

Torrey Pines Project Review Committee

Community Planning Committee Distribution Form Part 1

Project Name: 10715 Sorrento Valley MMCC-CUP Project 527802

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Development Services Department

On June 8, 2017, the Torrey Pines Project Review Committee (**PRC**) held a public meeting to perform an **initial review** regarding Belinda Smith's MMCC-CUP located at 10715 Sorrento Valley Road. After a short presentation by Joe Esposito of Estrada Land Planning, the public was invited to express their concerns regarding the possible impact of locating a second MMCC in Sorrento Valley's Prime Industrial Area. After public testimony was closed, the PRC members asked questions of both the applicant, public members including Wateridge Insurance employees, and Community Relations Police Officer Trevor Philips. A Motion was made by Dee Rich and seconded by Dan Jensvold to not take a formal vote on this application because various items needed further clarification. The Motion passed unanimously. The following dissertation attempts to follow the Cycle Review issued on 5/10/2017 and comments made by interested parties at the Project Review meeting.

1. Cycle Review, page 4 of 12, Issue # 38, states "page 86 of the Torrey Pines Community Plan contains a policy that states: "Development of freestanding retail commercial uses in industrial designated areas **shall be restricted to those uses that serve only the immediate Sorrento Valley** industrial area." Development Services states that the MMCC is not a retail use. Therefore this policy does not apply.

The Torrey Pines Project Review Committee believes that our **Community Plan has been misinterpreted**. Both the Community Plan and the Pueblo Lands (ordinance O-12685) per the City Attorney Memorandum MS-69 (08-18-2014) allows for "general purpose" and "related or similar uses" to provide some flexibility to allow other uses under the **Accessory Retail** category. The applicant, Belinda Smith stated that "**both medical and retails sales** of marijuana will be sold on the premises. She went on to say that her MMCC will apply for a state **retail license** once this is allowed in January, 2018. Furthermore, according to the applicant, she will sell to anyone with a physician approved script. Therefore, this facility is **servng the general public as a retail operation** and not a small consumer cooperative.

2. Cycle Review, page 4, Issue #38, goes onto say “In addition, the MMCC is not freestanding as there is another use on the site (**to remain vacant**).

The PRC completely disagrees with Development Service misinterpreted definition of “remain vacant” as a “use”. Please clearly state where in the city municipal code this concept of “to remain vacant” is categorized as a use. Furthermore, the applicant stated that her MMCC is leasing the **entire building** and her consultant stated that the **remainder of the building would be used for storage**. The applicant supported that use of the unoccupied portion of the building since there were storage racks built-in and ‘why not take advantage of them (racks)’. The entire “freestanding” structure supports all utility services, smoke alarms throughout the building and the **vacant space** is an **integral and necessary component** of the security system. Applicant shows perimeter control with check points **around entire facility**. Furthermore, the floor plan clearly indicates a ‘fire exit’ into this vacant space and two fire exits leaving to the outside from this area. This vacant space must be **easily accessible and not locked to provide escape routes from the building**. Will the applicant be able to use the entire building when the MMCC become a retail marijuana sales location?

3. Cycle Review, page 9 of 12, Issue 5-6 and 7. How will **the parking requirements** be satisfied? Issue 5 calls for a determination of net gain or loss of the on-street parking spaces on the fronting street. What was this determination? Observations by Wateridge staff indicated that by 7:00 AM all street parking is filled due to lack of parking space in adjacent buildings. Issue 6 asks about parking requirements,” including any other off-site uses that the parking is currently being shared with.” This issue asks that a parking agreement between affected parties be produced for review. Applicant did not provide or mention any off-site uses.

Issue 7 “provide copies of signed **Joint Use Driveway/Mutual Access Agreements**.” Jeffrey Byroads, Principal of Wateridge has stated that no such agreements exist and Wateridge has no plans to agree to Joint Use. Currently, Mr. Byroads has to lease additional parking elsewhere for his staff. Wateridge is asking that the adjoining **driveway be closed off from his property** as both a safety issue and to prohibit MMCC visitors from parking illegally in his lot set aside for only Wateridge staff. The issue of the MMCC being open until 9:00 PM, especially during winter hours when it gets dark by 4:45PM, is considered a major safety issue by the predominately female staff at Wateridge. The applicant said she would send an armed guard over the

W ateridge to escort anyone to their car. The guards are not allowed to step away from the MMCC.

The PRC believes that the **parking requirements are incorrect and should be based upon the entire existing freestanding facility of 5,451 sq ft**. The San Diego Credit Union had to provide adequate parking for staff and customers based upon the 5,451 sq ft and so should the MMCC. Issue 11 – Minimum required aisle width for perpendicular parking **and two way traffic is 24 feet**. The PRC review of the proposed site plans shows the new 24 foot entry but the two way traffic aisle is much smaller and therefor **fails to comply** with city requirements. This is especially important when you consider that the adjoining parking lot will not be available for turning around.

4. Cycle Issue #1 on page 12 of 12 –MCAS Miramar, there should be **no more than 19 people on the entire parcel at any given time**. The PRC believes that the applicant’s proposed site plan, which indicates **21 parking space, violates “MCAS Miramar AICUZ Study Area”** as the proposed **parking plan provides more parking than is allowed** in this MCAS Miramar Airport Land Use Compatibility Zone. Officer Philips when asked about how this parking restriction on the parcel could be enforced, stated that citizens would need to contact Code Enforcement or the Vice Squad.

The applicant stated that she would employ 9 staff members and 2 armed guards. Therefore over half of the allowed limit of 19 people on the parcel would be reached without a single medical marijuana user being on the parcel. The applicant could not provide any assurances that the allowed maximum would not be exceeded. The applicant’s only response was marijuana purchases did not stay long at MMCCs. No details were given about the size of the ‘waiting room’ or how many people it could hold. This clearly violates both the letter of the law and it’s intend. **The PRC requests that the Proposed Site Plan be reduced to the currently allowed 19 parking spaces. The applicant must provide a detailed plan as to how they will restrict and control the number of persons on the parcel, to only 19.**

5. Cycle review page 3 of 12, issues 29-30 **Minor Oriented Youth Facilities**
The New Youth Orchestra located at 10855 Sorrento Valley Road is within the 1,000 foot exclusion zone from the proposed MMCC. City staff even calls this a **Youth Facility** and then redefines their protected status based upon how much square footage of the building they

occupy. City staff then requires this Minor Oriented Youth Facility to be the primary business within the 'building' and control 50% of the square footage. The PRC defines '**facility**' as a **place where a specific activity occurs** and not the contrived staff interpretation that in **essence eliminates the protection of all Youth Facilities from consideration as a protected area for youth from exposure to MMCCs**. The facility at 10855 does not appear to have any business that controls 50% of the building.

The City Staff's attempt to redefine Youth Facilities is in direct opposition to Proposition 64, "Control, regulate and Tax Adult Use of Marijuana Act (AUMA) that states "It protects public health and safety generally and **potential risks to children and youth in particular**". The City Council after a tremendous amount of public input established nine safety criteria that must be followed to disallow a MMCC to be within a 1,000 foot protective zone. Youth facilities was one of the nine criteria approved by City Council.

Did City Staff hold public meetings and get City Council approval for this reinterpretation? If so when was this action done and what were the results before the City Council? If this new issue was never brought forth to City Council, it appears that Development Services has usurped the power granted to our duly elected officials.

The second reinterpretation by City Staff is to allow a MMCC near a **business if most of the surrounding businesses cater to adults**. This would allow for dispensary near a Baskin-Robins if over half the clients were adults accompanying their children. This approach was applied to a church where its congregation were mostly adults but child care was provided along with bible school. PRC firmly believes that these Development Services changes to the City Council policy devalues the lives of our youth and blatantly **discriminate against Youth Orientated organizations**.

6. Cycle review page 3 of 12, issues 26-27, MMCC are prohibited within 1,000 of another MMCC. Torrey Holistics MMCC is 354 linear feet from 10715 Sorrento Valley Road.

The PRC believes that there is a "direct access" between the two MMCCs. Can Development Services provide the 'photosurvey with keymap'. A Hearing Officer ruled that a busy roadway was not a 'barrier' between a MMCC and a school on the other side of an intersection without crosswalks. Our examination of the railroad parking lot showed that the **metal fencing ended**

only a few feet from the end of the parking lot. Fencing is not continuous and the Carroll Canyon Creek crossing is a manmade structure, easily crossed on foot.

Please state when this 'path of travel' definition was approved by the City Council. Were there public notice on an agenda item?

7. Cycle Review Page 4 of 12, Issue 37 Community Plan does not specifically address marijuana facilities within Torrey Pines Sorrento Valley. "The Plan is in support of balancing the needs of the City in consideration of **ADT's affecting intensity of development**". Cycle review page 10 of 12, issue 16 "**A transportation impact study will not be required.**" Development Services may not be aware that the intersection of Sorrento Valley Boulevard and Sorrento Valley Road, that is within a few hundred feet from the proposed MMCC, was part of SANDAG's **Corridor Priority** listing for Proposition A on the 2016 Ballot. This intersection has a Level of Service F and Police Officer Philips called it "a traffic nightmare." The County of San Diego, City of San Diego, Caltrans, SANDAG, and Mira Mesa planning board agreed that this intersection ranked in the **Top Five worst congestion** roadways in the County. City staff claims that the MMCC will only generate 148 daily trips. The PRC investigated the accuracy of this claim by reviewing **TripGeneration.org** website on Average Vehicles per day at marijuana dispensaries. The Trip Generation data revealed that a MMCC generated 201.1 ADT's per thousand square feet for Retail Space. Medical dispensaries are generating about 10x more traffic than a typical retail store and 5x more than a pharmacy. Since the MMCC at 10715 Sorrento Valley Road will become a Retail Marijuana shop, a Transportation Impact Study is absolutely needed considering the known traffic congestion around the MMCC site.

City Staff has not taken into consideration the proposed MMCC at 10110 Sorrento Valley Road which would add another 8,300 sq. ft. to the medical/retail marijuana sales and increased ADT's along this stretched of Sorrento Valley Road. This hands off approach directly conflicts with the City Staff insisting that CampRunaMutt, a dog day care center, was initially required to produce a costly traffic study.

8. Cycle page 4 of 12, issue 40-41 **Conditions and operating procedures**
The applicant provided zero input to the PRC regarding if they researched what 'conditions for a use permit' were "required by other jurisdictions in California or nationally". Upon more questioning, the PRC learned that the applicant's Point of Sale System **does not verify if the**

patient has a valid prescription from a real doctor. The applicant stated that a patient could “buy as much marijuana as they wished” and from as many MMCC as they wanted to visit. Can you verify that there is no limit to how much marijuana can be purchased in a day? **The PRC would like to review any input provided by the applicant on issue 40 & 41.**

9. The City of San Diego’s General Plan - **Economic Prosperity policy** that control the uses for **Prime Industrial Land**. “The policies in this element are intended to improve economic prosperity by ensuring that the economy grows in ways that strengthen our industries, **retain and create good jobs with self-sufficient wages, increase average income and stimulate economic investment in our communities.**” The PRC researched the wages structure for jobs in the legal marijuana industry on a website called www.cannarecruiter.com . It was of no surprise that entry level jobs comprise the lowest paying positions in the industry. These minimum wage jobs represent a large proportion of the industries jobs. So please explain how having four MMCC within Sorrento Valley adds to our region’s Economic Prosperity and creates good jobs?
- 10. Medical Marijuana rules versus Retail Sales.** The PRC is aware that the City of San Diego is developing rules to govern the retail sale of marijuana within the City prior to the State of California ordinances beginning in January 2018. Also, PRC is aware that a MMCC will need to apply for a state license/permit but will be given a priority position in line during this process. The applicant has already told the PRC that they will apply as soon as it is permitted. Will Development Services provide the Torrey Pines Community Planning Board another opportunity to review and weight in on a ‘**new cycle review**’ for this MMCC? Will Development Services provide a **Traffic Study** that encompasses not only this location but the regional impact of multiple retail marijuana stores within Sorrento Valley?

The PRC would appreciate your detailed explanation to our questions and please review the websites and materials we have provided to support our viewpoints. Various comments are included that express our views on issues critical to our Torrey Pines Community Plan. If you cannot support our views please be very specific as to why and provide details, like this issue voted on such and such a date by Planning Commission, City Council, etc.

Thanking you in advance for your effort to help PRC understand a very complex cycle review.

Dennis Ridz, Chair of Project Review and Torrey Pines Community Planning Board