

RESOLUTION NUMBER R- 311819

DATE OF FINAL PASSAGE JUN 18 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING CONDITIONAL USE PERMIT NO. 1865509 FOR A MARIJUANA OUTLET LOCATED AT 10715 SORRENTO VALLEY – PROJECT NO. 527802.

WHEREAS, Sorrento Valley Investment Group, Owner, and Sure Felt, LLC, Permittee, filed an application with the City of San Diego for a Conditional Use Permit to operate a Marijuana Outlet within an existing building known as the 10715 Sorrento Valley project, located at 10715 Sorrento Valley Road, and legally described as All of Lots 12-15, inclusive, in Block 17 of the Town of Sorrento, in the City of San Diego, County of San Diego, State of California, as originally shown on maps thereof Nos. 262 and 483, filed in the office of the County Recorder of San Diego County, September 30, 1887 and February 9, 1880, respectively, in the Torrey Pines Community Plan area, in the IL-3-1 Zone, Coastal Overlay Zone (Non-appealable), Coastal Height Limitation Overlay Zone, Coastal Parking Impact Overlay Zone, MCAS Miramar Land Use Compatibility Overlay Zone (Airport Influence Area – Review Area 1 and Accident Potential Zone 2), Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands; and

WHEREAS, on September 12, 2017, the City Council of the City of San Diego approved Resolution No. R-311318 granting an appeal of the Environmental Determination of Exemption from the California Environmental Quality Act (CEQA); and

WHEREAS, pursuant to San Diego Municipal Code section 112.0520(e), the City Council of the City of San Diego retains jurisdiction to act on the environmental determination and associated project at a subsequent hearing; and

WHEREAS, the matter was set for public hearing on December 4, 2017, and at said hearing the applicant elected to change the scope of the project from a Medical Marijuana Consumer Cooperative to a Marijuana Outlet and requested a continuance to the public hearing of January 9, 2018; and

WHEREAS, on January 9, 2018 the City Council of the City of San Diego returned the matter to the Development Services Department to complete the review of the project as a Marijuana Outlet; and

WHEREAS, Addendum No. 527802 to Negative Declaration No. 82-0331 was prepared in accordance with CEQA Guidelines Sections 15162 and 15164, and this project was evaluated and subsequently determined to be inclusive of the scope covered under Negative Declaration No. 82-0331, dated July 15, 1982, which was prepared for the original development of the site, and no changes in circumstances have occurred, and no new information of substantial importance has manifested, which would result in new significant or substantially increased adverse impacts as a result of the project; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on June 18, 2018 testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. 1865509:

CONDITIONAL USE PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)
SECTION 126.0305

(a) The proposed development will not adversely affect the applicable land use plan. The project is an application for a Conditional Use Permit (CUP) to allow the operation of a Marijuana Outlet (Outlet) in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, commercial building. The building is a multi-tenant building and includes an additional 703-square-foot tenant space, which will be leased and occupied by a non-retail commercial establishment with a valid business license that is permitted by right in the IL-3-1 Zone. The 0.37-acre project site is located at 10715 Sorrento Valley Road in the IL-3-1 Zone within the Torrey Pines Community Plan (TPCP) area, Coastal Overlay Zone (Non-appealable), and the Coastal Height Limitation Overlay Zone. Additionally, the site is within the Coastal Parking Impact Overlay Zone, MCAS Miramar Land Use Compatibility Overlay Zone (Airport Influence Area – Review Area 1 and Accident Potential Zone 2), Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands.

The site is designated as “Industrial” in the TPCP, the adopted land use plan for this community. TPCP land use in Sorrento Valley is generally implemented by the IL-3-1 zone which is an industrial zone that allows for both industrial and commercial uses. The site is within the “Industrial Employment” General Plan land use category per the Land Use and Street System Map (Figure LU-2).

The Sorrento Valley industrial area, including this site, is further identified as “Prime Industrial Lands” (PIL) by the General Plan. A General Plan goal for identification of PIL designation is to protect valuable employment land for base sector industries important to the region's economy. An Outlet is a commercial retail use not considered as base sector employment. The General Plan also allows development or redevelopment of individual properties pursuant to the development regulations and permitted uses of the existing zone and community plan designation provided a site is not critical to base sector employment. The project site is not critical to achieving the City's base sector employment goal. The existing building was previously used for a credit union business, a commercial service use, and is not expected to be reconfigured to accommodate base sector employment uses commonly found in the area such as scientific research. The 0.37-acre site is also relatively small and not expected to be redeveloped into a scientific research facility as new scientific research developments typically occupy multiple acre sites. General Plan policies also specifically restrict sensitive receptor land uses such as residential and public assembly in PIL. An Outlet is not a sensitive receptor land use.

The proposal to reconfigure an existing commercial building for use as an Outlet is a compatible use within Sorrento Valley and would not adversely affect the TPCP land use. The “industrial” land use designation is intended to support manufacturing, research and development, laboratories, offices, industrial services, incubator industry and business uses, as

well as support commercial and retail uses. A TPCP Industrial Land Use Element policy is to “emphasize the citywide importance of, and encourage the location of, scientific research, biotechnology, and clean manufacturing uses in Sorrento Valley because of its proximity to UCSD and the University and Mira Mesa communities’ industrial areas.” Due to the existing building configuration and site size, the project site is not suited for use by, or redevelopment of, scientific research or manufacturing uses.

Additionally, page 86 of the TPCP contains a policy that states “development of freestanding retail commercial uses in industrially designated areas shall be restricted to those uses that serve only the immediate Sorrento Valley industrial area.” Due to their relative restriction within the City’s zoning scheme, Outlet uses would not be expected to serve “only the immediate Sorrento Valley industrial area.” However, the Outlet would occupy an existing building previously used for a commercial services use and the proposed use and space configuration within the building would not result in an intensification of use within the site. Furthermore, the building is not considered freestanding retail as its interior would be minimally modified to include two tenant spaces, the Outlet, and an additional tenant space with separate access to be leased and occupied by a non-retail commercial use. Based on the above, the proposed Outlet is a compatible use at this location with a Conditional Use Permit and is consistent with the TPCP land use policies, and will therefore not adversely affect the applicable land use plan.

(b) The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development will not be detrimental to the public’s health, safety and welfare because the discretionary permit controlling the development and continued use of this site contains specific regulatory conditions of approval to assure the project’s compliance with applicable local, regional, state and federal codes and rules. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large.

Outlets are restricted to four per Council District, 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. Outlets require compliance with SDMC Section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone.

Approval of this application would allow the sale of marijuana to be conditioned in order to prevent potential adverse impacts on the community. The proposed Outlet is subject to specific operational and security requirements and restrictions as set forth in SDMC Section 141.0504(b) through (m), which have also been incorporated as conditions in the CUP including prohibition of consultation by medical professionals on-site; prohibition of the use of specified vending machines except by a responsible person (as defined by the SDMC); provision of interior and exterior lighting, operable cameras, alarms, and two security guards; restriction of

hours of operation to between 7:00 am and 9:00 pm daily; maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; and restriction of signage to business name, two-color signs, and alphabetic characters. Outlets must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation. The CUP is valid for five years, however, may be revoked if the use violates the terms, conditions, lawful requirements, or provision of the permit.

Construction of the project authorized through this permit will be subject to all adopted building, electrical, mechanical, fire and plumbing codes, which will be enforced through plan review and building inspections completed by the City's building inspectors. Furthermore, this project has been reviewed pursuant to the California Environmental Quality Act, and the environmental analysis did not find any significant impacts to the public health and safety. Based on the above analysis, the proposed development would not be detrimental to the public health, safety, and welfare.

(c) The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code. The project proposes the operation of an Outlet in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, multi-tenant commercial building. The proposed Outlet, classified as retail sales use, is allowed in the IL-3-1 Zone with a CUP pursuant to SDMC Sections 141.0504. The project has been determined to be exempt from the permit requirements of the Environmentally Sensitive Lands (ESL) regulations pursuant to SDMC sections 143.0110((b)(4) and (c)(1). The proposed change of use from a bank, a commercial service use, to an Outlet which is a retail sales use, is not an intensification of use as the parking requirement for retail sales, commercial services, offices, and mixed use development is the same within the IL-3-1 Zone pursuant to SDMC Chapter 14, Article 2, Division 5. Therefore, a Coastal Development Permit is not required pursuant to SDMC section 126.0704(a). The project is also exempt from the Airport Land Use Compatibility Overlay Zone regulations pursuant to SDMC Section 132.1505(c)(1) and (2).

Pursuant to SDMC Section 141.0504(a), Outlets are subject to separation requirements including a 1,000-foot separation from resource and population-based city parks, other Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone. The proposed Outlet is in compliance with the required separation requirements.

The project is proposed within an existing structure constructed in 1984 in accordance with all applicable development regulations. The proposed Outlet will occupy an approximately 3,697-square-foot space within the existing 5,451-square-foot building. An additional building floor area of 703 square feet is to be leased and occupied by a non-retail commercial service use that is allowed by right in the IL-3-1 Zone, with the remaining 1,051 square feet to remain vacant throughout the duration of the CUP. The vacant floor space is not to be used for any purpose, including storage. The project provides 22 off-street parking spaces, which meets the required 22 off-street spaces required for all uses on the premises calculated at a rate of 5.0 automobile

parking spaces per 1000 square feet of floor space, and by maintaining 1,051 square feet of building floor area within the building as vacant and unoccupied during the term of the CUP.

The CUP for the project includes various conditions and corresponding exhibits of approval relevant to achieving compliance with the SDMC relative to parking, signage, lighting, security measures, hours of operation, and site maintenance. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

(d) The proposed use is appropriate at the proposed location. The proposed project is a request for a CUP to operate an Outlet in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, commercial building. The building is a multi-tenant building and includes an additional 703-square-foot tenant space that would be leased and occupied by a licensed non-retail commercial establishment that is permitted by right in the IL-3-1 Zone. The existing one-story building was developed in 1984 per Building Permit No. A-10502. Prior use on the site was a bank, which is a commercial service use. An Outlet is classified as a retail-sales use. The proposed change of use from a bank to an Outlet is not an intensification of use as the parking requirement for retail sales, commercial services, offices, and mixed use development is the same within the IL-3-1 Zone pursuant to SDMC Chapter 14, Article 2, Division 5. The project site is adjacent to a commercial office building to the east, research and development establishments to the south, an auto body shop to the north, and railroad tracks to the west across Sorrento Valley Road, and a mix of industrial and commercial uses further west.

The site is designated as "Industrial" in the TPCP, the adopted land use plan for this community. TPCP land use in Sorrento Valley is generally implemented by the IL-3-1 zone which is an industrial zone that allows for both industrial and commercial uses. The site is within the "Industrial Employment" General Plan land use category per the Land Use and Street System Map (Figure LU-2).

The Sorrento Valley industrial area, including this site, is further identified as "Prime Industrial Lands" (PIL) by the General Plan. A General Plan goal for identification of PIL designation is to protect valuable employment land for base sector industries important to the region's economy. An Outlet is a commercial retail use not considered base sector employment. The General Plan also allows development or redevelopment of individual properties pursuant to the development regulations and permitted uses of the existing zone and community plan designation provided a site is not critical to base sector employment. The project site is not critical to achieving the City's base sector employment goal. The existing building was previously used for a credit union business, a commercial service use, and is not expected to be reconfigured to accommodate base sector employment uses commonly found in the area such as scientific research. The 0.37-acre site is also relatively small and not expected to be redeveloped into a scientific research facility as new scientific research developments typically occupy multiple acre sites. General Plan policies also specifically restrict sensitive receptor land uses such as residential and public assembly in PIL. An Outlet is not a sensitive receptor land use.

The proposal to reconfigure an existing commercial building for use as an Outlet is a compatible use within Sorrento Valley and would not adversely affect the TPCP land use. The “industrial” land use designation is intended to support manufacturing, research and development, laboratories, offices, industrial services, incubator industry and business uses, as well as support commercial and retail uses. A TPCP Industrial Land Use Element policy is to “emphasize the citywide importance of, and encourage the location of, scientific research, biotechnology, and clean manufacturing uses in Sorrento Valley because of its proximity to UCSD and the University and Mira Mesa communities' industrial areas.” Due to the existing building configuration and site size, the project site is not suited for use by, or redevelopment of, scientific research or manufacturing uses.

Additionally, page 86 of the TPCP contains a policy that states “development of freestanding retail commercial uses in industrially designated areas shall be restricted to those uses that serve only the immediate Sorrento Valley industrial area.” Due to their relative restriction within the City's zoning scheme, Outlet uses would not be expected to serve “only the immediate Sorrento Valley industrial area.” However, the Outlet would occupy an existing building previously used for a commercial services use and the proposed use and space configuration within the building would not result in an intensification of use within the site. Furthermore, the building is not considered freestanding retail as its interior would be minimally modified to include two tenant spaces, the Outlet, and an additional tenant space with separate access to be leased and occupied by a non-retail commercial use. Based on the above, the proposed Outlet is a compatible use at this location with a Conditional Use Permit and is consistent with the TPCP land use policies, and will therefore not adversely affect the applicable land use plan.

The proposed Outlet is allowed in the IL-3-1 Zone with a CUP and is subject to separation requirements set forth in SDMC Section 141.0504, including a 1,000-foot separation from resource and population-based city parks, other Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residential zone.

A minor-oriented facility is defined as any after school program, teen center, club for boys and/or girls, children’s theater, children’s museum, or other establishment where the primary use is devoted to people under the age of 18. The SDMC further defines a primary use as an allowed use on a premises that occupies a majority of the area of the premises. The proposed Outlet is approximately 755 feet, measured property line to property line, from the New Youth Orchestra (NYO) located at 10855 Sorrento Valley Road. The NYO occupies approximately 2,500 square feet, within Suites 2 and 3, of a 30,000-square-foot multi-tenant building and offers music education program to intermediate and advanced level string or wind instrument performers between the ages of 7 to 25. NYO is not considered any of the specific uses listed above. It is a music instruction studio that occupies approximately 8.3% of the building, and is not considered the primary use on the premises. Therefore, the proposed Outlet is not required to maintain a 1,000-foot distance from this use. Furthermore, City staff cannot locate any building permits for tenant improvements and occupancy establishing an instructional

studio use at this location and has determined the subject use is not an allowed use at this location designated Prime Industrial Land per SDMC Chapter 13, Article 1, Division 6, Table 131-06B.

Outlets are also prohibited within 1,000 feet of other Outlets. On January 12, 2016, a CUP was issued for the Torrey Holistics Clinic MMCC located at 10671 Roselle Street, which is approximately 300 linear feet, measured property line to property line, from the proposed Outlet. In accordance with SDMC Section 113.0225(c), where there is a natural topographical barrier or constructed barrier, distance between uses can be measured as the most direct route around the barrier in a manner that establishes direct access. City staff has determined there are existing constructed barriers including railroad tracks, six-foot high chain link fence, and a drainage channel that would impede direct physical access between the uses. A direct pedestrian path of travel from the project site along the sidewalk and designated pedestrian crosswalk around these constructed physical barriers measures more than 1,000 feet, and therefore, in compliance with the separation requirements.


Outlets are also subject to operational and security requirements and restrictions as set forth in SDMC Section 141.0504 (b) through (m), which have also been incorporated as conditions in the CUP including prohibition of consultation by medical professionals on-site; prohibition of the use of specified vending machines except by a responsible person (as defined by the SDMC); provision of interior and exterior lighting, operable cameras, alarms, security guards; restriction of hours of operation to between 7:00 am and 9:00 pm daily; maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; and restriction of signage to business name, two-color signs, and alphabetic characters. Outlets must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation. The CUP is valid for five years, however, may be revoked if the use violates the terms, conditions, lawful requirements, or provision of the permit.

The SDMC limits Outlets to commercial and industrial zones and the number of Outlets to only four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods. All of the surrounding parcels are in the IL-3-1 Zone and the existing uses are consistent with the Industrial designation of the community plan and compatible uses with an Outlet. Therefore, based on the commercial nature of the use, compliance with the separation requirements, and conditions of approval, the proposed development is appropriate at the proposed location.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Conditional Use Permit No. 1865509 is granted to Sorrento Valley Investment Group, Owner, and Sure Felt, LLC, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By 

Corinne L. Neuffer
Deputy City Attorney

CLN:als
0326/2018
05/29/2018 Cor. Copy
11/14/2018 Rev. Copy
Or.Dept:DSD
Doc. No.: 1716538_3

Attachment: Conditional Use Permit No. 1865509

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

**WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A**

INTERNAL ORDER NUMBER: 24007128 SPACE ABOVE THIS LINE FOR RECORDER'S USE

**CONDITIONAL USE PERMIT NO. 1865509
10715 SORRENTO VALLEY - PROJECT NO. 527802
CITY COUNCIL**

This Conditional Use Permit No. 1865509 is granted by the City Council of the City of San Diego to Sorrento Valley Investment Group, Owner, and Sure Felt, LLC, Permittee, pursuant to San Diego Municipal Code (SDMC) section 126.0305. The 0.37-acre site is located at 10715 Sorrento Valley Road in the IL-3-1 Zone, Coastal Overlay Zone (Non-appealable), Coastal Height Limitation Overlay Zone, Coastal Parking Impact Overlay Zone, MCAS Miramar Land Use Compatibility Overlay Zone (Airport Influence Area – Review Area 1 and Accident Potential Zone 2), Special Flood Hazard Area (100 Year Floodplain), and Prime Industrial Lands, within the Torrey Pines Community Plan area. The project site is legally described as: All of Lots 12-15, inclusive, in Block 17 of the Town of Sorrento, in the City of San Diego, County of San Diego, State of California, as originally shown on maps thereof Nos. 262 and 483, filed in the office of the County Recorder or San Diego County, September 30, 1887 and February 9, 1880, respectively.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Marijuana Outlet described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 18, 2018, on file in the Development Services Department.

The project shall include:

- a. Operation of a Marijuana Outlet in a 3,697-square-foot tenant space within an existing 5,451-square-foot, one-story, commercial building on a 0.37-acre site;
- b. A 703-square-foot additional tenant space within the existing 5,451-square-foot building, as shown on Exhibit "A," maintained and occupied by a licensed, non-retail commercial establishment permitted by right in the IL-3-1 Zone;
- c. 1,051 square feet within the existing 5,451-square-foot building, as shown on Exhibit "A," to remain vacant, and unoccupied, for the term of the subject Conditional Use Permit;

- d. Existing landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking;
- f. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by June 18, 2021.
2. This Conditional Use Permit (CUP) and corresponding use of this site shall expire on June 18, 2023.
3. In addition to other provisions of the law, the Marijuana Outlet must comply with Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 5 of the San Diego Municipal Code.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
 - c. A Permit issued by the Development Services Department is approved in accordance with SDMC Section 42.1504.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 (ESA) and any amendments thereto (16 U.S.C. § 1531 et seq.).
9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
10. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
11. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

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

settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENGINEERING REQUIREMENTS:

13. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing driveway with a current City Standard 24-foot wide driveway, adjacent to the site on Sorrento Valley Road, satisfactory to the City Engineer.

14. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing curb ramp with a current City Standard curb ramp, adjacent to the site on Sorrento Valley Road, satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

15. The use within the 3,697-square-foot tenant space shall be limited to the Marijuana Outlet and any use permitted by right in the IL-3-1 Zone.

16. The Owner/Permittee shall configure the building to maintain at least two suites with separate entrances at exterior building facades.

17. A minimum of 703 square feet of tenant space within the 5,451-square-foot building shall be reserved and maintained for occupancy by a non-retail commercial use with a valid business license that is permitted by right in the IL-3-1 Zone, and does not trigger additional parking or result in an intensification of the use on the premises.

18. The sale of marijuana shall be prohibited without a valid license from the State authorizing such activity.

19. Consultations by medical professionals shall not be a permitted accessory use at the Marijuana Outlet.

20. Lighting shall be provided to illuminate the interior of the Marijuana Outlet, façade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.

21. Security shall include operable cameras and a metal detector to the satisfaction of Development Services Department. This facility shall also include alarms and two security guards. The security guards shall be licensed by the State of California. The security guards must be on the premises during business hours. One security guard must be on the premises 24 hours a day, seven days a week. The security guards should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the recordings for a minimum of 30 days.

22. The Owner/Permittee shall install a combination of full-height bullet resistant glass, plastic or laminate shield and bullet resistant armor panels or solid grouted masonry block walls, designed by a licensed professional, at the reception area.
23. The Owner/Permittee shall install full-height bullet resistant armor panels or solid grouted masonry block walls, designed by a licensed professional, at all walls adjoining common areas and other tenants, and vault room.
24. The Owner/Permittee shall post and maintain a sign showing the name and emergency contact phone number of an operator or manager in a location visible from outside the Marijuana Outlet in character size at least two inches in height.
25. The Marijuana Outlet shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
26. The use of vending machines which allow access to marijuana and marijuana products except by a responsible person, as defined in the San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this Section, a vending machine is any device which allows access to marijuana and marijuana products without a human intermediary.
27. The Owner/Permittee shall maintain the Marijuana Outlet, adjacent public sidewalks, and areas under the control of the Owner/Permittee, free of litter and graffiti at all times.
28. The facility shall provide a sufficient odor absorbing ventilation and exhaust system capable of eliminating excessive or offensive odors causing discomfort or annoyance to any reasonable person of normal sensitivities standing outside of the structural envelope of the permitted facility in compliance with SDMC Section 142.0710.
29. The Owner/Permittee shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.
30. Marijuana and marijuana products shall not be consumed anywhere within the 0.37-acre site.
31. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Ground signs shall not be pole signs. A primary sign shall be posted on the outside of the Marijuana Outlet and shall only contain the name of the business, which shall contain only alphabetic characters, and shall be limited to two colors.
32. The Owner/Permittee shall post the name and emergency contact phone number of the operator or manager, in a location visible from outside the Marijuana Outlet, in character size at least two inches in height.

33. Deliveries shall be permitted as an accessory use from the Marijuana Outlet with a valid Conditional Use Permit unless otherwise allowed pursuant to the Compassionate Use Act of 1996

TRANSPORTATION REQUIREMENTS:

34. All automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

35. The Owner/Permittee shall enter into and maintain a lease for an additional 1,051 square feet within the 5,451-square-foot building and retain it as vacant space. The lease shall specifically state that the additional 1,051 square feet leased space is to be kept vacant and not to be occupied at any time during the entire term, for any use whatsoever, including storage space.

36. Permittee must provide and maintain an accessible path from the building entrance to the public street.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on June 18, 2018 and by Resolution No. R-311819.

Permit Type/PTS Approval No.: Conditional Use Permit No. 1865509
Date of Approval: June 18, 2018

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Firouzeh Tirandazi
Development Project Manager

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

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

SORRENTO VALLEY INVESTMENT GROUP
Owner

By _____
Doris Seyranian
General Partner

By _____
Neil Goodhue
General Partner

By _____
Henry Persoglio
General Partner

By _____
Timothy Le Veen
General Partner

SURE FELT, LLC
Permittee

By _____
Belinda Jane Appleyard
Manager

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

**Office of
The City Attorney
City of San Diego**

MEMORANDUM

DATE: November 14, 2018
TO: Elizabeth Maland, City Clerk
FROM: Corrine L. Neuffer, Deputy City Attorney *CN*
SUBJECT: Item #204-Subitem B – 10715 Sorrento Valley – Project No. 527802 – Council Meeting of June 18, 2018

On June 18, 2018, the above referenced project, as Item 204, was approved by the City Council. Belinda Jane Appleyard, the applicant, is identified as the Permittee in Conditional Use Permit No. 1865509 and Resolution No. R-311818. Since the hearing, but before the recordation of the approvals, the Permittee changed to Sure Felt, LLC.

The Permittee has been revised accordingly in the attached Revised Resolution and Permit and no revisions are required for the other documents.

CLN:als
Doc. No.: 1875185

Attachments: Articles of Organization of a Limited Liability Company (LLC).
Revised Resolution R-2018-450 and Permit

Passed by the Council of The City of San Diego on JUN 18 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 18 2018


(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

(Seal)

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 311819