided by the
4 Project was insufficient and on that basis denied the Application. (Rosenbaum Dec., Ex. F.) In
5 fact, the only possible basis for the City's findings consists of negative comments from the
6 public and City councilmembers themselves – comments fueled by speculation, bias, and
7 hearsay, not evidence upon which an agency action must rely. (Rosenbaum Dec., Ex. G.) As the
8 City's decision was not based on any evidence in the record, and the findings it did make were
9 unsupported by any evidence, the City's action constitutes an abuse of discretion. Following the
10 City's erroneous decision, Petitioner filed the instant Petition for Writ of Mandate seeking to
11 overturn the City's denial of its Application.

12 On January 21, 2020, the City is set to hear and decide on the Harris Street MMD
13 application. (Rosenbaum Dec., Ex. A.) Since LGMC section 17.32.090 prohibits multiple
14 MMDs within 1,000 feet of each other, unless the City is enjoined from approving the Harris
15 Street MMD and any other MMDs within 1,000 feet of the Petitioner's Project, the City can
16 effectively eliminate Petitioner's ability to obtain its own MMD permit by simply approving a
17 permit for a nearby MMD, even if Petitioner is successful in obtaining a writ in this action.

18 Further, LGMC section 17.32.090 also prohibits MMDs within 1,000 feet of other pre-
19 existing protected uses. While the City previously determined that there were no such pre-
20 existing protected uses and allowed Petitioner to submit its Application on that basis
21 (Rosenbaum Dec., Ex. B, p. 2), if the City is not enjoined from disturbing this determination, it
22 can also eliminate Petitioner's ability to obtain an MMD permit by simply identifying new
23 protected uses that did not exist at the time it denied Petitioner's Application. Any such
24 discretionary or ministerial action would prejudice Petitioner's Application and ability to obtain
25 an MMD permit, even if Petitioner were to prevail in this action.

26 A temporary restraining order and injunction is essential to prevent the City from
27 subverting the judicial process and causing irreparable harm by extinguishing Petitioner's rights
28

1 through conflicting approval actions or the recognition of new protected uses that did not exist at
2 the time the City Council abused its discretion in denying Petitioner's application.

3 If the City is allowed to approve the Harris Street MMD or recognize new protected uses
4 that did not exist at the time it denied the Citrus St Partners CUP, it will render the Petition for
5 Writ of Mandate moot and effectively eliminate Petitioner's right to a fair hearing and a just
6 result. Since the City must not be allowed to circumvent its responsibilities under the law or to
7 subvert the judicial process, the Court should enter an order enjoining the City from acting on the
8 Harris Street MMD permit or taking any other action, discretionary or ministerial, that would
9 disturb, extinguish, interfere with, or otherwise prejudice Petitioner's Zoning Clearance ZCM-
10 180-0005 until the underlying administrative mandamus action is fully adjudicated.

11 ARGUMENT

12 I. **Legal Standard for Injunctive Relief.**

13 Courts have broad equitable powers to grant injunctive relief as necessary to prevent
14 harm to a party. (See, e.g., *Lickiss v. Fin. Indus. Regulatory Auth.* (2012) 208 Cal.App.4th 1125,
15 1133 ["The equitable powers of a court are not curbed by rigid rules of law, and thus wide play is
16 reserved to the court's conscience in formulating its decrees."] .) The trial court holds plenary
17 authority to issue injunctive relief to preserve the status quo and prevent actions that would
18 hamper the effectiveness of its judgment. (See *Franklin & Franklin v. 7-Eleven Owners for Fair*
19 *Franchising* (2000) 85 Cal.App.4th 1168, 1172-73 (upholding the issuance of a post-judgment
20 injunction to discontinue related litigation to preserve the status quo, even during appeal.) An
21 injunction may be granted "when it appears by the complaint or affidavits that the commission or
22 continuance of some act during the litigation would produce great or irreparable injury to a party
23 to the action and tending to render the judgment ineffectual." (Code Civ. Proc. § 526(a)(2).)

24 The rules also provide that if notice for an evidentiary hearing would result in delay
25 producing irreparable injury, a temporary restraining order can issue first for a period of time
26 before a hearing on an injunction can be held. (See, e.g., Code Civ. Proc. § 527(c)(1), 527(d).)
27 Following a temporary restraining order, a court should issue a preliminary injunction when the
28 moving party has demonstrated that: (1) issuance of the injunctive relief will preserve the status

1 quo; (2) the injury threatened to the moving party if the preliminary injunction is denied is
2 greater than the harm to the opposing party should such relief be granted; and (3) the moving
3 party will likely succeed in the action on the merits. (*Continental Baking Co. v. Katz* (1968) 68
4 Cal.2d 512, 528; *City and County of San Francisco v. Evankovic* (1977) 69 Cal.App.3d 41, 49.)

5 With respect to the “success” prong, success on the part of the moving party should be a
6 “reasonable probability” under all of the circumstances, which are to be considered and weighed
7 appropriately in light of the balance of relative harms. (*Continental Baking*, 68 Cal.2d at 528-32.)
8 Thus, while the likelihood of success is important, a preliminary injunction hearing is not an
9 adjudication on the merits, and a rigorous burden of proof is unnecessary for a preliminary
10 injunction hearing. Instead, the balancing of the respective equities of the parties should guide a
11 court’s determination. (See *Bennett v. Lew* (1984) 151 Cal.App.3d 1177, 1183; *Socialist Workers*
12 *etc. Committee v. Brown* (1975) 53 Cal.App.3d 879, 887-88.)

13 **II. An Injunction Will Preserve the Status Quo.**

14 The purpose of a TRO or preliminary injunction is to preserve the status quo pending a
15 trial on the merits. (*Continental Baking*, 68 Cal.2d at 528.) The “status quo” is “the last actual
16 peaceable, uncontested status which preceded the pending controversy.” (*Voorhies v. Greene*
17 (1983) 139 Cal.App.3d 989, 995 (citation omitted).) Where a plaintiff seeks among other relief a
18 TRO and preliminary injunction, the Court is guided by the following principles: (1) “a
19 preliminary judgment simply forms a provisional or auxiliary remedy to preserve the status quo
20 until a final judgment;” and (2) the plaintiff is “not required to wait until [he or she] suffers
21 actual harm, but may seek injunctive relief against threatened infringement of [plaintiff’s]
22 rights.” (*Southern Christian Leadership Conference v. Al Malaikah Auditorium Co.* (1991) 230
23 Cal.App.3d 207, 226.) Preserving the status quo may encompass a court order that compels
24 inaction as well as one that continues “regular and usual procedures.” (*Fretz v. Burke* (1967) 247
25 Cal.App.2d 741.)

26 In this case, the status quo is that the City has not yet approved or otherwise recognized a
27 regulated (MMD) or protected use within 1,000 feet of 7309 Broadway, the Project location. The
28 scope of this application is thus narrow; Petitioner requests that the Court only enjoin the City

1 from taking action, ministerial or discretionary, which would disturb, extinguish, interfere with,
2 or otherwise prejudice the 1,000-foot zoning clearance of the Project. In practical terms, the
3 proposed injunction would prevent the recognition of MMDs or other protected uses within
4 1,000 feet of 7309 Broadway until the Petition is fully adjudicated. Only one such CUP
5 application currently exists and, as such, the requested injunction would not affect the public at
6 large.⁴

7 **III. A Temporary Restraining Order is Necessary to Prevent Immediate and**
8 **Irreparable Harm.**

9 To issue a temporary restraining order, the threat of “irreparable harm” must be
10 imminent, not a mere possibility of harm in the future. (See *Korean Philadelphia Presbyterian*
11 *Church v. California Presbytery* (2000) 77 Cal.App.4th 1069, 1084.) The Court must exercise
12 discretion “in favor of the party most likely to be injured...If denial of an injunction would result
13 in great harm to the plaintiff, and the defendants would suffer little harm if it were granted, then
14 it is an abuse of discretion to fail to grant the preliminary injunction.” (*Robbins v. Sup. Ct.*
15 *County of Sacramento* (1985) 38 Cal.3d 199, 205.)

16 A temporary restraining order and preliminary injunction can be narrowly tailored to
17 preserving the current state of affairs without affecting a wide range of City action. However, if
18 the Court denies Petitioner’s request for an injunction, the issuance of a writ of mandate would
19 likely be ineffectual even if granted, as the City will be able to circumvent judicial scrutiny of its
20 actions simply by approving another MMD CUP or recognizing a new protected use in the time
21 preceding this Court’s final decision on the Petition.

22 Were the Court to deny the issuance of a temporary restraining order and preliminary
23 injunction at this time, Petitioner would have to file multiple applications asking the Court to
24 enjoin each discretionary or ministerial act by the City approving an MMD or other protected use
25 from taking effect. In that instance, the harm would have already been caused and the burden of
26 bearing it would be improperly shifted to Petitioner, who does not have its CUP solely because
27 the City failed to make proper findings with substantial evidence. Either way, in the absence of a

28 ⁴ Petitioner is not aware of any new protected uses at this time.

1 temporary restraining order and preliminary injunction, Petitioner will suffer irreparable harm
2 and its Petition for Writ of Mandate will have been prepared, filed, and argued in vain.

3 **IV. Injury Threatened to Petitioner if Preliminary Injunction is Denied is Greater Than**
4 **Harm to the City Should Relief be Granted.**

5 Since its filing on April 3, 2019, Petitioner's Application for a CUP has met all of the
6 relevant City requirements. Petitioner has incurred significant expense – over \$600,000 – to
7 proceed with its Application; these costs include consultant fees for engineering, traffic,
8 landscape architecture, and legal analyses, rent payments, and City application fees. (Johnson
9 Dec., ¶ 4.) Finally, Petitioner has incurred additional expenses for the prosecution of the above-
10 entitled action. If the requested injunction is denied, the years of planning, productive efforts,
11 and substantial resources will be wasted.

12 On the other hand, the City is not in a position to incur *any* harm if the injunction is
13 granted. Whether Petitioner's Application is granted or another MMD or protected use is
14 approved, the result for the City will be the same: a new medical marijuana dispensary in the
15 vicinity. The City does not stand to lose any revenue if the injunction is issued; the City Council
16 Staff Report even notes that the Project approval will have "No fiscal impact." (Rosenbaum
17 Dec., Ex. B, p. 10.) Nor can the City point to any planned public park, playground, school, or
18 other protected use in the immediate area, inaction on which would cause the City harm. As the
19 City cannot demonstrate any real harm in the event that the limited injunction requested is
20 granted, the balance of equities weighs heavily in favor of Petitioner.

21 **V. Petitioner Will Succeed on the Merits.**

22 Determining whether there is a reasonable probability of success rests within the sound
23 discretion of the Court. (See, e.g., *Associated Cal. Loggers, Inc. v. Kinder* (1978) 79 Cal.App.3d
24 34, 39-40.) Generally speaking, if the balance of equities favors granting the injunction, it is
25 properly granted if the Court determines that it is reasonably probable that the party seeking the
26 injunction will prevail on any cause of action, based on the evidence available at the time of the
27 hearing. (*Huong Que, Inc. v. Luu* (2007) 150 Cal.App.4th 400, 408-10.) The "reasonable
28

1 probability of success” factor may be satisfied where there is at least “some probability” a party
2 will prevail on the merits. (*Butt v. State of California* (1992) 4 Cal.4th 668, 678.)

3 A. Administrative Mandamus Standard of Review.

4 The inquiry in this writ of mandate proceeding centers on whether Respondent’s denial of
5 the Application involved any prejudicial abuse of discretion. “Abuse of discretion is established
6 if the respondent has not proceeded in the manner required by law, the order or decision is not
7 supported by the findings, or the findings are not supported by the evidence.” (C.C.P. §
8 1094.5(b).) This matter implicates the “substantial evidence” standard of review, for which
9 “abuse of discretion is established if the court determines that the findings are not supported by
10 substantial evidence in light of the whole record.” (C.C.P. § 1094.5(c); see *Topanga Assn. for a*
11 *Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 510 fn. 1.) The review
12 involves the examination of “all relevant materials in the entire administrative record to
13 determine whether the agency’s decision is supported by substantial evidence.” *San Diego Navy*
14 *Broadway Complex Coalition v. California Coastal Com.* (2019) 40 Cal.App.5th 563, 572
15 (quotations and citations omitted.) Although the substantial evidence standard of review is more
16 deferential to the respondent than the independent judgment standard, it does still involve “some
17 weighing to fairly estimate the worth of the evidence,” “including that evidence which detracts
18 from the decision.” *Kutze v. City of San Diego* (2017) 11 Cal.App.5th 1034, 1040 (citation
19 omitted.)

20 In order for evidence to be considered “substantial,” it must be “of ponderable legal
21 significance. . .reasonable in nature, credible, and of solid value.” (*Young v. Gannon* (2002) 97
22 Cal.App.4th 209, 225 (citations and quotations omitted).) “The focus is on the quality, rather
23 than the quantity, of the evidence,” as “[v]ery little solid evidence may be ‘substantial,’ while a
24 lot of extremely weak evidence might be ‘insubstantial.’” (*Oregel v. American Isuzu Motors, Inc.*
25 (2001) 90 Cal.App.4th 1094, 1100-1101 (citations and quotations omitted).) “Inferences may
26 constitute substantial evidence as long as they are the product of logic and reason rather than
27 speculation or conjecture.” (*Id.* at 1101 (citation omitted).) The relation of evidence to
28 discernible, logical fact is essential; for example, substantial evidence cannot be based on

1 hearsay. (*Layton v. Merit System Commission* (1976) 60 Cal.App.3d 58, 68.) Similarly, “opinion
2 testimony of expert witnesses does not constitute substantial evidence when it is based upon
3 conclusions or assumptions not supported by evidence in the record.” (*Hongsathavij v. Queen of*
4 *Angels/Hollywood Presbyterian Medical Center* (1998) 62 Cal.App.4th 1123, 1137 (citation
5 omitted).)

6 Importantly, “[t]he ‘in light of the whole record’ language means that the court reviewing
7 the agency’s decision cannot just isolate the evidence supporting the findings and call it a day,
8 thereby disregarding other relevant evidence in the record.” (*Sierra Club v. California Coastal*
9 *Com.* (1993) 19 Cal.App.4th 547, 557 (citation omitted).) Even if the Court finds evidence to
10 support the agency’s decision, the inquiry is not fully ended, as “implicit in section 1094.5 is a
11 requirement that the agency which renders the challenged decision must set forth findings to
12 bridge the analytic gap between the raw evidence and the ultimate decision or order.” (*Topanga*
13 *Assn.*, 11 Cal.3d at 515.) After all, the “reviewing court will not uphold a finding based on
14 evidence which is inherently improbable, or a finding based upon evidence which is irrelevant to
15 the issues.” *Hoitt v. Department of Rehabilitation* (2012) 207 Cal.App.4th 513, 522 (citations
16 omitted).)

17 B. No Substantial Evidence Supports the City’s Decision to Deny the Application.

18 In Lemon Grove, the approval of a CUP is conditioned on four Findings: (1) the use is
19 compatible with the neighborhood or the community; (2) the use is not detrimental to the health,
20 safety, convenience, or general welfare of persons residing or working in the vicinity; (3) the use
21 complies with performance standards according to LGMC section 17.24.080; and (4) the use is
22 consistent with applicable provisions of the particular zoning district and with policies and
23 standards of the General Plan. (LGMC § 17.28.050 subd. C.) In its Resolution denying
24 Petitioner’s Application, the City determined that Findings 1 and 2 could not be made.
25 (Rosenbaum Dec., Ex. F.)

26 1) Finding 1

27 In determining that the use was “not compatible with the neighborhood or the
28 community,” the City provided the following reasoning:

1 "The constrained parking area limits total parking supply resulting in parking and
2 traffic impacts to adjacent residential and commercial land uses. The parking
3 demand generated by the employees of the dispensary alone necessitates off-site
4 parking as recognized by the Operations Manual directive requiring employees to
5 park at local Park and Ride locations and utilize ride share services. The limited
6 single driveway lot also limits vehicle maneuverability thereby encouraging
7 convenience oriented customers to utilize vacant parking spaces in front of
8 neighboring businesses and residences due to ease of access."⁵ (Rosenbaum Dec.,
9 Ex. F.)

10 This finding is entirely predicated on whether or not the parking provided by the Project
11 is sufficient to meet the demand the Project generates. The evidence in the record shows that the
12 Project includes a 5-stall parking lot, despite the fact that the Municipal Code only requires four
13 parking spaces for a building of its size.⁶ (Rosenbaum Dec., Ex. B, p. 2.) Second, the engineering
14 analysis relied on by City staff estimated peak parking demand at an MMD with a 750 square
15 foot sales floor (the Project's sales floor is 733 square feet) at 5 spaces. (Rosenbaum Dec., Ex. B,
16 pp. 2, 4.) This parking rate "is based on actual counts conducted at an operating MMD in the
17 City of San Diego." (Rosenbaum Dec., Ex. B, p. 4; Ex. E, p.6.) "The highest observed parking
18 demand at this existing location was 5 spaces." (Rosenbaum Dec., Ex. E, p.6.) Third, the parking
19 spaces would be available solely for customers, as the Project is conditioned on the requirement
20 that dispensary employees commuting by automobile park off-site at the nearby Park and Ride
21 locations (employees would then be transported to the Project via ridesharing service).
22 (Rosenbaum Dec., Ex. B, pp. 4-5.) Fourth, the parking spaces themselves are 9 feet by 19 feet, in
23 accordance with LGMC § 17.24.010(F), and the parking lot accommodates a 24 foot, two-way

24 _____
25 ⁵ As a preliminary matter, this Finding is inconsistent not just with the evidence in the record, but
26 with itself; its reasoning, citing the supposed insufficiency of parking, references demand
27 generated by employees, but in the same breath recognizes that employees will park at Park and
28 Ride locations.

27 ⁶ The parking requirement is "one parking space per five hundred square feet of floor area."
28 (LGMC § 17.24.010(B)(8).) The Project is 1,614 square feet with 5 parking spaces. (Rosenbaum
Dec. Ex. B, p. 2.)

1 drive aisle. (Rosenbaum Dec., Ex. B, p. 5.) Lastly, the Project is required to install a bicycle rack.
2 (Rosenbaum Dec., Ex. B, p. 5.)

3 The documentary evidence clearly indicates that parking is sufficient to meet demand and
4 raises no concerns regarding “maneuverability” or “convenience oriented customers.” At the
5 hearing, City staff further confirmed this understanding of the sufficiency of the parking
6 provided. (Rosenbaum Dec., Ex. G, 19:8-21, 21:17-22:3.) Where, then, is the substantial
7 evidence upon which the City relied? The answer is simple: there is none.

8 What is in the record in support of the City’s finding is suspicion, conjecture, and
9 hearsay, not factual evidence. For example, Councilmember Jones claimed that he spoke with the
10 owner of another MMD in Lemon Grove, who in turn apparently stated that “when we get
11 busy...parking’s crazy out there.” (Rosenbaum Dec., Ex. G, 17:7-18:10.) Councilmember Jones
12 continued on, stating, “And I don’t care what size the floor space is in the dispensary, the traffic
13 is probably going to be similar.” (Rosenbaum Dec., Ex. G, 18:12-14.)

14 The alleged MMD owner did not appear to testify at the hearing. The councilmember’s
15 comments are simply hearsay and speculation, and explicitly disregard measurable metrics
16 required by the LGMC, such as sales floor square footage. In fact, City staff responded by noting
17 that the parking analysis performed used actual traffic counts from an existing, operating MMD.
18 (Rosenbaum Dec., Ex. G, 19:8-21.) Councilmember Mendoza later spoke at length about parking
19 as well, stating, “So I’m a little concerned about the lack of parking because people are going to
20 be parking on the residential streets. It’s just going to happen.” (Rosenbaum Dec., Ex. G, 55:22-
21 24.”) However, at no point did Councilmember Mendoza base her opinion on any factual
22 evidence or testimony.

23 As for the issue of customers parking at neighboring businesses, one neighboring
24 property owner on Broadway testified that his spots were constantly being used by customers of
25 an MMD in 2017. (Rosenbaum Dec., Ex. G, 45:20-46:21.) However, no CUP for an MMD has
26 been applied for in the vicinity, and no such MMD has ever been permitted to operate in the
27 vicinity of the Project location. The City is well aware of the permits it has granted; this false
28 testimony, therefore, could not have been relied upon by the City in making Finding 1.

1 The City's Finding 1 did not explain why five parking spaces was insufficient, nor why it
2 had reason to believe the Project's customers would seek parking elsewhere. It did not refer to
3 any actual evidence in the record. Tellingly, however, the City's comments at the hearing raised
4 the specter of a past *illegal* marijuana dispensary and the problems it apparently posed.⁷
5 Regardless of its concerns regarding an *illegal* dispensary, the City was required to make
6 findings based on the evidence in the record for this *legal*, statutorily permitted use. It did not.
7 Therefore the City's decision to deny the Application based on Finding 1 constitutes an abuse of
8 discretion.

9 **2) Finding 2**

10 In determining that the use "is detrimental to the health, safety, convenience or general
11 welfare of persons residing or working in the vicinity," the City provided the following
12 reasoning:

13 "The city block containing the proposed project site is developed with
14 commercial and residential uses. The project site is only accessible via a single
15 driveway which fronts on Broadway, one of the City's heavily trafficked and
16 main thoroughfares serving both abutting businesses and residences off adjacent
17 side streets. Conflicts between street users, including vehicles, pedestrians, and
18 cyclists, may result due to queueing and vehicle maneuverability limitations from
19 a constrained parking area featuring a single drive aisle without a turnaround
20 which is served by a single driveway. Resulting overflow parking will also impact
21 the convenience and general welfare of nearby residents and surrounding
22 businesses, as it will consume limited existing on street parking or result in
23 customers utilizing parking on separate private property as a matter of
24 convenience." (Rosenbaum Dec., Ex. F.)

25 This Finding also relies in part on the speculations at the hearing related to parking. To
26 the extent it does, Petitioner has already shown it to be lacking in evidentiary support. To the
27

28 ⁷ Rosenbaum Dec., Ex. G, 65:16-24.

1 extent it relates to an unsustainable increase in the traffic on Broadway – which appears to be the
2 other factor in this Finding – it is similarly without evidentiary support.

3 Again, the report prepared by City staff is instructive. It states that “all analyzed street
4 segments will continue to operate at existing levels of service with the addition of the project.
5 Consequently no additional traffic mitigations or improvements to the street network are required
6 to accommodate the proposed MMD.” (Rosenbaum Dec., Ex. B, p. 6.) Moreover, “the proposed
7 MMD is anticipated to generate 340 trips per day.” (Rosenbaum Dec., Ex. B, p. 6.) A
8 convenience market in the same building structure, which would be *permitted by right* (no CUP
9 required) at the Project location, would generate 807 trips per day, over two times the number of
10 trips per day as the proposed Project. (Rosenbaum Dec., Ex. B, p. 6; Ex. E, p.8.) The Linscott
11 Report found that “[n]o significant traffic conflicts are expected at the existing commercial
12 driveway access based on the low site volumes [] and the right-in/right-out only allowed
13 movements allowed because of the raised median.” (Rosenbaum Dec., Ex. E, p.7.) Additionally,
14 “[s]ite visibility to/from the Project driveway will be maintained and enhanced from the existing
15 condition. . . . The Project will remove the fence along the north property line, and replace the
16 east and west property line fencing with a 42-inch high wrought-iron fence that will allow
17 unobstructed view to/from the west on Broadway.” (Rosenbaum Dec., Ex. E, p.7.) Because
18 curbside parking is prohibited on Broadway along the Project frontage, “there is no possibility of
19 parked cars or oversized vehicles parking on Broadway west of the Project driveway and
20 obstructing sight distance.” (Rosenbaum Dec., Ex. E, p.8.)

21 Unfortunately, the City chose not to rely on this evidence, but to resort instead to
22 unfounded and unreasonable conjecture. For example, a neighboring property owner raised the
23 issue of “the problem of backing out onto Broadway.” (Rosenbaum Dec., Ex. G, 43: 8-14.) There
24 is no evidence to suggest consumers would back out of the parking lot. On the contrary, the
25 Project’s parking lot is specifically designed to prevent this from occurring; it accommodates a
26 24-foot, two-way driving aisle fully compliant with the off-street parking standards in LGMC §
27 17.24.010(D). (Rosenbaum Dec., Ex. B, p. 5.) Otherwise, the concern of traffic on Broadway
28 was only raised one other time, when Councilmember Jones stated “it’s a high traffic area, we’re

1 going to add a lot of in-and-out numbers in terms of people coming and going out of that
2 driveway and onto Broadway. And I think this is a problem looking for a (inaudible) to have
3 based on this property's configuration and the number of parking spaces. And that's – that's the
4 way I feel." (Rosenbaum Dec., Ex. G, 64:10-16.) Other than his own speculation,
5 Councilmember Jones relied on no evidence to support his personal concern.

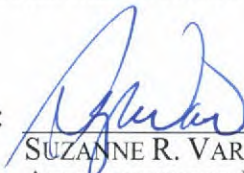
6 Finding 2 is thus deficient for the same reason as Finding 1, only to a greater extent. It is
7 based on feelings and guesswork. This is not evidence, substantial or otherwise. And therefore it
8 cannot form the basis for a reasonable and reasoned agency decision. As such, both of the City's
9 Findings show an abuse of the City's discretion, and Petitioner has a reasonable probability of
10 success on the merits in its Petition.

11 CONCLUSION

12 Petitioner has demonstrated that a) it will be irreparably harmed if Respondent is
13 permitted to approve other regulated or protected uses within 1,000 feet of Petitioner's Project,
14 b) the balance of hardships favors the protection of Petitioner's rights and considerable financial
15 outlay versus the lack of any impact to the City, and c) Petitioner is likely to succeed on the
16 merits at trial. Accordingly, Petitioner respectfully requests that this Court grant the Ex Parte
17 Application for Temporary Restraining Order and Order to Show Cause Re Preliminary
18 Injunction.

19
20 DATE: JANUARY 13, 2020

VARCO & ROSENBAUM
ENVIRONMENTAL LAW GROUP LLP

21
22
23 BY: 
24 SUZANNE R. VARCO
25 ATTORNEYS FOR PETITIONER,
26 CITRUS ST PARTNERS, LLC
27
28

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10 FACSIMILE: 619-231-5853

JAN 13 2020
F I L E D
Clerk of the Court

JAN 13 2020

By: K. Roberts, Deputy

11 **ATTORNEYS FOR PETITIONERS**
12 **CITRUS ST PARTNERS, LLC**

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF SAN DIEGO, CENTRAL COUNTY DIVISION**

15 **CITRUS ST PARTNERS, LLC,**

16 PETITIONER,

17 v.

18 **CITY OF LEMON GROVE; CITY**
19 **COUNCIL OF THE CITY OF LEMON**
20 **GROVE; AND DOES 1-10,**

21 RESPONDENTS.

22 _____
23 **DOES 11-20,**

24 REAL PARTIES IN INTEREST.
25 _____
26

) **CASE No: 37-2019-00064690-CU-MC-CTL**

)
) **DECLARATION OF EBON JOHNSON**
) **IN SUPPORT OF PETITIONER'S EX**
) **PARTE APPLICATION FOR**
) **TEMPORARY RESTRAINING ORDER**
) **AND ORDER TO SHOW CAUSE RE**
) **PRELIMINARY INJUNCTION**

) Judge: Hon. Kenneth J. Medel

) Dept.: C-66

) Date: January 14, 2020

) Time: 8:30 a.m.

)
) Petition filed: November 25, 2019
)
)
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I, Ebon Johnson, hereby declare as follows:

1. I am a Manager of Citrus St Partners, LLC in the above-captioned matter. I know the following of my own personal knowledge and if called as a witness, I could and would competently testify to the matters discussed herein.

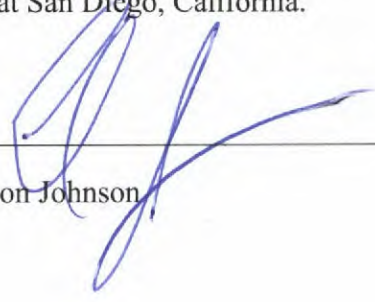
2. Since June 1, 2017, Citrus St Partners, LLC has been engaged in the process of applying for a conditional use permit to establish a medical marijuana dispensary at 7309 Broadway in the City of Lemon Grove (the "Project").

3. As part of the application process, Citrus St Partners, LLC and consultants retained by Citrus St Partners, LLC (together, "Applicant") have corresponded extensively with City of Lemon Grove staff via telephone, e-mail, and direct mail to ensure that the Project complies with the City of Lemon Grove Municipal Code and all relevant standards. Attached as **Exhibit A** to this declaration are true and correct copies of e-mails and letters between Applicant and the City of Lemon Grove. Exhibit A to this declaration does not encompass the full extent of correspondence and communication between Applicant and the City of Lemon Grove.

4. Since June 1, 2017, Citrus St Partners, LLC has incurred approximately \$663,157.93 in legal expenses, consultant fees, rent payments, City application fees, and other costs to prepare its application for a conditional use permit to establish a medical marijuana dispensary at 7309 Broadway in the City of Lemon Grove and ensure full compliance with the City of Lemon Grove Municipal Code and other relevant standards. These costs do not include legal fees incurred to prosecute the above-captioned matter.

I declare, subject to penalty of perjury under the laws of the state of California, that the foregoing is true and correct.

Executed this 10th day of January 2020, at San Diego, California.



Ebon Johnson

From: David DeVries <ddevries@lemongrove.ca.gov>
Sent: 4-24-18 10:50 AM
To: 'ebon johnson'
Cc: Marty Frank
Subject: RE: MMD Checklist
Attachments: ZCM-170-0001_incomplete_11-16-17.pdf

Thanks, here's the notice of incomplete for the adjacent property. Combine the comments from this letter with the checklist and that should be a good basis for the submittal requirements. Once found to be complete, additional comments will follow as a part of the cup submittal and the release of the revised checklist may provide for new requirements as well.

Thanks,

David B. De Vries, AICP
Development Services Director
City of Lemon Grove
Development Services Department
3232 Main St.
Lemon Grove, CA 91945
(619) 825-3812 phone
(619) 825-3818 fax
ddevries@lemongrove.ca.gov
www.lemongrove.ca.gov

From: ebon johnson [mailto:ebonjohnson@gmail.com]
Sent: Monday, April 23, 2018 11:53 AM
To: David DeVries <ddevries@lemongrove.ca.gov>
Cc: Marty Frank <martyanthony@gmail.com>
Subject: Re: MMD Checklist

Sure. So my business partner is renting to a person named Kristina @3335 citrus st. She has a lease with him valid until July. Currently she has a child care license held at the 3335 Citrus st. Plus she lives at the property. This property made us ineligible last year. We want to establish a MMD business either at the 3335 Citrus building or 7309 Broadway when she moves out. We don't have any agreements with the 7309 Broadway property owner .

Because of the bigger lot. 3335 Citrus looks like a better property to invest in.

The owner has agreed to lease the building to us and allow us to operate a MMD there. Our plan is to:

1. Remodel the current building with no additions
2. Pave a new parking lot with approximately 8-10 spaces and 2 handicapped spaces.
3. New landscaping to cover a minimum of 10% of the property. Also sufficient to handle new stormwater patterns.
4. New curb/gutter, bury utilities and pave Citrus St along the front of the property line.
5. Install appropriate fencing to mitigate additional lighting that is required for MMDs.

I think first we need the most current MMD checklist available and questioned answered for our traffic engineer.

Thanks,
Ebon Johnson

On Mon, Apr 23, 2018, 8:47 AM David DeVries <ddevries@lemongrove.ca.gov> wrote:

Thanks Ebon, can you clarify your deal with 3335 Citrus? I don't understand what that means. I need an address in order to give you a checklist completed by a planner. 7309 Broadway is ineligible to apply until July 18, 2018.

Thanks,

David B. De Vries, AICP

Development Services Director

City of Lemon Grove

Development Services Department

3232 Main St.

Lemon Grove, CA 91945

(619) 825-3812 phone

(619) 825-3818 fax

ddevries@lemongrove.ca.gov

www.lemongrove.ca.gov

From: ebon johnson [mailto:ebonjohnson@gmail.com]

Sent: Friday, April 20, 2018 6:59 PM

To: David DeVries <ddevries@lemongrove.ca.gov>

Cc: Marty Frank <martyanthony@gmail.com>

Subject: Re: MMD Checklist

Sorry for delay with a response. We were dealing with holiday 4/20

We have not turned in the zoning clearance documents. We have not turned in documents to alert city of this project. Our old project was 7309 Broadway and we received a denial. We have struck a deal with the owner of the property at 3335 Citrus St. and we are waiting for the lease to expire with the tenant before we submit our application for a MMD.

In your response to the other MMD applicants, you had mentioned that the checklist on the website was not current and that they should have scheduled a consultation with a planner prior to submitting for zoning clearance.

Can we schedule a meeting with a planner to get clarification on the checklist?

Also, we need these questions answered for our traffic engineer -

Can you please give us more details about what is required for the traffic and parking study? Based on your comments to previous applicants, you estimate about 4000 members generating 2-3 trips per month. Does the city have trip generation rate and general information / criteria for a traffic and parking study?

Warm Regards,

Ebon Johnson

On Wed, Apr 18, 2018 at 8:18 PM, David DeVries <ddevries@lemongrove.ca.gov> wrote:

Thanks Ebon, what project is this for? Do you have a project # and address? We haven't released the updated checklist yet.

Thanks,

David B. De Vries, AICP

Development Services Director

City of Lemon Grove

Development Services Department

3232 Main St.

Lemon Grove, CA 91945

(619) 825-3812 phone

(619) 825-3818 fax

ddevries@lemongrove.ca.gov

www.lemongrove.ca.gov

From: ebon johnson [mailto:ebonjohnson@gmail.com]

Sent: Wednesday, April 18, 2018 6:38 PM

To: David DeVries <ddevries@lemongrove.ca.gov>

Cc: Marty Frank <martyanthony@gmail.com>

Subject: MMD Checklist

Mr. Devries,

Our traffic engineer called a week ago and wasn't able to get in touch with someone at Lemon Grove that could assist with answering the requirements needed to complete the traffic study. The following paragraph are the questions we are seeking answers for.

Can you please give us more details about what is required for the traffic and parking study? Based on your comments to previous applicants, you estimate about 4000 members generating 2-3 trips per month. Does the city have trip generation rate and general information / criteria for a traffic and parking study?

Where am I able to get any of the updated documents and checklist needed for the MMD process?

In your response to the other applicants, you had mentioned that the checklist on the website was not current and that they should have scheduled a consultation with a planner prior to submitting for zoning clearance. What is a good time to come by next week to discuss the new checklist?

Warm Regards,

Ebon Johnson



CITY OF LEMON GROVE

Engineering Services Department

May 3, 2019

7309 Broadway - CUP-180-0001

Mankind Lemon Grove Medical Marijuana Dispensary

ENGINEERING DEPARTMENT 1st REVIEW

A. General

1. Covenant not to oppose the formation of a future street improvement district shall be required. The City will prepare the agreement and will require the Owner to sign and notarize.
2. As the number of trips to the location will increase, a Traffic Study will be required to address the increased ingress and egress to the site. The study shall include recommendations (if any) for striping improvements, turn pockets, street parking, and signage. The study shall also evaluate the sight distance and the driveway(s) and make and recommendations of necessary "no parking" or red curbs. Any recommendations contained within the Traffic Study shall be implemented in the Site Plan and installed at the expense of the applicant/owner.
3. Street improvements, up to one half of the public street ultimate right-of-way, abutting the subject property shall be improved for the entire length of the subject property abutting the public street so as to meet the current City adopted standards per LGMC 12.10.060.
4. A bond estimate for City review for street improvements will be required prior to issuance of Public Improvement Permit, and Building Permit. Pending approval, bond shall be secured through a performance bond.
5. Prior to permit issuance, the permittee shall retain the service of a professional land surveyor or Civil Engineer authorized to practice land surveying who will be responsible for monument preservation and shall provide a corner record or record of survey to the County surveyor as required by the professional Land Surveyors Act, Section 8711 of the Business and Professions Code of the State of California, if applicable.
6. Fire department shall provide approval of the site plan, and gate.

Civil Site Plan (C-1)

1. Update *WORK TO BE DONE* Standards and Specifications to current versions/editions.
2. Add proposed standards to the legend where applicable.
3. Demonstrate that there is an accessible path of travel from the main entry to the ADA parking and the street.
4. Show Street Improvements per LGMC 12.10.060

5. Show the limits and dimension width of the driveway, and site visibility triangles.
6. Site Acreage does not match property detail records. Confirm or provide documents.
7. Drainage from impervious areas shall drain to landscaped areas where possible.
8. Additional drainage information is needed. See redline markups.
9. Show the water/irrigation line within the easement. Is this a live/active line?
10. Show and identify the size and location of site utilities and service connections, meters, backflows, cleanouts, etc.
11. Show a table with the site existing and proposed pervious and impervious areas. Separate building areas and remaining site area.
12. See additional redline markup.

Please contact me with any questions.

Rebecca E. Morris, P.E.

Reviewing Consultant Engineer, City of Lemon Grove

(619) 825-3830

rmorris@lemongrove.ca.gov

From: Ambrose Wong
Sent: 5-24-19 4:33 PM
To: rmorris@lemongrove.ca.gov
Cc: Mike Viglione
Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001
Attachments: 7309 Broadway curb & gutter.pdf; C-1.pdf

Hi Rebecca,

I'm following up on my email from May 22nd. Attached are some pictures of the curb and gutter showing the 6" height and 18" width per current standards. Please let us know if it is acceptable to have the existing curb and gutter remain and for our project to just replace the sidewalk to current standards.

Also, Comment #3 on our site plan says to demonstrate that there is an accessible path of travel from the main entry to the street. A revised site plan is attached with the path of travel highlighted. We have called out existing and proposed slopes along the path of travel. Is this what you are looking for or is there something else we need to do to demonstrate the accessible POT?

Thank you and enjoy the holiday weekend,

Ambrose Wong, P.E., Q.S.D.
Principal
Structural | Civil | Surveying | Land Planning
BWE
P 619.299.5550 x324
awong@bwesd.com

From: Ambrose Wong
Sent: Wednesday, May 22, 2019 7:22 PM
To: rmorris@lemongrove.ca.gov
Cc: Mike Viglione <mviglione@lemongrove.ca.gov>
Subject: FW: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Hi Rebecca,

We received the following review comment from Planning:

g. Public Street Improvements consistent with City Standards are required per Section 17.24.010(H) and Section 12.10.060. Regional Standard Curb, Gutter, Sidewalk are required as well as 1 24" inch box Street Tree in the public right-of-way per 30 linear feet of street frontage.

The planning comment is similar to Engineering review comment #3:

3. Street improvements, up to one half of the public street ultimate right-of-way, abutting the subject property shall be improved for the entire length of the subject property abutting the public street so as to meet the current City adopted standards per LGMC 12.10.060.

The asphalt pavement and the curb and gutter are in good condition and are constructed to current standards. We have revised our plans to show replacement of the sidewalk and addition of a street tree but are not calling for replacement of the curb and gutter or half-width repaving of the street. Mike Viglione suggested I contact you to determine how it

might be demonstrated, both on the plans and otherwise, that existing improvements meet current standards. Can we add a note which states that any street improvements, up to one half of the public street ultimate right-of-way, abutting the subject property shall be improved for the entire length of the subject property abutting the public street if they do not meet current City adopted standards?

Thank you,

Ambrose Wong, P.E., Q.S.D.

Principal
Structural | Civil | Surveying | Land Planning

BWE

P 619.299.5550 x324

awong@bwesd.com

From: Mike Viglione <mviglione@lemongrove.ca.gov>

Sent: Wednesday, May 22, 2019 11:58 AM

To: Ambrose Wong <AWong@bwesd.com>

Cc: Marty Frank <martyanthony@gmail.com>; 'ebon johnson' <ebonjohnson@gmail.com>

Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Hi Ambrose,

Responses in blue below.

Respectfully,

Mike Viglione

Associate Planner

City of Lemon Grove

Development Services Department

3232 Main St.

Lemon Grove, CA 91945

(619) 825-3807 phone

(619) 825-3818 fax

www.lemongrove.ca.gov

From: Ambrose Wong [<mailto:AWong@bwesd.com>]

Sent: Tuesday, May 21, 2019 11:44 AM

To: Mike Viglione <mviglione@lemongrove.ca.gov>

Cc: Marty Frank <martyanthony@gmail.com>; 'ebon johnson' <ebonjohnson@gmail.com>

Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Good afternoon Mike,

We have a question about the CUP review comments. Page 2 of the Notice of Incomplete has language about the Zoning Clearance and implies that the Zoning Clearance hasn't been deemed complete even though we received our Notice of Complete dated March 28, 2019. Should the following be removed from our CUP Notice? This is template language meant to inform the applicant that a full municipal code review was not conducted with the prior Zoning Clearance. It should probably be refined.

For reference, only the Planning Division reviews Zoning Clearance applications and does not do a full review for compliance of the Municipal Code. Once the Zoning Clearance application is deemed complete, a Conditional Use Permit application may be submitted where a full compliance check with the Municipal Code and an interdepartmental review is conducted. This project has been found to be incomplete and the following comments and corrections shall be addressed prior to resubmittal.

We also have the following questions and comments regarding the Planning review comments:

#7g. The existing curb and gutter are in good condition and are constructed to current regional standards. We propose protecting the existing curb and gutter and removing the existing sidewalk and reconstructing to existing standards add adding a street tree. Ultimately Engineering will determine whether existing improvements are sufficient. I recommend coordinating with the reviewing Engineer to see how it might be demonstrated, both on the plans and otherwise, that existing improvements meet current standards.

#7w. Directing roof drainage to landscape areas is requirement for new construction. We are not constructing a new roof and roof drains. You are correct. The comment was phrased as a request to improve water quality to the maximum extent possible. Similar, if not identical requests, were made of other Conditional Use Permit applications.

#7hh. Why does the City want HVAC systems shown on plan and elevations during the CUP phase? This can be addressed in the building permit phase. There is no need to provide a mechanical plan. The roof plan and elevations need to show the mechanical as applicable. The inclusion of Carbon Filtration should be noted on the plans.

#9. Is there a template which we can follow to mock up the public notice sign? Section 17.28.020(F)(2) list some requirements but doesn't provide any specific public notice language. What wording needs to be included on the sign? Please see attached for Sign Template from a recent project. All information would, of course, need to be updated to reflect the current project.

Would it be possible to meet with you on Friday to make our 2nd CUP submittal package? City Hall is closed on Fridays. I am on the Counter Tuesdays and Thursdays from 7:30 to 11 if you would like to submit otherwise we can set up a time after counter hours as my schedule permits.

Thank you,

Ambrose Wong, P.E., Q.S.D.

Principal

Structural | Civil | Surveying | Land Planning

BWE

P 619.299.5550 x324

awong@bwesd.com

From: Mike Viglione <mviglione@lemongrove.ca.gov>

Sent: Wednesday, May 15, 2019 12:57 PM

To: Ambrose Wong <AWong@bwesd.com>; Marty Frank <martyanthony@gmail.com>; 'ebon johnson' <ebonjohnson@gmail.com>

Subject: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Good Afternoon,

On May 15, 2019, City of Lemon Grove staff reviewed the subject Conditional Use Permit application for a Medical Marijuana Dispensary at 7309 Broadway and determined that it is incomplete. As such, staff issued the attached Notice of Incomplete. Please review the Notice and its referenced enclosures carefully and make all necessary revisions to continue processing your application.

Please feel free to contact me if you have any questions.

Respectfully,

Mike Viglione

Associate Planner

City of Lemon Grove

Development Services Department

3232 Main St.

Lemon Grove, CA 91945

(619) 825-3807 phone

(619) 825-3818 fax

www.lemongrove.ca.gov

From: Rebecca Morris <rmorris@lemongrove.ca.gov>
Sent: 5-29-19 12:43 PM
To: Ambrose Wong
Cc: Mike Viglione
Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Ambrose,

In terms of processing the CUP, this comment will result in a Condition to the CUP, and a note to the plans stating the requirements of the LGMC 12.10.060 would be requested .

At the time of final engineering documents, the City will expect demonstration, using the appropriate survey tools and pictures to show and document on the plans that the existing sidewalk and curb line meet ADA requirements (cross-sectional, and longitudinal grades), the sidewalk and curbs are free of lips, cracks, and the street pavement and median (if w/in the ½ width) are free of cracks, potholes, and that the striping is clearly visible.

Please feel free to contact me with any further questions.

Rebecca E. Morris, PE
City of Lemon Grove, Engineering Department
619-825-3830

From: Ambrose Wong [mailto:AWong@bwesd.com]
Sent: Wednesday, May 22, 2019 7:22 PM
To: Rebecca Morris <rmorris@lemongrove.ca.gov>
Cc: Mike Viglione <mviglione@lemongrove.ca.gov>
Subject: FW: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Hi Rebecca,

We received the following review comment from Planning:

- g. Public Street Improvements consistent with City Standards are required per Section 17.24.010(H) and Section 12.10.060. Regional Standard Curb, Gutter, Sidewalk are required as well as 1 24" inch box Street Tree in the public right-of-way per 30 linear feet of street frontage.

The planning comment is similar to Engineering review comment #3:

3. Street improvements, up to one half of the public street ultimate right-of-way, abutting the subject property shall be improved for the entire length of the subject property abutting the public street so as to meet the current City adopted standards per LGMC 12.10.060.

The asphalt pavement and the curb and gutter are in good condition and are constructed to current standards. We have revised our plans to show replacement of the sidewalk and addition of a street tree but are not calling for replacement of the curb and gutter or half-width repaving of the street. Mike Viglione suggested I contact you to determine how it might be demonstrated, both on the plans and otherwise, that existing improvements meet current standards. Can we add a note which states that any street improvements, up to one half of the public street ultimate right-of-way, abutting

the subject property shall be improved for the entire length of the subject property abutting the public street if they do not meet current City adopted standards?

Thank you,

Ambrose Wong, P.E., Q.S.D.

Principal
Structural | Civil | Surveying | Land Planning

BWE

P 619.299.5550 x324

awong@bwesd.com

From: Mike Viglione <mviglione@lemongrove.ca.gov>

Sent: Wednesday, May 22, 2019 11:58 AM

To: Ambrose Wong <AWong@bwesd.com>

Cc: Marty Frank <martyanthony@gmail.com>; 'ebon johnson' <ebonjohnson@gmail.com>

Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Hi Ambrose,

Responses in blue below.

Respectfully,

Mike Viglione

Associate Planner

City of Lemon Grove

Development Services Department

3232 Main St.

Lemon Grove, CA 91945

(619) 825-3807 phone

(619) 825-3818 fax

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From: Ambrose Wong [<mailto:AWong@bwesd.com>]

Sent: Tuesday, May 21, 2019 11:44 AM

To: Mike Viglione <mviglione@lemongrove.ca.gov>

Cc: Marty Frank <martyanthony@gmail.com>; 'ebon johnson' <ebonjohnson@gmail.com>

Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

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Would it be possible to meet with you on Friday to make our 2nd CUP submittal package? City Hall is closed on Fridays. I am on the Counter Tuesdays and Thursdays from 7:30 to 11 if you would like to submit otherwise we can set up a time after counter hours as my schedule permits.

Thank you,

Ambrose Wong, P.E., Q.S.D.

Principal

Structural | Civil | Surveying | Land Planning
BWE

P 619.299.5550 x324

awong@bwesd.com

From: Mike Viglione <mviglione@lemongrove.ca.gov>
Sent: Wednesday, May 15, 2019 12:57 PM
To: Ambrose Wong <AWong@bwesd.com>; Marty Frank <martyanthony@gmail.com>; 'ebon johnson' <ebonjohnson@gmail.com>
Subject: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Good Afternoon,

On May 15, 2019, City of Lemon Grove staff reviewed the subject Conditional Use Permit application for a Medical Marijuana Dispensary at 7309 Broadway and determined that it is incomplete. As such, staff issued the attached Notice of Incomplete. Please review the Notice and its referenced enclosures carefully and make all necessary revisions to continue processing your application.

Please feel free to contact me if you have any questions.

Respectfully,

Mike Viglione

Associate Planner

City of Lemon Grove

Development Services Department

3232 Main St.

Lemon Grove, CA 91945

(619) 825-3807 phone

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www.lemongrove.ca.gov



CITY OF LEMON GROVE

Engineering Services Department

July 30, 2019

7309 Broadway - CUP-180-0001

Mankind Lemon Grove Medical Marijuana Dispensary

ENGINEERING DEPARTMENT 2nd REVIEW

A. General

1. Street improvements, up to one half of the public street ultimate right-of-way, abutting the subject property shall be improved for the entire length of the subject property abutting the public street so as to meet the current City adopted standards per LGMC 12.10.060.
2. **2nd Review: Per item 1 above, a driveway shall be constructed to current regional standards. Driveway shall consist of a minimum 4.0' wide 2% max walkway, maintaining a pathway for pedestrians, and connect to the adjacent sidewalks.**
3. Fire department shall provide approval of the site plan, and gate.

General – 2nd Review

4. **The proposed parking area on a separate lot appears to be a part of a common plan of development. Confirm with Planning Department that this should not be included as a part of the CUP.**
5. **Depending on the outcome of Item 1, above. Quantify the existing and proposed impervious areas for this lot. If considered one project, the areas must be combined, and Storm water intake forms revised as needed.**
6. **Pending Determination of item 1 above, and per LGMC 17.24.010 Off-Street Parking, public Right-of-Way Improvements for Citrus Street are required consistent with current city standards shall be required as a part of any discretionary permit application in order to provide adequate on-street parking along the frontage of the property and contain potential pollutants and loose materials on site.**
7. **Show the proposed path of travel from employee parking to the subject MMD.**
8. **Demonstrate adequate site lighting for the proposed MMD and off-site parking.**

Civil Site Plan (C-1)

1. Update *WORK TO BE DONE* Standards and Specifications to current versions/editions.
2nd Review: Add San Diego Regional Standard Drawings to the Standard Drawings section.
2. Add proposed standards to the legend where applicable.
2nd Review: Add SDRSD driveway to the legend
3. ~~Demonstrate that there is an accessible path of travel from the main entry to the ADA parking and the street.~~

4. Show Street Improvements per LGMC 12.10.060. Additional improvements within the street, up to ½ width may be required at the time of Construction Document/Public Improvement plans should there be substandard conditions at that time.

2nd Review:

- *Driveway shall consist of a minimum 4.0' wide 2% max walkway, maintaining a pathway for pedestrians, and connect to the adjacent sidewalks.*
- *Existing curb & gutter is shown to remain. Should the curb and gutter be of an old standard, or substandard condition at the time of construction, new curb and gutter will need to be constructed.*

5. Show the limits and dimension width of the driveway, and site visibility triangles.

2nd Review: *Sight Zone triangles should occur within the front property lines and be clearly shown and dimensioned, defined as which no building may be built, nor may any fence, wall or other obstruction exceed three and one-half feet in height approved by the city council at the time of development approval.*

- ~~6. Site Acreage does not match property detail records. Confirm or provide documents.~~

- ~~7. Drainage from impervious areas shall drain to landscaped areas where possible.~~

8. Additional drainage information is needed. See redline markups.

2nd Review:

- *Where does drainage go from the landscaped areas? If designed to infiltrate, please provide soil engineer recommendations on infiltration. Drainage may not leave the site in a concentrated flow (via curb cut) above ground across the sidewalk, or driveway.*
- *Rear lot drainage enters a storm drain system. Show how this storm drain system discharges the site?*

- ~~9. Show the water/irrigation line within the easement. Is this a live/active line?~~

- ~~10. Show and identify the size and location of site utilities and service connections, meters, backflows, cleanouts, etc.~~

- ~~11. Show a table with the site existing and proposed pervious and impervious areas. Separate building areas and remaining site area.~~

12. Add proposed elevations to the proposed surface improvements (curb, gutter, pavement areas).

13. Existing bollards may not be shown within the driveway opening.

14. See additional redline markup.

Transportation Letter Report

1. See Redlines

Preliminary Conditions

A. PRIOR TO PUBLIC IMPROVEMENT PERMIT ISSUANCE:

1. Covenant not to oppose the formation of a future street improvement district shall be required. The City will prepare the agreement and will require the Owner to sign and notarize.
2. Street improvements, up to one half of the public street ultimate right-of-way, abutting the subject property shall be improved for the entire length of the subject property abutting the public street so as to meet the current City adopted standards per LGMC 12.10.060.

3. A public improvement plan as part of an improvement plan check shall be submitted with applicable deposit/plan check fee showing all improvements within the public right-of-way. The plan shall be prepared in accordance with the City's standard requirements and signed by a registered Civil Engineer
4. A bond estimate for City review for street improvements will be required prior to issuance of Public Improvement Permit, and Building Permit. Pending approval, bond shall be secured through a performance bond.
5. Prior to permit issuance, the permittee shall retain the service of a professional land surveyor or Civil Engineer authorized to practice land surveying who will be responsible for monument preservation and shall provide a corner record or record of survey to the County surveyor as required by the professional Land Surveyors Act, Section 8711 of the Business and Professions Code of the State of California, if applicable.

B. PRIOR TO BUILDING PERMIT ISSUANCE

1. Demonstrate ADA compliance by showing existing surveyed elevations, and/or proposed design elevations with cross-sectional and longitudinal slopes as allowable per the CBC.
2. Drainage from impervious areas shall drain to landscaped areas where possible.
3. Sight Zone triangles should be clearly shown and dimensioned at the driveway entrance/exit, defined as which no building may be built, nor may any fence, wall or other obstruction exceed three and one-half feet in height approved by the city council at the time of development approval.

Please contact me with any questions.

Rebecca E. Morris, P.E.
Reviewing Consultant Engineer, City of Lemon Grove
(619) 825-3830
rmorris@lemongrove.ca.gov

From: Rebecca Morris <rmorris@lemongrove.ca.gov>
Sent: 8-7-19 7:58 AM
To: Ambrose Wong
Cc: Mike Viglione
Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001 - 2nd review questions

Ambrose,

Please see below in red. If anything is still unclear, please feel free to give me a call.

Hope this helps,
Rebecca

From: Ambrose Wong [mailto:AWong@bwesd.com]
Sent: Monday, August 5, 2019 5:49 PM
To: Rebecca Morris <rmorris@lemongrove.ca.gov>
Cc: Mike Viglione <mviglione@lemongrove.ca.gov>
Subject: FW: 7309 Broadway - Conditional Use Permit- CUP-190-0001 - 2nd review questions

Hi Rebecca,

We received the 2nd review comments for CUP 190-0001 7309 Broadway and have some questions.

A request that a driveway shall be constructed to current regional standards. The existing curb to ROW distance is only about 9'. Should we show/call out SDRSD G-14C or G-14D? G-14C is typically for residential applications. **Please use G14-C. If the property will be undergoing heavy truck traffic, please increase the PCC thickness to 7-1/2" per the commercial option in G-14A.**

The City requested that the new planter areas in the parking lot have curb cuts to allow storm water to flow into and out of even though according to the storm water form I-2 the project is only required to "Incorporate Construction Stormwater BMP Notes and Standard Project Stormwater BMP Notes onto site plan". The new parking lot planter areas are not designed to infiltrate and drainage is designed to mimic existing conditions (sheet flow across the driveway). We believe the existing hardscape area at the rear and side of the building currently discharge to the existing sidewalk underdrain but have no as-builts of the system. The drainage from the rear and side of the building will continue to discharge through the sidewalk underdrain in our proposed condition but we will be decreasing the flow since we are removing hardscape and adding landscape. Please see the attached mark up for clarification. Would you please clarify what you are looking for in the following comments: **A curb cut, adjacent to the property line is being shown indicating that flows will leave the site in a concentrated flow above ground across the sidewalk. This is not permitted. Show how the planter will drain into an area drain(s)? If you are proposing to outlet using sidewalk underdrains, shown them more clearly and demonstrate that they can adequately convey the site drainage. You can propose additional sidewalk underdrains, or curb outlets as needed.**

8. Additional drainage information is needed. See redline markups.

2nd Review:

- **Where does drainage go from the landscaped areas? If designed to infiltrate, please provide soil engineer recommendations on infiltration. Drainage may not leave the site in a concentrated flow (via curb cut) above ground across the sidewalk, or driveway.**
- **Rear lot drainage enters a storm drain system. Show how this storm drain system discharges the site?**

Thank you,

Ambrose Wong, P.E., Q.S.D.

Principal
Structural | Civil | Surveying | Land Planning

BWE

P 619.299.5550 x324

awong@bwesd.com

From: Mike Viglione <mviglione@lemongrove.ca.gov>

Sent: Tuesday, July 30, 2019 4:23 PM

To: Ambrose Wong <AWong@bwesd.com>; 'Marty Frank' <martyanthony@gmail.com>; 'ebon johnson' <ebonjohnson@gmail.com>

Cc: Noah Alvey <nalvey@lemongrove.ca.gov>

Subject: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Good Afternoon,

On July 30, 2019, City of Lemon Grove staff reviewed the subject Conditional Use Permit application for a Medical Marijuana Dispensary at 7309 Broadway and determined that it remains incomplete. As such, staff issued the attached Notice of Incomplete. Please review the Notice, Invoice, and referenced enclosures carefully and make all necessary revisions to continue processing your application.

Please feel free to contact me if you have any questions.

Respectfully,

Mike Viglione

Associate Planner

City of Lemon Grove

Development Services Department

3232 Main St.

Lemon Grove, CA 91945

(619) 825-3807 phone

(619) 825-3818 fax

www.lemongrove.ca.gov

From: Christopher Mendiara <mendiara@llgengineers.com>
Sent: 8-12-19 10:36 AM
To: Ambrose Wong
Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Nothing yet Ambrose but I reached out again this AM to confer the urgency. I'll let you know as soon as I hear.

Thanks
-C

Christopher Mendiara
Associate Principal
mendiara@llgengineers.com



Linscott, Law & Greenspan, Engineers
4542 Ruffner Street, Suite 100
San Diego, CA 92111
858.300.8800 x233
www.llgengineers.com

From: Ambrose Wong [mailto:AWong@bwesd.com]
Sent: Monday, August 12, 2019 9:35 AM
To: Christopher Mendiara <mendiara@llgengineers.com>
Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Good morning Chris,

Any chance you've heard back from Rebecca or Rick Engineering? Our client emailed me this morning and is anxious for direction to move forward.

Thanks,

Ambrose Wong, P.E., Q.S.D.
Principal
Structural | Civil | Surveying | Land Planning
BWE
P 619.299.5550 x324
awong@bwesd.com

From: Christopher Mendiara <mendiara@llgengineers.com>
Sent: Thursday, August 08, 2019 10:27 AM
To: Ambrose Wong <AWong@bwesd.com>
Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Hi Ambrose – we spoke and she conceded she wasn't sure herself, but was going to follow up with their 3rd party sub (RICK Engineering) and get back to me today or tomorrow.

I'll keep you posted.

-C

Christopher Mendiara

Associate Principal
mendiara@llgengineers.com



Linscott, Law & Greenspan, Engineers

4542 Ruffner Street, Suite 100
San Diego, CA 92111
858.300.8800 x233
www.llgengineers.com

From: Ambrose Wong [<mailto:AWong@bwesd.com>]
Sent: Thursday, August 08, 2019 8:53 AM
To: Christopher Mendiara <mendiara@llgengineers.com>
Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Good morning Chris,

Did you have any luck contacting Rebecca? Our client is very anxious to know how we will proceed and if there are any potential impacts such as off-site parking since that will take time to further develop plans for.

Thanks,

Ambrose Wong, P.E., Q.S.D.

Principal
Structural | **Civil** | Surveying | Land Planning

BWE

P 619.299.5550 x324
awong@bwesd.com

From: Ambrose Wong
Sent: Wednesday, August 07, 2019 8:26 AM
To: Christopher Mendiara <mendiara@llgengineers.com>
Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Good morning Chris,

I received an email response from Rebecca this morning regarding a separate question I had for her. I believe she is in the office today so if you have time, please give her a call to discuss the ITE data.

Thank you!

Ambrose Wong, P.E., Q.S.D.

Principal
Structural | **Civil** | Surveying | Land Planning

BWE

P 619.299.5550 x324
awong@bwesd.com

From: Ambrose Wong
Sent: Tuesday, August 06, 2019 8:36 AM
To: 'Christopher Mendiara' <mendiara@llgengineers.com>
Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Good morning Chris,

Thank you for the information. It sounds like we have a good argument to use the data we collected versus the ITE data. Would you please contact Rebecca Morris, Lemon Grove's engineering consultant to discuss?

Thank you,

Ambrose Wong, P.E., Q.S.D.

Principal
Structural | Civil | Surveying | Land Planning

BWE

P 619.299.5550 x324

awong@bwesd.com

From: Christopher Mendiara <mendiara@llgengineers.com>

Sent: Monday, August 05, 2019 5:56 PM

To: Ambrose Wong <AWong@bwesd.com>

Subject: RE: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Hi Ambrose,

Following up on our earlier call – the ITE parking ratios the City references (7.19/ksf of GFA) are based on four observations “surveyed in the 2010’s in Colorado”. They are not specific to medical vs. retail, other than “....a standalone facility where cannabis is sold to patients or consumers in a legal manner”.

The range of rates is presented as 4.10 to 20.60, and the data plot and equation shows the relationship of parked vehicles to GFA all over the plot, with an R² value that’s not calculated. So basically it’s not definitive, and cautions the user with “Caution – small sample size”.

This isn’t uncommon for ITE rates (traffic or parking) – just wanted to follow up with you.

-C

Christopher Mendiara

Associate Principal
mendiara@llgengineers.com



From: Ambrose Wong [<mailto:AWong@bwesd.com>]

Sent: Monday, August 05, 2019 3:40 PM

To: Christopher Mendiara <mendiara@llgengineers.com>; Cara Hilgesen <hilgesen@llgengineers.com>

Subject: FW: 7309 Broadway - Conditional Use Permit- CUP-190-0001

Hi Chris and Cara,

Sorry, please disregard my previous email and attachments and see the email below and attachments. These are the latest comments that ask us to use the new ITE traffic counts. Please let us know if there is a significant increase in traffic if we use the latest ITE information.

Thanks,

Ambrose Wong, P.E., Q.S.D.

Principal
Structural | Civil | Surveying | Land Planning
BWE
P 619.299.5550 x324
awong@bwesd.com

From: Mike Viglione <mviglione@lemongrove.ca.gov>
Sent: Tuesday, July 30, 2019 4:23 PM
To: Ambrose Wong <AWong@bwesd.com>; 'Marty Frank' <martyanthony@gmail.com>; 'ebon johnson' <ebonjohnson@gmail.com>
Cc: Noah Alvey <nalvey@lemongrove.ca.gov>
Subject: 7309 Broadway - Conditional Use Permit- CUP-190-0001

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Respectfully,

Mike Viglione
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(619) 825-3818 fax
www.lemongrove.ca.gov

1 VARCO & ROSENBAUM
 2 ENVIRONMENTAL LAW GROUP LLP
 3 SUZANNE R. VARCO (Bar No. 163304)
 svarco@envirolawyer.com
 4 GRANT R. OLSSON (Bar No. 317583)
 golsson@envirolawyer.com
 5 225 BROADWAY, SUITE 1900
 SAN DIEGO, CALIFORNIA 92101
 TELEPHONE: 619-231-5858
 6 FACSIMILE: 619-231-5853

JAN 13 '20 AM 9:57

F I L E D

Clerk of the Court

JAN 13 2020

By: K. Roberts, Deputy

7 ATTORNEYS FOR PETITIONERS
 8 CITRUS ST PARTNERS, LLC
 9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 11 COUNTY OF SAN DIEGO, CENTRAL COUNTY DIVISION
 12

13 CITRUS ST PARTNERS, LLC,

) CASE No: 37-2019-00064690-CU-MC-CTL

14 PETITIONER,

) DECLARATION OF GRANT R.

15 v.

) OLSSON IN SUPPORT OF

) PETITIONER'S EX PARTE

) APPLICATION FOR TEMPORARY

16 CITY OF LEMON GROVE; CITY
 17 COUNCIL OF THE CITY OF LEMON
 18 GROVE; AND DOES 1-10,

) RESTRAINING ORDER AND ORDER

) TO SHOW CAUSE RE PRELIMINARY

) INJUNCTION

19 RESPONDENTS.

) Judge: Hon. Kenneth J. Medel

) Dept.: C-66

) Date: January 14, 2020

) Time: 8:30 a.m.

)

) Petition filed: November 25, 2019

22 _____
 23 DOES 11-20,

)

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24 REAL PARTIES IN INTEREST.
 25
 26 _____

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I, Grant R. Olsson, hereby declare as follows:

1. I am an associate in the law firm of Varco & Rosenbaum Environmental Law Group LLP. I know the following of my own personal knowledge and if called as a witness, I could and would competently testify to the matters discussed herein.

2. On January 9, 2020 at 12:55 p.m., I e-mailed Gina Austin of Austin Legal Group, counsel for Kim Investments, LLC, notifying her of Petitioner Citrus St Partners, LLC's intention to file its Ex Parte Application for Temporary Restraining Order and Order to Show Cause re Preliminary Injunction on January 13, 2020 and of the time, date, and location of the ex parte hearing. Ms. Austin responded via telephone at 1:15 p.m. on January 9, 2020 that she could not accept service on Kim Investments, LLC's behalf but that, as Kim Investments, LLC is not a named party in this matter, it has no mechanism to oppose Petitioner's Ex Parte Application.

I declare, subject to penalty of perjury under the laws of the state of California, that the foregoing is true and correct.

Executed this 13th day of January 2020, at San Diego, California.



Grant R. Olsson

1 **VARCO & ROSENBAUM**
2 **ENVIRONMENTAL LAW GROUP LLP**
3 SUZANNE R. VARCO (Bar No. 163304)
4 svarco@envirolawyer.com
GRANT R. OLSSON (Bar No. 317583)
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F I L E D

Clerk of the Court

JAN 13 2020

By: K. Roberts, Deputy

7 ATTORNEYS FOR PETITIONERS
8 CITRUS ST PARTNERS, LLC

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO, CENTRAL COUNTY DIVISION**
12

13	CITRUS ST PARTNERS, LLC,	)	CASE NO: 37-2019-00064690-CU-MC-CTL
14)	
15	PETITIONER,	)	DECLARATION OF S. WAYNE
16		)	ROSENBAUM IN SUPPORT OF
17	v.	)	PETITIONER'S EX PARTE
18	CITY OF LEMON GROVE; CITY	)	APPLICATION FOR TEMPORARY
19	COUNCIL OF THE CITY OF LEMON	)	RESTRAINING ORDER AND ORDER
20	GROVE; AND DOES 1-10,	)	TO SHOW CAUSE RE PRELIMINARY
21		)	INJUNCTION
22	RESPONDENTS.	)	Judge: Hon. Kenneth J. Medel
23		)	Dept.: C-66
24		)	Date: January 14, 2020
25		)	Time: 8:30 a.m.
26		)	Petition filed: November 25, 2019
27	DOES 11-20,)	
28)	
	REAL PARTIES IN INTEREST.)	
)	
)	
)	
)	

2019 20 10 9:50

1 I, S. Wayne Rosenbaum, hereby declare as follows:

2 1. I am a partner in the law firm of Varco & Rosenbaum Environmental Law Group
3 LLP. I know the following of my own personal knowledge and if called as a witness, I could and
4 would competently testify to the matters discussed herein.

5 2. On January 9, 2020, the City of Lemon Grove City Council published notice of a
6 public hearing on January 21, 2020 to consider a request to establish a medical marijuana
7 dispensary at 3515 Harris Street in the City of Lemon Grove. Attached as **Exhibit A** to this
8 declaration is a true and correct copy of the January 9, 2020 City of Lemon Grove City Council
9 Notice of Public Hearing published in The East County Californian.

10 3. Attached as **Exhibit B** to this declaration is a true and correct copy of the City of
11 Lemon Grove City Council Staff Report for the November 19, 2019 City of Lemon Grove City
12 Council Public Hearing to Consider Conditional Use Permit CUP-190-0001, a Request to
13 Establish a Medical Marijuana Dispensary at 7309 Broadway in the General Commercial Zone.

14 4. Attached as **Exhibit C** to this declaration is a true and correct copy of the March
15 28, 2019 City of Lemon Grove Development Services Department Notice of Complete for
16 Zoning Clearance Application No. ZCM-180-0005 at 7309 Broadway, Lemon Grove, CA 91945.

17 5. Attached as **Exhibit D** to this declaration are true and correct copies of a Planning
18 Permit Application for a Conditional Use Permit submitted by Kim Investments LLC on May 9,
19 2019 and the November 9, 2019 City of Lemon Grove Development Services Department Notice
20 of Complete for Conditional Use Permit Application CUP-190-0002 at 3515 Harris Street,
21 Lemon Grove CA 91945.

22 6. Attached as **Exhibit E** to this declaration is a true and correct copy of the 7309
23 Broadway MMD Project Transportation Letter Report, prepared on October 11, 2019 by
24 Linscott, Law and Greenspan Engineers and provided to the City of Lemon Grove.

25 7. Attached as **Exhibit F** to this declaration is a true and correct copy of Resolution
26 No. 2019-3690, a Resolution of the City Council of the City of Lemon Grove, California,
27 Denying Conditional Use Permit CUP-190-0001, a Request to Allow a Medical Marijuana
28 Dispensary at 7309 Broadway, Lemon Grove, California.

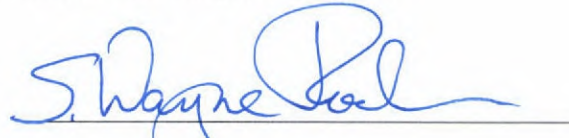
1 8. Attached as **Exhibit G** to this declaration is a true and correct copy of the
2 November 19, 2019 City of Lemon Grove City Council Meeting transcript.

3 9. On January 9, 2020 at 1:15 p.m., I e-mailed Kristen Steinke of Lounsbery
4 Ferguson Altona & Peak, counsel for the City of Lemon Grove, notifying her of Petitioner Citrus
5 St Partners, LLC's intention to file its Ex Parte Application for Temporary Restraining Order and
6 Order to Show Cause re Preliminary Injunction on January 13, 2020 and of the time, date, and
7 location of the ex parte hearing. Ms. Steinke responded at 12:29 p.m. on January 10, 2020 that
8 the City of Lemon Grove will oppose Petitioner's Ex Parte Application.

9 10. Petitioner has not submitted any previous applications for ex parte relief to the
10 Court in this matter.

11 I declare, subject to penalty of perjury under the laws of the state of California, that the
12 foregoing is true and correct.

13 Executed this 13th day of January 2020, at San Diego, California.

14 
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16 S. Wayne Rosenbaum

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EXHIBIT A

EXHIBIT B



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. ___2_

Meeting Date: November 19, 2019

Submitted to: Honorable Mayor and Members of the City Council

Department: Community Development Department

Staff Contact: Mike Viglione, Associate Planner
mviglione@lemongrove.ca.gov

Item Title: **Public Hearing to Consider Conditional Use Permit
Application CUP-190-0001, A Request to Establish a Medical
Marijuana Dispensary at 7309 Broadway in the General
Commercial Zone**

Recommended Action:

- 1) Conduct the public hearing;
- 2) Receive Public Comment; and
- 3) Adopt a Resolution (**Attachment A**) conditionally approving Conditional Use Permit CUP-190-0001, a request to establish a medical marijuana dispensary at 7309 Broadway in the General Commercial (GC) Zone pursuant to Municipal Code Chapter 17.32.

Summary: Conditional Use Permit CUP-190-0001 is an application to establish a medical marijuana dispensary (MMD) at 7309 Broadway in the General Commercial Zone on a 0.13 acre parcel. A MMD is allowed by conditional use permit in commercial and industrial zones pursuant to Municipal Code Chapter 17.32. The project proposes tenant and site improvements including new landscape and trees, commercial driveway and parking area, and city standard street improvements.

Discussion:

Chapter 17.32 of the Lemon Grove Municipal Code (LGMC) allows medical marijuana dispensaries (MMDs) via Conditional Use Permit (CUP) application in commercial and industrial zoning districts. To be eligible, proposed MMD sites must be separated by 1,000 feet from the regulated and protected uses described in LGMC Section 17.32.090(B), including MMDs, licensed daycare facilities, schools and parks. Potential MMDs are screened through a Zoning Clearance (ZC) application prior to CUP submittal to determine if the proposed site meets zoning and separation criteria and ensure all required application materials are present for review. Only complete ZC applications for eligible sites may submit a CUP.

On December 20, 2018, Citrus Street Partners filed Zoning Clearance application ZCM-180-0005, a request to apply for a CUP to establish a MMD at 7309 Broadway. After finding the application incomplete, staff determined the application to be complete and eligible to proceed to CUP application on March 28, 2019. Shortly thereafter on April 3, 2019, Citrus Street Partners filed CUP application CUP-190-0001, which staff deemed complete on October 9, 2019.

Project Description

7309 Broadway is a 0.13 acre (5,722 square-feet) rectangular lot with a vacant 1,614 square-foot commercial building fronting on an improved portion of Broadway between Citrus and Alford Streets. The subject CUP requests authorization to operate the existing building as a MMD and proposes an interior tenant improvement to create a 229 square-foot reception and security area facing Broadway, a 733 square-foot access controlled sales floor, and separate, secure back office areas. Also incorporated are exterior on-site improvements like landscape, fencing, lighting, parking, and signage as well as public street improvements such as a regional standard driveway, sidewalk, and street tree. No ground disturbing activities and/or grading is proposed beyond that required for new landscape areas and exterior improvements. No cultivation, manufacturing, processing, or delivery services are proposed with the CUP.

The existing building at 7309 Broadway is setback approximately 68 feet from the Broadway right-of-way and 14.5 feet from the rear lot line. The front yard setback area is currently used as parking and will remain a 5-stall parking lot with additional landscaping incorporated. The rear yard area is proposed to be completely landscaped. The building is also situated such that the westerly wall of the structure abuts the side lot line while the eastern wall of the structure is setback approximately 6 feet from the opposite side lot line. The parapet wall, however, extends beyond the building face across the setback to the eastern side lot line and an existing gate beneath it creates a secure pathway to back

office areas of the proposed MMD from the parking lot. The building is, and will remain, 15 feet tall as seen from Broadway. A new glass storefront protected by bollards is proposed and will look into the reception area at the front of the dispensary.

General Plan Conformance

The project is located in the Retail Commercial land use designation. The intended uses for this designation include retail operations providing a wide range of goods and services. The proposed project is also consistent with General Plan Objective 4.0 which seeks “Expansion of commercial enterprises, light industries and professional services.” And Policy 4.2 which seeks to “expand shopping and entertainment opportunities through revitalization of the Broadway commercial district and the downtown village.”

Municipal Code Conformance

The GC Zoning District in Section 17.16.070 is intended for auto-oriented, generally large-scale businesses and activities offering retail goods and services serving local and regional shoppers. MMDs are authorized in the general commercial zone with a CUP by Section 17.32.090(A) and are similar in nature to retail uses, including pharmacies and convenience stores, which are permitted by right in the GC zone pursuant to Section 17.16.070(B)(18).

The regulations that authorize MMDs specifically require in LGMC Section 17.32.080 that the City Council consider whether the proposed use complies with minimum separations from regulated and protected uses and if the proposed use complies with Title 17 of the LGMC, the Zoning Ordinance.

City Staff has no evidence to suggest that the proposed site violates required separations from regulated or protected uses as of Staff Report publication. The Planning Commission approved a CUP for a day care center at 3468 Citrus Street, which is approximately 300 feet away, on October 22, 2018 but it is not considered a protected use at this time. The permittee has not satisfied the resolution conditions required to begin using the day care center CUP nor is the day care center licensed with the California Department of Social Services. Staff also believes that project complies with Title 17 pursuant to the subsequent analyses.

Development Standards

LGMC Section 17.16.070(G) outlines basic standards which are applicable to all land and structures in the GC Zoning District. The following table compares those standards to the site conditions at the subject address.

Standard	Required	Provided
Min. Lot Area	10,000 square feet	5,722 square feet
Min. Lot Width and Depth	None	Approx. 130 feet by 44 feet
Front Yard Setback	25 feet min.	Approx. 68 feet
Side Yard Setback	None	Approx. 0 feet and 6 feet
Rear Yard Setback	None	Approx. 14.5 feet
Maximum Building Height	30 feet	10 feet (roof)/15 feet (rooftop screening)
Accessory Height Limit	15 feet	15 feet (site lighting)
Max. Building Coverage	35%	28%

The proposed MMD site is in compliance with all development standards except for minimum lot area with which it is not required to comply. Section 17.24.090(N) states that any permitted use may be established on a nonconforming lot in any district provided the land use proposal complies with all other zoning and development regulations.

Parking, Traffic, and Street Improvements

The Community Development Element of the General Plan does not contemplate MMDs as a land use and therefore the traffic and parking impacts of the use are not accounted for in the accompanying General Plan Master Environmental Impact Report. Consequently the regulations in Section 17.24.010 which govern parking citywide cannot be relied upon to ascertain parking requirements for this project. The applicant instead provided a separate assessment of the project's anticipated parking and traffic impacts from Linscott, Law, & Greenspan (LLG), an Engineering firm specializing in these studies.

Per the LLG Analysis, the peak parking demand for a MMD with a sales floor up to 750 square feet is five (5) spaces. This parking rate is based on actual counts conducted at an operating MMD in the City of San Diego. The proposed five (5) stall parking lot is therefore sufficient to serve the proposed dispensary sales floor of 733 square feet. Moreover, according to the Operations Manual submitted with the application, dispensary employees commuting by automobile will be required to park off-site at the nearby Park and Ride locations at Lemon Grove Avenue and Lincoln Street and Lemon Grove Avenue and High Street. The dispensary operator will provide these employees with free transportation between Park and Ride locations and the project site via

ridesharing service Lyft and offer a stipend to employees that carpool to encourage participation. The proposed location is also approximately 3,000 ft., or about 1/2 of a mile, from the Lemon Grove Depot trolley station.

The layout of the parking area itself complies with the LGMC Off-Street Parking regulations. The parking area includes one ADA stall, and accommodates a 24 foot two-way drive aisle and 9 foot by 19 foot parking stalls with wheel stops as required by the Space and Access Dimensions in LGMC Section 17.24.010(F) for parking angled at 90 degrees. Though the parking spaces encroach into the required 25 foot front yard setback, they are permitted to do so pursuant to Section 17.24.030(B)(14). Bicycle parking is not required when there are fewer than 10 required vehicle spaces per LGMC Section 17.24.010(G) however staff has conditioned the project to require a bicycle rack with the applicant's consent.

Off-street parking regulations, specifically Section 17.24.010(H), also require the installation of city standard street improvements along abutting streets as part of all discretionary permit application. LGMC Chapter 12.10 similarly requires street dedication and street improvements with building permits that exceed \$25,000 in value. A CUP is a qualifying discretionary action and preliminary cost estimates for the proposed tenant improvement exceed this threshold. Furthermore there is a clear nexus to require these street improvements since: 1) a MMD is the highest and best use of the property; 2) the proposed use is higher intensity than typical retail uses as demonstrated by the traffic study; 3) persons with disabilities are likely to patronize MMDs; and 4) sidewalk and street improvements are largely supported by the General Plan Health & Wellness Element, Community Development Element, and Mobility Element policies.

The property abuts only Broadway which is a 4-Lane Major Street per General Plan Mobility Element classifications. Broadway is improved and features existing curb, gutter, sidewalk, Class II bicycle lane, two-striped travel lanes, street lights, and a hardscape center median. No overhead utilities or street trees are present along the street frontage. Broadway's existing right-of-way half-width dimension is 50 feet which exceeds the 49 foot dimension required of 4-Lane Major Streets in the Mobility Element.

Project plans propose a new 24 foot commercial access driveway and ADA compliant sidewalk consistent with San Diego Regional Standards along Broadway. The plans also note that curb, gutter and roadway will be repaired and/or replaced based on their condition when construction documents are prepared. Section 12.10.100 also requires the installation of one (1) 24-inch box tree per 30 linear feet of frontage within the right-of-way and the plans show the installation of a compliant street tree to the east of the new driveway to satisfy this requirement. No street dedication is required to accommodate the Street Improvements since the existing right-of-way already exceeds the planned Mobility Element width.

According to the LLG traffic study all analyzed street segments will continue to operate at existing levels of service with the addition of the project. Consequently no additional traffic mitigations or improvements to the street network are required to accommodate the proposed MMD. Based on counts at operating dispensaries, the proposed MMD is anticipated to generate 340 trips per day. For reference, a 16-hour convenience market in the same structure would generate an estimated 807 trips per day according to the SANDAG Brief Guide of Vehicular Traffic Generation Rates and would be permitted by right in the GC zone as a retail use.

Loading

A loading berth is not proposed nor would it typically be required for a retail use less than 3,000 square feet according to the Off-street loading regulations. According to LGMC Section 17.24.020(B)(8), the planning director may determine requirements for unlisted uses, such as MMDs, based upon the particular characteristics of the use. Deliveries from licensed cannabis distributors to the dispensary are not anticipated to occur in vehicles that require large, designated berths and therefore one is not provided. The Operations Manual states that deliveries will utilize the standard on-site parking spaces during off-peak hours and that security staff will secure the delivery vehicle while product is removed and provide escort to the gated path of travel to the back office areas.

Landscaping

The Lemon Grove Water Efficient Landscape Regulations in Chapter 18.44 of the LGMC require discretionary applications to provide landscaping that conforms to both the Zoning Ordinance and the aforementioned landscape regulations. Landscaping requirements and the proposed conditions for the project are as follows:

Standard	Required	Provided
Min. 10% Landscape Area	572 square feet	780 square feet
Min 25% Planted Landscape	195 square feet	780 square feet
Min. 10% Parking Landscape	101 square feet	213 square feet
Required On-Site Trees	1	1
Required Street Trees	1	1

LGMC Section 17.24.050(B) requires all landscaping to be installed and maintained in accordance with a Landscape Plan, which will be prepared in substantial conformance with the CUP prior to construction. A standard condition is included with the draft resolution to require well maintained landscaping and an additional Crime Prevention

Through Environmental Design (CPTED) condition requires that shrubs are trimmed low and tree canopies trimmed high to maintain visibility into the property.

Screening

With the exception of the front yard setback area, a 6-foot high wrought iron security fence is proposed along the border of the property. Wrought iron is a permitted fence material per LGMC Section 17.24.050(E)(1) and the proposed height complies with limits identified in LGMC Section 17.24.050(E)(7).

The existing rooftop HVAC system is proposed to remain. This system cannot be seen from the street and therefore complies with the Section 17.24.050(E)(10) requirement to be screened from the level of adjacent streets and walks.

A refuse enclosure is not proposed however Section 17.24.050(M)(1)(a) only requires installation of an enclosure when dumpsters are used or if the project proposes 5 residential units or 5,000 square feet of commercial or industrial floor area. The MMD proposes to use 96 gallon carts which will be kept indoors within the back office areas so as to comply with BMP requirements from the BMP Design Manual. A condition of approval is included in the draft resolution requiring the refuse carts to be stored indoors once operations commence and requires that they be returned to building within ten hours of trash service.

Lighting

CPTED encourages all exterior areas to be adequately lit. The photometric lighting plans propose five (5) building mounted light fixtures and pole mounted fixture in the parking lot and indicate that the lighting design adheres to the Illuminating Engineering Society (IES) "Guide for Security Lighting for People, Property, and Critical Infrastructure." Though the photometric plan shows that some light trespass across property lines will occur, a standard condition of approval derived from LGMC Section 17.24.080 will require light fixtures to be maintained and adjusted to direct light away from adjacent streets and properties. This condition will ensure that adequate security is maintained while allowing nuisance light and glare conditions to be corrected should they be identified during operations.

Signage

Commercial uses are permitted up to three wall signs according to sign ordinance Section 18.12.040(C). The total allowable sign area permitted for this project is 20% of the structural wall fronting on Broadway, or 76.5 square feet. The proposed elevations include sample signage consisting of the business name, "Mankind Lemon Grove", and two green crosses. The total area of the three proposed signs is 73.7 square feet. Though MMD signage cannot include any terminology, symbols, or slang for marijuana per LGMC Section 17.32.090(C)(7)(vi), City Council previously determined that green crosses do not violate this prohibition with the approval of the CUP for 6470 Federal Boulevard under Resolution 2018-3591. A separate sign permit with plans will be required prior to signage installation and shall substantially conform to the sample signage shown on the elevation plans.

Proposed MMD at 3515 Harris St.

If this CUP is approved, it will result in a proposed MMD at 3515 Harris St. being unable to satisfy the 1,000 ft, separation from another approved MMD. The application for 7309 Broadway was submitted prior to the application for 3515 Harris St. and both applicants have been informed regarding the progress of each application.

Conclusion:

City Council must make the following findings as stated in LGMC Section 17.28.050 in order to approve any conditional use permit application:

1. The use is compatible with the neighborhood or the community;
2. The use is not detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity;
3. The use complies with performance standards according to Section 17.24.080;
4. The use is consistent with applicable provisions of the particular zoning district and with policies and standards of the general plan;

As stated in the body of the report, Section 17.32.080 also requires the decision making authority consider:

5. Whether the approval of the proposed use will violate the minimum requirements set forth in chapter 17.32 for distance separations between establishments which dispense, process or cultivate medical marijuana; and separations between establishments which dispense, process or cultivate medical marijuana and other specific regulated or protected land uses as set forth in chapter 17.32; and.

6. Whether the proposed use complies with Title 17 of the Lemon Grove Municipal Code.

Staff believes that the required findings can be made in the affirmative and that required considerations were duly considered provided the conditions in the Resolution of Approval are observed. The application materials as presented and the corresponding conditions incorporate and reflect input from all City reviewers, including: the City Building, Engineering and Planning Divisions as well as Heartland Fire & Rescue, Sheriff's Crime Prevention, and D-Max Engineering, the City's stormwater consultant.

Environmental Review:

- Not subject to review Negative Declaration
 Categorical Exemption, Sections 15301 and 15303 Mitigated Negative Declaration

The Class 1, Section 15301 Existing Facilities exemptions consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The Conditional Use Permit application seeks authorization to operate an existing structure in an urbanized area as a Medical Marijuana Dispensary and involves no expansion of the existing structure. This request is lesser in scale than the listed examples of Class 1 exemptions, including the example of additions resulting in a floor area increase of 50%, up to a maximum of 2,500 additional square feet. Furthermore the proposed project involves only a negligible expansion in use as anticipated traffic demand for the proposed Medical Marijuana Dispensary is less than that of certain convenience stores, a permitted retail use, according to the SANDAG Brief Guide of Vehicular Traffic Generation Rates.

The proposed project is also exempt pursuant to the Class 3, Section 15303 exemption for New Construction or Conversion of Small Structures. This exemption applies to the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The proposed project involves interior tenant improvements and minor exterior improvements without any expansion of the existing structure. The proposed project is minor in comparison to typical exemplars of the Class 3 Exemption, such as those for multi-family residential structures up to six (6) units and commercial structures up to 10,000 square feet in urbanized areas.

The proposed project will not result in any specific or general exceptions to the use of the categorical exemption as detailed under State CEQA Guidelines Section 15300.2. Cumulative effects from successive projects will not occur given that the project site is

within a built-out urban setting and traffic generation rates are consistent with permitted uses. No impacts to General Plan identified biological habitats or environmental resources of hazardous or critical concern will occur given the developed, urban setting. The project does not involve any other unusual circumstances that could potentially have a significant effect on the environment. The project site is not a hazardous waste site nor is it listed in the DTSC EnviroStor database or the State Water Resources Control Board GeoTracker tool. No impacts to scenic highways will occur as State Route 94 is not a CalTrans scenic highway. Historic resources will not be impacted as the project site is not included in the San Diego County Historic Properties Data File nor the Lemon Grove Historical Society List of Historic Properties as referenced in the Lemon Grove General Plan Conservation and Recreation Element. The scope of the project is therefore consistent with the Section 15301 and Section 15303 exemptions for Existing Facilities and New Construction or Conversion of Small Structures.

Fiscal Impact:

No fiscal impact.

Public Notification: The Notice of Public Hearing for this item was published in the November 7, 2019 edition of the East County Californian and was mailed to all property owners within 1,000 feet of the subject property. Staff verified the presence of the public notice required by LGMC Section 17.28.020(F)(2) on November 7, 2019. The City of Lemon Grove did not receive any comments in response to the Notice of Public Hearing. Staff will provide the City Council with any comments received after publication of the Staff Report.

Staff Recommendation:

- 1) Conduct the public hearing;
- 2) Receive Public Comment; and
- 3) Adopt a Resolution (**Attachment A**) conditionally approving Conditional Use Permit CUP-190-0001, a request to establish a medical marijuana dispensary at 7309 Broadway in the General Commercial (GC) Zone pursuant to Municipal Code Chapter 17.32.

Attachments:

Attachment A – Resolution

Attachment B – Vicinity Map

Attachment C – Project Plans

RESOLUTION NO. 2019-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA, CONDITIONALLY APPROVING CONDITIONAL USE PERMIT CUP-190-0001, A REQUEST TO ALLOW A MEDICAL MARIJUANA DISPENSARY AT 7309 BROADWAY, LEMON GROVE, CALIFORNIA.

WHEREAS, the California voters approved Proposition 215 in 1996 to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes and to encourage elected officials to implement a plan for the safe and affordable distribution of medicine; and

WHEREAS, the California State Legislature adopted Senate Bill 420, the Medical Marijuana Program Act, in 2003 to help clarify and further implement Proposition 215 in part by authorizing patients and Primary caregivers to associate within the State of California in order to collectively or cooperatively cultivate cannabis for medical purposes; and

WHEREAS, the California State Legislature adopted Assembly Bill 243, Assembly Bill 266, and Senate Bill 643, collectively known as the Medical Marijuana Regulation and Safety Act, in 2015 to establish a statewide regulatory framework and establish the Bureau of Medical Marijuana Regulation for the regulation of medical marijuana activity occurring in jurisdictions across California; and

WHEREAS, on November 8, 2016, voters in the City of Lemon Grove passed Measure V, an initiative removing the City's prohibition of medical marijuana dispensaries and establishing performance standards and a permit process by which medical marijuana dispensaries may be established which is codified as Chapter 17.32 in the Lemon Grove Municipal Code (LGMC); and

WHEREAS, LGMC Section 17.32.090(B) establishes the distance requirements between dispensaries (including MMDs) as a regulated use and protected land uses, including public parks, playgrounds, licensed day care facilities, schools and alcohol and substance abuse treatment centers as defined in the LGMC; and

WHEREAS, on December 20, 2018, Citrus Street Partners filed Zoning Clearance application ZCM-180-0005, a request to apply for a Conditional Use Permit to establish a MMD at 7309 Broadway in the General Commercial (GC) zone, and on

March 28, 2019 Development Services Department staff found the application to be complete; and

WHEREAS, on April 3, 2019, Citrus Street Partners filed Conditional Use Permit application CUP-190-0001, a request to establish a MMD at 7309 Broadway in the General Commercial (GC) zone, and on October 9, 2019 Community Development Department staff found the application complete; and

WHEREAS, Notice of the Public Hearing was given in compliance with Lemon Grove Section 17.28.020(F). The Notice of the Public Hearing was mailed to all property owners within 1,000 feet of the subject property on November 6, 2019 and said notice was published in the November 7, 2019, edition of the East County Californian. The presence of the required on-site public notice sign was also confirmed on November 7, 2019; and

WHEREAS, the proposed project is categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities, and Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, the Zoning Ordinance includes street improvement requirements per LGMC Chapter 12.10 and Section 17.24.01 O(H). A clear nexus is made to require street improvements because: 1) this is the highest and best use of the property from a revenue standpoint; 2) the proposed use is higher intensity than typical retail uses and was not analyzed as a part of the General Plan Master Environmental Impact Report; 3) medical marijuana dispensary means persons with disabilities are likely to need access to the facility via vehicles or as a pedestrian or bicyclist; and 4) sidewalk and street improvements are largely supported by the General Plan Health & Wellness Element, Community Development Element, and Mobility Element policies.

WHEREAS, this permit does not excuse any owner or operator from complying with all applicable federal, state, county or local laws, ordinances or regulations. The owner or operator is required to determine if another permit or approval from any

other agency or department is necessary. The City, by issuing this permit, does not relinquish its right to enforce any violation of law; and

WHEREAS, on November 19, 2019, City Council held a duly noticed public hearing to consider Conditional Use Permit application CUP-190-0001; and

WHEREAS, the City Council determined that the following findings of fact can be made as required by LGMC Section 17.28.050(C):

1. *The use is compatible with the neighborhood or the community;*

LGMC Chapter 17.32 is the product of a 2016 citizen's initiative, Measure V, which explicitly authorized Medical Marijuana Dispensaries as a conditionally permissible land use. The proposed project is compatible with the community insofar as it is consistent with Chapter 17.32 which was codified at the direction of Lemon Grove voters.

2. *The use is not detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity;*

LGMC Chapter 17.32 is the product of a 2016 citizen's initiative, Measure V, which explicitly authorized Medical Marijuana Dispensaries as a conditionally permissible land use. The Lemon Grove General Plan adopted in 1996 did not contemplate Medical Marijuana Dispensaries as a land use nor were the specific environmental impacts assessed pursuant to CEQA. The proposed project is consistent with the General Plan as consequence Chapter 17.32 which was codified at the direction of Lemon Grove voters. The proposed project, as designed and conditioned mitigates potential detriments to the health, safety, convenience or general welfare of persons residing or working in the vicinity.

3. *The use complies with performance standards according to Section 17.24.080;*

A traffic impact analysis submitted with the application states that the proposed parking lot is sufficient to accommodate demand and that additional mitigation for traffic impacts is not required. Photometric plans indicate that minimal light trespass across is anticipated. The proposed project complies or will be made to

comply with applicable performance standards in LGMC Section 17.24.080, specifically noise, glare, and traffic.

4. The use is consistent with applicable provisions of the particular zoning district and with polices and standards of the general plan.

LGMC Chapter 17.32 is the product of a 2016 citizen's initiative, Measure V, which explicitly authorized Medical Marijuana Dispensaries as a conditionally permissible land use. The proposed project is compatible with provisions of the General Commercial zone insofar as it is consistent with Chapter 17.32 which was codified at the direction of Lemon Grove voters. The Lemon Grove General Plan adopted in 1996 did not contemplate Medical Marijuana Dispensaries but the project is consistent with the General Plan as a consequence of voter approval of Measure V.

WHEREAS, LGMC Section 17.32.080 also requires City Council to consider the following with the required Conditional Use Permit findings:

A. Whether the approval of the proposed use will violate the minimum requirements set forth in LGMC Chapter 17.32 for distance separations between establishments which dispense, process or cultivate medical marijuana; and separations between establishments which dispense, process or cultivate medical marijuana and other specific regulated or protected land uses as set forth in LGMC Chapter 17.32.

No evidence was found to the contrary.

B. Whether the proposed use complies with Title 17 of the Lemon Grove Municipal Code.

The proposed project as condition complies with LGMC Title 17 requirements.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California, hereby approves Conditional Use Permit CUP-190-0001 and the site and architectural plans date stamped October 15, 2019 (incorporated herein by reference as Exhibit A), except noted herein. This approval authorizes the establishment

of a Medical Marijuana Dispensary at 7309 Broadway in the General Commercial zone subject to the following conditions:

- 1. Within (5) days of approval, the applicant shall submit the appropriate payment for the filing of the CEQA Categorical Exemption and County Clerk Processing Fee.*
- 2. Prior to issuance of a building permit for the use authorized by this Conditional Use Permit the applicant shall comply with the following:*
 - a. All physical elements of the proposed project shown on the approved plans date stamped October 15, 2019, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Community Development Manager and City Engineer.*
 - b. All pre- and post-construction best management practices (BMPs) shall be maintained for the duration of the project.*
 - c. Where storm water runoff flows into landscape areas, landscape areas shall be designed to retain/capture first-flush of smaller storm events but larger storms must be provided with an adequate drainage pathway with appropriate mitigation. Storm water review for compliance shall be a part of a landscape plan review and shall include details for construction BMPs.*
 - d. Wheel stops shall be installed at all parking spaces located along the perimeter of a parking lot adjacent to landscape areas and buildings to the satisfaction of the Community Development Manager.*
 - e. A Heartland Fire & Rescue hazardous materials questionnaire shall be submitted with the building permit application for review.*
 - f. The applicant shall provide a letter detailing the security provisions for the dispensary and how the applicable Building and Fire Code requirements will be achieved for emergency ingress and egress.*
 - g. Submit an application to be included into the Lemon Grove Lighting District. The property will be assessed annually.*
 - h. A Public Improvement Plan that proposes street improvements as conditioned and required by the City of Lemon Grove Municipal Code*

12.10.060 shall be approved by the City Engineer and an agreement to improve with all necessary securities shall be in place.

- i. Demonstrate on the site plan, or precise grading plan, that the accessible path of travel (POT), and ADA parking shown on the Site Plan by design or surveyed methods meets the requirements for accessibility. Show slopes and/or elevations and details of all Accessible signage required per the California Building Code in effect at the time of application.*
- j. An encroachment permit with appropriate fees shall be required for all work proposed within the right-of-way.*
- k. Submit for Community Development Department approval, a detailed landscape and irrigation plan. Provide reference sheets for the grading and landscape erosion control plans. The plan shall indicate all surface improvements including, but not limited to, the design and locations of all walls, fences, driveways, walkways, botanical and common names of all plant materials, number, size and location of all plantings; all irrigation lines including valves and back-flow devices; and soil amendments. Said landscape plan shall comply with the requirements of Section 17.24.050(B) and Chapter 18.44 of the Municipal Code. The landscape plan shall be in substantial conformance to the approved landscape concept plan.*
- l. Carbon filtration is required prior to air exiting any exhaust point.*
- m. A fire extinguisher shall be placed and maintained in the "Sales & Dispensary" room.*
- n. Fire Extinguishers rated at 2A10BC shall be located a minimum of foot travel distance on the path on the path of egress.*
- o. All camera locations and entryway doors shall be properly secured and approved by the Sheriff's Crime Prevention Officer.*
- p. A photometric lighting plan shall be provided with final lighting design. Lighting shall be installed to adequately light the exterior and interior of the dispensary premises and conform with Section 17.28.080.*
- q. All proposed improvements shall comply with Title 15 including Building and Fire Codes and ADA accessibility requirements as adopted and amended by the City Council.*

3. *Prior to the Issuance of a Grading and/or Public Improvement Permit, and/or during Grading Activities, the Applicant shall comply with the following.*

- a. *Per Lemon Grove Municipal Code Section 12.10.060, up to one half of the public street ultimate right-of-way abutting the subject property shall be improved with public street improvements for the entire length of the subject property abutting the public street so as to meet the current city adopted standards. This will require the submittal of improvement plans and associated documents to the Engineering Division for review, approval and issuance of an Improvement Permit. Should the existing street improvements meet current standards, or be in a condition satisfactory to the City Engineer, the City Engineer may waive this requirement, or portions thereof.*

Public street improvements are defined in the Lemon Grove Municipal Code Section 12.10.020 as "curbs, gutters, sidewalks, driveways, paving, base material, alleys, street lights, traffic signals, signing, striping, storm drainage facilities, sewer and water facilities, the relocation and/or undergrounding of overhead utilities, fire hydrants, street trees, street landscaping and all necessary appurtenances" as applicable to the project.

The property owner(s) shall furnish all of the following to the engineering division upon applying for a permit to construct public street improvements:

- i. *A street improvement plan prepared by a civil engineer registered in the state of California;*
- ii. *An erosion control plan prepared by a civil engineer or landscape architect registered in the state of California;*
- iii. *A landscape and irrigation plan prepared by a landscape architect registered in the state of California, if planting is required;*
- iv. *Engineering review fees for the construction permit as described in Section 12.10.070.*

- b. *An agreement to improve or install improvements which are to be located in the public right-of way and/or private easements is required. The applicant shall post a good and sufficient improvement security with the City comprised of a cash deposit or a combination of cash deposit and corporate surety bond of a surety authorized to do business in the state. The estimated cost of the work shall be determined by the city engineer after reviewing the civil engineer's estimates.*
- c. *An Encroachment, Maintenance, and Removal Agreement (EMRA) will be required prior to the Improvement Permit issuance. The EMRA will mandate the responsibility of the property owner to maintain any proposed private improvements, landscape and irrigation, sidewalk underdrain (as needed) within the public right-of-way, and removals as required by the City.*
- d. *Demonstrate that the existing sidewalk underdrain can convey onsite drainage to the gutter. Increase the number of underdrains as required. An EMRA is required for new construction of sidewalk underdrains and curb outlets.*
- e. *All existing survey monuments shall be shown on grading and public improvement plans. Prior to permit issuance, the Applicant, or Permittee shall retain the service of a professional Land Surveyor, L.S., or Civil Engineer authorized to practice Land Surveying who will be responsible for monument preservation and shall provide a corner record or record of survey to the County Surveyor as required by the Land Surveyors Act, if applicable (Section 8771 of the Business and Professions Code of the State of California.)*
- f. *All existing and proposed easements, public and private shall be shown on all plans submitted for review to the City including the building plans, grading plans, landscape plans, and public improvement plans.*
- g. *Maintain and show on the Grading and Public Improvement plans all "Sight zones" in conformance with the current Highway Design Manual approved by the city council at the time of development approval. Ten-foot Sight Zone triangles shall be maintained at the site driveway entrance.*

- h. Submit for Traffic Control Permit for all work affecting vehicular or pedestrian traffic within the right-of-way on Broadway. Regional Standard drawings may be submitted as permitted by the City Engineer.*
 - i. Obtain and provide evidence of approval from the appropriate entity or agency for work within public water/irrigation easement.*
 - j. The final Grading and Public Improvement Plans must be approved, signed and dated by the Heartland Fire & Rescue Fire Marshal.*
 - k. Per the City of Lemon Grove Plan Grading Plan Submittal Checklist, applicants for all Grading and Improvement projects are required to submit and an Erosion Control Plan, minimum BMP Requirement notes and a WPCP where disturbed area equals or exceeds 5,000 square feet or a SWPPP where disturbed area exceeds one (1) acre.*
 - l. A Covenant not to oppose the formation of a future utility undergrounding district shall be required. The City will prepare the agreement and will require the owner to sign and notarize.*
 - m. A Covenant not-to-oppose the formation of a future street improvement district shall be required. The City will prepare the agreement and will require the owner to sign and notarize.*
 - n. A Covenant not-to-oppose the formation of a community facilities district shall be required. The City will prepare the agreement and will require the owner to sign and notarize.*
 - o. All physical elements of the proposed project shown on the approved plans date stamped October 15, 2019, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Community Development Manager and City Engineer.*
- 4. Prior to requesting a final inspection and occupancy of the structure, the applicant shall comply with the following:*
- a. Comply with Conditions 1 through 3 of this Resolution.*
 - b. All physical elements of the proposed project shown on the approved plans date stamped October 15, 2019, except as noted herein, shall be located, constructed and maintained substantially where they are shown in*

- accordance with applicable Lemon Grove City Codes to the satisfaction of the Community Development Manager and City Engineer.*
- c. Buildings equipped with fire alarm systems shall be provided with Knox Box for emergency access.*
 - d. A State license shall be required prior to commencing operations. The license must be maintained at all times.*
 - e. The San Diego Air Pollution Control District Rule 55 requires compliance with standard fugitive dust control best management practices which will be required as a part of normal practices.*
 - f. Dispensaries shall comply with the most recent adopted California Fire Codes and Standards.*
 - g. A fire inspection is required prior to a certificate of occupancy or business license being issued. The applicant shall ensure the dispensary is set up and ready for operation prior to the fire inspection.*
 - h. A bicycle rack shall be provided on the property.*
 - i. Parking areas and striping shall comply with current standards and damaged paving shall be repaired and maintained in a good condition. Designated parking spaces are prohibited on-site.*
 - j. A City Business License shall be obtained.*
 - k. Provide copies of all IRS and State Franchise Board filings within 30 days of filing.*
 - l. The location of the dispensary shall include the installation of a centrally monitored alarm system.*
 - m. Windows and glass panes shall have vandal-resistant glazing, shatter resistant film, or glass block equipped with appropriate access to allow exit in the event of an emergency in compliance with Fire Code as adopted and amended by the City Council.*
 - n. All emergency exits shall be solid core doors featuring hinge-pin removable deterrence. Emergency exit doors shall have latch guards at least 12 inches in length protecting the locking bolt area. Latch guards shall be a minimum 0.125-inch thick steel, affixed to the exterior of the door with non-removable bolts, and attached so as to cover the gap between the*

door and the doorjamb for a minimum of six inches both above and below the area of the latch.

- o. Windows vulnerable to intrusion by a vehicle must be protected by bollards or landscaping grade separation reasonably sufficient to prevent such intrusion.*
 - p. Vehicular sight distance of all driveway entrances shall be to the satisfaction of the City Engineer.*
 - q. Damaged paving shall be repaired and parking area striped consistent with LGMC Section 17.24.010.*
- 5. Upon establishment of use in reliance with this Conditional Use Permit, the applicant shall comply with the following:*
- a. Comply with Conditions 1 through 4 of this Resolution.*
 - b. All physical elements of the proposed project shown on the approved plans date stamped October 15, 2019, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Community Development Manager and City Engineer.*
 - c. Operating procedures as described in the Operations Manual date stamped October 15, 2019 shall be observed except as noted herein.*
 - d. If during employment with the dispensary, a director or employee is convicted of a crime identified in California Penal Code Section 1192.7, subdivision (c), and Health and Safety Code Section 11359 shall be immediately dismissed from employment or required to resign as a corporate board member or officer. For purposes of this section, a conviction in another state that would have been a conviction equivalent under California law to those convictions specified in this section will disqualify the person from employment or volunteering at the dispensary.*
 - e. Dispensaries shall have at least one uniformed security guard on duty during operating hours that possess a valid Department of Consumer Affairs "Security Guard Card."*
 - f. Dispensaries shall designate a community relations liaison (liaison) who shall be at least eighteen years of age. The liaison may also be the director*

of the dispensary. To address community complaints or operational problems with the dispensaries, the individual designated as the community relations liaison shall provide his or her name, phone number and email address to the following:

- i. Lemon Grove city manager;*
 - ii. San Diego County sheriff's department personnel supervising law enforcement activity in Lemon Grove; and*
 - iii. All neighbors within one hundred feet of the dispensary.*
- g. City code enforcement officers, San Diego sheriff's department staff, and any other employee of the City requesting admission for the purpose of determining compliance with the standards set forth in this section shall be given access to the premises. City and sheriff staff shall not retain information pertaining to individual patient records viewed during an inspection, and information related to individual patients shall not be made public. Inspectors will give reasonable notice of a scheduled inspection. Unannounced inspections of a dispensary may occur if city or sheriff's department staff have probable cause that the collective is violating the law. The dispensary must maintain compliance with inspection requirements as outlined in Section 17.32.090(C)(5) at all times.*
- h. The on-site display of unprocessed marijuana plants or representations of marijuana plants in any areas visible to the public is prohibited.*
- i. Dispensaries shall submit an "annual performance review report" for review and approval by the Community Development Manager. The "annual performance review report" is intended to identify effectiveness of the approved CUP, operations manual, and conditions of approval, as well as any proposed modification to procedures as deemed necessary. The Community Development Manager may review and approve amendments to the approved "operations manual"; and the frequency of the "annual performance review report." Medical marijuana cultivation, manufacturing and dispensing monitoring review fees pursuant to the current Master Fee Schedule shall accompany the "annual performance*

- review report” for costs associated with the review and approval of the report.*
- j. Maintain a waste disposal plan detailing plans for disposal of chemicals and plant waste.*
 - k. If the owners or operators of the Dispensary are a Limited Liability Company (LLC), corporation or trust, the names and addresses of all officers and designated signatories of the legal entities shall be provided to staff and shall be maintained in the CUP project files. The City shall be notified within 30 days of all changes to the property and business ownership including officers and designated signatories.*
 - l. The use of musical instruments and sound amplification devices on-site is prohibited at all times.*
 - m. All exits shall be readily accessible without delay or hindrance.*
 - n. Blocking or covering of egress windows is prohibited.*
 - o. All facilities shall be subject to review by the Fire Department at all times.*
 - p. Nuisance odor complaints shall be filed with the Department of Environmental Health.*
 - q. Sleeping within the facility and residential occupancy is prohibited.*
 - r. The dispensary shall post and maintain professional quality sign facing the parking lot(s) and the entrance that reads “No loitering; no littering; violators subject to arrest” in English and Spanish in accordance with LGMC. Loitering prohibitions shall be strictly enforced on-site.*
 - s. The Operating Standards as outlined in Section 17.32.090(C)(7) shall be observed and adhered to at all times.*
 - t. The business shall be subject to future local taxes and fees. If a local tax is implemented, a payment schedule may be established.*
 - u. A compliance inspection shall be conducted quarterly to ensure operations are in compliance with conditions of approval and other applicable regulations.*
 - v. The City or its designee may examine the records of licensees and inspect the premises of a licensee as the licensing authority as may be authorized by law. The City or its designee shall have access to any licensed medical*

marijuana facility for inspection of the facility, the employees and records (HIPPA compliance rules apply) during any normal business hours or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request (Business and Professions Code 19327(c).) Authorized regulatory staff shall be allowed access to the premises in accordance with State law (Business and Professions Code 19311 (e); 19327 (c)). Compliance inspections shall be conducted by HDL (contracted) and City staff with time expensed to and paid by the MMD operator to ensure operations are properly inspected in compliance with conditions of approval and other applicable regulations.

- w. Disposal of any unused or unwanted medical marijuana shall undergo a special process and shall not be disposed of as or with routine garbage.*
- x. Business activities shall be limited to medical marijuana dispensaries only.*
- y. Deliveries from the facility shall be prohibited, except as conducted by qualified patients and/or the Primary caregiver of the qualified patient, where the quantity transported and the method, timing and distance of the transportation are reasonably related to the medical needs of the qualified patient.*
- z. The cultivation of medical marijuana on-site is prohibited. If cultivation is permissible, a conditional use permit modification is required.*
- aa. The use of generators on-site is prohibited.*
- bb. No marked company related fleet vehicles with logo and/or business name shall be permitted within the City of Lemon Grove.*
- cc. Loitering and outdoor events shall be prohibited on the subject property.*
- dd. Complaints related to noise and smell shall require professional investigation paid by the MMD operator with analysis and appropriate mitigation.*
- ee. The site shall be well lit, but glare shall be prohibited onto adjacent properties or onto the public right-of-way. All light fixtures shall be maintained and adjusted to reflect light downward, away from any road or street, and away from any adjoining premises. Glare from proposed*

- roof and siding materials and signage shall be considered and designed to minimize impacts onto adjacent properties and the public right-of-way.*
- ff. The building façade shall be well maintained at all times.*
- gg. All graffiti and trash and debris shall be removed daily.*
- hh. Except for designated employees, no persons shall be allowed within the tenant space except during normal business hours.*
- ii. All site Crime Prevention through Environmental Design (CPTED) recommendations shall be implemented and adhered to all times.*
- jj. Sheriff "No Trespass" authorizations to enter and conduct enforcement on the subject property shall be completed and current at all times (renewed every 30 days).*
- kk. Consumption, sampling, smoking or ingestion of alcohol, tobacco and marijuana products is prohibited on the subject property.*
- ll. All activities associated with the business shall be conducted indoors.*
- mm. Landscape shall be maintained in good condition at all times.*
- nn. The use of barbed wire or razor ribbon on any fences, gates or walls is prohibited.*
- oo. The hours of operation shall be restricted to 8am to 8pm seven days a week only.*
- pp. All temporary signs are prohibited on-site.*
- qq. A minimum of two employees and one Director is required per facility (three persons total) upon application. Live Scan background check shall be provided to the City prior to employment of all employees or a new Director and prior to commencing operations.*
- rr. Verification shall be provided as a part of annual renewal submittals. A log of all persons entering the facility shall be kept on-site indicating the name, mailing address, phone and MMIC numbers and if product was purchased from the facility.*
- ss. No outdoor storage of equipment, materials or fleet vehicles is permitted without modification of the Conditional Use Permit.*
- tt. This project approval does not include signage and sign permits shall be obtained prior to installation. All signage for dispensaries shall require a*

- sign permit from the City prior to installation. Signage shall not include any terminology (including slang) or symbols for marijuana. Green crosses are not to be considered terminology including slang or symbols for marijuana. All signs shall conform to the Municipal Code Section 18.12.*
- uu. All cultivation, manufacturing and distributor sources shall maintain a State license. Distributors shall maintain a Type 11 Distributor License and a copy of the executed contract between the cultivator and distributor shall be on-file at all times.*
- vv. Cooking and processing of food or marijuana products is prohibited.*
- ww. The use of vending machines is prohibited on-site. A vending machine is any device which allows access to medical marijuana without a human intermediary.*
- xx. All temporary uses in accordance with Section 17.29.040 shall be prohibited on-site.*
- yy. Food trucks and catering shall be prohibited on-site. Food and beverage and/or charitable offerings or solicitations to patrons shall be prohibited on-site.*
- zz. Recreational activities and games of chance shall be prohibited on-site.*
- aaa. Prior to operation and annually thereafter, a record of Sheriff and Fire service calls shall be provided to the City of Lemon Grove for assessment.*
- bbb. The uniformed security guard on duty shall have an issued Private Patrol Operator number and a valid Department of Consumer Affairs "Security Guard Card" on their possession at all times. A copy of the security guard contract shall be reviewed and approved by the Sheriff's Department. The Security Guard uniform shall be approved by the Bureau of Security and Investigative Services (BSIS).*
- ccc. No persons under the age of eighteen are allowed at, in or at a MMD facility, unless such individual is a qualified patient and accompanied by their licensed attending physician, parent or documented legal guardian.*
- ddd. Low plant materials in the front yard setback shall be no greater than 18 inches in height and tree canopies shall be maintained greater than eight feet high.*

- eee. All cannabis products shall be tracked, tested, sealed and labeled at a minimum by State Medical Cannabis Regulation Act and as it may be amended.*
- fff. All records related to cannabis activity shall be maintained a minimum of seven years.*
- ggg. All activities involving the transportation of marijuana for a dispensary shall comply with California State Regulations, restrictions and guidelines, as enumerated in Division 8, Chapter 3.5 of the California Business and Professions Code, and established by the Bureau of Medical Marijuana Regulations. Delivery services are prohibited.*
- hhh. The doors and windows shall remain closed and the air conditioning system utilized during hours of operation to reduce noise and odor impacts in the surrounding neighborhood.*
- iii. The project shall conform to all performance standards of Municipal Code Section 17.24.080.*
- jjj. Proper drainage shall be maintained throughout this property so as to prevent ponding and/or storage of surface water.*
- kkk. Clear and well-lit addresses shall be provided on-site. Addresses contained within the subject properties shall be visible from the public street in all directions to the satisfaction of the Fire Marshal. Numbers shall be a minimum eight inches high with a one-half inch stroke for commercial.*
- lll. All trash, recycling, and refuse containers are must be stored within the interior of the building, as shown on the Conditional Use Permit floor plan and are only permitted to be outside said building for scheduled trash service.*
- mmm. Each violation on the subject property shall be deemed a separate offense subject to daily administrative citations and fines to both the property and the business owners for each violation in accordance with LGMC Chapter 1.24. Violations of this CUP may result in the noticing of a public hearing for consideration by the City Council to revoke the Conditional Use Permit in accordance with LGMC Title 17. If considered for revocation, the City Council shall consider the impact of the violation(s) on public health and*

safety and the Permit Holder's ability and willingness to rectify the violation in a timely manner to minimize the impact on public health and safety.

nnn. The CUP shall be renewed every three years after commencing operations.

The City Council can deny a CUP renewal if it's determined that the MMD has operated contrary to the conditions of approval and the requirements of the LGMC, or if the MMD has become a public nuisance.

ooo. A conditional use permit modification is required prior to transfer of ownership or change in business name.

- 6. The applicant, project proponents, operators and owners of the subject property and the MMD shall indemnify, protect, defend, and hold harmless, the City and any agency thereof, and/or any of its officers, employees, and agents from any and all claims, actions, or proceedings against the City, or any agency or instrumentality thereof, or any of its officers, employees, or agents to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project. City shall promptly notify the applicant/sub divider of any claim, action, or proceeding brought within this time period, and City shall further cooperate fully.*
- 7. The terms and conditions of the Conditional Use Permit shall be binding upon the permittee and all persons, firms, and corporations having an interest in the property subject to this Conditional Use Permit and the heirs, executors, administrators, successors, and assigns of each of them, including municipal corporations, public agencies, and districts.*
- 8. This Conditional Use Permit expires November 19, 2021 (or such longer period as may be approved by the City Council of the City of Lemon Grove prior to said expiration date) unless all requirements of this Conditional Use Permit have been met prior to said expiration date.*

PASSED AND ADOPTED on November 19, 2019, the City Council of the City of Lemon Grove, California, adopted Resolution No. 2019-_____, passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Racquel Vasquez, Mayor

Attest:




Shelley Chapel, MMC, City Clerk

Approved as to Form:

Kristen Steinke, City Attorney

CUP-190-0001



- Legend**
-  7309 Broadway
 -  LG Parcels
 -  Roads

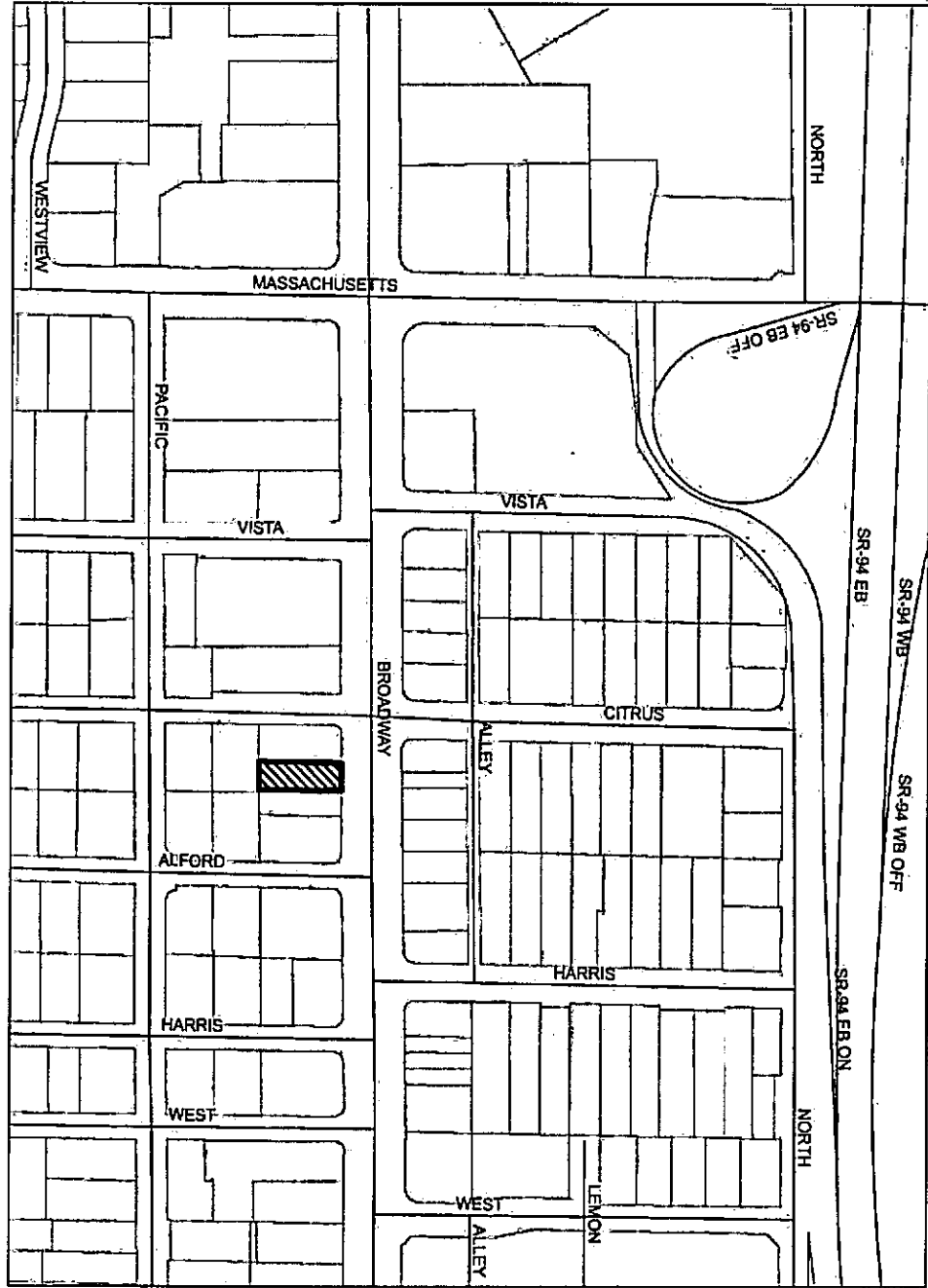


EXHIBIT A –PROJECT PLANS

Not Attached

Enclosed in City Council packet or available at City Hall for review

EXHIBIT C

EXHIBIT C



CITY OF LEMON GROVE

"Best Climate On Earth"

Development Services Department

March 28, 2019

Marty Frank
31805 Temecula Parkway #357
Temecula, CA 92592

Ambrose Wong, PE
9449 Balboa Avenue, Suite 270
San Diego, CA 92123

SUBJECT: Notice of Complete for Zoning Clearance Application No. ZCM-180-0005 at 7309 Broadway, Lemon Grove, CA 91945 (APN: 479-092-02-00).

Messrs. Frank and Wong,

Staff received and reviewed revised application materials for Zoning Clearance ZCM-190-0005 during a scheduled counter review appointment on March 6, 2019. As a result of this review, City Staff hereby deem Zoning Clearance ZCM-180-0005 complete and eligible to apply for a Conditional Use Permit.

Please note that this is not a deemed complete status for a Conditional Use Permit. Staff will begin processing the Conditional Use Permit application only upon receipt of a completed Planning Permit application and the required \$1,500 Conditional Use Permit deposit. An appointment is required to submit a Conditional Use Permit application.

Lastly, please be advised that a Conditional Use Permit for a child care facility at 3468 Citrus Street was approved by the Lemon Grove Planning Commission on October 22, 2018. Upon satisfaction of the conditions enumerated in the Conditional Use Permit resolution, the subject property will be disqualified based on required separations from protected uses as specified in 17.32.090(B). The City has also received a Zoning Clearance application for a Medical Marijuana Dispensary at 3515 Harris Street, which would similarly disqualify the subject location should a Conditional Use Permit ultimately be approved and its conditions fulfilled.

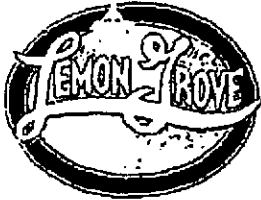
Please contact me at 619.825.3807 or mviglione@lemongrove.ca.gov if you have any questions or if you would like to schedule an appointment to submit for an application for Conditional Use Permit.

Respectfully,

Mike Viglione, Associate Planner

CC: ZCM-180-0005 Project File

EXHIBIT D



PLANNING PERMIT APPLICATION

CITY OF LEMON GROVE
Development Services Department / Planning Division
3232 Main Street, Lemon Grove, CA 91945
Phone: 619-825-3805 Fax: 619-825-3818
www.lemongrove.ca.gov

DEVELOPMENT SERVICES

APPLICATION REQUEST- SELECT ALL THAT APPLY - (SUBJECT TO OTHER PERMIT REQUIREMENTS)

- Zoning Clearance (ZC)
- Pre-Application (PA)
- Minor Use Permit (MUP)
- Conditional Use Permit (CUP)
- Planned Development Permit (PDP)
- Minor Modification (MM)
- Variance (VA)
- Boundary Adjustment/Lot Merger (BA)
- Tentative Map (TM) - 5 or more lots
- Other
- Tentative Parcel Map (TPM) - 4 or fewer lots
- Certificate of Compliance (CC)
- Zoning Amendment (ZA)
- Specific Plan Amendment (SPA)
- General Plan Amendment (GPA)
- Modification of _____
- Time Extension for _____
- Appeal of _____
- Substantial Conformance Review of _____

APPLICANT: KIM Investments LLC PHONE: [REDACTED]
ADDRESS: 2221 Camino Del Rio South #207 FAX: [REDACTED]
San Diego CA 92108 EMAIL: [REDACTED]

PROPERTY OWNER: RRJJ LLC PHONE: [REDACTED]
ADDRESS: 2221 Camino Del Rio South #207 FAX: [REDACTED]
San Diego CA 92108 EMAIL: [REDACTED]

CONTACT PERSON: Joe Yousif PHONE: [REDACTED]
ADDRESS: 2221 Camino Del Rio South #207 FAX: [REDACTED]
San Diego CA 92108 EMAIL: [REDACTED]

*If applicant or property owner is a trust, partnership, or corporation, please attach record(s) of ownership listing all trustees, partners, or officers, as applicable.

PROJECT NAME: KIM Investments
PROJECT ADDRESS: 3515-3521 Harris Street Lemon Grove CA 91945
ASSESSOR PARCEL #: 479-052-07-00 SITE ACREAGE:

DETAILED DESCRIPTION OF PROPOSED PROJECT USE, STRUCTURE, AND IMPROVEMENT:
C.U.P. Cannabis

APPLICANT CERTIFICATION:

I hereby certify that the statements furnished in this application and in the supplemental materials present the data and information required for this project to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge. In addition, I grant permission to the City of Lemon Grove to reproduce submitted materials, including but not limited to plans, exhibits, photographs, and studies for distribution to staff, Planning Commission, City Council and other agencies in order to process this application.

Signature: [Redacted]

Date: May 9, 2019

Name (please print): Jilette Joseph Yousif

Phone: [Redacted]

CONSENT BY PROPERTY OWNER

If applicant is other than property owner, owner must sign consent to filing. Attach additional sheets if necessary. If property owner is a corporation or trust, a designee authorization letter is required.

I/We, as the owner(s) of the subject property, consent to the filing of this application. We further consent and hereby authorize City representative(s) to enter upon my property for the purpose of examining and inspecting the property in preparation of any reports and/or required environmental review for the processing of the application.

Signature: [Redacted]

Date: May 9, 2019

Name (please print): Jilette Yousif /

Phone: [Redacted]

Signature:

Date:

Name (please print):

Phone:

Note: This application being signed under penalty of perjury and does not require notarization.

TO BE COMPLETED BY PLANNING STAFF

APPLICATION PROCESSING:

FILE #(s):

ACTION:

DATE:

APPROVED DISAPPROVED

FEES:

RECEIPT #:

CONDITIONALLY APPROVED (See Below)

ZONE:

LAND USE DESIGNATION:

COMMENTS and/or CONDITIONS:



CITY OF LEMON GROVE
Development Services Department

"Best Climate On Earth"

November 7, 2019

Joe Yousif
KIM Investments LLC
2221 Camino Del Rio South #207
San Diego, CA 92108

**SUBJECT: Notice of Complete for Conditional Use Permit Application CUP-190-0002 at
3515 Harris Street, Lemon Grove CA 91945 (APN 479-052-07-00).**

Mr. Yousif,

City Staff completed their review of the above referenced project and found the application complete. Pursuant to Lemon Grove Municipal Code Section 17.28.020(G)(1) and our November 6, 2019 telephone call, the Conditional Use Permit application is scheduled for public hearing at the Tuesday, January 21, 2020 City Council meeting at 6:00 pm in the Lemon Grove Community Center at 3146 School Lane in Lemon Grove unless a continuance is requested.

Please be advised that a public notice sign meeting the requirements of Section 17.28.020(F)(2) must be placed on the property at least ten days prior to the public hearing and shall be maintained until Certificate of Occupancy is granted. Note that it is the responsibility of the applicant to post and maintain the required signage. A copy of the approved sign layout is enclosed for reference.

Lastly, the balance reflected in the enclosed invoice is due upon receipt. Please note that any costs related to the public hearing will be due at its conclusion.

Respectfully,


Mike Vigilone
Associate Planner

Enclosure. Invoice 3
Approved Sign Template

CC: CUP-190-0002 Project File

EXHIBIT E

October 11, 2019

Mr. Ambrose Wong
BWE
9449 Balboa Avenue, Suite 270
San Diego, CA 92123

LLG Reference: 3-18-2999

Subject: **7309 Broadway MMD Project Transportation Letter Report**

Dear Mr. Wong:

Linscott, Law and Greenspan (LLG) Engineers has prepared this transportation letter report for the proposed 7309 Broadway Medical Marijuana Dispensary (MMD) Project ("Project") in the city of Lemon Grove. The Project proposes to occupy a single existing commercial on the subject site: a 1,614 square feet (SF) one-story commercial building. It will improve the existing building to develop a MMD with a 734 SF sales area, upon which trip generation is calculated. The balance of the building will be used for office/administration, waiting area, storage, restrooms, etc.

Figure 1 contains a Project area map and *Figure 2* shows the Project site plan. The Project will maintain the existing 26-foot wide commercial driveway off of Broadway to provide with five (5) parking spaces for customers on-site including one van-accessible handicapped space. Employees will be required to park off-site at one of two near-by Park & Ride lots. The first is the "High Street Park & Ride" lot located approximately one mile to the north and east of the Project, on the west side of Lemon Grove Avenue between Lincoln Street and Montana Street. The Project will pay employees to use a transportation network company (TNC) such as Lyft or Uber to transit the 1 mile distance. Security guards employed by the Project will be dropped-off and picked-up by the security company, and will not require parking. These employee operations are codified in the Project's Operations Manual, which will be approved by the City.

Engineers & Planners
Traffic
Transportation
Parking

Linscott, Law &
Greenspan, Engineers
4542 Ruffner Street
Suite 100
San Diego, CA 92111
858.300.8800 T
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www.llgengineers.com

Pasadena
Irvine
San Diego
Woodland Hills

Philip M. Linscott, PE (1924-2000)
Jack M. Greenspan, PE (Ret.)
William A. Law, PE (Ret.)
Paul W. Wilkinson, PE (Ret.)
John P. Keating, PE
David S. Shender, PE
John A. Boarman, PE
Clare M. Look-Jaeger, PE
Richard E. Barretto, PE
Keil D. Moberly, PE

An LG2WB Company Founded 1966

Included in this letter report is the following:

- Existing Conditions
- Existing Traffic Volumes
- Trip Generation
- Trip Assignment
- Access Analysis
- Parking Assessment
- Access Discussion
- Conclusions

EXISTING CONDITIONS

The Project is located at a commercial location on Broadway just east of Citrus Street in the city of Lemon Grove. It is located adjacent to commercial uses fronting Broadway, and located on the south side of Broadway. The existing building is currently used as storage.

Broadway – is classified as a Four-Lane Major in the existing City of Lemon Grove General Plan Circulation Element (Figure M-1 Circulation Plan) and has the following typical cross-section adjacent to Citrus Street and the Project site:

- **Citrus Street to Harris Street:** Broadway provides two travel lanes in each direction with a raised median and dedicated left-turn lanes. Curb gutter, sidewalks and 5-foot bike lanes are provided in both directions. Parking is not permitted in either direction in the vicinity of Citrus Street or Harris Street.



Picture: Eastbound Broadway from Citrus Street looking toward Harris Street (site is on the right)

Citrus Street – is an unclassified roadway in the City’s current General Plan Circulation Element. It is constructed as a two-lane roadway primarily serving single family homes both north and south of Broadway. Curbside parking is generally permitted in both directions. Citrus Street intersects Broadway at a full access unsignalized intersection. The north and south legs of this intersection (Citrus Street) are stop-controlled. Left-turn pockets are provided in both directions of Broadway at Citrus Street.



Harris Street – is an unclassified roadway in the City’s current General Plan Circulation Element. Like Citrus Street, Harris Street is also constructed as a two-lane roadway primarily serving single family homes both north and south of Broadway, and curbside parking is generally permitted in both directions. While Harris Street is offset east/west by approximately 85-feet where it intersects Broadway at a full access unsignalized intersection, it is analyzed in this report as a four-legged, full access intersection. The north and south legs of this intersection (Harris Street) are stop-controlled, and left-turn pockets are provided in both directions of Broadway at Harris Street.



Picture: Plan view of the Broadway/Harris Street intersection showing the off-set (site is on lower left)

EXISTING TRAFFIC VOLUMES

Existing average daily volume (ADT) counts were conducted on Broadway on May 24, 2018. This segment volume was recorded at 21,240 ADT. The ADT for the adjacent segment of Broadway was estimated using the relationship of known peak hour counts and daily volumes at Citrus Street and Broadway. An AM/PM peak hour count was also commissioned at the unsignalized Broadway/Citrus Street intersection. A supplemental intersection count was conducted on July 25, 2018 at the Broadway/Harris Street intersection, with additional counts on August 20, 2019. It should be noted that the site is currently occupied for storage that generates some traffic that was included in the existing counts.

Figure 3 depicts the existing traffic volumes and *Attachment A* contains the segment and intersection count sheets.

TRIP GENERATION

Based on direction from the City of Lemon Grove for a similar medical marijuana facility, the amount of trips to be generated by the 7309 Broadway Project was estimated based on traffic counts taken at two existing marijuana dispensaries (one medical, one medical/retail) in San Diego County. It should also be noted that both locations were counted during the holiday season when sales are higher.

Peak period traffic counts were conducted on December 20 and 21, 2017 at the *Balboa Cooperative*, located at 8863 Balboa Avenue, in Kearny Mesa. This facility is located inside a 4,995 SF building and has a total area of 1,000 SF with a sales area of 750 SF. It should be noted that at the time of the traffic counts, this facility operated as a medical dispensary only. The independent variable for these locations is the sales area SF, not the total area SF.

Peak period volume counts were also conducted on January 3 and 4, 2018 at *A Green Alternative*, located at 2335 Roll Drive in Otay Mesa. This facility is located inside a 14,090 SF building and has a total area of 1,406 SF with a sales area of 999 SF. At the time of the counts, this facility operated as both a medical and recreational dispensary. Therefore, inclusion of the Otay Mesa facility in the trip generation rate calculation provides a conservative analysis since the Project site would allow medical customers only.

Table 1 summarizes the results of the sample peak hour traffic generation counts. As shown in *Table 1*, the combined peak hour trips of both facilities (medical and medical-retail) total 23 AM peak hour trips (17 inbound/ 6 outbound) and 81 PM

peak hour trips (49 inbound/ 32 outbound). The combined sales area for both observed sites is 1,750 SF.

The traffic generation rates calculated based on the relationship of AM & PM peak hour trip to sales area square footage was applied to the proposed Project's sales area square footage. Again, these rates are likely conservative with respect to the medical-only Project, as they are partially based on a joint retail/medical outlet, which was observed to generate more trips per sales area square footage as compared to the medical-only facility.

Applying these calculated rates to the Project's medical sales area of 734 SF results in 10 AM peak hour trips (7 in/ 3 out), and 34 PM peak hour trips (19 in/ 15 out). *Table 2* contains the Project's trip generation summary.

TRIP DISTRIBUTION / ASSIGNMENT

The subject section of Broadway runs parallel to SR-94, and functions as a business loop frontage road. The Project site is located proximate to the Massachusetts Avenue/ SR-94 interchange, and commercial uses are located along Broadway, with residential neighborhoods to the north and south. The trip distribution was based on existing traffic patterns (turning and through-movements observed at the Citrus Street and Harris Street intersections adjacent to the Project). Based on these observed volumes, it is estimated that 50% of Project traffic will be oriented west of the Project Site on Broadway, while 50% will be oriented east of the Project Site.

Figure 4 depicts the Project distribution and *Figure 5* shows the Project traffic volumes. *Figure 6* depicts the Existing + Project traffic.

ANALYSIS

An Existing & Existing + Project peak hour intersection analysis was conducted at the Broadway/Citrus Street, Broadway/Project Driveway (right-in/right-out only) and Broadway/Harris Street unsignalized intersections. Left-turns to/from the site are precluded by the raised media on Broadway, therefore both adjacent intersections were evaluated to account for out-of-direction U-turns created by the left-turn median restriction.

The general criteria used to determine significance of impacts is based on standards of practice using the regional SANTEC/ITE Guidelines for Traffic Impact Studies [TIS] in the San Diego Region, where LOS D or better operations are considered acceptable. However, for minor-street movements at unsignalized intersections such as Citrus Street and Harris Street, the County of San Diego's Guidelines for Determining Significance is applied, as it specifically addresses project impacts to

minor-street movements. This criteria is contained in *Attachment B*, and utilizes volume and queuing on the minor street as the measure of effectiveness.

These guidelines state that a “critical movement” is an intersection movement (right-turn, left-turn or through-movement) that experiences “excessive queues”, which typically operate at LOS F. In the case of Citrus Street, this would be the northbound approach to Broadway; for Harris Street, no movements operate at LOS F. For an LOS F-operating critical movement, the County guidelines allow 5 or less Project traffic volumes.

Per City direction, *Table 3* shows the results of the analysis for all turning movements at the study area intersections. As shown in *Table 3*, all movements except the NB movement from Citrus Street currently operate at acceptable LOS D or better during AM and PM peak hours.

With the addition of Project traffic, all movements except the NB movement from Citrus Street continue to operate at acceptable LOS D or better.

The minor-street NB left-thru-right movement from Citrus Street is calculated to operate at LOS F, both without and with the Project. However, as shown on *Figure 4*, the Project does not add any trips to this movement. Therefore, no significant impacts are calculated.

Attachment C contains the analysis worksheets.

PARKING

The Project will provide 5 parking spaces on the site. The City of Lemon Grove’s municipal code does not provide specific parking ratios for Medical Marijuana Dispensaries such as that proposed by the Project. The City has instead relied on parking counts conducted at an existing medical marijuana dispensary at 8863 Balboa Avenue in the City of San Diego. The data observed for these parking counts was related back to the sales area square footage, which reflects an independent variable representative of potential business generation (sales), versus storage, office and other ancillary square footage. The sales area of the Balboa Avenue location was 750 SF. The highest observed parking demand at this existing location was 5 spaces. Therefore, the peak parking demand for the Project (734 SF sales area) would also be considered 5 parking spaces.

As stated above, empirical observations indicate an overall parking requirement of 5 spaces (staff and patrons). This Project in particular has submitted an Operations Manual for review that mandates that staff will park offsite at either the High Street

or Lincoln Park park & ride lots (each approximately 1 mile away), and use a TNC such as Lyft or Uber to transit to and from the Project. On-site security staff will be dropped-off and picked-up by the security company, and not require parking. Again, these operations will be assured by the detailed Project's Operations Manual which will be approved by the City.

Peak parking demand can also be considered in terms of peak traffic demand. *Table 2* shows that the Project will result in maximum peak hour demand of 19 vehicles (PM peak, inbound). With five parking spaces provided for customers, each space will need to turn over approximately 4 times to serve the 19 inbound vehicles. This equates to one space turning over each 15 minutes. As such, patrons would need to spend in excess of 15 minutes per transaction to result in a parking deficiency. As this is a medical marijuana use, the patrons would most likely be regular customers who know their prescription details, and would not be expected to spend in excess of 15 minutes on-site per transaction.

Thus, based on observed parking demand for a similarly-sized MMD, and an evaluation of peak hour trips and parking turn-over, it is concluded that the proposed five (5) customer spaces would be sufficient to accommodate the Project's parking demand.

Table 4 summarizes the observed parking demand during the AM and PM peak hours at the MMD location.

ACCESS

Project access will remain via the existing 26-foot wide commercial driveway on Broadway that serves the existing site. No significant traffic conflicts are expected at the existing commercial driveway access based on the low site volumes (see *Table 2*) and the right-in/right-out only allowed movements allowed because of the raised median. No striping improvements, turn pockets, signage or other geometric improvements are necessary or proposed.

Site visibility to/from the Project driveway will be maintained and enhanced from the existing condition. Currently, there is a decorative wrought-iron fence that bounds the east, west and north property lines. The Project will remove the fence along the north property line, and replace the east and west property line fencing with a 42-inch high wrought-iron fence that will allow unobstructed view to/from the west on Broadway. The adjacent building to the west is setback from the right-of-way by approximately 25-feet, which provides unobstructed view to/from the Project site and Broadway. There is a Class II bike lane along the Project frontage to Broadway, with curbside

parking prohibited. Thus, there is no possibility of parked cars or oversized vehicles parking on Broadway west of the Project driveway and obstructing sight distance.

Broadway has posted speed limit of 35 MPH in the Project area. The AASHTO guidelines indicate that at 35 MPH, 250-feet of stopping sight distance would be required. Based on the existing and conditions and design aspects described above, this stopping sight distance would be provided west of the driveway.

CONCLUSIONS

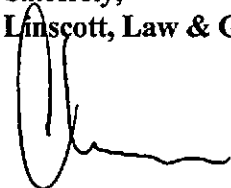
The Project is calculated to generate 340 daily trips with 10 total AM peak hour trips and 34 total PM peak hour trips. The analysis indicates LOS D or better operations at the Project Driveway and the adjacent unsignalized intersections of Broadway/Citrus Street and Broadway/Harris Street, with the exception of the northbound movement at the Broadway/Citrus Street intersection. However, no significant impacts are determined based on the City's accepted guidelines, and no Project improvements to the driveway, Broadway or either adjacent intersection are required.

The on-site parking supply of five (5) spaces is calculated to be adequate based on the observed parking demand at a similar-sized MMD facility, and corroborated with peak hour volumes and calculated customer parking space turnover. Employee parking will be accommodated in two off-site park & ride lots, with transit to and from the site provided by TNC providers and paid for by the Project. Security staff will be dropped-off and picked-up by the security company. Assurance of employee parking operations will be provided by the Operations Manual to be approved by the City.

Project access will be provided by a 26-foot wide driveway, with no on-or-off site obstructions to sight distance to/from Broadway west of the driveway. No striping improvements, turn pockets, signage or other geometric improvements are necessary or proposed.

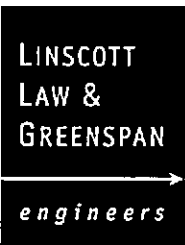
Please don't hesitate to call if you have any questions.

Sincerely,
Linscott, Law & Greenspan, Engineers



Chris Mendiara
Associate Principal

Mr. Ambrose Wong
10/11/2019
Page 9



cc: File

Figures: *Figure 1* – Project Area
Figure 2 – Site Plan
Figure 3 – Existing Volumes
Figure 4 – Project Distribution
Figure 5 – Project Traffic Volumes
Figure 6 – Existing + Project Traffic Volumes

Attachments: *Attachment A* – Existing Traffic Counts
Attachment B – County of San Diego Significance Criteria Summary
Attachment C – Peak Hour Intersection Analysis Worksheets

**TABLE 1
 OBSERVED PEAK HOUR TRIP COUNTS – SELECT SAN DIEGO COUNTY DISPENSARIES**

Peak Period	Day 1							Day 2						
	In	Out	Total	Hour	In	Out	Total	In	Out	Total	Hour	In	Out	Total
8863 Balboa Avenue (Medical-Only: 750 SF Sales Area)														
AM														
7:00	0	0	0					0	0	0				
7:15	0	0	0					0	0	0				
7:30	0	0	0					0	0	0				
7:45	6	2	8	7:00 to 8:00	6	2	8	0	0	0	7:00 to 8:00	0	0	0
8:00	0	0	0	7:15 to 8:15	6	2	8	1	1	2	7:15 to 8:15	1	1	2
8:15	0	0	0	7:30 to 8:30	6	2	8	0	0	0	7:30 to 8:30	1	1	2
8:30	1	0	1	7:45 to 8:45	7	2	9	0	0	0	7:45 to 8:45	1	1	2
8:45	1	1	2	8:00 to 9:00	2	1	3	0	0	0	8:00 to 9:00	1	1	2
PM														
4:00	0	1	1					0	2	2				
4:15	0	0	0					0	0	0				
4:30	1	1	2					0	0	0				
4:45	2	1	3	4:00 to 5:00	3	3	6	0	0	0	4:00 to 5:00	0	2	2
5:00	0	2	2	4:15 to 5:15	3	4	7	0	0	0	4:15 to 5:15	0	0	0
5:15	3	1	4	4:30 to 5:30	6	5	11	0	0	0	4:30 to 5:30	0	0	0
5:30	0	2	2	4:45 to 5:45	5	6	11	1	1	2	4:45 to 5:45	1	1	2
5:45	2	0	2	5:00 to 6:00	5	5	10	0	0	0	5:00 to 6:00	1	1	2
2335 ROLL DRIVE (Medical and Retail: 999 SF Sales Area)														
AM														
7:00	1	1	2					2	1	3				
7:15	0	0	0					1	0	1				
7:30	1	0	1					0	0	0				
7:45	0	0	0	7:00 to 8:00	2	1	3	0	0	0	7:00 to 8:00	3	1	4
8:00	1	0	1	7:15 to 8:15	2	0	2	0	0	0	7:15 to 8:15	1	0	1
8:15	2	1	3	7:30 to 8:30	4	1	5	1	1	2	7:30 to 8:30	1	1	2
8:30	2	1	3	7:45 to 8:45	5	2	7	1	0	1	7:45 to 8:45	2	1	3
8:45	0	1	1	8:00 to 9:00	5	3	8	0	1	1	8:00 to 9:00	2	2	4
PM														
4:00	4	4	8					1	1	2				
4:15	6	4	10					1	1	2				
4:30	7	6	13					1	0	1				
4:45	2	5	7	4:00 to 5:00	19	19	38	1	0	1	4:00 to 5:00	4	2	6
5:00	3	2	5	4:15 to 5:15	18	17	35	7	3	10	4:15 to 5:15	10	4	14
5:15	4	3	7	4:30 to 5:30	16	16	32	6	1	7	4:30 to 5:30	15	4	19
5:30	1	3	4	4:45 to 5:45	10	13	23	1	1	2	4:45 to 5:45	15	5	20
5:45	2	1	3	5:00 to 6:00	10	9	19	6	5	11	5:00 to 6:00	20	10	30

TABLE 2
 PROJECT TRIP GENERATION SUMMARY

Description	Sales Area	Daily Volumes		AM Peak Hour			PM Peak Hour				
		Rate	Volume ^a	Observed Rate ^b	In	Out	Total	Observed Rate ^b	In	Out	Total
Dispensary	0.734 KSF	—	340	13.2 /KSF	7	3	10	46.3 /KSF	19	15	34

Footnotes:

- a. The daily traffic volume (ADT) is calculated assuming the total PM peak hour volumes observed represent 10% of the daily ADT.
- b. AM/PM peak hour observed rates represent blended rates from the Kearny Mesa (medical) and Otay Mesa (medical/retail) sites. This is considered conservative for application to the Project (medical-only). AM In:Out split is observed at 67%:33%. PM In:Out split is observed at 55%:45%.

**TABLE 3
EXISTING & EXISTING + PROJECT
PEAK HOUR INTERSECTION OPERATIONS**

Intersection	Traffic Control	Turning Move	Peak Hour	Existing		Existing + Project		
				Delay ^a	LOS ^b	Delay ^a	LOS ^b	Δ ^c
1. Broadway/ Citrus Street	MSSC	SB LTR	AM	14.6	B	14.7	B	0 veh
			PM	18.8	C	19.4	C	0 veh
		WBL	AM	8.4	A	8.4	A	0.0
			PM	10.7	B	10.8	B	0.1
		NB LTR	AM	18.4	C	18.7	C	0 veh
			PM	63.2	F	69.3	F	0 veh
		EBL	AM	8.8	A	8.8	A	0.0
			PM	9.1	A	9.2	A	0.1
2. Broadway / Project Driveway	MSSC	NBR	AM	—	—	9.8	A	—
			PM	—	—	12.5	B	—
3. Broadway/ Harris Street	MSSC	SB LTR	AM	11.3	B	11.4	B	0 veh
			PM	17.4	C	18.0	C	0 veh
		WBL	AM	8.3	A	8.3	A	0.0
			PM	9.8	A	9.9	A	0.1
		NB LTR	AM	16.3	C	16.5	C	0 veh
			PM	28.4	D	29.7	D	0 veh
		EBL	AM	8.3	A	8.3	A	0.0
			PM	8.7	A	8.8	A	0.1

Footnotes:

- a. Average delay per vehicle in seconds
- b. Level of service
- c. Major street left/U-turn delay increase (seconds) reported. Minor street increase in Project traffic volumes reported

General Note:

- 1. MSSC = Minor Street Stop Controlled intersection

UNSIGNALIZED

DELAY/LOS THRESHOLDS

Delay	LOS
0.0 ≤ 10.0	A
10.1 to 15.0	B
15.1 to 25.0	C
25.1 to 35.0	D
35.1 to 50.0	E
≥ 50.1	F

**TABLE 4
 OBSERVED PEAK HOUR PARKING DEMAND**

Peak Period	8863 BALBOA AVENUE (Medical-Only: 750 SF Sales Area)	
	Day 1	Day 2
<i>AM Peak</i>		
7:00	0	0
7:15	0	0
7:30	0	0
7:45	5	0
8:00	3	1
8:15	2	1
8:30	4	0
8:45	4	0
Average AM Demand:	2.3	0.3
Maximum AM Demand:	5.0	1.0
<i>PM Peak</i>		
4:00	3	0
4:15	2	0
4:30	3	0
4:45	4	0
5:00	4	0
5:15	5	0
5:30	4	1
5:45	4	0
Average PM Demand:	3.6	0.1
Maximum PM Demand:	5.0	1.0

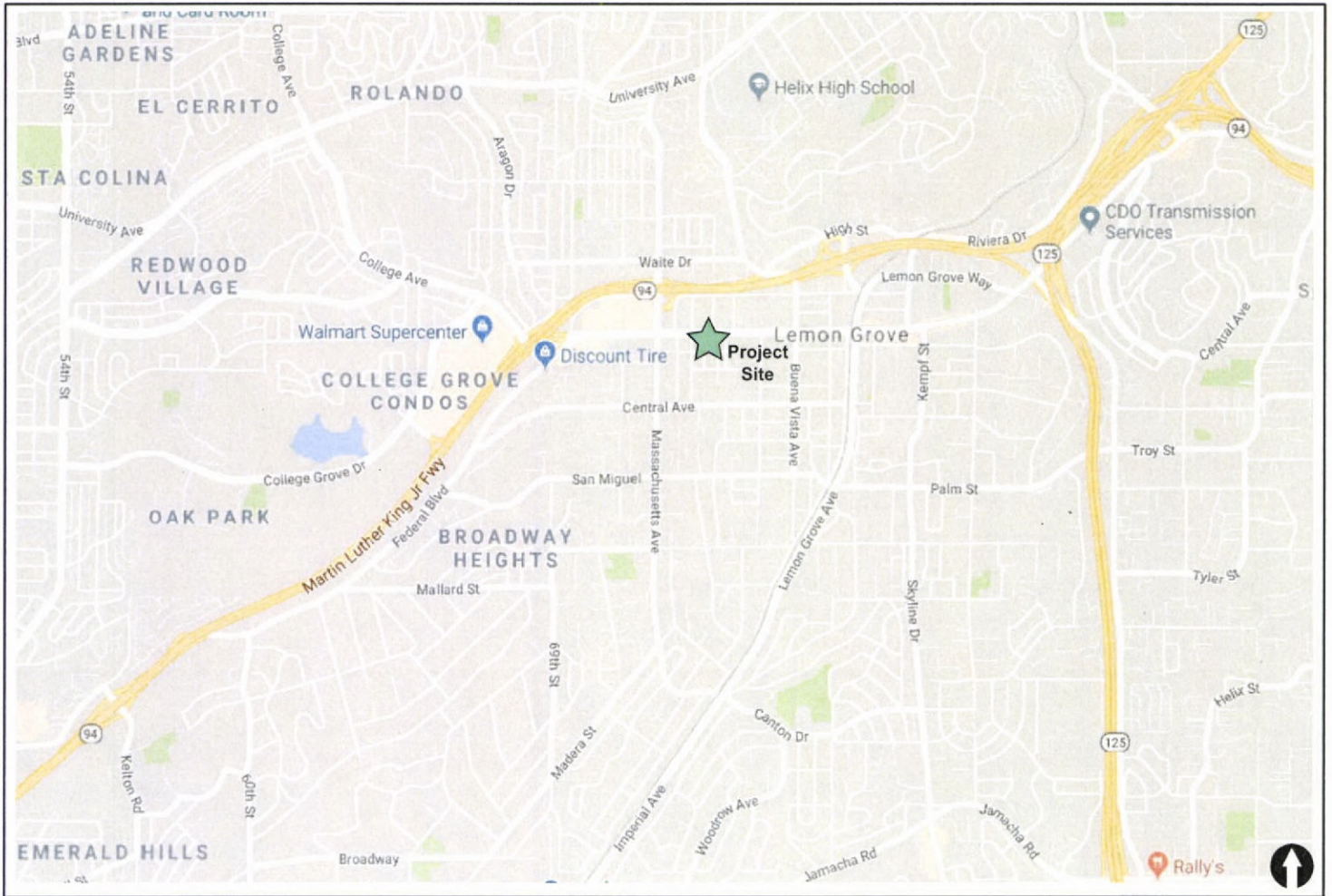


Figure 1

Project Area Map

7309 BROADWAY

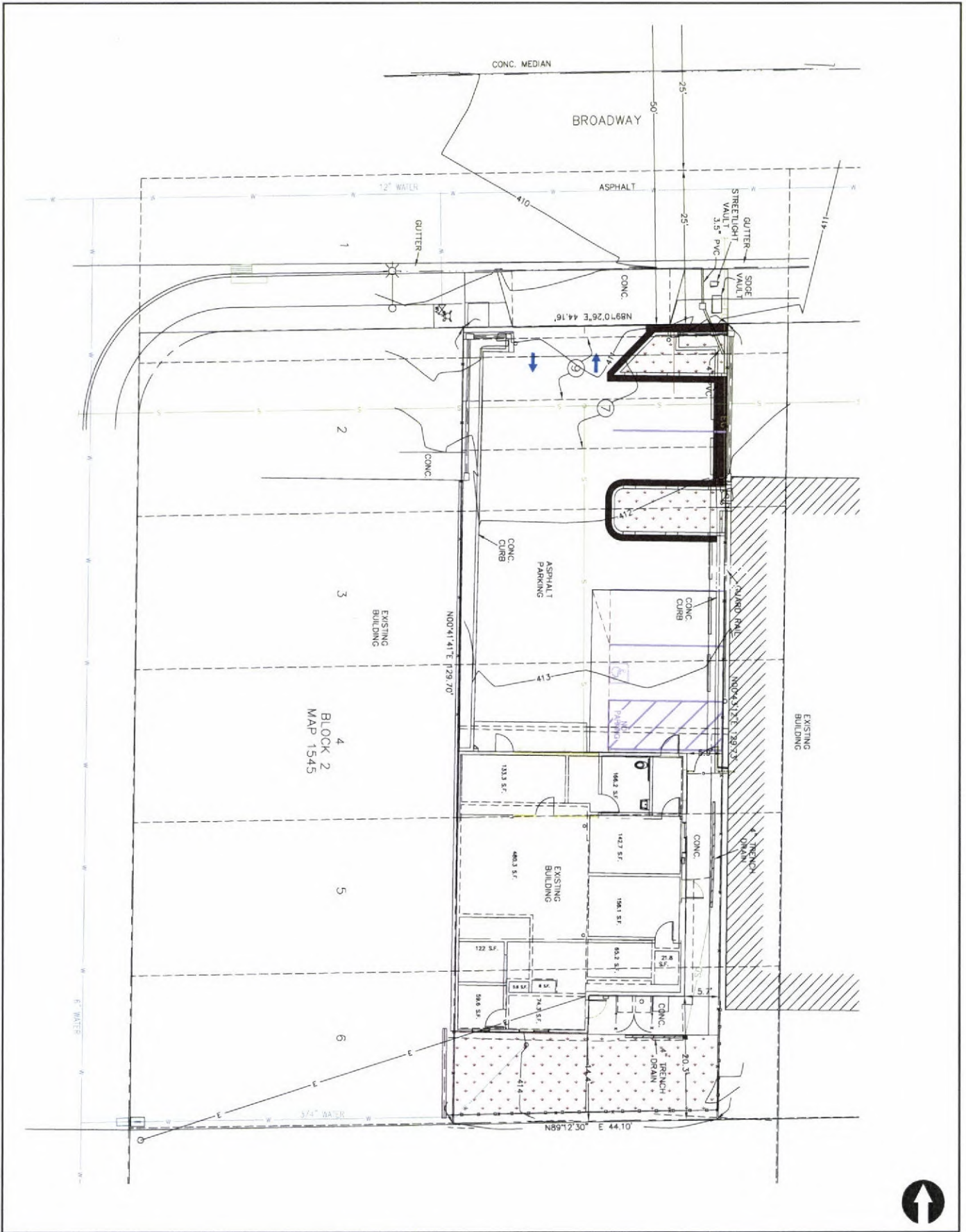


Figure 2
Site Plan

7309 BROADWAY









ATTACHMENT A
COUNT SHEETS

Linscott, Law & Greenspan, Engineers

4542 Ruffner Street, Suite 100, San Diego, CA 92111

Average Daily Traffic

Location: **Broadway, between Massachusetts Avenue and Citrus Street**

Date: Thursday, May 24, 2018		Total Daily Volume: 21240																				Description: Total Volume	
0:00	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00
161	100	87	70	102	252	599	921	1094	1155	1256	1478	1532	1524	1397	1571	1620	1469	1338	1132	857	774	460	291
45	37	31	13	24	31	104	211	263	280	292	373	396	388	368	371	430	363	332	319	210	212	134	111
52	33	26	23	22	50	141	242	276	301	274	360	383	408	332	375	389	396	354	289	237	199	134	72
37	14	20	15	27	71	169	248	291	278	351	384	382	350	358	436	418	376	351	272	206	198	93	54
27	16	10	19	29	100	185	220	264	296	339	361	371	378	339	389	383	334	301	252	204	165	99	54

Date: Thursday, May 24, 2018		Total Daily Volume: 10899																				Description: Eastbound Volume	
0:00	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00
94	57	40	42	44	108	226	342	469	552	603	750	746	787	781	838	929	867	755	591	454	408	248	168
24	21	13	8	11	9	44	84	104	129	155	189	180	210	201	189	240	206	195	179	115	113	73	69
31	17	11	15	11	21	61	78	112	139	116	194	192	198	194	201	223	231	193	138	123	104	77	48
19	6	9	8	11	27	58	84	119	130	167	184	189	176	179	230	223	226	198	145	116	111	55	23
20	13	7	11	11	51	63	96	134	154	165	183	185	203	207	218	243	204	169	129	100	80	43	28

Date: Thursday, May 24, 2018		Total Daily Volume: 10341																				Description: Westbound Volume	
0:00	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00
67	43	47	28	58	144	373	579	625	603	653	728	786	737	616	733	691	602	583	541	403	366	212	123
21	16	18	5	13	22	60	127	159	151	137	184	216	178	167	182	190	157	137	140	95	99	61	42
21	16	15	8	11	29	80	164	164	162	158	166	191	210	138	174	166	165	161	151	114	95	57	24
18	8	11	7	16	44	111	164	172	148	184	200	193	174	179	206	195	150	153	127	90	87	38	31
7	3	3	8	18	49	122	124	130	142	174	178	186	175	132	171	140	130	132	123	104	85	56	26

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Intersection Turning Movement - Peak Hour Vehicle Count

LINSCOTT LAW & GREENSPAN <i>engineers</i>	Location: #01	File Name: ITM-18-057-01
	Intersection: Broadway & Citrus Street	Project: LLG Ref. 3-18-2984
	Date of Count: Thursday, May 24, 2018	Lemon Grove

AM	Citrus Street Southbound			Broadway Westbound			Citrus Street Northbound			Broadway Eastbound			Total
	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	
7:00	0	0	2	1	123	2	10	0	1	6	77	1	223
7:15	0	1	1	0	136	2	6	2	1	6	62	1	218
7:30	0	1	5	4	143	3	8	0	1	6	73	3	247
7:45	0	0	3	3	134	0	5	1	1	4	97	1	249
8:00	1	1	2	3	136	1	5	0	1	2	98	3	253
8:15	1	1	7	3	141	0	4	0	2	0	116	2	277
8:30	1	0	1	1	166	0	4	1	1	4	111	2	292
8:45	0	0	0	3	119	3	3	0	2	5	124	2	261
Total	3	4	21	18	1098	11	45	4	10	33	758	15	2020
Approach%	10.7	14.3	75.0	1.6	97.4	1.0	76.3	6.8	16.9	4.1	94.0	1.9	
Total%	0.1	0.2	1.0	0.9	54.4	0.5	2.2	0.2	0.5	1.6	37.5	0.7	

AM Intersection Peak Hour: 08:00 to 09:00

Volume	3	2	10	10	562	4	16	1	6	11	449	9	1,083
Approach%	20.0	13.3	66.7	1.7	97.6	0.7	69.6	4.3	26.1	2.3	95.7	1.9	
Total%	0.3	0.2	0.9	0.9	51.9	0.4	1.5	0.1	0.6	1.0	41.5	0.8	
PHF			0.42			0.86			0.96			0.90	0.93

PM	Citrus Street Southbound			Broadway Westbound			Citrus Street Northbound			Broadway Eastbound			Total
	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	
16:00	1	2	5	8	160	0	3	0	2	7	243	9	440
16:15	0	0	4	4	141	2	8	0	2	12	228	3	404
16:30	0	0	7	7	154	0	3	0	1	10	215	7	404
16:45	2	0	6	8	155	3	5	1	1	14	245	6	446
17:00	1	0	7	5	124	3	8	0	2	5	196	5	356
17:15	0	1	5	3	144	0	5	0	4	6	201	2	371
17:30	2	0	5	6	130	1	5	1	4	8	229	6	397
17:45	2	0	4	5	118	1	5	0	2	7	201	7	352
Total	8	3	43	46	1126	10	42	2	18	69	1758	45	3170
Approach%	14.8	5.6	79.6	3.9	95.3	0.8	67.7	3.2	29.0	3.7	93.9	2.4	
Total%	0.4	0.1	2.1	2.3	55.7	0.5	2.1	0.1	0.9	3.4	87.0	2.2	

PM Intersection Peak Hour: 16:00 to 17:00

Volume	3	2	22	27	610	5	19	1	6	43	931	25	1,694
Approach%	11.1	7.4	81.5	4.2	95.0	0.8	73.1	3.8	23.1	4.3	93.2	2.5	
Total%	0.3	0.2	2.0	2.5	56.3	0.5	1.8	0.1	0.6	4.0	86.0	2.3	
PHF			0.84			0.96			0.65			0.94	0.95

Intersection Turning Movement - Bicycle & Pedestrian Count

LINSCOTT LAW & GREENSPAN engineers	Location: #01	File Name: ITM-18-057-01
	Intersection: Broadway & Citrus Street	Project: LLG Ref. 3-18-2984
	Date of Count: Thursday, May 24, 2018	Lemon Grove

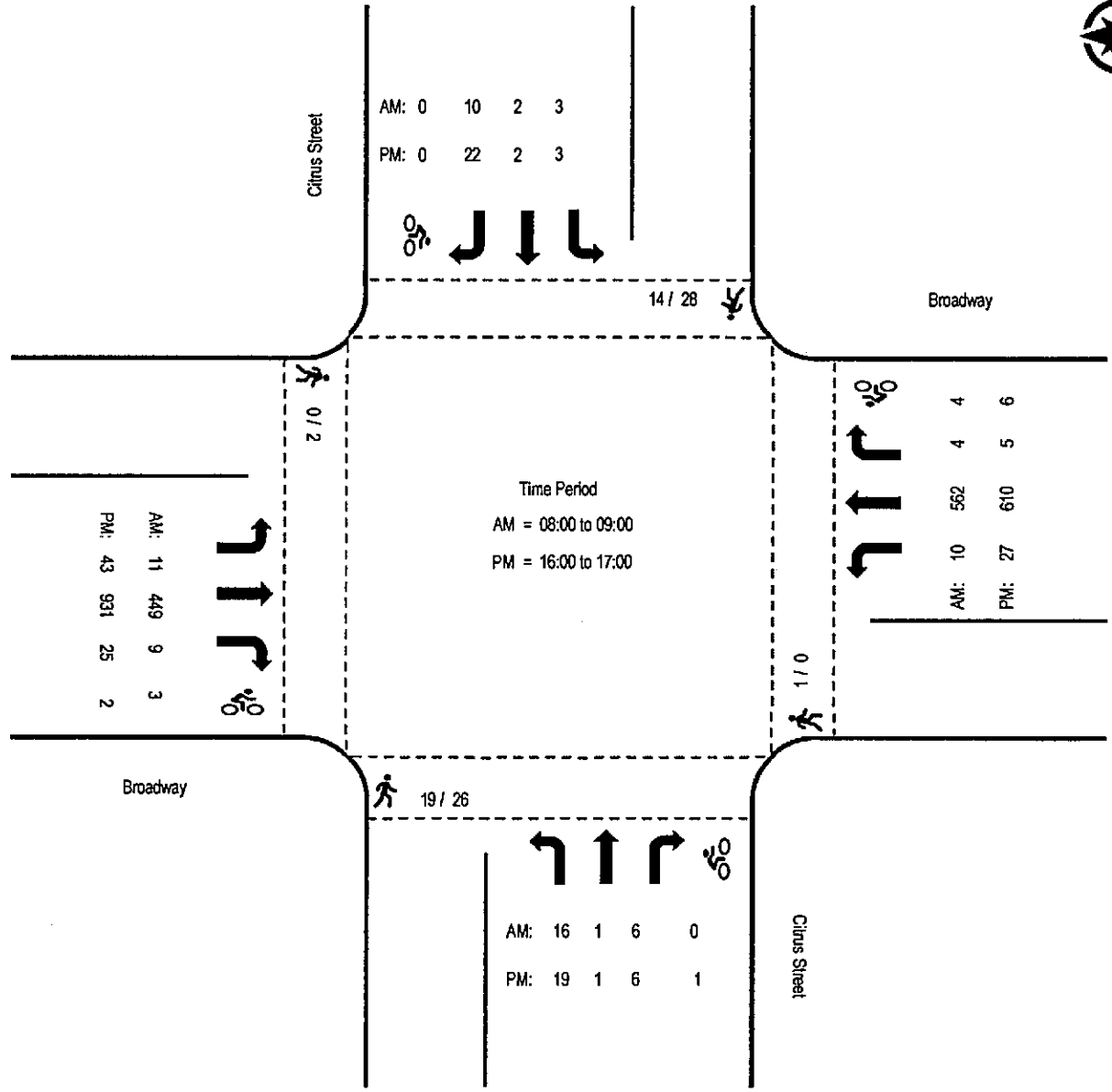
AM	Citrus Street Southbound				Broadway Westbound				Citrus Street Northbound				Broadway Eastbound				Totals	
	Ped	B-Left	B-Thru	B-Right	Ped	B-Left	B-Thru	B-Right	Ped	B-Left	B-Thru	B-Right	Ped	B-Left	B-Thru	B-Right	Ped	Bicycle
7:00	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	1	1
7:15	0	0	0	0	1	0	2	0	2	0	0	0	0	0	0	0	3	2
7:30	3	0	0	0	0	0	0	0	3	0	0	0	0	0	0	0	6	0
7:45	0	0	0	0	0	0	1	0	7	0	0	0	0	0	0	0	7	1
8:00	3	0	0	0	0	0	0	0	2	0	0	0	0	0	1	0	5	1
8:15	2	0	0	0	0	0	0	0	0	0	0	0	0	1	0	2	1	
8:30	6	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	7	1
8:45	0	0	0	0	0	0	0	0	3	0	0	0	0	0	0	0	3	0
Ped Total	14				1				19				0				34	
Bike Total		0	0	0		0	4	0		0	0	0		0	3	0		7

PM	Citrus Street Southbound				Broadway Westbound				Citrus Street Northbound				Broadway Eastbound				Totals	
	Ped	B-Left	B-Thru	B-Right	Ped	B-Left	B-Thru	B-Right	Ped	B-Left	B-Thru	B-Right	Ped	B-Left	B-Thru	B-Right	Ped	Bicycle
16:00	6	0	0	0	0	0	2	0	4	0	0	0	1	0	0	0	11	2
16:15	4	0	0	0	0	0	0	0	5	0	0	0	0	0	0	0	9	0
16:30	4	0	0	0	0	0	0	0	3	0	0	0	1	0	0	0	8	0
16:45	6	0	0	0	0	0	0	1	3	0	0	0	0	0	0	0	9	1
17:00	2	0	0	0	0	0	0	0	5	0	0	0	0	0	0	0	7	0
17:15	1	0	0	0	0	0	1	0	4	1	0	0	0	0	0	0	5	2
17:30	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	0	0	2
17:45	5	0	0	0	0	0	0	1	2	0	0	0	0	1	0	0	7	2
Ped Total	28				0				26				2				56	
Bike Total		0	0	0		0	4	2		1	0	0		1	1	0		9

Intersection Turning Movement - Peak Hour Summary



Location: #01	File Name: ITM-18-057-01
Intersection: Broadway & Citrus Street	Project: LLG Ref. 3-18-2984
Date of Count: Thursday, May 24, 2018	Lemon Grove



National Data & Surveying Services

Intersection Turning Movement Count

Location: Harris St & Broadway
 City: Lemon Grove
 Control: 1-Way Stop (SB)

Project ID: 18-04271-001
 Date: 7/25/2018

Total

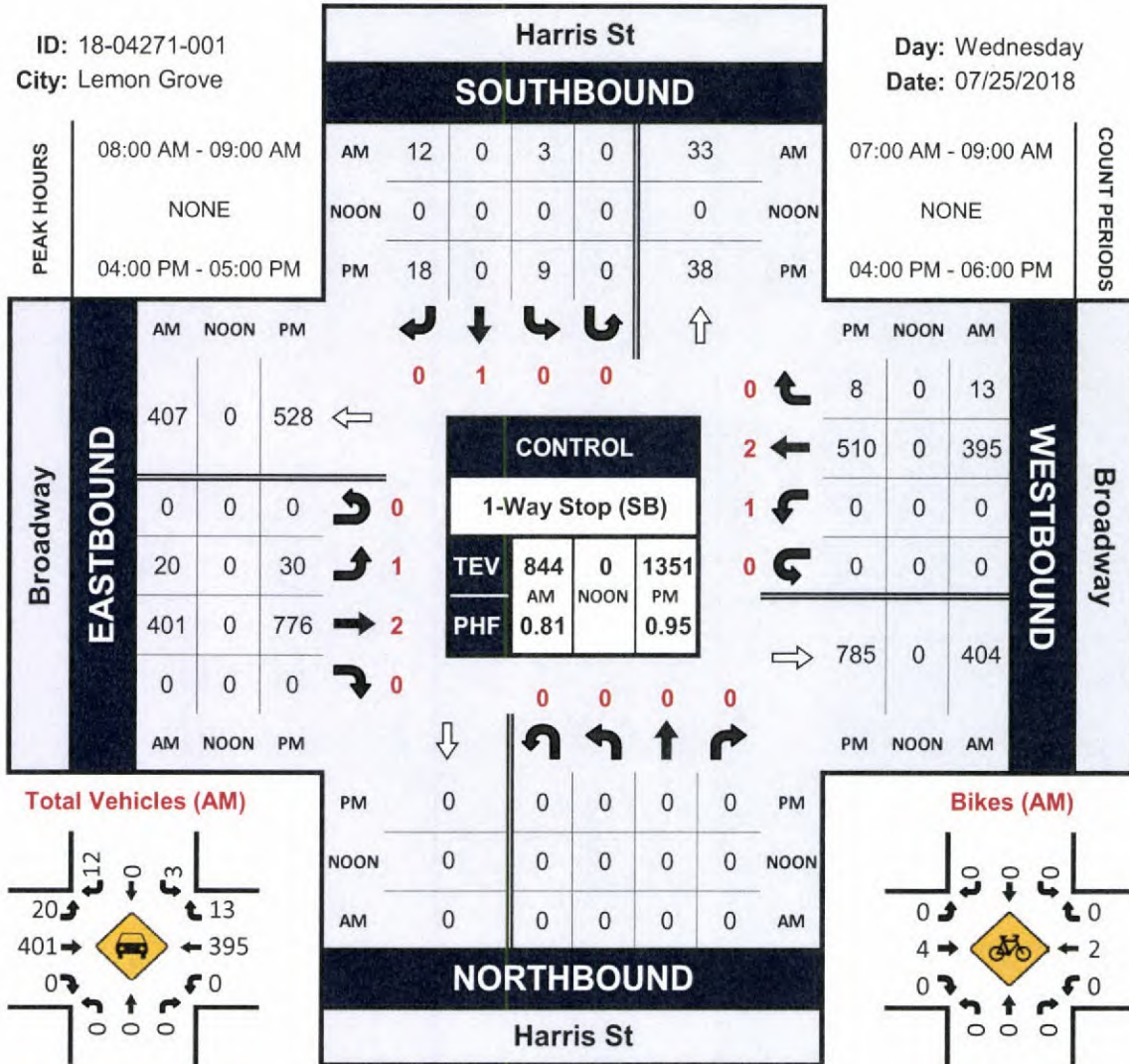
NS/EW Streets:	Harris St				Harris St				Broadway				Broadway				TOTAL
	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				
AM	NL	NT	NR	NU	SL	ST	SR	SU	EL	ET	ER	EU	WL	WT	WR	WU	
7:00 AM	0	0	0	0	0	1	0	0	1	2	0	0	1	2	0	0	179
7:15 AM	0	0	0	0	0	0	5	0	5	81	0	0	0	87	1	0	180
7:30 AM	0	0	0	0	0	0	3	0	3	74	0	0	0	99	1	0	175
7:45 AM	0	0	0	0	1	0	3	0	0	77	0	0	0	94	0	0	189
8:00 AM	0	0	0	0	1	0	0	0	7	86	0	0	0	95	0	0	193
8:15 AM	0	0	0	0	0	0	3	0	5	85	0	0	0	99	3	0	185
8:30 AM	0	0	0	0	0	0	3	0	2	79	0	0	0	97	4	0	207
8:45 AM	0	0	0	0	0	0	3	0	8	102	0	0	0	91	3	0	259
8:45 AM	0	0	0	0	2	0	6	0	5	135	0	0	0	108	3	0	
TOTAL VOLUMES :	0	0	0	0	5	0	23	0	35	719	0	0	0	770	15	0	1567
APPROACH %'s :					17.86%	0.00%	82.14%	0.00%	4.64%	95.36%	0.00%	0.00%	0.00%	98.09%	1.91%	0.00%	
PEAK HR :	08:00 AM - 09:00 AM																
PEAK HR VOL :	0	0	0	0	3	0	12	0	20	401	0	0	0	395	13	0	844
PEAK HR FACTOR :	0.000	0.000	0.000	0.000	0.375	0.000	0.500	0.000	0.625	0.743	0.000	0.000	0.000	0.914	0.813	0.000	0.815
					0.469				0.752				0.919				
PM	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				TOTAL
	NL	NT	NR	NU	SL	ST	SR	SU	EL	ET	ER	EU	WL	WT	WR	WU	
4:00 PM	0	0	0	0	1	0	5	0	9	193	0	0	0	136	1	0	345
4:15 PM	0	0	0	0	2	0	7	0	6	200	0	0	0	122	1	0	338
4:30 PM	0	0	0	0	2	0	4	0	9	199	0	0	0	137	4	0	355
4:45 PM	0	0	0	0	4	0	2	0	6	184	0	0	0	115	2	0	313
5:00 PM	0	0	0	0	0	0	4	0	8	202	0	0	0	128	3	0	345
5:15 PM	0	0	0	0	0	0	7	0	9	171	0	0	0	119	1	0	307
5:30 PM	0	0	0	0	1	0	5	0	6	193	0	0	0	149	2	0	356
5:45 PM	0	0	0	0	1	0	3	0	11	185	0	0	0	135	1	0	336
TOTAL VOLUMES :	0	0	0	0	11	0	37	0	64	1527	0	0	0	1041	15	0	2695
APPROACH %'s :					22.92%	0.00%	77.08%	0.00%	4.02%	95.98%	0.00%	0.00%	0.00%	98.58%	1.42%	0.00%	
PEAK HR :	04:00 PM - 05:00 PM																
PEAK HR VOL :	0	0	0	0	9	0	18	0	30	776	0	0	0	510	8	0	1351
PEAK HR FACTOR :	0.000	0.000	0.000	0.000	0.563	0.000	0.643	0.000	0.833	0.970	0.000	0.000	0.000	0.931	0.500	0.000	0.951
					0.750				0.969				0.918				

Harris St & Broadway

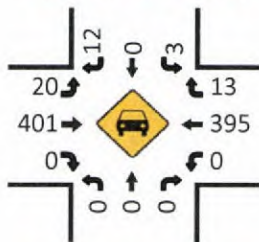
Peak Hour Turning Movement Count

ID: 18-04271-001
City: Lemon Grove

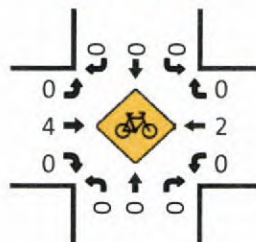
Day: Wednesday
Date: 07/25/2018



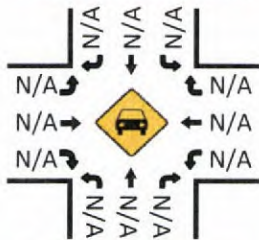
Total Vehicles (AM)



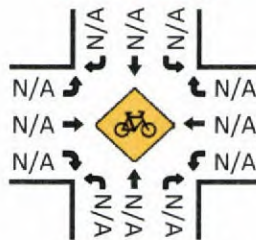
Bikes (AM)



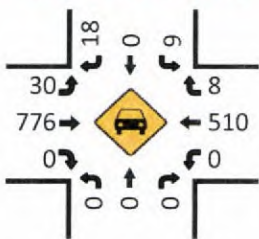
Total Vehicles (Noon)



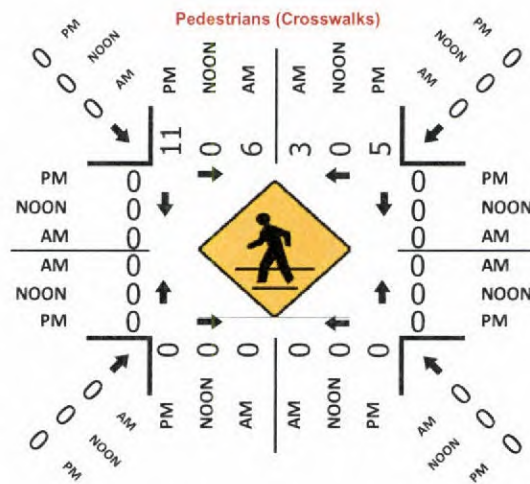
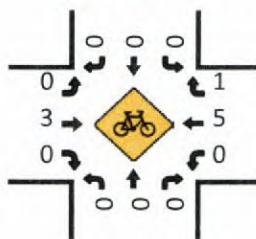
Bikes (NOON)



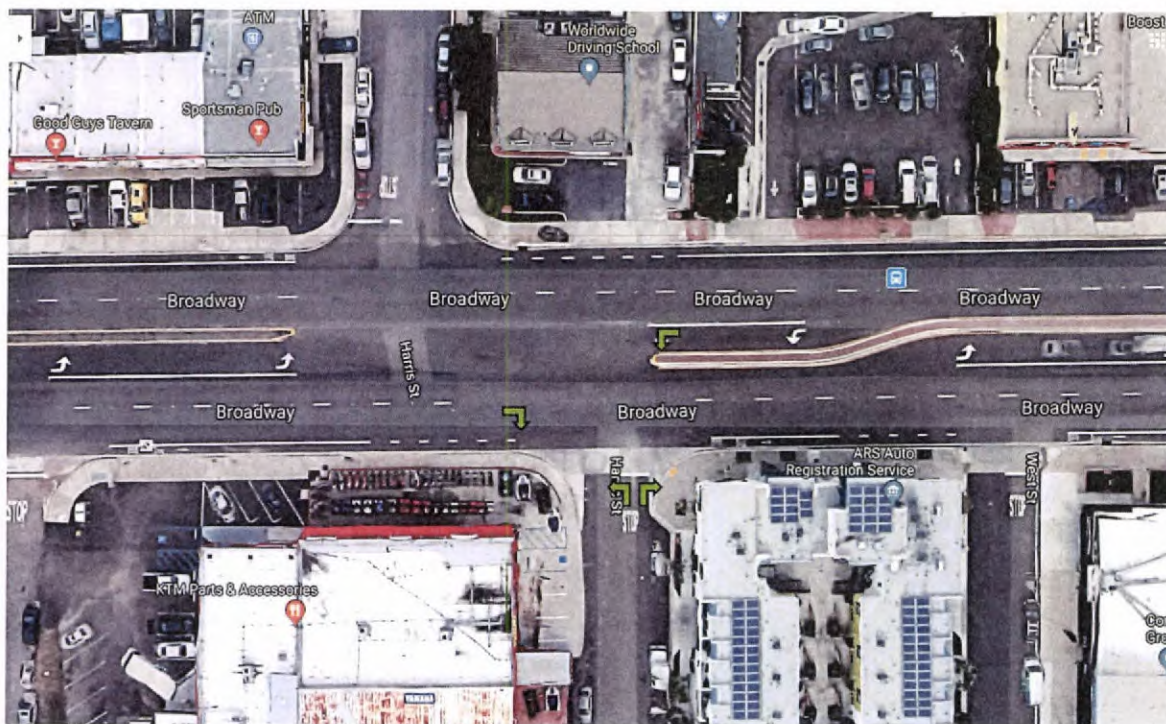
Total Vehicles (PM)



Bikes (PM)



TRAFFIC COUNTS – BROADWAY / HARRIS ST (NB)



	WB Left	NB Right	NB Left	EB Right
8:00 a.m. – 8:15 a.m.	||	||||	|||	||
8:15 a.m. – 8:30 a.m.	||||	|	||||	||||
8:30 a.m. – 8:45 a.m.	||||		||||	||||
8:45 a.m. – 9:00 a.m.	|||		|||	||
AM Totals	19	5	16	11
Counted by:	RL		Date: 8/20/19	—
4:00 p.m. – 4:15 p.m.	|||||	|||	|||	||
4:15 p.m. – 4:30 p.m.	|||	|||	||	|||
4:30 p.m. – 4:45 p.m.	|||	||||	||||	||||
4:45 p.m. – 5:00 p.m.	||||	|||	|||	|||
PM Totals	28	15	17	15
Counted by:	Alexandra A.		Date: 8/20/19	—

ATTACHMENT B

COUNTY OF SAN DIEGO SIGNIFICANCE CRITERIA SUMMARY

**COUNTY OF SAN DIEGO GUIDELINES FOR DETERMINING SIGNIFICANCE
MEASURES OF SIGNIFICANT PROJECT IMPACTS TO CONGESTION ON INTERSECTIONS
ALLOWABLE INCREASES ON CONGESTED INTERSECTIONS**

Level of service	Signalized	Unsignalized
LOS E	Delay of 2 seconds or less	20 or less peak hour trips on a critical movement
LOS F	Either a Delay of 1 second, or 5 peak hour trips or less on a critical movement	5 or less peak hour trips on a critical movement

General Notes:

1. A critical movement is an intersection movement (right-turn, left-turn, through-movement) that experiences excessive queues, which typically operate at LOS F.
2. By adding proposed project trips to all other trips from a list of projects, these same tables are used to determine if total cumulative impacts are significant. If cumulative impacts are found to be significant, each project is responsible for mitigating its share of the cumulative impact.
3. The County may also determine impacts have occurred on roads even when a project's traffic or cumulative impacts do not trigger an unacceptable level of service, when such traffic uses a significant amount of remaining road capacity.
4. For determining significance at signalized intersections with LOS F conditions, the analysis must evaluate both the delay *and* the number of trips on a critical movement, exceedance of either criteria result in a significant impact.

ATTACHMENT C
PEAK HOUR INTERSECTION ANALYSIS WORKSHEETS

Intersection												
Int Delay, s/veh	0.7											
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↘	↕		↘	↕			↕			↕	
Traffic Vol, veh/h	11	449	9	10	562	4	16	1	6	3	2	10
Future Vol, veh/h	11	449	9	10	562	4	16	1	6	3	2	10
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	150	-	-	150	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	0	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2
Mvmt Flow	12	488	10	11	611	4	17	1	7	3	2	11

Major/Minor	Major1		Major2		Minor1		Minor2					
Conflicting Flow All	615	0	0	498	0	0	846	1154	249	904	1157	308
Stage 1	-	-	-	-	-	-	517	517	-	635	635	-
Stage 2	-	-	-	-	-	-	329	637	-	269	522	-
Critical Hdwy	4.14	-	-	4.14	-	-	7.54	6.54	6.94	7.54	6.54	6.94
Critical Hdwy Stg 1	-	-	-	-	-	-	6.54	5.54	-	6.54	5.54	-
Critical Hdwy Stg 2	-	-	-	-	-	-	6.54	5.54	-	6.54	5.54	-
Follow-up Hdwy	2.22	-	-	2.22	-	-	3.52	4.02	3.32	3.52	4.02	3.32
Pot Cap-1 Maneuver	961	-	-	1062	-	-	256	196	751	232	195	688
Stage 1	-	-	-	-	-	-	509	532	-	433	471	-
Stage 2	-	-	-	-	-	-	658	470	-	713	529	-
Platoon blocked, %		-	-		-	-						
Mov Cap-1 Maneuver	961	-	-	1062	-	-	246	192	751	225	191	688
Mov Cap-2 Maneuver	-	-	-	-	-	-	246	192	-	225	191	-
Stage 1	-	-	-	-	-	-	503	526	-	428	466	-
Stage 2	-	-	-	-	-	-	638	465	-	697	523	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0.2	0.1	18.4	14.6
HCM LOS			C	B

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	294	961	-	-	1062	-	-	391
HCM Lane V/C Ratio	0.085	0.012	-	-	0.01	-	-	0.042
HCM Control Delay (s)	18.4	8.8	-	-	8.4	-	-	14.6
HCM Lane LOS	C	A	-	-	A	-	-	B
HCM 95th %tile Q(veh)	0.3	0	-	-	0	-	-	0.1

Intersection

Int Delay, s/veh 0

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↑↑			↑↑		↗
Traffic Vol, veh/h	458	0	0	576	0	0
Future Vol, veh/h	458	0	0	576	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	498	0	0	626	0	0

Major/Minor	Major1	Major2	Minor1	Minor2	Minor3
Conflicting Flow All	0	0	-	-	249
Stage 1	-	-	-	-	-
Stage 2	-	-	-	-	-
Critical Hdwy	-	-	-	-	6.94
Critical Hdwy Stg 1	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	3.32
Pot Cap-1 Maneuver	-	-	0	0	751
Stage 1	-	-	0	0	-
Stage 2	-	-	0	0	-
Platoon blocked, %	-	-	-	-	-
Mov Cap-1 Maneuver	-	-	-	-	751
Mov Cap-2 Maneuver	-	-	-	-	-
Stage 1	-	-	-	-	-
Stage 2	-	-	-	-	-

Approach	EB	WB	NB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	-	-	-	-
HCM Lane V/C Ratio	-	-	-	-
HCM Control Delay (s)	0	-	-	-
HCM Lane LOS	A	-	-	-
HCM 95th %tile Q(veh)	-	-	-	-

Intersection

Int Delay, s/veh 1

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↖	↕		↖	↕			↕			↕	
Traffic Vol, veh/h	20	401	11	19	395	13	16	0	5	3	0	12
Future Vol, veh/h	20	401	11	19	395	13	16	0	5	3	0	12
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	130	-	-	70	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	0	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2
Mvmt Flow	22	436	12	21	429	14	17	0	5	3	0	13

Major/Minor	Major1	Major2	Minor1	Minor2
Conflicting Flow All	443	0	0	448
Stage 1	-	-	-	-
Stage 2	-	-	-	-
Critical Hdwy	4.14	-	-	4.14
Critical Hdwy Stg 1	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-
Follow-up Hdwy	2.22	-	-	2.22
Pot Cap-1 Maneuver	1113	-	-	1109
Stage 1	-	-	-	-
Stage 2	-	-	-	-
Platoon blocked, %	-	-	-	-
Mov Cap-1 Maneuver	1113	-	-	1109
Mov Cap-2 Maneuver	-	-	-	-
Stage 1	-	-	-	-
Stage 2	-	-	-	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0.4	0.4	16.3	11.3
HCM LOS			C	B

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	341	1113	-	-	1109	-	-	587
HCM Lane V/C Ratio	0.067	0.02	-	-	0.019	-	-	0.028
HCM Control Delay (s)	16.3	8.3	-	-	8.3	-	-	11.3
HCM Lane LOS	C	A	-	-	A	-	-	B
HCM 95th %tile Q(veh)	0.2	0.1	-	-	0.1	-	-	0.1

Intersection

Int Delay, s/veh 1.7

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↘	↕		↘	↕			↕			↕	
Traffic Vol, veh/h	43	931	25	27	610	5	19	1	6	3	2	22
Future Vol, veh/h	43	931	25	27	610	5	19	1	6	3	2	22
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	150	-	-	150	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	0	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2
Mvmt Flow	47	1012	27	29	663	5	21	1	7	3	2	24

Major/Minor	Major1	Major2	Minor1	Minor2
Conflicting Flow All	668	0	0	1039
Stage 1	-	-	-	-
Stage 2	-	-	-	-
Critical Hdwy	4.14	-	-	4.14
Critical Hdwy Stg 1	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-
Follow-up Hdwy	2.22	-	-	2.22
Pot Cap-1 Maneuver	918	-	-	665
Stage 1	-	-	-	-
Stage 2	-	-	-	-
Platoon blocked, %	-	-	-	-
Mov Cap-1 Maneuver	918	-	-	665
Mov Cap-2 Maneuver	-	-	-	-
Stage 1	-	-	-	-
Stage 2	-	-	-	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0.4	0.4	63.2	18.8
HCM LOS			F	C

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	89	918	-	-	665	-	-	291
HCM Lane V/C Ratio	0.318	0.051	-	-	0.044	-	-	0.101
HCM Control Delay (s)	63.2	9.1	-	-	10.7	-	-	18.8
HCM Lane LOS	F	A	-	-	B	-	-	C
HCM 95th %tile Q(veh)	1.2	0.2	-	-	0.1	-	-	0.3

Intersection

Int Delay, s/veh 0

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↑↑			↑↑		↑
Traffic Vol, veh/h	940	0	0	642	0	0
Future Vol, veh/h	940	0	0	642	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	1022	0	0	698	0	0

Major/Minor	Major1	Major2	Minor1	Minor2	Minor3
Conflicting Flow All	0	0	-	-	511
Stage 1	-	-	-	-	-
Stage 2	-	-	-	-	-
Critical Hdwy	-	-	-	-	6.94
Critical Hdwy Stg 1	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	3.32
Pot Cap-1 Maneuver	-	-	0	0	508
Stage 1	-	-	0	0	-
Stage 2	-	-	0	0	-
Platoon blocked, %	-	-	-	-	-
Mov Cap-1 Maneuver	-	-	-	-	508
Mov Cap-2 Maneuver	-	-	-	-	-
Stage 1	-	-	-	-	-
Stage 2	-	-	-	-	-

Approach	EB	WB	NB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	-	-	-	-
HCM Lane V/C Ratio	-	-	-	-
HCM Control Delay (s)	0	-	-	-
HCM Lane LOS	A	-	-	-
HCM 95th %tile Q(veh)	-	-	-	-

Intersection												
Int Delay, s/veh	1.3											
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↘	↕		↘	↕			↕			↕	
Traffic Vol, veh/h	30	776	15	28	510	8	17	0	15	9	0	18
Future Vol, veh/h	30	776	15	28	510	8	17	0	15	9	0	18
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	130	-	-	70	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	0	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2
Mvmt Flow	33	843	16	30	554	9	18	0	16	10	0	20

Major/Minor	Major1		Major2		Minor1		Minor2					
Conflicting Flow All	563	0	0	859	0	0	1254	1540	430	1107	1544	282
Stage 1	-	-	-	-	-	-	917	917	-	619	619	-
Stage 2	-	-	-	-	-	-	337	623	-	488	925	-
Critical Hdwy	4.14	-	-	4.14	-	-	7.54	6.54	6.94	7.54	6.54	6.94
Critical Hdwy Stg 1	-	-	-	-	-	-	6.54	5.54	-	6.54	5.54	-
Critical Hdwy Stg 2	-	-	-	-	-	-	6.54	5.54	-	6.54	5.54	-
Follow-up Hdwy	2.22	-	-	2.22	-	-	3.52	4.02	3.32	3.52	4.02	3.32
Pot Cap-1 Maneuver	1005	-	-	778	-	-	128	114	573	165	114	715
Stage 1	-	-	-	-	-	-	293	349	-	443	478	-
Stage 2	-	-	-	-	-	-	651	476	-	530	346	-
Platoon blocked, %		-	-		-	-						
Mov Cap-1 Maneuver	1005	-	-	778	-	-	118	106	573	152	106	715
Mov Cap-2 Maneuver	-	-	-	-	-	-	118	106	-	152	106	-
Stage 1	-	-	-	-	-	-	283	337	-	428	459	-
Stage 2	-	-	-	-	-	-	609	457	-	498	335	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0.3	0.5	28.4	17.4
HCM LOS			D	C

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	188	1005	-	-	778	-	-	320
HCM Lane V/C Ratio	0.185	0.032	-	-	0.039	-	-	0.092
HCM Control Delay (s)	28.4	8.7	-	-	9.8	-	-	17.4
HCM Lane LOS		D	A	-	A	-	-	C
HCM 95th %tile Q(veh)	0.7	0.1	-	-	0.1	-	-	0.3

Intersection												
Int Delay, s/veh	0.8											
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↖	↕		↖	↕			↕			↕	
Traffic Vol, veh/h	11	453	9	13	563	4	16	1	6	3	2	10
Future Vol, veh/h	11	453	9	13	563	4	16	1	6	3	2	10
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	150	-	-	150	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	0	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2
Mvmt Flow	12	492	10	14	612	4	17	1	7	3	2	11

Major/Minor	Major1			Major2			Minor1			Minor2		
Conflicting Flow All	616	0	0	502	0	0	856	1165	251	913	1168	308
Stage 1	-	-	-	-	-	-	521	521	-	642	642	-
Stage 2	-	-	-	-	-	-	335	644	-	271	526	-
Critical Hdwy	4.14	-	-	4.14	-	-	7.54	6.54	6.94	7.54	6.54	6.94
Critical Hdwy Stg 1	-	-	-	-	-	-	6.54	5.54	-	6.54	5.54	-
Critical Hdwy Stg 2	-	-	-	-	-	-	6.54	5.54	-	6.54	5.54	-
Follow-up Hdwy	2.22	-	-	2.22	-	-	3.52	4.02	3.32	3.52	4.02	3.32
Pot Cap-1 Maneuver	960	-	-	1059	-	-	251	193	749	228	192	688
Stage 1	-	-	-	-	-	-	507	530	-	429	467	-
Stage 2	-	-	-	-	-	-	653	466	-	712	527	-
Platoon blocked, %	-	-	-	-	-	-	-	-	-	-	-	-
Mov Cap-1 Maneuver	960	-	-	1059	-	-	240	188	749	221	187	688
Mov Cap-2 Maneuver	-	-	-	-	-	-	240	188	-	221	187	-
Stage 1	-	-	-	-	-	-	501	524	-	424	461	-
Stage 2	-	-	-	-	-	-	631	460	-	696	521	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0.2	0.2	18.7	14.7
HCM LOS			C	B

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	288	960	-	-	1059	-	-	387
HCM Lane V/C Ratio	0.087	0.012	-	-	0.013	-	-	0.042
HCM Control Delay (s)	18.7	8.8	-	-	8.4	-	-	14.7
HCM Lane LOS	C	A	-	-	A	-	-	B
HCM 95th %tile Q(veh)	0.3	0	-	-	0	-	-	0.1

Intersection						
Int Delay, s/veh	0					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↑↑			↑↑		↑
Traffic Vol, veh/h	458	7	0	576	0	3
Future Vol, veh/h	458	7	0	576	0	3
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	498	8	0	626	0	3

Major/Minor	Major1	Major2	Minor1	Minor2
Conflicting Flow All	0	0	-	-
Stage 1	-	-	-	-
Stage 2	-	-	-	-
Critical Hdwy	-	-	-	6.94
Critical Hdwy Stg 1	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-
Follow-up Hdwy	-	-	-	3.32
Pot Cap-1 Maneuver	-	-	0	0
Stage 1	-	-	0	0
Stage 2	-	-	0	0
Platoon blocked, %	-	-	-	-
Mov Cap-1 Maneuver	-	-	-	746
Mov Cap-2 Maneuver	-	-	-	-
Stage 1	-	-	-	-
Stage 2	-	-	-	-

Approach	EB	WB	NB
HCM Control Delay, s	0	0	9.8
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	746	-	-	-
HCM Lane V/C Ratio	0.004	-	-	-
HCM Control Delay (s)	9.8	-	-	-
HCM Lane LOS	A	-	-	-
HCM 95th %tile Q(veh)	0	-	-	-

Intersection

Int Delay, s/veh 1

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↖	↕		↖	↕			↕			↕	
Traffic Vol, veh/h	21	403	11	19	398	13	16	0	5	3	0	12
Future Vol, veh/h	21	403	11	19	398	13	16	0	5	3	0	12
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	130	-	-	70	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	0	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2
Mvmt Flow	23	438	12	21	433	14	17	0	5	3	0	13

Major/Minor	Major1	Major2	Minor1	Minor2
Conflicting Flow All	447	0	0	450
Stage 1	-	-	-	-
Stage 2	-	-	-	-
Critical Hdwy	4.14	-	-	4.14
Critical Hdwy Stg 1	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-
Follow-up Hdwy	2.22	-	-	2.22
Pot Cap-1 Maneuver	1110	-	-	1107
Stage 1	-	-	-	-
Stage 2	-	-	-	-
Platoon blocked, %	-	-	-	-
Mov Cap-1 Maneuver	1110	-	-	1107
Mov Cap-2 Maneuver	-	-	-	-
Stage 1	-	-	-	-
Stage 2	-	-	-	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0.4	0.4	16.5	11.4
HCM LOS			C	B

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	337	1110	-	-	1107	-	-	583
HCM Lane V/C Ratio	0.068	0.021	-	-	0.019	-	-	0.028
HCM Control Delay (s)	16.5	8.3	-	-	8.3	-	-	11.4
HCM Lane LOS	C	A	-	-	A	-	-	B
HCM 95th %tile Q(veh)	0.2	0.1	-	-	0.1	-	-	0.1

Intersection

Int Delay, s/veh 1.8

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↖	↕		↖	↕			↕			↕	
Traffic Vol, veh/h	43	941	25	36	617	5	19	1	6	3	2	22
Future Vol, veh/h	43	941	25	36	617	5	19	1	6	3	2	22
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	150			150								
Veh in Median Storage, #	-	0		-	0		-	0		-	0	
Grade, %	-	0		-	0		-	0		-	0	
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2
Mvmt Flow	47	1023	27	39	671	5	21	1	7	3	2	24

Major/Minor	Major1			Major2			Minor1			Minor2		
Conflicting Flow All	676	0	0	1050	0	0	1546	1885	525	1358	1896	338
Stage 1	-	-	-	-	-	-	1131	1131	-	752	752	-
Stage 2	-	-	-	-	-	-	415	754	-	606	1144	-
Critical Hdwy	4.14	-	-	4.14	-	-	7.54	6.54	6.94	7.54	6.54	6.94
Critical Hdwy Stg 1	-	-	-	-	-	-	6.54	5.54	-	6.54	5.54	-
Critical Hdwy Stg 2	-	-	-	-	-	-	6.54	5.54	-	6.54	5.54	-
Follow-up Hdwy	2.22	-	-	2.22	-	-	3.52	4.02	3.32	3.52	4.02	3.32
Pot Cap-1 Maneuver	911	-	-	659	-	-	78	70	497	107	69	658
Stage 1	-	-	-	-	-	-	217	277	-	368	416	-
Stage 2	-	-	-	-	-	-	585	415	-	451	273	-
Platoon blocked, %		-	-		-	-						
Mov Cap-1 Maneuver	911	-	-	659	-	-	67	62	497	96	62	658
Mov Cap-2 Maneuver	-	-	-	-	-	-	67	62	-	96	62	-
Stage 1	-	-	-	-	-	-	206	263	-	349	391	-
Stage 2	-	-	-	-	-	-	527	391	-	420	259	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0.4	0.6	69.3	19.4
HCM LOS			F	C

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	83	911	-	-	659	-	-	279
HCM Lane V/C Ratio	0.34	0.051	-	-	0.059	-	-	0.105
HCM Control Delay (s)	69.3	9.2	-	-	10.8	-	-	19.4
HCM Lane LOS	F	A	-	-	B	-	-	C
HCM 95th %tile Q(veh)	1.3	0.2	-	-	0.2	-	-	0.3

Intersection

Int Delay, s/veh 0.1

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↑↑			↑↑		↗
Traffic Vol, veh/h	940	19	0	642	0	15
Future Vol, veh/h	940	19	0	642	0	15
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	1022	21	0	698	0	16

Major/Minor	Major1	Major2	Minor1	Minor2	Minor3
Conflicting Flow All	0	0	-	-	522
Stage 1	-	-	-	-	-
Stage 2	-	-	-	-	-
Critical Hdwy	-	-	-	-	6.94
Critical Hdwy Stg 1	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	3.32
Pot Cap-1 Maneuver	-	-	0	0	499
Stage 1	-	-	0	0	-
Stage 2	-	-	0	0	-
Platoon blocked, %	-	-	-	-	-
Mov Cap-1 Maneuver	-	-	-	-	499
Mov Cap-2 Maneuver	-	-	-	-	-
Stage 1	-	-	-	-	-
Stage 2	-	-	-	-	-

Approach	EB	WB	NB
HCM Control Delay, s	0	0	12.5
HCM LOS			B

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	499	-	-	-
HCM Lane V/C Ratio	0.033	-	-	-
HCM Control Delay (s)	12.5	-	-	-
HCM Lane LOS	B	-	-	-
HCM 95th %tile Q(veh)	0.1	-	-	-

Intersection												
Int Delay, s/veh	1.4											
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↖	↕		↖	↕			↕			↕	
Traffic Vol, veh/h	37	784	15	28	519	8	17	0	15	9	0	18
Future Vol, veh/h	37	784	15	28	519	8	17	0	15	9	0	18
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	130			70								
Veh in Median Storage, #	-	0	-	-	0	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	92	92	92	92	92	92	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2
Mvmt Flow	40	852	16	30	564	9	18	0	16	10	0	20

Major/Minor	Major1			Major2			Minor1			Minor2		
Conflicting Flow All	573	0	0	868	0	0	1282	1573	434	1135	1577	287
Stage 1	-	-	-	-	-	-	940	940	-	629	629	-
Stage 2	-	-	-	-	-	-	342	633	-	506	948	-
Critical Hdwy	4.14	-	-	4.14	-	-	7.54	6.54	6.94	7.54	6.54	6.94
Critical Hdwy Stg 1	-	-	-	-	-	-	6.54	5.54	-	6.54	5.54	-
Critical Hdwy Stg 2	-	-	-	-	-	-	6.54	5.54	-	6.54	5.54	-
Follow-up Hdwy	2.22	-	-	2.22	-	-	3.52	4.02	3.32	3.52	4.02	3.32
Pot Cap-1 Maneuver	996	-	-	772	-	-	122	109	570	157	109	710
Stage 1	-	-	-	-	-	-	283	340	-	437	474	-
Stage 2	-	-	-	-	-	-	646	472	-	517	338	-
Platoon blocked, %		-	-		-	-						
Mov Cap-1 Maneuver	996	-	-	772	-	-	112	101	570	143	101	710
Mov Cap-2 Maneuver	-	-	-	-	-	-	112	101	-	143	101	-
Stage 1	-	-	-	-	-	-	272	326	-	420	456	-
Stage 2	-	-	-	-	-	-	604	454	-	482	324	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0.4	0.5	29.7	18
HCM LOS			D	C

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	180	996	-	-	772	-	-	306
HCM Lane V/C Ratio	0.193	0.04	-	-	0.039	-	-	0.096
HCM Control Delay (s)	29.7	8.8	-	-	9.9	-	-	18
HCM Lane LOS	D	A	-	-	A	-	-	C
HCM 95th %tile Q(veh)	0.7	0.1	-	-	0.1	-	-	0.3

EXHIBIT F

RESOLUTION NO. 2019-3690

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA, DENYING CONDITIONAL USE PERMIT CUP-190-0001, A REQUEST TO ALLOW A MEDICAL MARIJUANA DISPENSARY AT 7309 BROADWAY, LEMON GROVE, CALIFORNIA.

WHEREAS, the California voters approved Proposition 215 in 1996 to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes and to encourage elected officials to implement a plan for the safe and affordable distribution of medicine; and

WHEREAS, the California State Legislature adopted Senate Bill 420, the Medical Marijuana Program Act, in 2003 to help clarify and further implement Proposition 215 in part by authorizing patients and primary caregivers to associate within the State of California in order to collectively or cooperatively cultivate cannabis for medical purposes; and

WHEREAS, the California State Legislature adopted Assembly Bill 243, Assembly Bill 266, and Senate Bill 643, collectively known as the Medical Marijuana Regulation and Safety Act, in 2015 to establish a statewide regulatory framework and establish the Bureau of Medical Marijuana Regulation for the regulation of medical marijuana activity occurring in jurisdictions across California; and

WHEREAS, on November 8, 2016, voters in the City of Lemon Grove passed Measure V, an initiative removing the City's prohibition of medical marijuana dispensaries and establishing performance standards and a permit process by which medical marijuana dispensaries (MMDs) may be established which is codified as Chapter 17.32 in the Lemon Grove Municipal Code (LGMC); and

WHEREAS, LGMC Section 17.32.090(B) establishes the distance requirements between dispensaries (including MMDs) as a regulated use and protected land uses, including public parks, playgrounds, licensed day care facilities, schools and alcohol and substance abuse treatment centers as defined in the LGMC; and

WHEREAS, on December 20, 2018, Citrus Street Partners filed Zoning Clearance application ZCM-180-0005, a request to apply for a Conditional Use Permit to establish a MMD at 7309 Broadway in the General Commercial (GC) zone, and on March 28, 2019 City staff found the application to be complete; and

WHEREAS, on April 3, 2019, Citrus Street Partners filed Conditional Use Permit application CUP-190-0001, a request to establish a MMD at 7309 Broadway in the General Commercial (GC) zone, and on October 9, 2019 Community Development Department staff found the application complete; and

WHEREAS, Notice of the Public Hearing was given in compliance with Lemon Grove Section 17.28.020(F). The Notice of the Public Hearing was mailed to all property owners within 1,000 feet of the subject property on November 6, 2019 and said notice was published in the November 7, 2019, edition of the East County Californian. The presence of the required on-site public notice sign was also confirmed on November 7, 2019; and

WHEREAS, on November 19, 2019, City Council held a duly noticed public hearing to consider Conditional Use Permit application CUP-190-0001; and

WHEREAS, all findings outlined in LGMC 17.28.050(C) and 17.32.080 must be made in order for the City Council to approve the request for a Conditional Use Permit for a Medical Marijuana Dispensary; and

WHEREAS, if all findings outlined in LGMC 17.28.050(C) and 17.32.080 cannot be made then the City Council must deny the request for a Conditional Use Permit for a Medical Marijuana Dispensary; and

WHEREAS, the City Council determined that not all of the findings required by LGMC Sections 17.28.050(C) and 17.32.080 to grant a Conditional Use Permit for a Medical Marijuana Dispensary could be made; and

WHEREAS, the City Council determined that the findings outlined in LGMC Section 17.28.050(C)(1) and (2) could not be made and provided its reasoning as follows:

1. The use is not compatible with the neighborhood or the community;

The constrained parking area limits total parking supply resulting in parking and traffic impacts to adjacent residential and commercial land uses. The parking demand generated by the employees of the dispensary alone necessitates off-site parking as recognized by the Operations Manual directive requiring employees to park at local Park and Ride locations and utilize ride share services. The limited single driveway lot also limits vehicle maneuverability thereby

encouraging convenience oriented customers to utilize vacant parking spaces in front of neighboring businesses and residences due to ease of access.

- 2. The use is detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity;*

The city block containing the proposed project site is developed with commercial and residential uses. The project site is only accessible via a single driveway which fronts on Broadway, one of the City's heavily trafficked and main thoroughfares serving both abutting businesses and residences off adjacent side streets. Conflicts between street users, including vehicles, pedestrians, and cyclists, may result due to queueing and vehicle maneuverability limitations from a constrained parking area featuring a single drive aisle without a turnaround which is served by a single driveway. Resulting overflow parking will also impact the convenience and general welfare of nearby residents and surrounding businesses, as it will consume limited existing on street parking or result in customers utilizing parking on separate private property as a matter of convenience.

WHEREAS, *the remaining findings identified in LGMC 17.28.050(C)(3) and (4) were not addressed by the City Council since the findings in LGMC 17.28.050(C)(1) and (2) could not be made, which has the result of requiring a denial of the Conditional Use Permit for a Medical Marijuana Dispensary; and*

WHEREAS, *the findings identified in LGMC 17.32.080(A) and (B) were not addressed by the City Council since the findings in LGMC 17.28.050(C)(1) and (2) could not be made, which has the result of requiring a denial of the Conditional Use Permit for a Medical Marijuana Dispensary; and*

WHEREAS, *the project to be denied is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15270; and*

NOW, THEREFORE, INCORPORATING THE ABOVE STATEMENTS HEREIN AND BASED ON THE RECORD OF THE PROCEEDING, BE IT RESOLVED *that the City Council of the City of Lemon Grove, California, hereby denies Conditional Use Permit CUP-190-0001, a request to establish a Medical Marijuana Dispensary at 7309 Broadway in the General Commercial zone based on the findings above.*

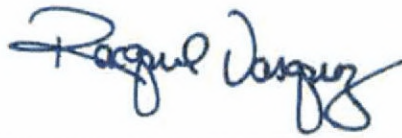
DENIED on November 19, 2019, the City Council of the City of Lemon Grove, California, adopted Resolution No. 2019-3690, passed by the following vote:

AYES: VASQUEZ, ARAMBULA, JONES, J. MENDOZA

NOES: NONE

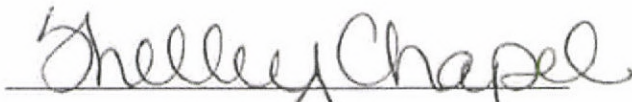
ABSENT: NONE

ABSTAIN: NONE



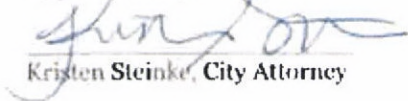
Racquel Vasquez, Mayor

Attest:



Shelley Chapel, MMC, City Clerk

Approved as to Form:



Kristen Steinke, City Attorney

1.1.1

EXHIBIT G

CITY OF LEMON GROVE; CALIFORNIA

CITY COUNCIL MEETING

NOVEMBER 19, 2019

AUDIO TRANSCRIPTION

AGENDA ITEM NUMBER 2

PUBLIC HEARING TO CONSIDER CONDITIONAL USE PERMIT
APPLICATION CUP-190-0001, A REQUEST TO ESTABLISH A
MEDICAL MARIJUANA DISPENSARY AT 7309 BROADWAY IN THE
GENERAL COMMERCIAL ZONE.

Transcribed by:
Diana Sasseen
CSR No. 13456

1 MAYOR VASQUEZ: Moving on to Item Number 2,
2 which is a public hearing. This is the time and the
3 place for the public hearing to consider Conditional Use
4 Permit Application CUP-190-0001, a request to establish
5 a Medical Marijuana Dispensary at 7309 Broadway in the
6 General Commercial Zone.

7 Those persons who would like to speak to the
8 City Council regarding any item on tonight's public
9 hearing agenda must fill out a speaker's form. The
10 forms are available at the table near the entryway.
11 Please clearly indicate the number and the letter of the
12 item as it is listed on the agenda for tonight's
13 meeting. Completed speakers' forms should be given to
14 the city clerk. If there are any completed forms which
15 have not yet been given to the clerk, please bring them
16 forward now.

17 Before we begin, do we have any council members
18 that have any disclosures relating to this particular
19 hearing?

20 Councilmember Jones?

21 COUNCILMEMBER JONES: I received an e-mail from
22 George Castle. And in his e-mail he had expressed some
23 concern about the code enforcement violations on this
24 piece of property. I did not answer him on that.

25 I also today, I, in doing some research, I

1 actually sent an e-mail to the La Mesa -- interim
2 La Mesa city manager asking for information on how
3 parking was going with their dispensary over there
4 that's growing on Central Street and if they had any
5 other issues with law enforcement or otherwise. His
6 answer was parking was a problem and they had no other
7 problems.

8 I then decided I wanted to kind of go and --
9 this is an area that's kind of new to all of us, so I
10 wanted to go and look at how a dispensary that's
11 operating, up and operating actually looks. So I made a
12 trip over to the Grove and talked to Sean McDermott over
13 there about his operation, and I'll share his comments
14 as we move into the process.

15 Is that enough, City Attorney?

16 CITY ATTORNEY: I see no conflict.

17 COUNCILMEMBER JONES: Thank you.

18 MAYOR VASQUEZ: Anyone else?

19 Okay. Have any of the City Council Members had
20 any communications including oral, written, or oral --
21 including written or oral with the Applicant, the
22 Applicant's representative, or any other person?

23 No?

24 Clerk Chapel, have the notices as required by
25 law been given?

1 THE CLERK: Yes, they have.

2 MAYOR VASQUEZ: Do we have the completed file
3 of exhibits, correspondence, and other documents?

4 THE CLERK: Yes, you do.

5 MAYOR VASQUEZ: Are there any additional
6 written communications on this matter?

7 THE CLERK: You did receive one additional
8 e-mail. It's on the dais. And there are also some over
9 at the table for the public.

10 MAYOR VASQUEZ: Okay. Associate Planner Mike
11 Viglione will present the staff report.

12 NOAH ALVEY: Madam Mayor, excuse me, I'll
13 begin. Noah Alvey, community development manager. And
14 with me is Mike Viglione, our associate manager.

15 As stated, the item before you this evening is
16 a request for a Conditional Use Permit to establish a
17 Medical Marijuana Dispensary at 7309 Broadway.

18 So the zoning ordinance provides for the
19 establishment of medical marijuana dispensaries or MMDs
20 through Conditional Use Permit application. The
21 dispensaries are restricted to commercial and industrial
22 zoning districts and are required to observe a 1,000
23 foot separation of protected uses, including parks,
24 playgrounds, licensed day care facilities, schools,
25 treatment centers, and other dispensaries.

1 Chapter 17.32 also outlines operating standards
2 and requirements which must be observed by proposed
3 MMDs. Examples include limited operation hours between
4 8:00 a.m. and 8:00 p.m., prohibition of on-site
5 physician evaluation, automatic disqualification of
6 employees if they are convicted of a serious felony, and
7 annual reporting requirements.

8 When deciding upon a medical marijuana
9 Conditional Use Permit application, Chapter 17.32 also
10 requires that the City Council consider whether the use
11 will violate the minimum separations from regulated and
12 protected uses and whether the proposed use complies
13 with the zoning ordinance.

14 7309, the subject of this evening's
15 application, is outlined on this slide in blue and shown
16 in detail in the corner inset. It is a 1.3 acre parcel
17 located about a quarter mile east of Massachusetts
18 Avenue between Citrus and Alford Streets on the south
19 side of Broadway. The property is designated
20 retail/commercial by the General Plan Land Use Map and
21 it is within the General Commercial Zoning district.

22 The General Commercial Zoning district is
23 intended for auto oriented, generally large-scale
24 businesses and activities offering retail goods and
25 services serving local and regional shoppers. MMDs are

1 similar in nature to General Commercial committed retail
2 land uses like pharmacies and convenience stores.

3 So this site highlights in blue all properties
4 within 1,000 feet of 7309 Broadway, which is represented
5 in red near the center of the image. Staff has no
6 evidence that any of the highlighted parcels contain
7 regulated or protected use. Staff reviewed an updated
8 list of family day care locations provided by the
9 California Department of Social Services and confirmed
10 that there are no operating family day care facilities
11 within 1,000 feet.

12 The July list that was received by staff
13 revealed the presence of a small family day care
14 facility at 3202 Vista Avenue shown in yellow near the
15 bottom of the slide. But staff did confirm that this
16 day care facility closed on September 18th of this year.

17 The Lemon Grove Planning Commission also
18 approved a Conditional Use Permit for a day care center
19 at 3468 Citrus Street shown in yellow at the top of the
20 slide. The license for this day care has not been
21 approved by the California Department of Social
22 Services, nor has the permittee satisfied the conditions
23 of approval to begin operating. Consequently,
24 3468 Citrus Street is not yet a protected use.

25 Lastly, staff would also like to note that if

1 this CUP is approved, it will result in the competing
2 MMD CUP application at 3515 Pear Street shown in purple
3 being unable to satisfy the required 1,000 foot
4 separation. 7309 Broadway was submitted prior to the
5 application for 3515 Pear Street, and both applicants
6 have been informed regarding the progress of each
7 application as we move forward.

8 I'll now turn the presentation over to Mike
9 Viglione to describe the proposed use.

10 MIKE VIGLIONE: Thank you, Noah.

11 This photograph shows the existing condition of
12 the subject property identified by the red arrow
13 (inaudible) as seen from Broadway. The existing
14 building is approximately 1,614 square feet and is to
15 the left of the adjacent structure with the American
16 flag. The building is set back about 68 feet from
17 Broadway with its highest point approximately 15 feet
18 above grade. The property has 44 feet of frontage which
19 features existing curb, gutter, sidewalk, striped class
20 2 bicycle lane, two striped travel lanes, and a
21 hardscaped center median.

22 These photos show the site as it appears from
23 the back of the subject property. On the left, a gate
24 providing secure access along the eastern property line
25 is (inaudible). The photograph on the right shows

1 existing fencing, hardscape, and 14-and-a-half foot
2 setback from the rear property line.

3 The proposed site shown here also conforms to
4 the district-wide regulations. Landscape regulations
5 require 10 percent of the lot, or 572 square feet, to be
6 landscaped. The site plan proposes approximately 708
7 square feet of landscaping across the rear yard in front
8 of the parking area. Trees and shrubs will be required
9 to be pruned and maintain visibility into the site for
10 crime prevention purposes.

11 Since regarding parking rates for medical
12 marijuana dispensaries are not defined in the Municipal
13 Code, parking (inaudible) traffic impact or assessed
14 with a traffic analysis submitted with the application.

15 5 spaces are required for the site based on
16 counts at an existing medical marijuana dispensary in
17 San Diego. The dispensary operations may also require
18 its employees to park off site at nearby Park and Ride
19 locations.

20 The dispensary operator will provide its
21 employees with free transportation between Park and Ride
22 locations and the project site via ride sharing service
23 and offer a site to new employees that carpool to
24 encourage participation.

25 A condition is also included in the draft

1 resolution requiring the provision of a bicycle rack on
2 the property to improve multi-mobile access.

3 To ensure that the project is served by city
4 standard street improvements along the frontage, the
5 project plans propose a new 24-foot driveway, an ADA
6 compliant sidewalk consistent with San Diego Regional
7 Standards, and a new 24-inch-box street tree.

8 The demands of the use are not anticipated to
9 necessitate a loading berth or trash enclosure, nor are
10 these features required based on the area of the
11 building. Deliveries will instead be monitored by
12 security and utilize the standard on-site parking spaces
13 and secured gate beneath the parapet wall during
14 off-duty hours. The refuse bins required for the use
15 will be required to be kept indoors except during trash
16 service.

17 A six-foot high wrought iron security fence is
18 proposed to border the east, south, and west property
19 lines beginning at the front yard setback. Exterior
20 site lighting, including a 15-foot pole-mounted light in
21 the parking lot, security cameras, and bollards along
22 the glass doorfront are also proposed.

23 The interior layout of the proposed MMD
24 features a 229 square foot reception and security area
25 facing out onto Broadway, which is visible at the top of

1 the plan, a 733 square foot access controlled sales
2 floor in the middle, and a separate secure back office
3 area here at the bottom of the plan.

4 Black arrows show a typical customer path
5 through the building gaining entry through the metal
6 detector and check-in with security, controlled entry
7 into the sales floor and exit through sequential doors.
8 The red arrows show the typical separate and secure path
9 of travel for dispensary business through the side gate.
10 It's important to note that staff members from each
11 department reviewed these plans and considered crime
12 prevention through environmental design. Cameras are
13 positioned throughout the facility along with several
14 other security measures. Carbon (inaudible) is required
15 (inaudible) ventilation system.

16 Commercial uses are permitted up to three wall
17 signs along the front wall with a maximum coverage of
18 20 percent or 250 square feet, whichever is less. The
19 CUP proposes three wall signs, two green crosses, and
20 business name, Mankind Lemon Grove, facing north toward
21 Broadway. The signs total 73 square feet or
22 approximately 19 percent of this wall. They are
23 therefore in compliance.

24 The zoning ordinance prohibits the use of
25 symbols as part of the signage; however, the green

1 crosses were previously determined to be compliant with
2 the approval of 6470 Federal Boulevard medical marijuana
3 dispensary.

4 Final signage is required to substantially
5 conform to these elevations and will be approved as part
6 of a separate plan and sign permit application. Also
7 note visible in the elevations is a secure parapet gate
8 with a separate path of travel to the rear portion of
9 the building, screening for rooftop equipment, and glass
10 doorfront protection by bollards.

11 Staff would also like to observe that in
12 addition to the operating standards outlined in the
13 zoning ordinance, numerous standard conditions of
14 approval are also included in the resolution to ensure
15 compatibility with the surrounding environs.

16 (Inaudible) include prohibitions on the
17 presence of anyone but employees in the building after
18 hours on uses other than medical marijuana dispensary,
19 delivering events, and temporary uses. Standard
20 conditions also require the implementation of crime
21 prevention recommendations upon the commencement of this
22 use and City Council hearing through CUP modification
23 should ownership be transferred.

24 The Draft Resolution also requires that the
25 director and employees of a dispensary obtain a Livescan

1 background check through the California Department of
2 Justice or the San Diego County Sheriff's Department
3 prior to employment. Directors convicted of a serious
4 felony within the previous 10 years shall not be
5 eligible for a license.

6 Staff would like to note that the current
7 property owner Mr. Marks was the owner of the property
8 when the site was subject to previous code enforcement
9 with the operation of an illegal dispensary and he has
10 an ownership interest in the LLC requesting CUP approval
11 here today. These code enforcement actions are closed,
12 and the property has not been subject to any additional
13 code enforcement actions. Mr. Marks's ownership
14 interest does not disqualify the current CUP from being
15 approved.

16 NOAH ALVEY: So to approve any Conditional Use
17 Permit, the City Council must make the following
18 findings about the application:

19 The use is compatible with the neighborhood or
20 the community; the use is not detrimental to the health
21 and safety, convenience, or general welfare for persons
22 residing or working in the vicinity; the use complies
23 with performance standards according to Section
24 17.24.080; the use is consistent with applicable
25 provisions of the particular zoning district and with

1 policies and standards of the General Plan.

2 As mentioned earlier, Chapter 17.32 also
3 requires the City Council to consider whether the
4 application violates separations and whether it complies
5 with the zoning ordinance.

6 Staff believes that the required findings can
7 be made to approve this request. The proposed project
8 is compatible with the community and consistent with the
9 zoning ordinance. And to the staff's knowledge, no
10 protective uses or dispensaries exist within 1,000 feet
11 of the subject property.

12 Pending notice in the paper and on-site public
13 notice sign, and 1,000-foot radius notice to property
14 owners were provided. One public comment was received
15 related to previous code enforcement actions at the
16 site. No other comments were received by staff.

17 Separate (inaudible) of the City Council
18 conduct a public hearing and adopt a resolution
19 conditionally approving the Conditional Use Permit
20 request as proposed in the direct resolution of
21 approval.

22 This concludes staff's presentation. We'll be
23 happy to answer any questions.

24 MAYOR VASQUEZ: Thank you.

25 We will now open the public hearing to hear

1 from any persons in the audience who wish to speak on
2 this matter.

3 Before we open the public hearing, do we have
4 any questions?

5 (Inaudible). Councilmember Mendoza.

6 COUNCILMEMBER MENDOZA: Okay. I want to start
7 with saying, you know, we haven't done a lot of these
8 and -- but I was -- so, of course, I was familiar with
9 the address of this property and the problems there; but
10 the staff report did not include the name of the
11 property owner. And that -- that concerns me. I think
12 going forward we definitely need to have more -- more
13 information, particularly because there were -- there
14 were so many issues with this previous property owner.

15 And then also, the business owner, this is the
16 first I've heard that the property owner has an interest
17 in the business. And that was one of my questions;
18 is -- you know, we need to know who -- who are these --
19 you know, we get this name, whatever it was, but that
20 doesn't tell us anything. You know, who actually are
21 the faces behind? And I don't want to seem like I'm
22 criticizing here, but I think this is just information
23 that's important to us to look at in a staff report
24 before we make a decision.

25 Also, in this particular case, because of who

1 is involved, I would like to sort of revise the details
2 of the previous violations; what the fines were, when
3 the fines were paid, how much were the fines, were they
4 paid in full.

5 I think -- so what I'm saying right now is I
6 don't feel, unless you have all of that information, I
7 don't feel prepared to even make a decision tonight on
8 this, this application.

9 Also, I thought that in the past we were
10 actually provided with a copy of the application,
11 because that has some of the information on it that
12 we're interested in, and we didn't get that in our staff
13 report.

14 So I'm -- I just feel like I don't have a lot
15 of the information that I would need to make a decision
16 on this tonight. And, I mean, I think we should listen
17 to the public, but I'm moving towards postponing this
18 until we get some more details.

19 MAYOR VASQUEZ: Councilmember Jones.

20 COUNCILMEMBER JONES: Actually, I have a couple
21 questions.

22 Concerning the parking and the off-street
23 parking, the parking analysis and the off-street
24 parking, the LLG, the analyst, is anyone -- is anybody
25 here from that firm that we know?

1 NOAH ALVEY: The Applicant is present, and we
2 would have to defer to the Applicant (inaudible).

3 COUNCILMEMBER JONES: Well, let me ask my
4 questions then.

5 They refer to two off-site parking spots, one a
6 Park and Ride at Lemon Grove Avenue and Lincoln. I
7 don't know where that is. There's no Park and Ride at
8 Lemon Grove Avenue.

9 Where?

10 NOAH ALVEY: Adjacent to the VFW. It was at
11 the southeast corner.

12 COUNCILMEMBER JONES: Am I -- I'm thinking
13 Lincoln over here by the Parkers. If there's another
14 Lincoln that I'm not thinking about.

15 MIKE VIGLIONE: It would be just south of
16 Lincoln I believe in the lot there.

17 COUNCILMEMBER JONES: So they're talking about
18 the parking lot; their Park and Ride is the parking lot
19 of the VFW. That's not really a Park and Ride, is it?

20 NOAH ALVEY: It is. It's a Park and Ride.

21 COUNCILMEMBER JONES: It's designated as a Park
22 and Ride.

23 NOAH ALVEY: Yes. (Inaudible).

24 COUNCILMEMBER JONES: Well, that one's new to
25 me. I didn't know that.

1 The other thing that I'm wondering on is the
2 five parking spots and kind of where they came up with
3 that. Now, your staff report recognizes that this is a
4 new kind of industry, we really don't have any standards
5 on it, you know, based on the news, based on the
6 traffic.

7 And this is one of the reasons why I made my
8 trip over to McDermott's, was to kind of get a feel for
9 what that looked like, you know, for an operational
10 dispensary, what it looked like. And the number of
11 trips they're talking about here, like 350 compared to
12 807 in the minimarket. But I'm not sure that that's an
13 accurate way to look at that.

14 So I mean my question for the consultants is,
15 you know, did you actually go to a dispensary and watch
16 the number of people coming in? Because if I -- if I
17 had a little more time, these are the things that I
18 would, you know, ask of someone that's operating a
19 dispensary; how many sales a day do you make? That
20 would give us some idea of how much traffic you actually
21 have, you know, and those types of things. So I mean
22 these are all important things on the traffic. And I
23 would say that in the future, this is one of those
24 things that I think we need to start looking at closer
25 in the future.

1 Now, the dispensaries that we've done up to
2 this point have been in industrial spaces, they've had
3 plenty of parking. This one, and even the one on Harris
4 Street has much, much less parking and is -- you know,
5 this one here abuts a neighborhood, which concerns me.

6 When I talked to Sean this afternoon, I said,
7 well, how many -- he has 8 spaces on his side lot and 7
8 spaces out front. That's 15. And he told me, he said,
9 you know, when we get busy, he goes, parking's crazy out
10 there.) He said, I've been trying to rent the spaces
11 across the street from me.

12 So that's 15 spaces; this is 5. And I don't
13 care what size that the floor space is in the
14 dispensary, the traffic is probably going to be similar.

15 And it's not relevant to floor space. So you can't
16 compare that to, say, a 7-11 where the floor space size
17 is kind of determining the customers and the parking
18 requirements. But this kind of thing here is -- it
19 creates real problems in the neighborhood and parking.
20 And I got to tell you, having a business for 25 years,
21 the worst battle I had with my neighbors was over
22 parking. We still don't talk about parking lots.

23 So I think this is one of those things that,
24 you know, as we review this and we can learn more stuff,
25 and this one with 5 spaces really kind of stuck out to

1 me, especially being backed up to the neighborhood. So
2 I don't know -- I don't know what we do on this. It's
3 kind of a question and maybe questions for the Applicant
4 or future applicants in dealing with the parking.

5 Other than that, those are my questions.

6 NOAH ALVEY: So maybe if I could respond to
7 that.

8 So for the parking analysis, the Applicant did
9 provide to staff a parking analysis, and they relied on
10 traffic counts from an existing operating dispensary.
11 And the amount of parking, the 5 parking spaces that
12 they identified as being necessary was based on the peak
13 demand for a similar sized dispensary, it was about 750
14 square feet of floor area.

15 From a land use perspective, it's fairly
16 typical to rely on parking standards based on building
17 square footage or on square footage of the floor
18 space --

19 COUNCILMEMBER JONES: Right.

20 UNIDENTIFIED SPEAKER: -- and sales floor
21 space. So staff was satisfied that based on the parking
22 counts provided to us by an existing operating
23 dispensary that there was sufficient parking; and as a
24 backup step, looked at the existing zoning ordinance and
25 what would be required for a similar retail use such as

1 a pharmacy or another type of retail use. That would
2 be -- 5 parking spaces there would also be sufficient
3 for another retail use (inaudible) that building. So
4 from the staff's perspective, staff thought that the
5 parking was sufficient.

6 We were also concerned about employee parking
7 and the demand associated with that. So in conjunction
8 with that, we worked with the Applicant and discussed a
9 lot of their operations manual and what they would be
10 doing. And so they agreed to supplemental conditions of
11 approval to include a bike rack at the facility, which
12 isn't mandated by the zoning ordinance, and then they
13 also included the interoperations manual provision for
14 the off-site parking and the transportation of staff
15 from the Park and Ride facilities.

16 So with all of those circumstances taken in
17 total, staff believe that if they operate in accordance
18 with their operations manual with the existing 5 parking
19 spaces that were shown on the site plan, that the use
20 could be compatible with surrounding properties and
21 uses.

22 COUNCILMEMBER JONES: Do we know how many
23 employees they plan on having on the site?

24 MIKE VIGLIONE: I would also defer to the
25 Applicant on that, but at the same token, we understand

1 that there may be up to a maximum of 5 employees.

2 COUNCILMEMBER JONES: One more.

3 With the off-site parking and the -- all of the
4 incentives and so on, how are we going to enforce that?
5 I mean, if there's going to be an impact on the
6 neighbors and we have a line of people coming to the
7 podium complaining, you know, that we've inundated their
8 neighborhoods with parking, although it would be
9 temporary, because at the time that I was at the
10 dispensary over here, most of the customers were gone
11 within 5 minutes. I mean, I think I talked to Sean for
12 maybe 20 minutes, and I saw numerous people come in. So
13 it's a fast turnover, I get that, you know, but if it's
14 not turning over fast enough and starts to bleed out,
15 how do we -- if you've got employees parking there, how
16 do we enforce that?

(17) NOAH ALVEY: So with any Conditional Use

(18) Permit, we would be, you know, relying on the public.

(19) So if we get a complaint or a concern related to the

(20) operations of the facility, we would first reach out to

(21) the operator and owner, receive feedback from them, and

(22) then do site observations as, you know, the business is

(23) being conducted. And if they're in violation of their

(24) conditions of approval related to, for instance,

(25) employees parking at the site, we would provide them

1 notice of that, potential warnings. And if they

2 continue to operate, we can bring forward the

3 Conditional Use Permit for revocation.

4 COUNCILMEMBER JONES: That's a tough process.

5 (Inaudible).

6 MAYOR VASQUEZ: Mayor Pro Tem Arambula?

7 MAYOR PRO TEM ARAMBULA: Mr. Alvey, you've

8 mentioned a couple things that weren't on our report

9 (inaudible) clarify that.

10 Did you mention that the property owner was --
11 had a vested interest in the property as well as the --
12 well, while the property owner, who happens to also be a
13 vested interest in the organization that's an applicant,
14 were they in ownership of the property while it received
15 the code enforcement violation?

16 NOAH ALVEY: Yes. So Mr. Marks, as we said in
17 the presentation, was part of the code enforcement
18 actions that was previously done for the property.
19 Mr. Marks did enter into a settlement agreement with the
20 city. And we do have the total number of the fines that
21 were assessed in conjunction with that, which was
22 \$187,600.

23 As part of the settlement agreement, there were
24 four installment payments. And the -- three of those
25 installment payments have been completed to date. The

1 final installment is due on December 5th of 2019.

2 CITY ATTORNEY: If I could correct Mr. Alvey,
3 the total amount of the violations was 284,203.70, but
4 that included -- that included interest and fines and
5 tacked on all the extras that we can do.

6 In deciding on the settlement agreement, we
7 took away the interest and only -- and only entered into
8 a settlement for the amount of fines themselves, which
9 was what Mr. Alvey said, \$187,600, which Mr. Marks has
10 paid to the city to settle that issue.

11 MAYOR PRO TEM ARAMBULA: Mr. Alvey, do you know
12 when this property was purchased by the
13 Applicants/property owner?

14 NOAH ALVEY: I'm not aware of that date.

15 MAYOR PRO TEM ARAMBULA: What I've looked up on
16 the register -- or, I'm sorry, the assessor, county
17 assessor's, it says September 2014. It sounds like some
18 or all of the 220-plus violations or citations were
19 during that period in the last five years.

20 Would that be a reasonable statement?

21 NOAH ALVEY: I think I'd like to defer to the
22 Applicant (inaudible) on that.

23 MAYOR PRO TEM ARAMBULA: Okay. Do you know how
24 far back these violations go, the 220-plus violations?

25 CITY ATTORNEY: I'm sorry, what did you say?

1 NOAH ALVEY: 2015.

2 CITY ATTORNEY: 2015? I think it goes back to
3 2016, and then there was a period of operation and then
4 a shutdown and then a period of operation and then
5 another shutdown before the settlement was entered.

6 Councilmember Arambula, just for some history
7 sake, if you remember, in between the leadership of the
8 city, between myself and Mr. Mitchell, the former city
9 manager, a lot of the property owners, Mr. Marks was
10 one, but several property owners in town went ahead and
11 opened illegal dispensaries. When I started to work
12 here on January 1 of 2017, the hiring council said shut
13 them down. We were looking at nine illegal dispensaries
14 from the time Mr. Mitchell left in May of '15 to when I
15 got here in January of '16. And we went on a quest with
16 (inaudible)'s help to slowly close down these particular
17 illegal dispensaries. And we entered into settlement
18 agreements with most of the property owners to date.

19 MAYOR PRO TEM ARAMBULA: I'll reserve the rest
20 of the questions (inaudible).

21 MAYOR VASQUEZ: I just have some very basic
22 questions here regarding how we move forward when those
23 who operate illegal dispensaries eventually want to open
24 a legal dispensary; what are the guidelines that are
25 outlined for that, the rules or the regulations?

1 NOAH ALVEY: So it's the information that's
2 required -- the requirements that are contained in
3 (inaudible) are only requirements related to the
4 director of the marijuana dispensary or the employees.
5 And so for a property owner or owners of the business,
6 there are no regulations in place that the city has to
7 enforce (inaudible).

8 MAYOR VASQUEZ: So if someone opened an illegal
9 marijuana dispensary and then shut down and they were --
10 they paid their fines, then they could eventually open a
11 legal one, a legal dispensary without any penalties.

12 NOAH ALVEY: So I think there is an important
13 distinction here; and the distinction is that between an
14 operator of the business and between the property owner.
15 And so what we've identified in the information here
16 tonight is that the property owner in question allowed a
17 dispensary to operate on the property, but he wasn't a
18 part of that. He was -- he allowed them to operate.

19 He entered into a settlement agreement, but he
20 wasn't the director or the employee that was there. So
21 as such, he wouldn't be -- he would remain eligible as
22 far as this (inaudible) is concerned, because he would
23 be able to pass those background checks that are
24 required.

25 So I think just to clarify, so the distinction

1 I would see is between the property owner and the
2 operator. So it's not the operator right now that's
3 coming back and asking to operate a new medical
4 marijuana dispensary, it's the property owner.

5 MAYOR VASQUEZ: Mayor Pro Tem Arambula?

6 MAYOR PRO TEM ARAMBULA: Mr. Alvey, I'm looking
7 at the March 2017 agenda, and I remember having this
8 discussion specifically. And I'm looking at Item --
9 it's Attachment A, and it's number 38. "Operators and
10 property owners previously in code enforcement for
11 operating a non-permitted marijuana establishment shall
12 not be eligible for permit approval."

13 So I understand it's not in the Municipal Code,
14 but it was one of our -- basically one of our guiding
15 regulations of our own administrative (inaudible),
16 right?

17 NOAH ALVEY: That would -- go ahead.

18 CITY ATTORNEY: Let me add to what Mr. Alvey is
19 saying.

20 When we -- when we went through this process
21 with illegal marijuana dispensaries, which has been a
22 long process, the approach that the city took was to
23 cite two entities. First you cite the property owner,
24 and you also cite the operator of the dispensary. So
25 you're issuing citations to the operator and the

1 property owner at the same time.

2 Sometimes those two are the same people. In
3 this instance they were not. They were two different
4 entities. Mr. Marks owns the property under his trust,
5 and there was an operator who was operating at the
6 property. Those two entities were cited separately and
7 distinctly. Mr. Marks has settled his claims with
8 regard to the code enforcement proceedings that were
9 brought against him.

10 With regard to your question, Councilmember
11 Arambula, when you're talking about code violations that
12 have not been remedied, for example, if you have
13 unpermitted -- an unpermitted garage that's built on
14 your property, if you come forward for a permit, we're
15 going to say, you can't get your permit until you remove
16 your unpermitted garage, right? So same type of
17 principle. If you haven't remedied the code violations
18 against you, then you can't move forward for the
19 entitlement that you're seeking. In this instance
20 Mr. Marks has remedied those violations.

21 MAYOR PRO TEM ARAMBULA: When were they
22 remedied again?

23 CITY ATTORNEY: The settlement agreement was
24 entered into December of 2018.

25 MAYOR PRO TEM ARAMBULA: Was that before or

1 after the application?

2 CITY ATTORNEY: I think it was before.

3 But, Mr. Alvey, could you confirm that?

4 NOAH ALVEY: Sure.

5 So there were multiple submittals for this
6 7309 Broadway. They submitted for zoning clearance
7 applications in 2017 and 2018. Those were denied
8 because of the presence of a day care facility in the
9 vicinity. But the zoning clearance that was approved
10 most recently was on March 28th of 2019.

11 MAYOR PRO TEM ARAMBULA: So the operative
12 application that we're talking about, was that -- again,
13 I just want to keep it real simple -- is it -- was the
14 application made before or after those issues were
15 resolved?

16 NOAH ALVEY: The application was cleared and
17 allowed to proceed after the settlement agreement was
18 signed.

19 MAYOR PRO TEM ARAMBULA: So the application was
20 submitted before they got the violations or after?

21 NOAH ALVEY: After.

22 MAYOR PRO TEM ARAMBULA: So first the
23 violations --

24 NOAH ALVEY: Settlement agreement.

25 MAYOR PRO TEM ARAMBULA: Settlement

1 agreement.

2 NOAH ALVEY: Application received.

3 MAYOR PRO TEM ARAMBULA: Application received.

4 And when was that received again?

5 NOAH ALVEY: The zoning clearance application
6 was approved on March 28th of 2019.

7 MAYOR PRO TEM ARAMBULA: Wasn't the other
8 Applicant in 2018?

9 NOAH ALVEY: So the other application for
10 3515 Harris Street followed a similar time line, where
11 in 2017 and 2018 they had zoning clearance applications
12 that were denied, again, because of the presence of the
13 day care facility. Their zoning clearance to operate
14 and proceed was authorized in May 8th of 2019. So about
15 six weeks after.

16 MAYOR PRO TEM ARAMBULA: Okay.

17 NOAH ALVEY: Six weeks after, (inaudible).

18 MAYOR PRO TEM ARAMBULA: You said of '19?

19 NOAH ALVEY: Yes.

20 MAYOR PRO TEM ARAMBULA: I may be on the same
21 page as Councilmember Mendoza. I think I need to
22 clarify all this. Something doesn't sound right.

23 I certainly don't want to reward someone who's
24 been doing business illegally in our city. So I think
25 it would be (inaudible) fair to everybody as possible.

1 MAYOR VASQUEZ: Councilmember Mendoza.

2 COUNCILMEMBER MENDOZA: You know, if my memory
3 is serving me correctly, there was a (inaudible)
4 dispensary that the city went to a lot of time and
5 expense to shut down, yet it -- I don't remember the
6 details, but it continued to operate until we could
7 finally shut it down. And then a second illegal
8 dispensary. So the property owner willfully allowed an
9 illegal dispensary to open a second time on his
10 property. And wasn't it his grandson who was operating
11 the businesses?

12 CITY ATTORNEY: We can't confirm that, so we
13 don't know for sure.

14 COUNCILMEMBER MENDOZA: Okay. Okay. All
15 right.

16 And in this instance we also had neighbors
17 coming in who had day care centers and were complaining
18 that they were being harassed to close down the day care
19 centers.

20 CITY ATTORNEY: That was the initial -- the
21 initial Applicant. And if I recall way back in that
22 time frame, the applicants were different. So the
23 applicants in front of you today is a different
24 applicant than was originally.

25 COUNCILMEMBER MENDOZA: Okay. So then it was

1 the same property that all this --

2 UNIDENTIFIED SPEAKER: Yes, same property
3 owner. Yes.

4 MAYOR VASQUEZ: Councilmember Jones?

5 COUNCILMEMBER JONES: I'm ready to hear from
6 the public (inaudible).

7 MAYOR VASQUEZ: Okay.

8 Okay. So we will move on with the public
9 hearing portion of this agenda item.

10 We'll now open the public hearing to hear from
11 any persons in the audience who wish to speak on this
12 matter. Each person may address the council for a
13 maximum of 3 minutes.

14 Rebuttals shall be limited to only those whose
15 points made by the opposition. No new testimony may be
16 given.

17 Generally each speaker is asked to limit his or
18 her presentation to 3 minutes. All remarks shall be
19 addressed to the City Council. Questions shall be
20 addressed to the Mayor.

21 Debating, demonstrations, comments from the
22 audience, or testimony which is not relevant to the
23 matter being considered will not be permitted.

24 I'd like to take this opportunity to invite the
25 Applicant and/or their representative to the podium to

1 give their presentation. And so that would be Evan
2 Johnson, Sr., Mark -- and Marty Frank and Ambrose Wong
3 and Wayne Rosenbaum.

4 WAYNE ROSENBAUM: Madam Mayor, Members of the
5 Council, my name is Wayne Rosenbaum. I'm a partner with
6 the Environmental Law Group. We did represent the
7 property owner in the resolution of the issues prior to
8 the filing of this application.

9 And so really I'm here this evening to answer
10 any questions that you might have in terms of the
11 resolution between the city and the property owner as it
12 pertains to issues that occurred prior to the
13 application. Otherwise, I think it's a pretty good
14 project.

15 So if you have questions of that, I'm available
16 for that.

17 And I should comment that part of the
18 settlement here, very quickly, between the parties was
19 that in settling this, Mr. Marks -- there was no initial
20 liability on the part of Mr. Marks. And the reason why
21 we entered into this settlement agreement was an
22 assurance that there would be not be a cloud on
23 Mr. Marks's title. So we believe, and I think the
24 document is pretty clear, that in seven of these prior
25 actions, Mr. Marks, it was the intent of both the city

1 and the property owner that we weren't going to put some
2 kind of cloud on title in terms of any future operator
3 or use of the property.

4 So on that note I'll turn it over.

5 EVAN JOHNSON: My name is Evan Johnson.

6 (Inaudible).

7 UNIDENTIFIED SPEAKER: We need a stool for our
8 podium.

9 EVAN JOHNSON: I'll just tell you a little bit
10 about me. I've owned a store in Miramar, San Diego, the
11 fifth licensed store in San Diego. I've been with them
12 for almost four years. I have an outstanding reputation
13 with the City of San Diego. My store is called "Mankind
14 Dispensary." I know about high traffic, I know how to
15 deal with it. I've been doing this for a long time.

16 Previous before that store, I've been in this
17 industry for I would say eight or nine years, but the
18 store is where I shop. So I deal with the store. And I
19 know how to run a dispensary; been doing it for a long
20 time.

21 And I understand that there's some -- there's
22 worries about the neighborhood and how it's going to
23 affect the neighborhood. This is just another business.
24 I know it's cannabis so it's different; it really isn't.
25 It's just another business, like a liquor store.

1 But when I do have issues, because we always
2 have issues with neighbors, I was the face. I'm not
3 there like I used to be before, but I was the face that
4 came and solved all the issues and figured how to make
5 the neighbor -- because I had like seven or eight
6 neighbors within my area, how to make them happy.

7 We understand that we want to make sure that we
8 have a good image and that we -- we want to stay here.
9 So we understand our reputation means everything.

10 I have nothing else to say.

11 Also, I don't know if you have a conflict
12 because you are a lawyer for my store in Miramar.

13 UNIDENTIFIED SPEAKER: I already talked to your
14 boss.

15 EVAN JOHNSON: Okay. I don't have a boss. All
16 right.

17 COUNCILMEMBER JONES: Before you go back, do
18 you have the address of that store?

19 EVAN JOHNSON: My store?

20 COUNCILMEMBER JONES: Yeah.

21 EVAN JOHNSON: Yeah. God, I'm thinking
22 7309 Broadway.

23 COUNCILMEMBER JONES: That's here.

24 EVAN JOHNSON: I know. It's Mankind
25 Dispensary -- because they both start with a 7 --

1 7218 Miramar Road. We're upstairs.

2 And actually, my store is only 800 square feet
3 at Miramar, and this is 1600, thank goodness, because
4 we'll need the space.

5 MARTY FRANK: Mayor, Council, Staff, my name is
6 Marty Frank, and I'm the (inaudible) liaison for this
7 project.

8 Just want to let you guys know that we -- we
9 will be fully compliant and we want to be a positive
10 contribution to this community. What happened in the
11 past with our landlord and partner is not something that
12 should be reflected with myself and Evan. We had no
13 part in that. And we actually are hoping that we can
14 turn what was at the time a non-conforming use into a
15 conforming use.

16 Thanks again for your time.

17 MAYOR VASQUEZ: Thank you so very much.

18 AMBROSE WONG: Hello, Council Members. My name
19 is Ambrose Wong. I'm a civil engineer with DWE. DWE is
20 a civil engineering planning firm. We've been in
21 business for almost 50 years.

22 We've been working with Mr. Johnson and
23 Mr. Frank since December of 2018 to submit this
24 Conditional Use Permit application. We've coordinated
25 with the city staff through this year to provide the

1 code compliance application. And I'm very happy to
2 answer any questions you may have.

3 Our team consists of a traffic engineer, LLG,
4 they're not here tonight, but also an architecture firm,
5 (inaudible). They are here to answer any questions.
6 And they also have a (inaudible) engineer on the team
7 and a landscape architect on the team (inaudible).

8 Councilmember Jones, to answer one of your
9 questions about employee parking enforcement, in the
10 operations manual there is language in there too for
11 disciplinary action against employees who do not parking
12 in the Park and Ride. I would also like to say that it
13 would be in Mr. Johnson's and Mr. Frank's best interest
14 for the employees not to park on site to provide the
15 parking spaces for the customers.

16 (Inaudible) very happy to answer any questions
17 you may have.

18 MAYOR VASQUEZ: Thank you so very much.

19 And I would like to remind everyone to please
20 speak into the mic so that we can capture everyone's
21 comments. But also, if you could just bring the volume
22 up just a little bit more, that way those persons here
23 in the audience can hear you as well.

24 And so thank you so very much for speaking.
25 We're asking that you just kind of hang around to

1 provide clarification as questions will arise.

2 And I do have here a few slips. And so as a
3 reminder, you have 3 minutes to speak.

4 I'll start with Joe Yousif.

5 GINA AUSTIN: Oh, Madam Mayor, we had requested
6 a --

7 MAYOR VASQUEZ: I'm so sorry, but you've got to
8 be at the podium in order to speak. But I have a
9 speaker slip here for Joe Yousif.

10 Is Joe Yousif in the audience?

11 UNIDENTIFIED SPEAKER: They're together.

12 UNIDENTIFIED SPEAKER: Just speak into the
13 microphone so that we can capture it for the record.

14 GINA AUSTIN: My name is Gina Austin, and we
15 had asked the -- both the city attorney's office and
16 Ms. Chapel whether we could have additional time as
17 allowed in the regulations, which I was under the
18 impression was going to go to determine whether that
19 could be or not because I would be speaking first before
20 Mr. Yousif in our brief presentation.

21 MAYOR VASQUEZ: Each person is allowed to speak
22 for 3 minutes. Would you like for me to move your
23 speaker slip up?

24 GINA AUSTIN: Okay. Are you denying the
25 request for additional time? That's all.

1 MAYOR VASQUEZ: At this point in time --

2 GINA AUSTIN: Okay. That's fine.

3 MAYOR VASQUEZ: -- there will be no additional
4 time to speak.

5 GINA AUSTIN: That's fine.

6 MAYOR VASQUEZ: Each person is allowed to speak
7 for 3 minutes.

8 GINA AUSTIN: Okay. Can I (inaudible)?

9 MAYOR VASQUEZ: Absolutely, yes.

10 And so it's Gina Austin, correct?

11 GINA AUSTIN: Yes.

12 MAYOR VASQUEZ: Okay. Thank you. Please
13 ensure that you speak into the mic.

14 GINA AUSTIN: Okay. I'm going to make this
15 fast then.

16 My name is Gina Austin, and I represent the
17 Applicant on the Harris Street project. And I want to
18 provide two reasons why this project should be denied
19 today or at least continued.

20 The first one is that the Harris Street project
21 did come in first. It is a multiple process, it's very
22 confusing, and Mr. Alvey can explain the whole process.
23 But this project started in 2017. We came here before
24 this council -- it was in November 2017. We came before
25 this council in January of 2018 to -- because there was

1 this Citrus Street day care and asked for it to continue
2 to be processed and move forward and ultimately go here
3 and be judged on the merits. The council said, no, we
4 can't do it, we just don't have the tools and mechanisms
5 in the code to allow you to do that.

6 This day care came and went and came and went
7 multiple times. It was bought off once, it was bought
8 off again. In December of '18 this Applicant bought
9 that day care off again. And so at that point in time
10 both of these applicants reapplied. This Applicant
11 reapplied in December of '18, although it wasn't in
12 complete or ready to move forward until '19. We didn't
13 find out about that until two weeks later, in which case
14 we submitted an application because the day care was now
15 gone.

16 Then in July of '19 a new day care list came
17 out. There was a brand-new day care that is a
18 legitimate day care. As soon as that information was
19 relayed to this Applicant in September, mid-September,
20 this Applicant once again went out and bought off this
21 day care.

22 So there's a continuing problem just with the
23 ordinance in and of itself, the concept of day cares,
24 they're there, they're not there, they're there, they're
25 not there. So at this point in time, the day care that

1 was on the list is not currently there. They have been
2 paid off once again.

3 And so because we started this process and we
4 were stopped from proceeding, had we been allowed to
5 proceed, we would have been here today to talk about the
6 merits of that project, but we were stopped by
7 Mr. DeVries, and this project is now where we see it
8 today.

9 On the bad actor, I do have all of the
10 information, all of the data, I do have the violations
11 so that you can see them. They started in October 15 of
12 2015. Mr. Marks has owned that property the entire
13 time. Mr. Marks was complacent and an ingredient in all
14 of these violations. This is a CUP that runs with the
15 land.

16 I have no doubt, in fact, I know that the
17 operator is a very good operator. I have no doubt about
18 that. The problem is this permit doesn't go to him.
19 There is no administrative process for that in the City
20 of Lemon Grove. This permit goes to the landowner. And
21 so Mr. Marks gets that.

22 And in addition to that, he hasn't finished
23 paying those fines pertaining to that settlement
24 agreement. Mr. Alvey told you that three of the four
25 payments have been made, the fourth one isn't even due

1 until December 5th. You do not have that money in front
2 of you. These violations will go back.

3 I request of the council, please deny this
4 application because he's a bad actor; you can't make the
5 findings.

6 And I will sit down.

7 MAYOR VASQUEZ: Thank you so very much.

8 I'm going to ask our speaker to move because I
9 can't see you.

10 (Inaudible).

11 MAYOR VASQUEZ: Next we have Joe Yousif.

12 JOE YOUSIF: Hello. My name is Joe Yousif.
13 I'm the 3515 Harris Street Applicant.

14 On the code violations that I gave to you guys,
15 214 violations; that to me is not a landlord simply
16 renting out a dispensary by mistake. I'm a property
17 owner myself. I do background checks before I rent out
18 to any tenant. And for over a period of two years, two
19 name changes, 215 violations. I find it very hard that
20 Mr. Marks did not know what was going on.

21 You can -- that's it pretty much (inaudible).

22 Thank you very much.

23 MAYOR VASQUEZ: Next we have John Skinner.

24 JOHN SKINNER: Good evening. My name's John
25 Skinner. I'm the owner of the property at 7315 and

1 7319. It's the property directly next door and the
2 property next door on the corner.

3 One, I'm totally unaware of all the violations
4 there before with the other owner next door. It's kind
5 of an interesting thing to have.

6 But tending to the item at hand, I tend to
7 agree extremely with Councilmember Mendoza and Jones in
8 that we don't have enough information to make any
9 decisions.

10 I have sat here and heard about six or eight
11 very in-depth questions which seem to have no answers or
12 seem to have not been researched yet. And I'm not
13 doubting that an answer could come about and I'm not
14 doubting that this project may, in fact, be a vital
15 project, but as I understand our zoning code and
16 licensing in the city is to prevent someone from having
17 a license who has not been thoroughly investigated or
18 our situation has not been thoroughly investigated.

19 Mr. Jones mentioned being a businessman. I am
20 too. I have been for a long time. I might mention my
21 family has owned property since 1951, so we've seen a
22 bit of growth through the years. We have rented to many
23 tenants also through the years. I know the background
24 inspections that I do on my tenants before they rent
25 from me. But I won't go into what other people do, I

1 only know what I do from my own personal experience.

2 And I also address the factor of parking and
3 traffic. At least it's true they have "X" number of
4 spaces. We aren't looking at the fact that it is a
5 single-entry driveway.

6 Broadway is an extremely busy street. Anyone
7 who has ever pulled in and out of these properties can
8 realize the problems. And if, in fact, as Mr. Jones has

9 stated, that the other operators experiences are a

10 short-term in and out, this seems to magnify the problem

11 of backing out onto Broadway, or if there's enough room

12 in that block, which there is not in my opinion, to exit

13 Broadway in a forward fashion, this is a constant

14 problem on Broadway. And I'm sure the law enforcement

15 here knows that, has experienced that problem.

16 So I am really, really against this being
17 approved at this time. Thank you.

18 MAYOR VASQUEZ: Next we have Ralph --

19 RALPH CHATTY: Chatty.

20 MAYOR VASQUEZ: Chatty. Thank you.

21 Ralph Chatty. First, I want to thank the
22 Council for announcing this in the mailing and also for
23 the opportunity to speak.

24 And I fully agree with everything you're
25 concerned about here. Who are these people? My

1 recollection goes back to the abandoned commercial
2 property over at 7439 Broadway and what a nightmare that
3 was. That was a five-year nightmare of vagrancy,
4 vandalism, structure and trash (inaudible), stench,
5 urine, feces, garbage, on and on, prostitution, flagrant
6 drug use.

7 We don't know what is the potential outcome of
8 one of these businesses. I mean, to me, it's a pot
9 shop. And I don't know, I don't know how it gets past
10 federal law. Marijuana is a Schedule 1 narcotic defined
11 by the Controlled Substance Act of 1970 for which
12 possession, sale, and use is punishable by 1 to 5 years
13 in prison and 5 to \$250,000 in fines. I don't
14 understand how that -- how this can even come about.

15 But I do advise everybody to take a good look
16 at that property over at 7431 and how for the nearby
17 residents that mess was a five-year nightmare. And I
18 personally thank the city for taking over that property.
19 And I thank the Lord and God that he sent you guys that
20 way. But it's still abandoned, it's still derelict, and
21 it's a ghetto eyesore.

22 I suggest any nearby residents of this proposal
23 be prudent about what you allow in your neighborhood.
24 And by "residents," I mean the people that live here and
25 live next to these properties, so that we don't have

1 another repeat of that nightmare over there at 7439.

2 And I personally emphatically say no to this
3 proposal, not in my neighborhood, and hope not in
4 anybody else's.

5 Thank you.

6 MAYOR VASQUEZ: Thank you so very much.

7 Next we have Kim Taylor.

8 Kim Taylor?

9 I'll put that at the back of the list.

10 This is Kim Taylor? Oh, okay.

11 KIM TAYLOR: Sorry. I'm a man.

12 MAYOR VASQUEZ: If you could approach the
13 podium.

14 KIM TAYLOR: Sure.

15 MAYOR VASQUEZ: Thank you. And speak into the
16 mic.

17 KIM TAYLOR: I guess I'm honored because I
18 guess it's not often I guess the fire chief was here,
19 and that I might spontaneously combust.

20 I am so angry over this. I own -- I just

21 brought the property at 7473 Broadway known as Body Shop

22 Supplies. Closed escrow in June of last year under

23 CKKW, LLC. So that's who I am.)

24 I think it's pretty clear. I haven't had any

25 fire code violations at all in the 25, 30 years I think

1 they've been there. And I'm the owner of the business
2 as well. And I have a million-dollar investment in the
3 property. And I know I overpaid, but being there many
4 years and with the landlord bad deal, bad business
5 situation, I'm kind of stuck there. So I got to make
6 the best of a bad situation. It's not a bad -- not a
7 bad position to be in, I'm not complaining.)

8 Excuse me, I'm just very nervous.

9 When it was a medical marijuana facility in
10 that shopping center next door to me, two doors down, it
11 wasn't really an issue. There wasn't much going on
12 there. When January came around, 2017, all hell broke
13 loose. And I had to have one of my employees wear a
14 security jacket, stand out front to keep people from
15 parking in front of my business. I have four spaces
16 that back out into the street. I can't believe the
17 number of times people would come and want to park
18 there. I'm like, you can't understand that I have an
19 investment here, I need to get my money back? And I
20 can't afford to give you a free parking space for 10
21 minutes to run next door.)

22 And it was a disaster. I have photographs, I
23 have video of what was going on back during those -- I
24 believe it was seven months before it got shut down.
25 And it was seven months of hell.

1 I know this man here, Evan. I would suggest
2 you look him up on the Internet, Evan Johnson. That's
3 all I'm going to say.

4 I don't -- I don't understand how people can
5 operate this way. And \$187,000 for the city sounds
6 pretty nice, but this should not be a money-making
7 operation for the city.

8 Thank you.

9 MAYOR VASQUEZ: Thank you.

10 Next we have Charles Alexander.

11 CHARLES ALEXANDER: How you doing, Council,
12 Madam Mayor.

13 This is not even -- this is not my lane. And
14 the only reason I'm here before you today is because my
15 son live at 7397 right next door. My son -- a few years
16 ago my son was caught with a bag of pot. I didn't know
17 where it came from until he showed me. And it was at
18 7309. And then I'm doing the homework and getting a
19 letter in the mail, 215 violations.

20 For you not to respect the law like that and
21 for you to have been selling drugs. And not only that,
22 I pulled this off the Internet. He was promoting this.

23 You were promoting this online without even a
24 dispensary license. How bold can you get? In a city
25 like Lemon Grove on Broadway? How bold can you get?

1 215 violations.

2 Madam Mayor, while you was out campaigning,
3 walking door to door, you was passing by this
4 dispensary. While you were celebrating your victory
5 across the street on Broadway, they was up and
6 operating.

7 This is a slap in the face. This is a -- this
8 is a -- this -- this, yeah, this is a safety violation.
9 Our (inaudible) you don't respect the law. You don't
10 respect the law. You don't respect nothing.

11 Man, you know, I'm a man, I'm shaking because I
12 know -- man, just the average person have this many
13 violations, you'd be in jail. You got 215 violations,
14 and they have the nerve to come before you and ask to
15 approve a dispensary? Man, how dare you. How dare you,
16 man. How dare you.

17 MAYOR VASQUEZ: Thank you so very much.

18 Next we have Mark Shubert? Shubert.

19 MARK SHUBERT: Mayor, Council, I'm here
20 representing my family. We own residential units, two
21 homes on Pacific and Citrus. We have the frontage area
22 there where people park as they -- as people are allowed
23 to do.

24 But Mr. Jones hit the nail on the head when he
25 started looking at, you know, how many employees, 5,

1 where you can park -- Park and Ride, where's the Park
2 and Ride? I think it's naive to think employees are
3 going to be parking at Park and Ride and the overflow
4 customers are going to be parking in the Park and Ride.
5 They're going to take the path of least resistance,
6 which is Citrus Avenue and Pacific Avenue. And those
7 are residential communities.

8 Staff has suggested parking's okay and that
9 (inaudible) something like that. I'm an appraiser by
10 trade, by profession. This is not going to be
11 sufficient for this business. Parking is going to have
12 to be -- come from somewhere else.

13 I think part of the reason that you guys are
14 here is to decide if this impacts the community. That's
15 part of I think the CUP consideration. I suggest that
16 parking alone will negatively impact the surrounding
17 properties, including the residential community right
18 behind this property. And that alone is a reason to
19 deny this project.

20 And so as a property owner in the immediate
21 area, I strongly recommend you deny the CUP because
22 we're going to have negative impacts and there's just no
23 way we want it.

24 Thank you.

25 MAYOR VASQUEZ: Thank you so very much.

1 Would staff like to make any further comments?

2 NOAH ALVEY: I would just say that obviously we
3 received a lot of comments about the previous code
4 enforcement actions. And staff looked at the
5 Conditional Use Permit application, and those are the
6 findings that are required in the Municipal Code doing
7 that evaluation based on the requirements. Staff was
8 able to make the recommendation for this Conditional Use
9 Permit, (inaudible) found consistent with the zoning
10 ordinance (inaudible).

11 I see there's a lot of memories and a lot of
12 bad experiences related to these illegal dispensaries
13 that are operating, but with that said, (inaudible)
14 putting the facts on the table and the -- the ordinance
15 requirements as it relates to background checks for the
16 operator and the director of the dispensary and not
17 having some things related to the property owner having
18 (inaudible) background checks.

19 So that's why staff is able to support moving
20 forward; and they can understand the concerns that were
21 brought tonight as well.

22 MAYOR VASQUEZ: Would the Applicant or the
23 representatives like to make any further comments?

24 WAYNE ROSENBAUM: Good evening. I guess I
25 would like to make two comments.

1 One, and I think staff's made that pretty
2 clear, the owner of the property, first of all, settled
3 all of its disputes with the city. There was never a
4 finding of violation against Mr. Marks. We've agreed to
5 settle our differences. And part of the settlement of
6 that differences clearly was that there was not then
7 going to be a shadow on the title. As my colleague has
8 indicated, the CUP runs with the land, not with the
9 owner. Okay?

10 The second thing I'd like to point out is the
11 issue of Mr. Marks's position, if you will. He's the
12 landowner, he is the landlord. Yes, he has a small
13 equity interest. But he is neither owner nor director
14 or has anything to do with the operations of this
15 facility.

16 And so this is kind of like saying, gee, we
17 want to throw General Motors out because we know they
18 have some bad stock holders. That's not quite how it
19 works.

20 Mr. Marks doesn't fall into any of those
21 categories, nor -- and you should have the comfort with
22 your own staff to know that the people who will be
23 responsible for this facility all have been
24 appropriately vetted and will be appropriately
25 supervised by your staff. Mr. Marks has nothing to do

1 with that. So I think that's the major issue here.

2 Parking I cannot speak to. I'm going to let
3 somebody else do that. I don't know (inaudible) to
4 park.

5 So I will leave it at that, unless you have
6 further questions.

7 MAYOR VASQUEZ: Thank you.

8 UNIDENTIFIED SPEAKER: Okay. I'd just like to
9 speak really quickly on the parking issue, the traffic
10 issue --

11 MAYOR VASQUEZ: Can you please speak into the
12 mic.

13 UNIDENTIFIED SPEAKER: I'd like to speak really
14 quickly on the parking issue. I'm not a traffic
15 engineer, but I have read the report many times. Our
16 traffic engineer did do traffic counts on two operating
17 dispensaries in the City of San Diego, and based it upon
18 those traffic counts.

19 And also the CUP process provides the city and
20 neighbors with relief from any unforeseen traffic
21 conditions that may be caused by this dispensary. When
22 the application is renewed, there can be additional
23 conditions placed upon this dispensary if needed in
24 order to mitigate any traffic issues.

25 Thank you.

1 MAYOR VASQUEZ: Thank you.

2 EVAN JOHNSON: I just wanted to support -- just
3 say Mr. Marks is not going to have any say so or any
4 control. He is a minority shareholder of this business.
5 It's very hard to get into this industry, hard, it's not
6 even an industry, just to get a store. It's extremely
7 difficult, lot of negotiations to get here. But the
8 reason why he's not here is because he's not going to
9 participate.

10 I understand that he had a bunch of bad -- he
11 has a bunch of fines, a bunch of violations. Did not
12 know that before we put an application on this property.
13 But then when we found out, we worked out a deal with
14 the city attorney and was assured by the city attorney
15 that that would -- paying those fines, almost \$200,000,
16 that it wouldn't reflect badly on the operators and the
17 owner. So just want to say that one more time; he will
18 not have one shred of control or interest as far as a
19 voice in this operation.

20 MAYOR VASQUEZ: Okay. I'd like to know if any
21 of the council members have any questions of staff.

22 I'll go ahead and start with Councilmember
23 Mendoza.

24 COUNCILMEMBER MENDOZA: Questions or additional
25 comments?

1 MAYOR VASQUEZ: Both.

2 COUNCILMEMBER MENDOZA: So I'm just basically
3 going to sum this up with two things.

4 We did learn a bit more information hearing
5 from those who spoke, but I still -- I'm leaning towards
6 at least postponing this until we have a report that
7 reflects more of the information that we need to know.

8 I'm also -- I'm -- and this is sort of a
9 message to the current Applicant. I'm very concerned
10 about the parking, or lack of parking. This is a
11 problem area. And we get a lot of complaints about
12 parking in this area, especially after a fairly dense
13 housing complex was built.

14 And then there's a business across the street
15 that works on cars, and that means that during the --
16 not that this is your fault -- but evidently during the
17 day they park all the cars in the neighborhood, they
18 have to move the cars off their lot so that they can
19 work on the cars in their lot. And then at night they
20 put all the cars that they're working on back on their
21 lot. So there are a lot of problems with parking in
22 this neighborhood.

23 And, you know, it's one thing to say we're
24 going to make our employees park at a Park and Ride. I
25 mean, I have never heard of that in my 15 years. We --

1 as a planning commissioner and as a council member, I
2 don't know, I mean that's a very creative solution that
3 I've absolutely never heard of. So I kind of need to
4 give that some thought.

5 But Councilmember Arambula and I about three
6 years ago also did a field trip and went to a couple of
7 medical marijuana dispensaries in San Diego, the City of
8 San Diego, where they were legal at the time, because we
9 thought, you know what, if this is coming to Lemon
10 Grove, we kind of want to see what's going on here.

11 5 parking spots? We're not going -- it was
12 just absolutely not going to cut it. And one of these
13 parking spots I'm assuming is handicapped van
14 accessible, because this is a medical marijuana
15 dispensary. So I don't know. I couldn't tell from --
16 if it was a van accessible handicapped spot or not, but
17 I think it must be because there's a no parking right in
18 front of the building.

19 But anyway, you know, and even pulling in and
20 backing in and out of this is going to be super, super
21 tight.

22 So I'm a little concerned about the lack of
23 parking because people are going to be parking on the
24 residential streets. It's just going to happen. And
25 yes, my limited observation of other dispensary, I'm

1 going to say -- I'm going to restrict it to legal
2 because the illegal ones were nuts -- we had traffic
3 issues like you wouldn't believe.

4 The gentleman who just left who owns the car
5 detailing supply store, he was right; I mean, it was
6 just a nightmare, the illegal parking that was going on
7 with the illegal dispensaries.

8 And so with a legal dispensary we do have a
9 little bit of -- a little hammer that we can use, but
10 customers are going to be parking on the side streets.
11 There's just -- there's no way to avoid that. And that
12 concerns me. I do not think that the parking is
13 sufficient.

14 MAYOR VASQUEZ: Councilmember Jones.

15 COUNCILMEMBER JONES: Let me start with what we
16 heard from one of the speakers on bought off. That
17 concerns me. We heard -- we all got the e-mails from
18 the woman that's around the corner from this location
19 about the pressure that was put on her to let them buy
20 her out. That's not acceptable; I'm not happy about
21 that, but recognize that what we do here is limited.
22 However, we do have a pending Conditional Use Permit in
23 this area.

24 And this is one of the things that I was
25 concerned about when we created that second level of

1 approval, you know, the one that we did -- what did we
2 call it? I don't think we have a name for it. We did
3 it last year where we said, if there's nothing in the
4 area, we'll give you a permit and we'll allow you to go
5 through the process, the whole process, even if someone
6 opens up a dispensary -- a restricted use.

7 What did we call it?

8 UNIDENTIFIED SPEAKER: Separation finding.

9 COUNCILMEMBER JONES: Separation finding.

10 So and I just call it levels 1, 2, and 3.

11 So we created a level 2. And back when we were
12 talking about it, and I don't know if you guys remember,
13 but I was concerned that we not -- that we not start,
14 you know, going through the Conditional Use Permit
15 processes when we have these pending cases. And that's
16 what we have now, we have a pending case.

17 So I don't know for sure, but it sounded to me
18 like our Applicant right now for the Conditional Use
19 Permit has been bought off, either to delay it or not
20 open it at all, I don't know what that means.

21 When this is a process where we don't have
22 discretion, if we don't have discretion, there's nothing
23 we can do. However, in the Conditional Use Permit
24 process and in how we handle these applications, I think
25 we need to look at -- and this is probably going to

1 change -- the reason I'm looking at the attorneys, it's
2 probably going to require a change in the way we have to
3 do our -- in our ordinances to do this, but I think that
4 any time we have a pending application, that that should
5 be treated the same as a completed application.

6 Now, what does that mean? That doesn't mean
7 that somebody can go out and buy a piece of property and
8 extort marijuana dispensaries because the CUP has an
9 ending time; they have to renew it. And we have
10 discretion to say, okay, you've had your time, we're not
11 going to renew this, and we'll go -- and then we can
12 issue fairly a level 2 approval for a dispensary
13 (inaudible) without having the pending. You see what
14 I'm saying?

15 And for me it's a conscience thing because -- a
16 conscience thing because, you know, the public said,
17 when they approved Measure V, they said, we're okay with
18 the marijuana dispensaries, but we want these distances
19 between -- between -- you know, we want these things to
20 be protected with business. And now we've got a deal
21 where in essence we've created a state-sanctioned
22 extortion system here, and that bothers me. So I don't
23 think it applies to what we're doing here today, but I'm
24 not happy about it. Let's just put it that way. And I
25 think it's something that we need on all of our radar so

1 that it doesn't happen in the future, if that makes
2 sense.

3 I'm trying to be fair about these things. You
4 know, a lot of people think, oh, you guys are being
5 mean, you know, you don't want marijuana. You know, the
6 marijuana thing has nothing to do with a decision on
7 land use for me. It's all about being fair to
8 businesses. You know, we did the phase 2 thing; I think
9 that was being fair. We stretched on that, we stretched
10 on a few things.

11 We've got to be fair to everybody, and we've
12 got to be fair to the community. And I think where
13 we're going right now is not fair. So I would hope that
14 someone will back me up on this and we would take a look
15 at this whenever we can in the future.

16 Second, Mr. Marks as the owner is not the
17 problem; Mr. Marks as a participant in the business,
18 that's a problem for me. I don't care if he's got
19 1 percent or 5 percent, he's got a percentage of the
20 business, he's a partner. Otherwise, if he was just
21 collecting rent, that's another ball game for me; that's
22 the distinction.

23 Parking. Parking's an issue. It's not -- in
24 this particular case it has nothing to do with
25 marijuana, it has to do with the type of business. And

1 the type of business -- take marijuana out of it. The
2 type of business is a business that people come and they
3 go and you have high traffic.

4 I went and I saw it for myself today. And I
5 talked to the property owner and the business owner.
6 And he's been honest with me, and he's opening a
7 dispensary here in Lemon Grove. He was honest with me.
8 And he's got no dog in this race. He told me, high
9 traffic times, the parking's crazy.

10 Now, add that to the fact of the location on
11 Broadway where this thing is and the high traffic in
12 that area, and you're asking for a problem. It's going
13 to be just like when we approved the damn Starbucks
14 drive-thru when we shouldn't have. Okay?

15 Anybody disagree with that?

16 UNIDENTIFIED SPEAKER: We didn't approve
17 that.

18 COUNCILMEMBER JONES: We didn't, that went
19 through -- right, but -- no, the city did, we didn't,
20 but it got approved. Okay? That was a mistake we made.
21 Okay? I don't want to make the same mistake in this
22 neighborhood.

23 So you've got the high traffic problem, you've
24 got the parking problem. And it's -- the parking over
25 here, I did a mile travel thing -- (inaudible) this is a

1 great application here by the way. It's a mile of
2 travel for -- a line of travel for those folks. I
3 didn't do the one for here because I didn't realize it
4 was -- that was a Park and Ride. But, you know, it's
5 still a long distance.

6 So yeah, we're playing around with parking in
7 terms of the, you know, climate change and all of that;
8 this isn't a climate change kind of business. People
9 are not riding bicycles to it. It's just not the same
10 consideration.

11 So I think we have some safety issues here. I
12 think we have some problems in the neighborhood in terms
13 of parking and the impacts in the neighborhood and that
14 potential. And personally I -- you know, I'm less
15 likely to vote for this than -- you know, we voted
16 against that rehab place over on Grove and North, and
17 (inaudible) you know what I'm talking about -- behind
18 Barry's, we voted against that on less problems than
19 we're seeing here.

20 So as far as the findings go -- well, let me
21 ask one last question. And this is for the city
22 attorney.

23 Is there anything for me personally that
24 prevents me from using the observations I make today and
25 the ex parte communications from making my decision?

1 CITY ATTORNEY: No, that's all part of the
2 record. You can use those.

3 COUNCILMEMBER JONES: I'm just saying are
4 those -- are those observations of mine valid for me to
5 make my vote?

6 CITY ATTORNEY: Valid? You know, you can make
7 your decision on whatever you want to make your decision
8 on.

9 COUNCILMEMBER JONES: There's nothing legally
10 that binds me from using my observations and my ex parte
11 communication in my decision with this project.

12 CITY ATTORNEY: You can. You know, I -- the
13 findings that are set forth in your agenda report are
14 the findings that need to be made in order for you to
15 grant the CUP.

16 COUNCILMEMBER JONES: And we have to find for
17 all of them.

18 CITY ATTORNEY: Yes. If you believe that the
19 communications and the information and the report and
20 all of the discussions that you've had here today fall
21 into those categories that would allow you to find
22 against one of those findings, then you can certainly
23 make your vote on that. Can I guarantee that that will
24 protect you from an appeal in the future? I cannot.

25 COUNCILMEMBER JONES: No. No. And I

1 understand that. But I mean we want to make decisions
2 that are defensible, and that's basically the crux of my
3 question.

4 CITY ATTORNEY: I think all of the data that's
5 been -- and information that's been discussed today,
6 which you have shared with us, is part of the record.
7 It can be considered.

8 COUNCILMEMBER JONES: So let me ask one more
9 thing of staff before I make my final comments.

10 On the conclusions on page 15 on the pdf, or
11 page 8 of the report, it says there "The use complies
12 with the performance standards according to Section
13 1724080." What is that?

14 I tried to look it up, but (inaudible).

15 UNIDENTIFIED SPEAKER: Number 3 on the list.

16 COUNCILMEMBER JONES: Yes, number 3 on the
17 list, correct.

18 UNIDENTIFIED SPEAKER: So 1724080 essentially
19 outlines performance standards by which all land uses in
20 the city must abide. That includes real basic
21 provisions; the noise, glare, traffic, and so on and so
22 forth.

23 COUNCILMEMBER JONES: So it's like the
24 catch-all. It's a (inaudible).

25 UNIDENTIFIED SPEAKER: That is correct.

1 COUNCILMEMBER JONES: Well, here's my thoughts,
2 folks: You know, it's all about a land use and whether
3 it's compatible. And right now I can't find for
4 findings 1 and 2. The use in my opinion based on my
5 observations and my communications is not compatible
6 with the neighborhood or the community.

7 For findings number 2, use is detriment to
8 health, safety, and convenience or general welfare of
9 the persons residing or working in the vicinity. And by
10 that I mean, it's a high traffic area, we're going to

11 add a lot of in-and-out numbers in terms of people

12 coming and going out of that driveway and onto Broadway.

13 And I think this is a problem looking for a (inaudible)

14 to have based on this property's configuration and the

15 number of parking spaces. And that's -- that's the way

16 I feel.

17 So I am not inclined to vote for this. I don't
18 care what you bring back for the violations, I don't --
19 the violations are -- you know, the lawyers can be
20 fighting over that whole violation thing for the next
21 five years. The reality is I have a responsibility to
22 protect the people in the City of Lemon Grove and I have
23 a responsibility to protect the neighborhoods. And I'm
24 sorry, I'm sorry, this is the wrong place. It's just
25 the wrong place.

1 And I'll tell you guys this too: If your
2 parking isn't any better, I'll go against it as well.

3 So this is the way I feel. This is where I'm
4 at. I'm not sure where my colleagues are going to go,
5 but I'm not inclined to approve this. I just don't
6 think it's doing my constituents a service.

7 MAYOR VASQUEZ: Mayor Pro Tem Arambula?

8 MAYOR PRO TEM ARAMBULA: So I would have a
9 couple of the same sentiments. For me there's too many
10 internal defects in this application. (Inaudible)
11 supporting a no vote on this.

12 MAYOR VASQUEZ: And I'll just provide these
13 comments.

14 Looking at this particular agenda item, we are
15 required to make specific findings. And they're
16 outlined, and there are four. And the biggest issue

17 based on what I can see is parking, based on images of
18 the property, but also comments from those who are
19 vested in the surrounding area that includes business
20 owners. And while their experiences in the past with an
21 illegal marijuana dispensary has helped to shape their
22 opinion, when you look at Broadway, I mean it's our
23 major thoroughfare, and there's lots of traffic; but
24 also too, the space for parking is very limited.

25 And so based on hearing the comments that were

1 shared today, but also hearing from someone who actually
2 represents the business community, makes it a little
3 difficult to say that this particular project is
4 compatible.

5 I did hear my colleague Mendoza say that there
6 wasn't enough information to make a decision today, but
7 to be honest with you, I appreciate the opportunity to
8 hear the comments, and I actually feel like although the
9 information, the additional information that you are
10 seeking, I feel like I can make a decision today. And
11 so those are my comments.

12 What I'd like to do is I'd like to see if we
13 can get a motion to close the public hearing and --

14 MAYOR PRO TEM ARAMBULA: So moved.

15 MAYOR VASQUEZ: Okay. All in favor?

16 (Ayes.)

17 MAYOR VASQUEZ: Motion carries, 4-0.

18 And now, what is the council's pleasure?

19 COUNCILMEMBER JONES: I would like to move that
20 we deny the application permit based on the inability to
21 make the findings, one, that the use is incompatible
22 with the neighborhood and the community; two, that the
23 use is detrimental to the health, safety, and
24 convenience of the general welfare of the persons
25 residing and working in the vicinity.

1 UNIDENTIFIED SPEAKER: Madam Mayor, I know I'm
2 out of order, but --

3 MAYOR VASQUEZ: Yes, you are out of order.

4 UNIDENTIFIED SPEAKER: -- I'd like to request
5 the opportunity to withdraw --

6 MAYOR VASQUEZ: Can you please -- can you
7 please sit down.

8 UNIDENTIFIED SPEAKER: We would like to
9 request --

10 MAYOR VASQUEZ: We have already completed the
11 public comment portion of the meeting. And the hearing
12 is now closed.

13 So if you could repeat what you said,
14 Councilmember Jones.

15 COUNCILMEMBER JONES: I move that we disallow
16 the application based on the findings, one, the use is
17 not compatible with the neighborhood or the community;
18 and two, the use is detrimental to the health, safety,
19 convenience and welfare of the persons residing and
20 working in the vicinity.

21 COUNCILMEMBER MENDOZA: Second.

22 MAYOR VASQUEZ: And I'd like to turn it over to
23 our city clerk to call the vote.

24 THE CLERK: Councilmember Jones.

25 COUNCILMEMBER JONES: Aye.

Agenda Item Number 2
November 19, 2019

1 THE CLERK: Mayor Pro Tem Arambula.

2 MAYOR PRO TEM ARAMBULA: Aye.

3 THE CLERK: Councilmember Mendoza.

4 COUNCILMEMBER MENDOZA: Aye.

5 THE CLERK: Mayor Vasquez.

6 MAYOR VASQUEZ: Aye.

7 THE CLERK: It's 4-0 to deny.

8 MAYOR VASQUEZ: Thank you so very much.

9 (End of discussion of Item Number 2.)

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REPORTER'S CERTIFICATE

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing electronically-recorded proceedings were transcribed by me to the best of my ability.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: December 9, 2019



Diana Sasseen
CSR No. 13456

<p style="text-align: center;">\$</p> <hr/> <p>\$187,000 47:5 \$187,600 22:22 23:9 \$200,000 53:15 \$250,000 44:13</p> <hr/> <p style="text-align: center;">(</p> <hr/> <p>(inaudible)'s 24:16</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 24:12 44:10,12 57:10 59:19 64:4 1,000 4:22 6:4,11 7:3 13:10 1,000-foot 13:13 1,614 7:14 1.3 5:16 10 8:5 12:4 46:20 14-and-a-half 8:1 15 7:17 18:8,12 24:14 40:11 54:25 63:10 15-foot 9:20 16 24:15 1600 35:3 17.24.080 12:24 17.32 5:1,9 13:2 1724080 63:13,18 18 39:8,11 18th 6:16 19 10:22 29:18 39:12,16 1951 42:21 1970 44:11</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 2:1 7:20 57:10,11 58:12 59:8 64:4,7 68:9 20 10:18 21:12 2014 23:17 2015 24:1,2 40:12 2016 24:3</p>	<p>2017 24:12 26:7 28:7 29:11 38:23,24 46:12 2018 27:24 28:7 29:8,11 35:23 38:25 2019 23:1 28:10 29:6,14 214 41:15 215 41:19 47:19 48:1,13 220-plus 23:18,24 229 9:24 24-foot 9:5 24-inch-box 9:7 25 18:20 45:25 250 10:18 284,203.70 23:3 28th 28:10 29:6</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 31:13,18 37:3,22 38:7 57:10 63:15,16 30 45:25 3202 6:14 3468 6:19,24 350 17:11 3515 7:2,5 29:10 41:13 38 26:9</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4-0 66:17 68:7 44 7:18</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 8:15 18:12,25 19:11 20:2,18 21:1, 11 44:12,13 48:25 55:11 59:19 50 35:21 572 8:5 5th 23:1 41:1</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6470 11:2</p>	<p>68 7:16</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 18:7 34:25 7-11 18:16 708 8:6 7218 35:1 73 10:21 7309 2:5 4:17 5:14 6:4 7:4 28:6 34:22 47:18 7315 41:25 7319 42:1 733 10:1 7397 47:15 7431 44:16 7439 44:2 45:1 7473 45:21 750 19:13</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 18:7 63:11 800 35:2 807 17:12 8:00 5:4 8th 29:14</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>a.m. 5:4 abandoned 44:1,20 abide 63:20 absolutely 38:9 55:3,12 abuts 18:5 acceptable 56:20 access 7:24 9:2 10:1 accessible 55:14,16 accordance 20:17 accurate 17:13 acre 5:16 Act 44:11 action 36:11 actions 12:11,13 13:15 22:18 32:25 50:4</p>	<p>activities 5:24 actor 40:9 41:4 ADA 9:5 add 26:18 60:10 64:11 addition 11:12 40:22 additional 4:5,7 12:12 37:16,25 38:3 52:22 53:24 66:9 address 14:9 31:12 34:18 43:2 addressed 31:19,20 adjacent 7:15 16:10 administrative 26:15 40:19 adopt 13:18 advise 44:15 affect 33:23 afford 46:20 afternoon 18:6 agenda 2:9,12 26:7 31:9 62:13 65:14 agree 42:7 43:24 agreed 20:10 51:4 agreement 22:19,23 23:6 25:19 27:23 28:17,24 29:1 32:21 40:24 agreements 24:18 ahead 24:10 26:17 53:22 Alexander 47:10,11 Alford 5:18 allowed 25:16,18 28:17 30:8 37:17,21 38:6 40:4 48:22 Alvey 4:12,13 12:16 16:1,10,20,23 19:6 21:17 22:7,16 23:2, 9,11,14,21 24:1 25:1,12 26:6,17,18 28:3,4,16,21,24 29:2,5,9,17,19 38:22 40:24 50:2 Ambrose 32:2 35:18,19 American 7:15 amount 19:11 23:3, 8</p>
--	---	--	--

<p>analysis 8:14 15:23 19:8,9 analyst 15:24 and/or 31:25 angry 45:20 announcing 43:22 annual 5:7 answers 42:11 anticipated 9:8 appeal 62:24 appears 7:22 applicable 12:24 applicant 3:21 16:1, 2 19:3,8 20:8,25 22:13 23:22 29:8 30:21,24 31:25 38:17 39:8,10,19,20 41:13 50:22 54:9 57:18 Applicant's 3:22 applicants 7:5 19:4 30:22,23 39:10 Applicants/property 23:13 application 2:4 4:20 5:9,15 7:2,5,7 8:14 11:6 12:18 13:4 15:8,10 28:1,12,14, 16,19 29:2,3,5,9 32:8,13 35:24 36:1 39:14 41:4 50:5 52:22 53:12 58:4,5 61:1 65:10 66:20 67:16 applications 28:7 29:11 57:24 applies 58:23 appraiser 49:9 approach 26:22 45:12 appropriately 51:24 approval 6:23 11:2, 14 12:10 13:21 20:11 21:24 26:12 57:1 58:12 approve 12:16 13:7 48:15 60:16 65:5 approved 6:18,21 7:1 11:5 12:15 28:9 29:6 43:17 58:17 60:13,20</p>	<p>approving 13:19 approximately 7:14, 17 8:6 10:22 Arambula 22:6,7 23:11,15,23 24:6,19 26:5,6 27:11,21,25 28:11,19,22,25 29:3,7,16,18,20 55:5 65:7,8 66:14 68:1,2 architect 36:7 architecture 36:4 area 3:9 8:8 9:10,24 10:3 19:14 34:6 48:21 49:21 54:11, 12 56:23 57:4 60:12 64:10 65:19 arise 37:1 arrow 7:12 arrows 10:4,8 assessed 8:13 22:21 assessor 23:16 assessor's 23:17 associate 4:10,14 assuming 55:13 assurance 32:22 assured 53:14 Attachment 26:9 attorney 3:15,16 23:2,25 24:2 26:18 27:23 28:2 30:12,20 53:14 61:22 62:1,6, 12,18 63:4 attorney's 37:15 attorneys 58:1 audience 14:1 31:11,22 36:23 37:10 Austin 37:5,14,24 38:2,5,8,10,11,14, 16 authorized 29:14 auto 5:23 automatic 5:5 Avenue 5:18 6:14 16:6,8 49:6 average 48:12 avoid 56:11 aware 23:14</p>	<p>Aye 67:25 68:2,4,6 Ayes 66:16</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>back 7:16,23 10:2 23:24 24:2 26:3 30:21 34:17 41:2 44:1 45:9 46:16,19, 23 54:20 57:11 59:14 64:18 backed 19:1 background 12:1 25:23 41:17 42:23 50:15,18 backing 43:11 55:20 backup 19:24 bad 40:9 41:4 46:4, 6,7 50:12 51:18 53:10 badly 53:16 bag 47:16 ball 59:21 Barry's 61:18 based 8:15 9:10 17:5 19:12,16,21 50:7 52:17 64:4,14 65:17,25 66:20 67:16 basic 24:21 63:20 basically 26:14 54:2 63:2 battle 18:21 begin 2:17 4:13 6:23 beginning 9:19 believes 13:6 beneath 9:13 berth 9:9 bicycle 7:20 9:1 bicycles 61:9 biggest 65:16 bike 20:11 binds 62:10 bins 9:14 bit 33:9 36:22 42:22 54:4 56:9 Black 10:4 bleed 21:14 block 43:12</p>	<p>blue 5:15 6:3 Body 45:21 bold 47:24,25 bollards 9:21 11:10 border 9:18 boss 34:14,15 bothers 58:22 bottom 6:15 10:3 bought 39:7,8,20 56:16 57:19 Boulevard 11:2 brand-new 39:17 bring 2:15 22:2 36:21 64:18 Broadway 2:5 4:17 5:19 6:4 7:4,13,17 9:25 10:21 28:6 34:22 43:6,11,13,14 44:2 45:21 47:25 48:5 60:11 64:12 65:22 broke 46:12 brought 27:9 45:21 50:21 building 7:14,16 9:11 10:5 11:9,17 19:16 20:3 55:18 built 27:13 54:13 bunch 53:10,11 business 10:9,20 14:15,17 18:20 21:22 25:5,14 29:24 33:23,25 35:21 46:1,4,15 49:11 53:4 54:14 58:20 59:17,20,25 60:1,2, 5 61:8 65:19 66:2 businesses 5:24 30:11 44:8 59:8 businessman 42:19 busy 18:9 43:6 buy 56:19 58:7</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>California 6:9,21 12:1 call 57:2,7,10 67:23 called 33:13 cameras 9:21 10:12</p>
--	---	--	---

<p>campaigning 48:2 cannabis 33:24 capture 36:20 37:13 car 56:4 Carbon 10:14 care 4:24 6:8,10,13, 16,18,20 18:13 28:8 29:13 30:17,18 39:1,6,9,14,16,17, 18,21,25 59:18 64:18 cares 39:23 carpool 8:23 carries 66:17 cars 54:15,17,18,19, 20 case 14:25 39:13 57:16 59:24 cases 57:15 Castle 2:22 catch-all 63:24 categories 51:21 62:21 caught 47:16 caused 52:21 celebrating 48:4 center 6:5,18 7:21 46:10 centers 4:25 30:17, 19 Central 3:4 change 58:1,2 61:7, 8 Chapel 3:24 37:16 Chapter 5:1,9 13:2 Charles 47:10,11 Chatty 43:19,20,21 check 12:1 check-in 10:6 checks 25:23 41:17 50:15,18 chief 45:18 circumstances 20:16 citations 23:18 26:25 cite 26:23,24 cited 27:6 Citrus 5:18 6:19,24 39:1 48:21 49:6</p>	<p>city 2:8,14 3:2,15, 16,19 5:10 9:3 11:22 12:17 13:3,17 22:20 23:2,10,25 24:2,8 25:6 26:18, 22 27:23 28:2 29:24 30:4,12,20 31:19 32:11,25 33:13 35:25 37:15 40:19 42:16 44:18 47:5,7, 24 51:3 52:17,19 53:14 55:7 60:19 61:21 62:1,6,12,18 63:4,20 64:22 67:23 civil 35:19,20 CKKW 45:23 claims 27:7 clarification 37:1 clarify 22:9 25:25 29:22 class 7:19 clear 32:24 45:24 51:2 clearance 28:6,9 29:5,11,13 cleared 28:16 clerk 2:14,15 3:24 4:1,4,7 67:23,24 68:1,3,5,7 climate 61:7,8 close 24:16 30:18 66:13 closed 6:16 12:11 45:22 67:12 closer 17:24 cloud 32:22 33:2 code 2:23 8:13 12:8, 11,13 13:15 22:15, 17 26:10,13 27:8, 11,17 36:1 39:5 41:14 42:15 45:25 50:3,6 colleague 51:7 66:5 colleagues 65:4 collecting 59:21 combust 45:19 comfort 51:21 commencement 11:21 comment 13:14 32:17 67:11</p>	<p>comments 3:13 13:16 31:21 36:21 50:1,3,23,25 53:25 63:9 65:13,18,25 66:8,11 commercial 2:6 4:21 5:21,22 6:1 10:16 44:1 Commission 6:17 commissioner 55:1 committed 6:1 communication 62:11 communications 3:20 4:6 61:25 62:19 64:5 communities 49:7 community 4:13 12:20 13:8 35:10 49:14,17 59:12 64:6 66:2,22 67:17 compare 18:16 compared 17:11 compatibility 11:15 compatible 12:19 13:8 20:20 64:3,5 66:4 67:17 competing 7:1 complacent 40:13 complaining 21:7 30:17 46:7 complaint 21:19 complaints 54:11 complete 39:12 completed 2:13,14 4:2 22:25 58:5 67:10 complex 54:13 compliance 10:23 36:1 compliant 9:6 11:1 35:9 complies 5:12 12:22 13:4 63:11 concept 39:23 concern 2:23 21:19 concerned 20:6 25:22 43:25 54:9 55:22 56:25 57:13 concerns 14:11 18:5 50:20 56:12,17</p>	<p>concludes 13:22 conclusions 63:10 condition 7:11 8:25 Conditional 2:3 4:16,20 5:9 6:18 12:16 13:19 21:17 22:3 35:24 50:5,8 56:22 57:14,18,23 conditionally 13:19 conditions 6:22 11:13,20 20:10 21:24 52:21,23 conduct 13:18 conducted 21:23 configuration 64:14 confirm 6:15 28:3 30:12 confirmed 6:9 conflict 3:16 34:11 conform 11:5 conforming 35:15 conforms 8:3 confusing 38:22 conjunction 20:7 22:21 conscience 58:15, 16 consideration 49:15 61:10 considered 10:11 31:23 63:7 consistent 9:6 12:24 13:8 50:9 consists 36:3 constant 43:13 constituents 65:6 consultants 17:14 contained 25:2 continue 22:2 39:1 continued 30:6 38:19 continuing 39:22 contribution 35:10 control 53:4,18 controlled 10:1,6 44:11 convenience 6:2 12:21 64:8 66:24 67:19</p>
--	--	--	---

<p>convicted 5:6 12:3 coordinated 35:24 copy 15:10 corner 5:16 16:11 42:2 56:18 correct 23:2 38:10 63:17,25 correctly 30:3 correspondence 4:3 council 2:8,17 3:19 5:10 11:22 12:17 13:3,17 24:12 31:12,19 32:5 35:5, 18 38:24,25 39:3 41:3 43:22 47:11 48:19 53:21 55:1 council's 66:18 Councilmember 2:20,21 3:17 14:5,6 15:19,20 16:3,12, 17,21,24 19:19 20:22 21:2 22:4 24:6 27:10 29:21 30:1,2,14,25 31:4,5 34:17,20,23 36:8 42:7 53:22,24 54:2 55:5 56:14,15 57:9 60:18 62:3,9,16,25 63:8,16,23 64:1 66:19 67:14,15,21, 24,25 68:3,4 counts 8:16 19:10, 22 52:16,18 county 12:2 23:16 couple 15:20 22:8 55:6 65:9 coverage 10:17 crazy 18:9 60:9 created 56:25 57:11 58:21 creates 18:19 creative 55:2 crime 8:10 10:11 11:20 criticizing 14:22 crosses 10:19 11:1 crux 63:2 CUP 7:1,2 10:19 11:22 12:10,14 40:14 49:15,21 51:8</p>	<p>52:19 58:8 62:15 CUP-190-0001 2:4 curb 7:19 current 12:6,14 54:9 customer 10:4 customers 18:17 21:10 36:15 49:4 56:10 cut 55:12</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>dais 4:8 damn 60:13 dare 48:15,16 data 40:10 63:4 date 22:25 23:14 24:18 day 4:24 6:8,10,13, 16,18,20 17:19 28:8 29:13 30:17,18 39:1,6,9,14,16,17, 18,21,23,25 54:17 deal 33:15,18 46:4 53:13 58:20 dealing 19:4 Debating 31:21 December 23:1 27:24 35:23 39:8,11 41:1 decide 49:14 decided 3:8 deciding 5:8 23:6 decision 14:24 15:7, 15 59:6 61:25 62:7, 11 66:6,10 decisions 42:9 63:1 defects 65:10 defendable 63:2 defer 16:2 20:24 23:21 defined 8:12 44:10 delay 57:19 Deliveries 9:11 delivering 11:19 demand 19:13 20:7 demands 9:8 demonstrations 31:21</p>	<p>denied 28:7 29:12 38:18 dense 54:12 deny 41:3 49:19,21 66:20 68:7 denying 37:24 department 6:9,21 10:11 12:1,2 derelict 44:20 describe 7:9 design 10:12 designated 5:19 16:21 detail 5:16 detailing 56:5 details 15:1,18 30:6 detector 10:6 determine 37:18 determined 11:1 determining 18:17 detriment 64:7 detrimental 12:20 66:23 67:18 development 4:13 Devries 40:7 Diego 8:17 9:6 12:2 33:10,11,13 52:17 55:7,8 differences 51:5,6 difficult 53:7 66:3 direct 13:20 directly 42:1 director 11:25 25:4, 20 50:16 51:13 Directors 12:3 disagree 60:15 disallow 67:15 disaster 46:22 disciplinary 36:11 disclosures 2:18 discretion 57:22 58:10 discussed 20:8 63:5 discussion 26:8 68:9 discussions 62:20 dispensaries 4:19, 21,25 8:12 13:10 18:1 24:11,13,17,23 26:21 50:12 52:17</p>	<p>55:7 56:7 58:8,18 dispensary 2:5 3:3, 10 4:17 8:16,17,20 10:9 11:3,18,25 12:9 17:10,15,19 18:14 19:10,13,23 21:10 24:24 25:4,9, 11,17 26:4,24 30:4, 8,9 33:14,19 34:25 41:16 47:24 48:4,15 50:16 52:21,23 55:15,25 56:8 57:6 58:12 60:7 65:21 disputes 51:3 disqualification 5:5 disqualify 12:14 distance 61:5 distances 58:18 distinction 25:13,25 59:22 distinctly 27:7 district 5:21,22 12:25 district-wide 8:4 districts 4:22 document 32:24 documents 4:3 dog 60:8 door 42:1,2,4 46:10, 21 47:15 48:3 doorfront 9:22 11:10 doors 10:7 46:10 doubt 40:16,17 doubting 42:13,14 draft 8:25 11:24 drive-thru 60:14 driveway 9:5 43:5 64:12 drug 44:6 drugs 47:21 due 23:1 40:25 DWE 35:19</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>e-mail 2:21,22 3:1 4:8 e-mails 56:17</p>
---	--	--	--

<p>earlier 13:2 east 5:17 9:18 eastern 7:24 elevations 11:5,7 eligible 12:5 25:21 26:12 else's 45:4 emphatically 45:2 employee 20:6 25:20 36:9 employees 5:6 8:18, 21,23 11:17,25 20:23 21:1,15,25 25:4 36:11,14 46:13 48:25 49:2 54:24 employment 12:3 enclosure 9:9 encourage 8:24 end 68:9 ending 58:9 enforce 21:4,16 25:7 enforcement 2:23 3:5 12:8,11,13 13:15 22:15,17 26:10 27:8 36:9 43:14 50:4 engineer 35:19 36:3,6 52:15,16 engineering 35:20 ensure 9:3 11:14 38:13 enter 22:19 entered 23:7 24:5, 17 25:19 27:24 32:21 entire 40:12 entities 26:23 27:4,6 entitlement 27:19 entry 10:5,6 entryway 2:10 environmental 10:12 32:6 environs 11:15 equipment 11:9 equity 51:13 escrow 45:22 essence 58:21 essentially 63:18</p>	<p>establish 2:4 4:16 establishment 4:19 26:11 evaluation 5:5 50:7 Evan 32:1 33:5,9 34:15,19,21,24 35:12 47:1,2 53:2 evening 4:15 32:9 41:24 50:24 evening's 5:14 events 11:19 eventually 24:23 25:10 everyone's 36:20 evidence 6:6 evidently 54:16 Examples 5:3 excuse 4:12 46:8 exhibits 4:3 exist 13:10 existing 7:11,13,19 8:1,16 19:10,22,24 20:18 exit 10:7 43:12 expense 30:5 experience 43:1 experienced 43:15 experiences 43:9 50:12 65:20 explain 38:22 expressed 2:22 Exterior 9:19 extort 58:8 extortion 58:22 extras 23:5 extremely 42:7 43:6 53:6 eyesore 44:21</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>face 34:2,3 48:7 faces 14:21 facilities 4:24 6:10 20:15 facility 6:14,16 10:13 20:11 21:20 28:8 29:13 46:9 51:15,23</p>	<p>facing 9:25 10:20 fact 40:16 42:14 43:4,8 60:10 factor 43:2 facts 50:14 fair 29:25 59:3,7,9, 11,12,13 fairly 19:15 54:12 58:12 fall 51:20 62:20 familiar 14:8 family 6:8,10,13 42:21 48:20 fashion 43:13 fast 21:13,14 38:15 fault 54:16 favor 66:15 features 7:19 9:10, 24 feces 44:5 federal 11:2 44:10 feedback 21:21 feel 15:6,7,14 17:8 64:16 65:3 66:8,10 feet 6:4,11 7:14,16, 17,18 8:5,7 10:18, 21 13:10 19:14 35:2 felony 5:6 12:4 fence 9:17 fencing 8:1 field 55:6 fighting 64:20 figured 34:4 file 4:2 filing 32:8 fill 2:9 final 11:4 23:1 63:9 finally 30:7 find 39:13 41:19 62:16,21 64:3 finding 51:4 57:8,9 findings 12:18 13:6 41:5 50:6 61:20 62:13,14,22 64:4,7 65:15 66:21 67:16 fine 38:2,5 fines 15:2,3 22:20 23:4,8 25:10 40:23 44:13 53:11,15</p>	<p>finished 40:22 fire 45:18,25 firm 15:25 35:20 36:4 five-year 44:3,17 flag 7:16 flagrant 44:5 floor 10:2,7 18:13, 15,16 19:14,17,20 folks 61:2 64:2 foot 4:23 7:3 8:1 9:24 10:1 footage 19:17 form 2:9 forms 2:10,13,14 forward 2:16 7:7 14:12 22:2 24:22 27:14,18 39:2,12 43:13 50:20 found 50:9 53:13 fourth 40:25 frame 30:22 Frank 32:2 35:5,6,23 Frank's 36:13 free 8:21 46:20 front 8:7 9:19 10:17 18:8 30:23 41:1 46:14,15 55:18 frontage 7:18 9:4 48:21 full 15:4 fully 35:9 43:24 future 17:23,25 19:4 33:2 59:1,15 62:24</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gaining 10:5 game 59:21 garage 27:13,16 garbage 44:5 gate 7:23 9:13 10:9 11:7 gave 41:14 gee 51:16 general 2:6 5:20,21, 22 6:1 12:21 13:1 51:17 64:8 66:24 generally 5:23 31:17</p>
---	--	---	---

gentleman 56:4 George 2:22 ghetto 44:21 Gina 37:5,14,24 38:2,5,8,10,11,14, 16 give 17:20 32:1 46:20 55:4 57:4 glare 63:21 glass 9:22 11:9 God 34:21 44:19 good 32:13 34:8 40:17 41:24 44:15 50:24 goodness 35:3 goods 5:24 grade 7:18 grandson 30:10 grant 62:15 great 61:1 green 10:19,25 Group 32:6 Grove 3:12 6:17 10:20 16:6,8 40:20 47:25 55:10 60:7 61:16 64:22 growing 3:4 growth 42:22 guarantee 62:23 guess 45:17,18 50:24 guidelines 24:24 guiding 26:14 gutter 7:19 guys 35:8 41:14 44:19 49:13 57:12 59:4 65:1	harassed 30:18 hard 41:19 53:5 hardscape 8:1 hardscaped 7:21 Harris 18:3 29:10 38:17,20 41:13 head 48:24 health 12:20 64:8 66:23 67:18 hear 13:25 31:5,10 36:23 66:5,8 heard 14:16 42:10 54:25 55:3 56:16,17 hearing 2:2,3,9,19 11:22 13:18,25 14:3 31:9,10 54:4 65:25 66:1,13 67:11 hell 46:12,25 helped 65:21 high 9:17 33:14 60:3,8,11,23 64:10 highest 7:17 highlighted 6:6 highlights 6:3 hiring 24:12 history 24:6 hit 48:24 holders 51:18 homes 48:21 homework 47:18 honest 60:6,7 66:7 honored 45:17 hope 45:3 59:13 hoping 35:13 hours 5:3 9:14 11:18 housing 54:13	images 65:17 impact 8:13 21:5 49:16 impacts 49:14,22 61:13 implementation 11:20 important 10:10 14:23 17:22 25:12 impression 37:18 improve 9:2 improvements 9:4 in-and-out 64:11 in-depth 42:11 inability 66:20 inaudible 7:13,25 8:13 10:14,15 11:16 13:17 14:5 16:2,23 20:3 22:5,9 23:22 24:20 25:3,7,22 26:15 29:17,25 30:3 31:6 33:6 35:6 36:5, 6,7,16 38:8 41:10, 21 44:4 48:9 49:9 50:9,10,13,18 52:3 58:13 60:25 61:17 63:14,24 64:13 65:10 incentives 21:4 inclined 64:17 65:5 include 5:3 11:16 14:10 20:11 included 8:25 11:14 20:13 23:4 includes 63:20 65:19 including 3:20,21 4:23 9:20 49:17 incompatible 66:21 indoors 9:15 industrial 4:21 18:2 industry 17:4 33:17 53:5,6 information 3:2 14:13,22 15:6,11,15 25:1,15 39:18 40:10 42:8 54:4,7 62:19 63:5 66:6,9 informed 7:6 ingredient 40:13	initial 30:20,21 32:19 inset 5:16 inspections 42:24 installment 22:24, 25 23:1 instance 21:24 27:3, 19 30:16 intended 5:23 intent 32:25 interest 12:10,14 14:16 22:11,13 23:4,7 36:13 51:13 53:18 interested 15:12 interesting 42:5 interim 3:1 interior 9:23 internal 65:10 Internet 47:2,22 interoperations 20:13 inundated 21:7 investigated 42:17, 18 investment 46:2,19 invite 31:24 involved 15:1 iron 9:17 issue 23:10 46:11 51:11 52:1,9,10,14 58:12 59:23 65:16 issues 3:5 14:14 28:14 32:7,12 34:1, 2,4 52:24 56:3 61:11 issuing 26:25 item 2:1,8,12 4:15 26:8 31:9 42:6 65:14 68:9
H	I	J	
hammer 56:9 hand 42:6 handicapped 55:13, 16 handle 57:24 hang 36:25 happen 55:24 59:1 happened 35:10 happy 13:23 34:6 36:1,16 56:20 58:24	idea 17:20 identified 7:12 19:12 25:15 illegal 12:9 24:11, 13,17,23 25:8 26:21 30:7,9 50:12 56:2,6, 7 65:21 illegally 29:24 image 6:5 34:8	jacket 46:14 jail 48:13 January 24:12,15 38:25 46:12 Joe 37:4,9,10 41:11, 12	

<p>John 41:23,24 Johnson 32:2 33:5, 9 34:15,19,21,24 35:22 47:2 53:2 Johnson's 36:13 Jones 2:20,21 3:17 15:19,20 16:3,12, 17,21,24 19:19 20:22 21:2 22:4 31:4,5 34:17,20,23 36:8 42:7,19 43:8 48:24 56:14,15 57:9 60:18 62:3,9,16,25 63:8,16,23 64:1 66:19 67:14,15,24, 25 judged 39:3 July 6:12 39:16 June 45:22 Justice 12:2</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>Kim 45:7,8,10,11,14, 17 kind 3:8,9 17:2,4,8 18:17,18,25 19:3 33:2 36:25 42:4 46:5 51:16 55:3,10 61:8 knowledge 13:9</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>La 3:1,2 lack 54:10 55:22 land 5:20 6:2 19:15 40:15 51:8 59:7 63:19 64:2 landlord 35:11 41:15 46:4 51:12 landowner 40:20 51:12 landscape 8:4 36:7 landscaped 8:6 landscaping 8:7 lane 7:20 47:13 lanes 7:20 language 36:10 large-scale 5:23</p>	<p>Lastly 6:25 law 3:5,25 32:6 43:14 44:10 47:20 48:9,10 lawyer 34:12 lawyers 64:19 layout 9:23 leadership 24:7 leaning 54:5 learn 18:24 54:4 leave 52:5 left 7:15,23 24:14 56:4 legal 24:24 25:11 55:8 56:1,8 legally 62:9 legitimate 39:18 Lemon 6:17 10:20 16:6,8 40:20 47:25 55:9 60:7 64:22 letter 2:11 47:19 level 56:25 57:11 58:12 levels 57:10 liability 32:20 liaison 35:6 license 6:20 12:5 42:17 47:24 licensed 4:24 33:11 licensing 42:16 light 9:20 lighting 9:20 limit 31:17 limited 5:3 31:14 55:25 56:21 65:24 Lincoln 16:6,13,14, 16 lines 9:19 liquor 33:25 list 6:8,12 39:16 40:1 45:9 63:15,17 listed 2:12 listen 15:16 live 44:24,25 47:15 Livescan 11:25 LLC 12:10 45:23 LLG 15:24 36:3 loading 9:9 local 5:25</p>	<p>located 5:17 location 56:18 60:10 locations 6:8 8:19, 22 long 26:22 33:15,19 42:20 61:5 looked 17:9,10 19:24 23:15 50:4 loose 46:13 Lord 44:19 lot 8:5 9:21 14:7 15:14 16:16,18 18:7 20:9 24:9 30:4 50:3, 11 53:7 54:11,18, 19,21 59:4 64:11 lots 18:22 65:23</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>Madam 4:12 32:4 37:5 47:12 48:2 67:1 made 3:11 13:7 17:7 28:14 31:15 40:25 51:1 60:20 62:14 magnify 43:10 mail 47:19 mailing 43:22 maintain 8:9 major 52:1 65:23 make 12:17 14:24 15:7,15 17:19 34:4, 6,7 38:14 41:4 42:8 46:5 50:1,8,23,25 54:24 60:21 61:24 62:5,6,7,23 63:1,9 65:15 66:6,10,21 makes 59:1 66:2 making 61:25 man 45:11 47:1 48:11,12,15,16 manager 3:2 4:13, 14 24:9 mandated 20:12 Mankind 10:20 33:13 34:24 manual 20:9,13,18 36:10 Map 5:20 March 26:7 28:10 29:6</p>	<p>marijuana 2:5 4:17, 19 5:8 8:12,16 11:2, 18 25:4,9 26:4,11, 21 44:10 46:9 55:7, 14 58:8,18 59:5,6, 25 60:1 65:21 Mark 32:2 48:18,19 Marks 12:7 22:16,19 23:9 24:9 27:4,7,20 32:19,20,25 40:12, 13,21 41:20 51:4, 20,25 53:3 59:16,17 Marks's 12:13 32:23 51:11 Marty 32:2 35:5,6 Massachusetts 5:17 matter 4:6 14:2 31:12,23 maximum 10:17 21:1 31:13 Mayor 2:1 3:18 4:2, 5,10,12 13:24 15:19 22:6,7 23:11,15,23 24:19,21 25:8 26:5, 6 27:21,25 28:11, 19,22,25 29:3,7,16, 18,20 30:1 31:4,7, 20 32:4 35:5,17 36:18 37:5,7,21 38:1,3,6,9,12 41:7, 11,23 43:18,20 45:6,12,15 47:9,12 48:2,17,19 49:25 50:22 52:7,11 53:1, 20 54:1 56:14 65:7, 8,12 66:14,15,17 67:1,3,6,10,22 68:1, 2,5,6,8 Mcdermott 3:12 Mcdermott's 17:8 means 34:9 54:15 57:20 Measure 58:17 measures 10:14 mechanisms 39:4 median 7:21 medical 2:5 4:17,19 5:8 8:11,16 11:2,18 26:3 46:9 55:7,14 meeting 2:13 67:11 member 55:1</p>
---	---	--	---

<p>members 2:17 3:19 10:10 32:4 35:18 53:21 memories 50:11 memory 30:2 Mendoza 14:5,6 29:21 30:1,2,14,25 42:7 53:23,24 54:2 66:5 67:21 68:3,4 mention 22:10 42:20 mentioned 13:2 22:8 42:19 merits 39:3 40:6 Mesa 3:1,2 mess 44:17 message 54:9 metal 10:5 mic 36:20 38:13 45:16 52:12 microphone 37:13 mid-september 39:19 middle 10:2 Mike 4:10,14 7:8,10 16:15 20:24 mile 5:17 60:25 61:1 million-dollar 46:2 mine 62:4 minimarket 17:12 minimum 5:11 minority 53:4 minutes 21:11,12 31:13,18 37:3,22 38:7 46:21 Miramar 33:10 34:12 35:1,3 mistake 41:16 60:20,21 Mitchell 24:8,14 mitigate 52:24 MMD 7:2 9:23 MMDS 4:19 5:3,25 modification 11:22 money 41:1 46:19 money-making 47:6 monitored 9:11 months 46:24,25 motion 66:13,17</p>	<p>Motors 51:17 move 3:14 7:7 24:22 27:18 31:8 37:22 39:2,12 41:8 54:18 66:19 67:15 moved 66:14 moving 2:1 15:17 50:19 multi-mobile 9:2 multiple 28:5 38:21 39:7 Municipal 8:12 26:13 50:6</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>nail 48:24 naive 49:2 name's 41:24 narcotic 44:10 nature 6:1 nearby 8:18 44:16, 22 necessitate 9:9 needed 52:23 negative 49:22 negatively 49:16 negotiations 53:7 neighbor 34:5 neighborhood 12:19 18:5,19 19:1 33:22,23 44:23 45:3 54:17,22 60:22 61:12,13 64:6 66:22 67:17 neighborhoods 21:8 64:23 neighbors 18:21 21:6 30:16 34:2,6 52:20 nerve 48:14 nervous 46:8 news 17:5 nice 47:6 night 54:19 nightmare 44:2,3,17 45:1 56:6 Noah 4:12,13 7:10 12:16 16:1,10,20,23 19:6 21:17 22:16</p>	<p>23:14,21 24:1 25:1, 12 26:17 28:4,16, 21,24 29:2,5,9,17, 19 50:2 noise 63:21 non-conforming 35:14 non-permitted 26:11 north 10:20 61:16 note 6:25 10:10 11:7 12:6 33:4 notice 13:12,13 22:1 notices 3:24 November 38:24 number 2:1,11 17:10,16 22:20 26:9 43:3 46:17 63:15,16 64:7,15 68:9 numbers 64:11 numerous 11:13 21:12 nuts 56:2</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>observation 55:25 observations 21:22 61:24 62:4,10 64:5 observe 4:22 11:11 observed 5:2 obtain 11:25 occurred 32:12 October 40:11 off-duty 9:14 off-site 16:5 20:14 21:3 off-street 15:22,23 offer 8:23 offering 5:24 office 10:2 37:15 on-site 5:4 9:12 13:12 one's 16:24 online 47:23 open 13:25 14:3 24:23 25:10 30:9 31:10 57:20 opened 24:11 25:8</p>	<p>opening 60:6 opens 57:6 operate 20:17 22:2 24:23 25:17,18 26:3 29:13 30:6 47:5 operating 3:11 5:1 6:10,23 11:12 17:18 19:10,22 26:11 27:5 30:10 48:6 50:13 52:16 operation 3:13 5:3 12:9 24:3,4 47:7 53:19 operational 17:9 operations 8:17 20:9,18 21:20 36:10 51:14 operative 28:11 operator 8:20 21:21 25:14 26:2,24,25 27:5 33:2 40:17 50:16 operators 26:9 43:9 53:16 opinion 43:12 64:4 65:22 opportunity 31:24 43:23 66:7 67:5 opposition 31:15 oral 3:20,21 order 37:8 52:24 62:14 67:2,3 ordinance 4:18 5:13 10:24 11:13 13:5,9 19:24 20:12 39:23 50:10,14 ordinances 58:3 organization 22:13 oriented 5:23 originally 30:24 outcome 44:7 outlined 5:15 11:12 24:25 65:16 outlines 5:1 63:19 outstanding 33:12 overflow 49:3 overpaid 46:3 owned 33:10 40:12 42:21 owner 12:7 14:11, 14,15,16 21:21</p>
--	---	--	---

<p>22:10,12 23:13 25:5,14,16 26:1,4, 23 27:1 30:8 31:3 32:7,11 33:1 41:17, 25 42:4 46:1 49:20 50:17 51:2,9,13 53:17 59:16 60:5 owners 13:14 24:9, 10,18 25:5 26:10 65:20 ownership 11:23 12:10,13 22:14 owns 27:4 56:4</p>	<p>parte 61:25 62:10 participant 59:17 participate 53:9 participation 8:24 parties 32:18 partner 32:5 35:11 59:20 pass 25:23 passing 48:3 past 15:9 35:11 44:9 65:20 path 10:4,8 11:8 49:5 paying 40:23 53:15 payments 22:24,25 40:25 pdf 63:10 peak 19:12 Pear 7:2,5 penalties 25:11 pending 13:12 56:22 57:15,16 58:4,13 people 17:16 21:6, 12 27:2 42:25 43:25 44:24 46:14,17 47:4 48:22 51:22 55:23 59:4 60:2 61:8 64:11,22 percent 8:5 10:18, 22 59:19 percentage 59:19 performance 12:23 63:12,19 period 23:19 24:3,4 41:18 permit 2:4 4:16,20 5:9 6:18 11:6 12:17 13:19 21:18 22:3 26:12 27:14,15 35:24 40:18,20 50:5,9 56:22 57:4, 14,19,23 66:20 permitted 10:16 31:23 permittee 6:22 person 3:22 31:12 37:21 38:6 48:12 personal 43:1 personally 44:18 45:2 61:14,23</p>	<p>persons 2:7 12:21 14:1 31:11 36:22 64:9 66:24 67:19 perspective 19:15 20:4 pertaining 40:23 pertains 32:12 pharmacies 6:2 pharmacy 20:1 phase 59:8 photograph 7:11,25 photographs 46:22 photos 7:22 physician 5:5 piece 2:24 58:7 place 2:3 25:6 61:16 64:24,25 plan 5:20 8:6 10:1,3 11:6 13:1 20:19,23 Planner 4:10 planning 6:17 35:20 55:1 plans 9:5 10:11 playgrounds 4:24 playing 61:6 pleasure 66:18 plenty 18:3 podium 21:7 31:25 33:8 37:8 45:13 point 7:17 18:2 38:1 39:9,25 51:10 points 31:15 pole-mounted 9:20 policies 13:1 portion 11:8 31:9 67:11 position 46:7 51:11 positioned 10:13 positive 35:9 possession 44:12 postponing 15:17 54:6 pot 44:8 47:16 potential 22:1 44:7 61:14 prepared 15:7 presence 6:13 11:17 28:8 29:12 present 4:11 16:1</p>	<p>presentation 7:8 13:22 22:17 31:18 32:1 37:20 pressure 56:19 pretty 32:13,24 41:21 45:24 47:6 51:1 prevent 42:16 prevention 8:10 10:12 11:21 prevents 61:24 previous 12:4,8 13:15 14:14 15:2 33:16 50:3 previously 11:1 22:18 26:10 principle 27:17 prior 7:4 12:3 32:7, 12,24 prison 44:13 Pro 22:6,7 23:11,15, 23 24:19 26:5,6 27:21,25 28:11,19, 22,25 29:3,7,16,18, 20 65:7,8 66:14 68:1,2 problem 3:6 39:22 40:18 43:10,14,15 54:11 59:17,18 60:12,23,24 64:13 problems 3:7 14:9 18:19 43:8 54:21 61:12,18 proceed 28:17 29:14 40:5 proceeding 40:4 proceedings 27:8 process 3:14 22:4 26:20,22 38:21,22 40:3,19 52:19 57:5, 21,24 processed 39:2 processes 57:15 profession 49:10 progress 7:6 prohibition 5:4 prohibitions 11:16 prohibits 10:24 project 8:22 9:3,5 13:7 32:14 35:7 38:17,18,20,23</p>
<p>P</p>			
<p>p.m. 5:4 Pacific 48:21 49:6 paid 15:3,4 23:10 25:10 40:2 paper 13:12 parapet 9:13 11:7 parcel 5:16 parcels 6:6 park 8:18,21 16:6,7, 18,19,20,21 20:15 36:12,14 46:17 48:22 49:1,3,4 52:4 54:17,24 61:4 Parkers 16:13 parking 3:3,6 8:8, 11,13 9:12,21 15:22,23,24 16:5,18 17:2 18:3,4,17,19, 22 19:4,8,9,11,16, 21,23 20:2,5,6,14, 18 21:3,8,15,25 36:9,11,15 43:2 46:15,20 49:3,4,11, 16 52:2,9,14 54:10, 12,21 55:11,13,17, 23 56:6,10,12 59:23 60:24 61:6,13 64:15 65:2,17,24 parking's 18:9 49:8 59:23 60:9 parks 4:23 part 10:25 11:5 22:17,23 25:18 32:17,20 35:13 49:13,15 51:5 62:1 63:6</p>			

<p>40:6,7 42:14,15 49:19 62:11 66:3 promoting 47:22,23 properties 6:3 20:20 43:7 44:25 49:17 property 2:24 5:19 7:12,18,23,24 8:2 9:2,18 12:7,12 13:11,13 14:9,11, 14,16 22:10,11,12, 14,18 23:12 24:9, 10,18 25:5,14,16,17 26:1,4,10,23 27:1,4, 6,14 30:8,10 31:1,2 32:7,11 33:1,3 40:12 41:16,25 42:1,2,21 44:2,16, 18 45:21 46:3 49:18,20 50:17 51:2 53:12 58:7 60:5 65:18 property's 64:14 proposal 44:22 45:3 propose 9:5 proposed 5:2,12 7:9 8:3 9:18,22,23 13:7, 20 proposes 8:6 10:19 prostitution 44:5 protect 62:24 64:22, 23 protected 4:23 5:12 6:7,24 58:20 protection 11:10 protective 13:10 provide 8:20 19:9 21:25 35:25 36:14 37:1 38:18 65:12 provided 6:8 13:14 15:10 19:22 providing 7:24 provision 9:1 20:13 provisions 12:25 63:21 prudent 44:23 pruned 8:9 public 2:2,3,8 4:9 13:12,14,18,25 14:3 15:17 21:18 31:6,8, 10 58:16 66:13 67:11</p>	<p>pulled 43:7 47:22 pulling 55:19 punishable 44:12 purchased 23:12 purple 7:2 purposes 8:10 put 33:1 45:9 53:12 54:20 56:19 58:24 putting 50:14</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quarter 5:17 quest 24:15 question 17:14 19:3 25:16 27:10 61:21 63:3 questions 13:23 14:4,17 15:21 16:4 19:3,5 24:20,22 31:19 32:10,15 36:2,5,9,16 37:1 42:11 52:6 53:21,24 quickly 32:18 52:9, 14</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>race 60:8 rack 9:1 20:11 radar 58:25 radius 13:13 Ralph 43:18,19,21 rates 8:11 reach 21:20 read 52:15 ready 31:5 39:12 real 18:19 28:13 63:20 reality 64:21 realize 43:8 61:3 reapplied 39:10,11 rear 8:2,7 11:8 reason 32:20 47:14 49:13,18 53:8 58:1 reasonable 23:20 reasons 17:7 38:18 Rebuttals 31:14 recall 30:21</p>	<p>receive 4:7 21:21 received 2:21 6:12 13:14,16 22:14 29:2,3,4 50:3 recently 28:10 reception 9:24 recognize 56:21 recognizes 17:3 recollection 44:1 recommend 49:21 recommendation 50:8 recommendations 11:21 record 37:13 62:2 63:6 red 6:5 7:12 10:8 refer 16:5 reflect 53:16 reflected 35:12 reflects 54:7 refuse 9:14 regard 27:8,10 regional 5:25 9:6 register 23:16 regulated 5:11 6:7 regulations 8:4 24:25 25:6 26:15 37:17 rehab 61:16 related 13:15 21:19, 24 25:3 50:12,17 relates 50:15 relating 2:18 relayed 39:19 relevant 18:15 31:22 relied 19:9 relief 52:20 rely 19:16 relying 21:18 remain 25:21 remarks 31:18 remedied 27:12,17, 20,22 remember 24:7 26:7 30:5 57:12 remind 36:19 reminder 37:3 remove 27:15</p>	<p>renew 58:9,11 renewed 52:22 rent 18:10 41:17 42:24 59:21 rented 42:22 renting 41:16 repeat 45:1 67:13 report 4:11 14:10,23 15:13 17:3 22:8 52:15 54:6 62:13,19 63:11 reporting 5:7 represent 32:6 38:16 representative 3:22 31:25 representatives 50:23 represented 6:4 representing 48:20 represents 66:2 reputation 33:12 34:9 request 2:4 4:16 13:7,20 37:25 41:3 67:4,9 requested 37:5 requesting 12:10 require 8:5,17 11:20 58:2 required 3:24 4:22 7:3 8:8,15 9:10,14, 15 10:14 11:4 13:6 19:25 25:2,24 50:6 65:15 requirements 5:2,7 18:18 25:2,3 50:7, 15 requires 5:10 11:24 13:3 requiring 9:1 research 2:25 researched 42:12 reserve 24:19 residential 48:20 49:7,17 55:24 residents 44:17,22, 24 residing 12:22 64:9 66:25 67:19</p>
--	--	--	--

<p>resistance 49:5 resolution 9:1 11:14,24 13:18,20 32:7,11 resolved 28:15 respect 47:20 48:9, 10 respond 19:6 responsibility 64:21,23 responsible 51:23 rest 24:19 restrict 56:1 restricted 4:21 57:6 result 7:1 retail 5:24 6:1 19:25 20:1,3 retail/commercial 5:20 revealed 6:13 review 18:24 reviewed 6:7 10:11 revise 15:1 revocation 22:3 reward 29:23 ride 8:18,21,22 16:6, 7,18,19,20,22 20:15 36:12 49:1,2,3,4 54:24 61:4 riding 61:9 Road 35:1 rooftop 11:9 room 43:11 Rosenbaum 32:3,4, 5 50:24 rules 24:25 run 33:19 46:21 runs 40:14 51:8</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>safety 12:21 48:8 61:11 64:8 66:23 67:18 sake 24:7 sale 44:12 sales 10:1,7 17:19 19:20 San 8:17 9:6 12:2 33:10,11,13 52:17</p>	<p>55:7,8 sat 42:10 satisfied 6:22 19:21 satisfy 7:3 Schedule 44:10 schools 4:24 screening 11:9 Sean 3:12 18:6 21:11 Section 12:23 63:12 secure 7:24 10:2,8 11:7 secured 9:13 security 9:12,17,21, 24 10:6,14 46:14 seeking 27:19 66:10 selling 47:21 sense 59:2 sentiments 65:9 separate 10:2,8 11:6,8 13:17 separately 27:6 separation 4:23 7:4 57:8,9 separations 5:11 13:4 September 6:16 23:17 39:19 sequential 10:7 served 9:3 service 8:22 9:16 65:6 services 5:25 6:9,22 serving 5:25 30:3 set 7:16 62:13 setback 8:2 9:19 settle 23:10 51:5 settled 27:7 51:2 settlement 22:19,23 23:6,8 24:5,17 25:19 27:23 28:17, 24,25 32:18,21 40:23 51:5 settling 32:19 shadow 51:7 shaking 48:11 shape 65:21 share 3:13 shared 63:6 66:1</p>	<p>shareholder 53:4 sharing 8:22 Sheriff's 12:2 shop 33:18 44:9 45:21 shoppers 5:25 shopping 46:10 short-term 43:10 show 7:22 10:4,8 showed 47:17 shown 5:15 6:14,19 7:2 8:3 20:19 shows 7:11,25 shred 53:18 shrubs 8:8 Shubert 48:18,19 shut 24:12 25:9 30:5,7 46:24 shutdown 24:4,5 side 5:19 10:9 18:7 56:10 sidewalk 7:19 9:6 sign 11:6 13:13 signage 10:25 11:4 signed 28:18 signs 10:17,19,21 similar 6:1 18:14 19:13,25 29:10 simple 28:13 simply 41:15 single-entry 43:5 sit 41:6 67:7 site 6:3 7:22 8:3,6,9, 15,18,22,23 9:20 12:8 13:16 20:19,23 21:22,25 36:14 situation 42:18 46:5,6 six-foot 9:17 size 18:13,16 sized 19:13 Skinner 41:23,24,25 slap 48:7 slide 5:15 6:15,20 slip 37:9,23 slips 37:2 slowly 24:16 small 6:13 51:12 Social 6:9,21</p>	<p>solution 55:2 solved 34:4 son 47:15,16 sort 15:1 54:8 sound 29:22 sounded 57:17 sounds 23:17 47:5 south 5:18 9:18 16:15 southeast 16:11 space 18:13,15,16 19:18,21 35:4 46:20 65:24 spaces 8:15 9:12 18:2,7,8,10,12,25 19:11 20:2,19 36:15 43:4 46:15 64:15 speak 2:7 14:1 31:11 36:20 37:3,8, 12,21 38:4,6,13 43:23 45:15 52:2,9, 11,13 speaker 19:20 31:2, 17 33:7 34:13 37:9, 11,12,23 41:8 52:8, 13 57:8 60:16 63:15,18,25 67:1,4, 8 speaker's 2:9 speakers 56:16 speakers' 2:13 speaking 36:24 37:19 specific 65:15 specifically 26:8 spoke 54:5 spontaneously 45:19 spot 55:16 spots 16:5 17:2 55:11,13 square 7:14 8:5,7 9:24 10:1,18,21 19:14,17 35:2 Sr 32:2 staff 4:11 6:5,7,12, 15,25 10:10 11:11 12:6 13:6,16 14:10, 23 15:12 17:3 19:9, 21 20:4,14,17 35:5, 25 49:8 50:1,4,7,19</p>
---	---	---	---

<p>51:22,25 53:21 63:9 staff's 13:9,22 20:4 51:1 stand 46:14 standard 9:4,12 11:13,19 standards 5:1 9:7 11:12 12:23 13:1 17:4 19:16 63:12,19 Starbucks 60:13 start 14:6 17:24 34:25 37:4 53:22 56:15 57:13 started 24:11 38:23 40:3,11 48:25 starts 21:14 state-sanctioned 58:21 stated 4:15 43:9 statement 23:20 stay 34:8 stench 44:4 step 19:24 stock 51:18 stool 33:7 stopped 40:4,6 store 33:10,11,13, 16,18,25 34:12,18, 19 35:2 53:6 56:5 stores 6:2 street 3:4 6:19,24 7:2,5 9:4,7 18:4,11 29:10 38:17,20 39:1 41:13 43:6 46:16 48:5 54:14 streets 5:18 55:24 56:10 stretched 59:9 striped 7:19,20 strongly 49:21 structure 7:15 44:4 stuck 18:25 46:5 stuff 18:24 subject 5:14 7:12,23 12:8,12 13:11 submit 35:23 submittals 28:5 submitted 7:4 8:14 28:6,20 39:14</p>	<p>Substance 44:11 substantially 11:4 sufficient 19:23 20:2,5 49:11 56:13 suggest 44:22 47:1 49:15 suggested 49:8 sum 54:3 super 55:20 supervised 51:25 supplemental 20:10 Supplies 45:22 supply 56:5 support 50:19 53:2 supporting 65:11 surrounding 11:15 20:20 49:16 65:19 symbols 10:25 system 10:15 58:22</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>table 2:10 4:9 50:14 tacked 23:5 taking 44:18 talk 18:22 40:5 talked 3:12 18:6 21:11 34:13 60:5 talking 16:17 17:11 27:11 28:12 57:12 61:17 Taylor 45:7,8,10,11, 14,17 team 36:3,6,7 Tem 22:6,7 23:11, 15,23 24:19 26:5,6 27:21,25 28:11,19, 22,25 29:3,7,16,18, 20 65:7,8 66:14 68:1,2 temporary 11:19 21:9 tenant 41:18 tenants 42:23,24 tend 42:6 tending 42:6 terms 32:10 33:2 61:7,12 64:11 testimony 31:15,22</p>	<p>thing 17:1 18:18 42:5 51:10 54:23 58:15,16 59:6,8 60:11,25 63:9 64:20 things 17:17,21,22, 24 18:23 22:8 50:17 54:3 56:24 58:19 59:3,10 thinking 16:12,14 34:21 thoroughfare 65:23 thought 15:9 20:4 55:4,9 thoughts 64:1 throw 51:17 tight 55:21 time 2:2 17:17 21:9 24:14 27:1 29:10 30:4,9,22 33:15,20 35:14,16 37:16,25 38:1,4 39:9,25 40:13 42:20 43:17 53:17 55:8 58:4,9, 10 times 39:7 46:17 52:15 60:9 title 32:23 33:2 51:7 today 2:25 12:11 30:23 38:19 40:5,8 47:14 58:23 60:4 61:24 62:20 63:5 66:1,6,10 token 20:25 told 18:8 40:24 60:8 tonight 15:7,16 25:16 36:4 50:21 tonight's 2:8,12 tools 39:4 top 6:19 9:25 total 10:21 20:17 22:20 23:3 totally 42:3 tough 22:4 town 24:10 trade 49:10 traffic 8:13,14 17:6, 20,22 18:14 19:10 33:14 36:3 43:3 52:9,14,16,18,20,24 56:2 60:3,9,11,23 63:21 64:10 65:23</p>	<p>transferred 11:23 transportation 8:21 20:14 trash 9:9,15 44:4 travel 7:20 10:9 11:8 60:25 61:2 treated 58:5 treatment 4:25 tree 9:7 Trees 8:8 trip 3:12 17:8 55:6 trips 17:11 true 43:3 trust 27:4 turn 7:8 33:4 35:14 67:22 turning 21:14 turnover 21:13 type 20:1 27:16 59:25 60:1,2 types 17:21 typical 10:4,8 19:16</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ultimately 39:2 unable 7:3 unaware 42:3 understand 20:25 26:13 33:21 34:7,9 42:15 44:14 46:18 47:4 50:20 53:10 63:1 unforeseen 52:20 UNIDENTIFIED 19:20 31:2 33:7 34:13 37:11,12 52:8,13 57:8 60:16 63:15,18,25 67:1,4, 8 units 48:20 unpermitted 27:13, 16 updated 6:7 upstairs 35:1 urine 44:5 utilize 9:12</p>
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V	W	Z
<p>vagrancy 44:3 valid 62:4,6 van 55:13,16 vandalism 44:4 Vasquez 2:1 3:18 4:2,5,10 13:24 15:19 22:6 24:21 25:8 26:5 30:1 31:4, 7 35:17 36:18 37:7, 21 38:1,3,6,9,12 41:7,11,23 43:18,20 45:6,12,15 47:9 48:17 49:25 50:22 52:7,11 53:1,20 54:1 56:14 65:7,12 66:15,17 67:3,6,10, 22 68:5,6,8 ventilation 10:15 vested 22:11,13 65:19 vetted 51:24 VFW 16:10,19 vicinity 12:22 28:9 64:9 66:25 67:20 victory 48:4 video 46:23 Viglione 4:11,14 7:9,10 16:15 20:24 violate 5:11 violates 13:4 violation 21:23 22:15 48:8 51:4 64:20 violations 2:23 15:2 23:3,18,24 27:11, 17,20 28:20,23 40:10,14 41:2,14, 15,19 42:3 45:25 47:19 48:1,13 53:11 64:18,19 visibility 8:9 visible 9:25 11:7 Vista 6:14 vital 42:14 voice 53:19 volume 36:21 vote 61:15 62:5,23 64:17 65:11 67:23</p>	<p>voted 61:15,18</p> <p>walking 48:3 wall 9:13 10:16,17, 19,22 wanted 3:8,10 53:2 warnings 22:1 watch 17:15 Wayne 32:3,4,5 50:24 wear 46:13 weeks 29:15,17 39:13 welfare 12:21 64:8 66:24 67:19 west 9:18 whichever 10:18 willfully 30:8 withdraw 67:5 woman 56:18 wondering 17:1 Wong 32:2 35:18,19 work 24:11 54:19 worked 20:8 53:13 working 12:22 35:22 54:20 64:9 66:25 67:20 works 51:19 54:15 worries 33:22 worst 18:21 written 3:20,21 4:6 wrong 64:24,25 wrought 9:17</p> <p style="text-align: center;">Y</p> <p>yard 8:7 9:19 year 6:16 35:25 45:22 57:3 years 12:4 18:20 23:19 33:12,17 35:21 41:18 42:22, 23 44:12 45:25 46:4 47:15 54:25 55:6 64:21 yellow 6:14,19 Yousif 37:4,9,10,20 41:11,12</p>	<p>Zone 2:6 zoning 4:18,22 5:13, 21,22 10:24 11:13 12:25 13:5,9 19:24 20:12 28:6,9 29:5, 11,13 42:15 50:9</p>

JAN 13 2019-53

F I L E D

Clerk of the Court

JAN 13 2020

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 8 ATTORNEYS FOR PETITIONERS
 CITRUS ST PARTNERS, LLC

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 11 **COUNTY OF SAN DIEGO, CENTRAL COUNTY DIVISION**

12			
13	CITRUS ST PARTNERS, LLC	)	CASE No: 37-2019-00064690-CU-MC-CTL
14)	
14	PETITIONER,	)	PROOF OF SERVICE
15)	
15	v.)	
16)	
16	CITY OF LEMON GROVE; CITY	)	JUDGE: HON. KENNETH J. MEDEL
17	COUNCIL OF THE CITY OF LEMON	)	DEPT.: C-66
17	GROVE; AND DOES 1-10,)	
18		)	PETITION FILED: DECEMBER 5, 2019
18	RESPONDENTS.)	
19)	
19)	[IMAGED FILE]
20	DOES 11-20,)	
21)	
21	REAL PARTIES IN INTEREST.)	
22)	
23)	

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26
27
28

1 I am employed in the County of San Diego, State of California. I am over the age
2 of 18 and not a party to the within action. My current business address is 225 Broadway,
3 Suite 1900, San Diego, California 92101.

4 On January 13, 2020, I served the foregoing document(s) described as:

- 5 1. PETITIONER'S NOTICE RE AND EX PARTE APPLICATION FOR
6 TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW
7 CAUSE RE PRELIMINARY INJUNCTION;
- 8 2. PETITIONER'S MEMORANDUM OF POINTS AND AUTHORITIES IN
9 SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY
10 RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE
11 PRELIMINARY INJUNCTION;
- 12 3. DECLARATION OF EBON JOHNSON IN SUPPORT OF
13 PETITIONER'S EX PARTE APPLICATION FOR TEMPORARY
14 RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE
15 PRELIMINARY INJUNCTION;
- 16 4. DECLARATION OF GRANT R. OLSSON IN SUPPORT OF
17 PETITIONER'S EX PARTE APPLICATION FOR TEMPORARY
18 RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE
19 PRELIMINARY INJUNCTION; AND,
- 20 6. [PROPOSED] ORDER TO SHOW CAUSE RE PRELIMINARY
21 INJUNCTION AND ORDER RE EX PARTE APPLICATION FOR
22 TEMPORARY RESTRAINING ORDER.

23 on the interested parties in this action listed below in the following manner:

24 KRISTEN STEINKE
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*Attorneys for Respondents, City of Lemon Grove
and City Council of The City of Lemon Grove*

1 **BY REGULAR MAIL:** I deposited such envelope in the mail at San Diego, California.
2 The envelope was mailed with postage thereon fully prepaid.

3 I am "readily familiar" with the firm's practice of collection and processing
4 correspondence for mailing. It is deposited with the U.S. Postal Service on that same day
5 in the ordinary course of business. I am aware that on motion of the party served, service
is presumed invalid if postal cancellation date or postage meter date is more than one (1)
day after date of deposit for mailing in affidavit.

6 **BY ELECTRONIC MAIL** The parties agreed that they would serve the papers on the
7 date of filing via electronic mail. These papers were served by electronic mail on today's
8 date.

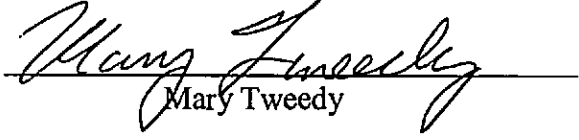
9 **BY FACSIMILE TRANSMISSION (CRC, Rule 2003 & 2008(e))** The recipient's
10 name and fax number that I used are as shown above. The facsimile machine that I used
11 complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule
2008(e)(4), a transmission report was properly issued by the transmitting facsimile
machine and is attached hereto.

12 **BY OVERNIGHT MAIL:** I deposited such document at the Overnite Express or
13 Federal Express Drop Box located at 225 Broadway, San Diego, CA 92101. The
envelope was deposited with delivery fees thereon fully prepaid.

14 **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand to the
15 above addressee(s).

16 (State) I declare under penalty of perjury under the laws of the State of California that
17 the foregoing is true and correct.

18 Executed on **January 13, 2020**, at San Diego, California. I declare under penalty of perjury
19 under the laws of the State of California, that the above is true and correct.

20 
21 Mary Tweedy

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25
26
27
28