

RESOLUTION NO. PC 2019-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA MESA APPROVING CONDITIONAL USE PERMIT CUP 17-95 (MEDICAL MIRACLE, LLC) FOR A MEDICAL MARIJUANA DISPENSARY USE AT 7935-7939 EL CAJON BOULEVARD IN THE C-D-MU (GENERAL COMMERCIAL / URBAN DESIGN OVERLAY / MIXED USE OVERLAY) ZONE

WHEREAS, Medical Miracle, LLC. submitted an application for a Conditional Use Permit (CUP 17-95), a request to operate a medical marijuana dispensary at 7935-7939 El Cajon Boulevard in the C-D-MU (General Commercial / Urban Design Overlay / Mixed-Use Overlay) zone;

WHEREAS, the Planning Commission of the City of La Mesa did hold a duly noticed public hearing on March 6, 2019, and accepted public testimony in considering Conditional Use Permit CUP 17-95;

WHEREAS, medical marijuana dispensaries are permitted in the General Commercial (C) zone subject to review and approval of a Conditional Use Permit pursuant to voter-approved Measure U; and

WHEREAS, the Planning Commission did receive and consider a staff report on the proposal.

THE PLANNING COMMISSION FINDS AND DETERMINES AS FOLLOWS:

The project is exempt from environmental review under CEQA Guidelines Sections 15301 and 15303. Section 15301 exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of private structures involving negligible or no expansion of a use beyond what existed at the time of the lead agency's determination. Section 15303 exempts new construction or conversion of small structures including commercial structures, accessory structures, and water, electrical, gas, and other utility extensions including street improvements. The project meets the criteria for the exemptions. None of the exceptions in Section 15300.2 apply.

Conditional Use Permit Findings (La Mesa Municipal Code Section 24.02.060):

Incompatibility with other uses in the same vicinity will not result

The project is compatible with other uses in the same vicinity. In accordance with Measure U, retail medical marijuana dispensary use is permitted in the C-D-MU zone with a Conditional Use Permit (CUP). The zone is intended for and permits general commercial, retail sales, and office uses. Existing uses along El Cajon Boulevard includes commercial retail businesses, offices, restaurants, and neighborhood shopping centers. The dispensary retail business is a compatible use with the wide range of surrounding general commercial uses identified above and therefore will not adversely affect surrounding uses or conflict with the vision established for the commercial area by the applicable land use plan. The proposed project meets the separation requirements of Measure U.

Issuance of such a conditional use permit would not lead to the creation of a nuisance and would not endanger the public health, safety, or order by:

- (1) Unreasonably increasing pedestrian and/or vehicular traffic in the area in which the premises are located;

The issuance of a CUP would not unreasonably increase pedestrian and/or vehicular traffic in the area. The proposed dispensary is contained within an existing 3,641 square-foot existing building with patrons limited to individuals that have a physician's recommendation. The proposed project is a retail use that is not expected to generate higher levels of vehicular or pedestrian traffic. A traffic letter prepared by Linscott, Law & Greenspan Engineers concluded that the nominal increase of traffic projected for the use would have minimal effects on the overall street system and turning movements. No significant traffic impacts would be expected.

- (2) Increasing the incidence of disruptive conduct in the area in which the premises are located;

The issuance of a CUP would not unreasonably increase the incidence of disruptive conduct in the area because the proposed project is compliant with Measure U. Proposed project conditions include provisions for security measures to be implemented, including, but not limited to, operable cameras; fire and burglar alarm systems monitored by an alarm company licensed by the State of California; evidence that a California State Licensed Security Guard contracted by the business is present at all times the facility is open; and a 24-hour, fixed-camera video surveillance system. The surveillance system is required to cover every interior area and room, and adjacent perimeter areas, within a minimum of 50 feet. Twenty-four hour surveillance system access is required by the La Mesa Police Department or other City authorized department.

In addition, conditions of the permit would require that the applicant for the permit proactively address and cure any legitimate loitering complaints, noise complaints, odor complaints, non-compliance issue with the CUP, or non-compliance with other applicable state or local regulations. Failure to operate the business in conformance to the conditions of approval could result in possible suspension or revocation of the permit. It is not anticipated that within such a controlled and conditioned environment, disruptive conduct would occur.

- (3) Unreasonably increasing the level of noise in the area in which the premises are located

The issuance of a CUP would not unreasonably increase the level of noise in the area. No increase in noise level is expected from this retail use compared to other commercial uses allowed in the C zone. The proposed medical marijuana dispensary use is an indoor retail use comparable to a pharmacy with the expectation that noise generated by consumer activity should not be significantly different from a use that is more familiar to the general public. In addition, the project complies with Measure U and a condition of the permit would require the applicant to proactively address and cure any legitimate noise complaint. Failure to do so could result in possible suspension or revocation of the permit.

The use is consistent with the General Plan

The General Plan land use designation of the subject property is "Mixed-Use Urban" and is consistent with the C-D-MU zone. With approval of the Conditional Use Permit, conditions to regulate the project will promote the goals and objectives of the General Plan. The proposed use fits into the existing community as described in this report and is determined to be compatible with the surrounding commercial establishments. The proposed use meets the goals and the objectives of the General Plan by providing improvements within the public right-of-way, increasing the area for pedestrian circulation, and creating jobs near transit opportunities. The project promotes economic growth and employment consistent with Land Use Policy as described throughout the General Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF LA MESA AS FOLLOWS:

1. The foregoing findings of fact and determinations are true and hereby made a part hereof.
2. The foregoing findings of fact and determinations are supported by the minutes, plans, and exhibits, all of which are herein incorporated by reference.
3. The Planning Commission approves Conditional Use Permit CUP 17-95 subject to the conditions in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of La Mesa, California, held the 6th day of March 2019, by the following vote, to wit:

AYES: Chair Alvey, Commissioners Hottel, Kanavel, Newland, Podeswik, Tetlow, and Torpey
NOES: None
ABSENT: None
ABSTAIN: None

I, Kerry Kusiak, Secretary, do hereby certify the foregoing to be a true and exact copy of **Resolution PC-2019-03**, duly passed and adopted by the Planning Commission.

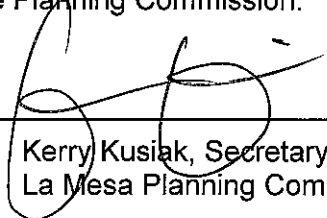

Kerry Kusiak, Secretary
La Mesa Planning Commission

Exhibit A
PC Resolution PC-2019-03
Conditional Use Permit CUP 17-95
Conditions of Approval

1. The project is conditionally approved as set forth on the application and project drawings stamped received by the City on November 8, 2018, consisting of 19 sheets including Sheet G001 – Cover Sheet; Sheet G002 - CUP Notes – Dispensary; Sheet G003 – General Notes; Sheet A100 – Site Plan – Existing; A101; Site Plan – Proposed; A102 – First Floor Plan – Existing; A103 Roof Plan – Existing; A104 First Floor Plan – Proposed; A105 First Floor Accessibility Plan – Proposed; A106 First Floor Egress Plan – Proposed; A107 Security Plan – Proposed; A108 First Floor Lighting Plan – Proposed; A201 Exterior Elevations – Existing; A202 Exterior Elevations – Existing; A203 Exterior Elevations – Existing; E101 Site Plan – Lighting; E102 Light Fixture Cut Sheets; E103 Light Fixture Cut Sheets; CLP-1 Conceptual Landscape Plan, all designated as approved by the Planning Commission on March 6, 2019, and shall not be altered without express authorization by the Community Development Department.
2. The medical marijuana dispensary shall not be physically changed or increased in size (e.g., floor area or buildings utilized) without prior approval and/or amending Conditional Use Permit 17-95.
3. Conditional Use Permit CUP 17-95 shall expire no later than five (5) years from the date of issuance.
4. 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.
5. Approval of Conditional Use Permit CUP 17-95 for a medical marijuana dispensary is for retail sales purposes of medical marijuana only, subject to all applicable State laws and regulations.

The following conditions shall be satisfied prior to the issuance of building and grading permits:

Planning Division Conditions:

6. The Owner(s) shall waive any claims of liability against the City and indemnify, hold harmless and defend the City and City's employees regarding any component of the City's approval, and shall execute an indemnity agreement in substantially the form as provided by the Community Development Department prior to building permit issuance, initiating use in reliance of this permit, recordation of the final map and/or recordation of the final parcel map, as applicable, and the Community Development Director is hereby authorized to execute the same. This agreement shall be executed by the applicant, notarized, and then signed by the Community Development Director before obtaining any other permit.

7. Construction plans shall be in substantial conformity to approved plans and may not be physically changed or increased in size without prior approval and/or amending the existing Conditional Use Permit.
8. The project shall comply with the development standards of the underlying zone including but not limited to parking standards and requirements, trash and recycling enclosure standards, and landscape standards.
9. Site landscaping shall be consistent with City landscape standards and the State of California Model Water Efficient Landscape Ordinance (MWELO).
10. The applicant shall provide a photometric analysis showing the illumination of the exterior of the site, façade, and surrounding area including accessory uses, parking lots, and adjoining sidewalks.
11. Any new rooftop mechanical equipment shall be screened from view from the street and adjacent properties.
12. All driveways and parking areas shall be graded, hard surfaced, and maintained in accordance with standards established by City Council resolution.

Building Division Conditions:

13. All points of ingress, egress and parking shall comply with ADA regulations. Additional requirements may apply based on the existing conditions and proposed improvements.
14. The Owner/Permittee shall secure all necessary building permits in compliance with the California Building Code; applicable electrical, mechanical, and plumbing codes; and State and Federal accessibility laws.
15. Plans must be complete and stamped by a licensed professional before the Building Division will accept them into the plan review and permitting process.
16. All permits (grading, building, encroachment, fire, or other) for this development project shall be submitted and issued concurrently.
17. The applicant shall obtain demolition permits from the Community Development Department prior to the demolition of existing structures.
18. The project must comply with City's Construction and Demolition Ordinance regulating recycling of construction materials.
19. This project shall comply with all California Energy Efficiency Standards as it applies to lighting, mechanical, plumbing, and envelope construction.

20. This project's mechanical system shall be design to meet requirements for fresh, outside air to the interior and nuisance odor control exhausted to the exterior. This requires certifications for an air balanced system(s). The placement of mechanical equipment on the exterior needs to be located, supported, and screened In accordance with applicable provisions of the La Mesa Municipal Code.

Fire Department Conditions

21. The project shall comply with the most recently adopted California Fire Codes and Standards.
22. The applicant shall provide a letter indicating any hazardous materials to be used or stored on site for the dispensary. This does not include normal business cleaning materials; however, they must be in a limited quantity.
23. 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.

Engineering Conditions:

24. The applicant's engineer shall ensure that the design and construction of all improvements shall be in accordance with standard plans and specifications of the City of La Mesa, and subject to the approval of the City Engineer.
25. The applicant shall submit all plans and supporting documents concurrently for plan check and approval as required for all improvements. Plans shall be prepared by a Registered Civil Engineer and approved by the City Engineer. All street dedications, alignments, widths, and geometrics shall be as approved by the City Engineer.
26. Off-site improvements within the public right of way beyond the parcel boundary may be required to be installed as determined by the City Engineer to provide proper transition to the street and sidewalk, and to address drainage or traffic and pedestrian safety.
27. Sight distance requirements at all street, common drive, and/or driveway intersections shall conform to the intersectional sight distance criteria provided in the California Department of Transportation (CalTrans) Highway Design Manual and section 24.05.030.N of the City of La Mesa Municipal Code and shall be shown in the plans.
28. The applicant shall reference street tree locations on the improvement plans for conflict check; shown at the back of sidewalk equal to 1 tree for every 35 feet of property frontage along El Cajon Boulevard.
29. The method of disposing of surface water from the site shall be submitted and approved to assure that the site will drain to the street or to a natural watercourse. New drainage facilities, and private maintenance agreements or covenants may be required.

30. Surety (security) for improvements shall be posted with the City of La Mesa prior to improvement permit approval to guarantee the construction of all the required street frontage improvements, erosion control, landscaping and irrigation. The security shall include all onsite and offsite improvements. The amount of security shall be determined by the City Engineer based upon an estimate furnished to the City taken from approved plans submitted by the engineer of work.
31. The applicant shall show the following information on the site plan and/or add a note to the plans:
 - a. The sanitary sewer main, sewer service lateral and property line clean out shall be identified. A clean out shall be installed if one does not exist.
 - b. The rim elevation of the nearest upstream sewer manhole on the sewer main and the lowest finish floor or lowest waste water fixture unit shall be identified. If the lowest finish floor elevation or lowest waste water fixture unit is less than or equal to the top of the manhole elevation PLUS two feet, then a backwater valve shall be installed.
32. The applicant shall pay the current Sanitary Sewer Connection Fee as determined by the City's current fee structure.
33. The applicant shall obtain an Encroachment Permit and Traffic Control Permit prior to beginning any proposed work within the City right of way. Traffic control plans for streets which will be opened to public travel during construction shall be in accordance with construction signing, marking and other protection as required by the State Department of Transportation (CalTrans) Traffic Manual.
34. Site operations shall comply with City of La Mesa Municipal Code Chapter 7.18 Storm Water Management and Discharge Control Program. A completed City of La Mesa storm water management permit application shall be submitted.

Police Department Conditions:

35. The applicant shall submit building plans that include a description and detailed schematic of the overall facility security. The applicant shall identify with illustration and notes the proposed security measures to be implemented, including, but not limited to:
 - a. Show and note on the floor plan that a surveillance camera shall be placed at face level to capture and record every individual coming and going from the business for identification purposes.
 - b. 24-hour fixed camera video surveillance shall be available for 90 days after recording. The recording shall be of a sufficient quality to provide identification of any individual being recorded; that the surveillance covers every interior area and room and adjacent perimeter area within a minimum of 50 feet; and that the City

of La Mesa Police Department or other City authorized department shall have 24 hour remote access to the surveillance system.

36. The applicant shall provide an Internet Protocol (IP) Address to the surveillance system. A complete review of the system shall occur at the Building Permit application stage.
37. The project shall implement CPTED (Crime Prevention Through Environmental Design) principles to the satisfaction of the Police Department.
38. Site lighting, including the parking lot, shall be provided such that the property is well lit at night to prevent loitering and eliminate hiding places.
39. Building lighting shall be provided to illuminate building numbers, building accesses, and front and back areas.

The following conditions shall be satisfied prior to the issuance of a Certificate of Occupancy:

Planning Division Conditions

40. Prior to occupancy, the applicant shall obtain a State license to operate the proposed medical marijuana facility.
41. Prior to issuance of a certificate or occupancy, the applicant shall provide proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of licensing requirements pursuant to applicable law.
42. The medical marijuana dispensary permit holder shall acquire a Board of Equalization (BOE) seller's permit or application for BOE seller's permit for the commercial medical marijuana activity in which they engage pursuant to the Business and Professions Code. The applicant shall provide a Copy of the Board of Equalization Seller's Permit to the City consistent with the Business and Professions Code.

Building Division Conditions:

43. The applicant shall obtain approvals from all departments for all issued permits including but not limited to building, fire, planning, grading, SD County ACPD, SD County HazMat, encroachment, or other permits for the proposed improvements prior to the issuance of a certificate of occupancy.

Fire Department Conditions:

44. 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.

45. If the building is sprinklered or contains a fire alarm, a Knox box will be required for emergency access.
46. Permanent three-dimensional street numbers, minimum eight inches in height, shall be provided on the address side of the building at the highest point and furthest projection of the structure. The address shall be visible from the street and shall not be obstructed in any manner. Building letter designations shall be a minimum of eight inches in height and shall be installed as directed by Heartland Fire & Rescue Fire Prevention.

Engineering Conditions:

47. The applicant shall remove and replace existing curb and sidewalk to the nearest joint if it is found to be cracked, broken or displaced. The city Inspector will identify the limits of removal and replacement. Pedestrian ramps shall meet current ADA requirements.
48. The project shall provide a visibility triangle and parking stalls parallel to the public right of way a minimum of 20 feet from the face of curb.
49. The exact limits of pavement and sidewalks shall be approved by the City Engineer. Existing public improvements will be repaired to good condition and proper alignment, as may be required for proper tie-in.
50. The applicant shall install street trees at the back of the sidewalk equal to one tree for every 35 feet of property frontage along El Cajon Boulevard. Pedestrian-friendly tree grates shall be provided for street trees within paved sidewalk areas. (Refer to SDRSD L4, LMSD LS1 through LS3, and WQ4.)
51. All street and drainage improvements shall be completed and accepted by the engineering inspector prior to occupancy.

The following conditions must be satisfied prior to the acceptance of improvements and filing of the Notice of Completion:

Engineering Conditions:

52. Landscaping for trees, shrubs, walls, fences, cut/fill slopes or other structures at or near driveway and street intersections shall conform to the intersectional sight distance criteria as provided by the California Department of Transportation (CalTrans) Highway Design Manual. Any obstructions which exceed a height of thirty-six (36) inches shall not be permitted within a distance of five (5) feet from the property line at the street.

The following conditions shall apply to operation of the use:

53. The project shall comply with the development standards of the underlying zone including but not limited to parking standards and requirements, trash and recycling enclosure standards, and landscape standards.

54. Revocation of a permittee's State license shall result in immediate revocation of the City of La Mesa's permit, CUP 17-95.
55. The applicant shall conform to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), and as it may be amended, to track, test, seal and label, at a minimum, all products.
56. The operation of the business shall comply with State Licensing outlined in California Business and Professions Code Division 10, as amended, and any other applicable laws or regulations.
57. Business operations shall not commence unless and until all required approvals, inspections and licenses have been obtained.
58. A copy of the medical marijuana dispensary Conditional Use Permit and State license shall be displayed inside the facility in a place visible to the public.
59. The medical marijuana dispensary shall not transfer ownership or control of the business to another person or entity unless and until the transferee first obtains an approval from the City of La Mesa, and the appropriate City of La Mesa fees are paid.
60. The business shall be subject to future local taxes. If a local tax is implemented, a payment schedule shall be established.
61. The dispensary shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
62. All activities associated with the business shall be conducted indoors.
63. Delivery of marijuana is prohibited with exceptions pursuant to Subsection 10.39.030 of the La Mesa Municipal Code and shall not apply to (i) primary caregivers delivering medical marijuana to qualified patients, (ii) qualified patients transporting marijuana for personal use only, (iii) duly licensed delivery services delivering medical marijuana to qualified patients, or (iv) duly licensed delivery services related to duly licensed medical marijuana facilities pursuant to Measure "U" (Ordinance No.2017-2857).
64. No one under 18 years of age is allowed in the dispensary unless accompanied by a primary caregiver or a licensed attending physician or documented legal guardian.
65. Electricity in the medical marijuana dispensary shall be grid connected and compliant with current code. The use of generators other than for emergency security back-up is prohibited.
66. Any volatile substances as well as any hazardous materials stored or used on premises shall be disclosed in advance to the City and stored or fastened in a secure manner or as required by City code. Volatile solvents shall be prohibited.

67. Security shall be provided at the dispensary which shall include operable cameras, alarms, and a security guard.
68. At all times the medical marijuana facility is open, the facility shall provide at least one security guard who is licensed by the State of California, possesses a valid Department of Consumer Affairs "security guard card," and has a valid City of La Mesa Business License. The applicant shall provide copies of security contracts and security guard cards.
69. The site shall be alarmed with a centrally monitored fire and burglar alarm system that is monitored by an alarm company licensed by the State of California (Business & Professions Code 7590 et.seq.). The applicant shall provide copies of alarm contracts and alarm company licenses.
70. Twenty-four hour, fixed-camera video surveillance shall be required and digital storage in the cloud or other off-site method of recordings shall be available for 90 days after recording. Further, that recording shall be of a sufficient quality to provide identification of any individual being recorded. The surveillance shall cover every interior area and room and adjacent perimeter areas within a minimum of 50 feet. The City of La Mesa Police Department or other City authorized department shall have 24-hour remote access to the surveillance system.
71. Consultations by medical professionals shall not be permitted on the premises.
72. The use of Vending Machine which allows access to medical marijuana except by a responsible person is prohibited. A vending machine is any device which allows access to medical marijuana without a human intermediary.
73. No consumption of any cannabis product shall be allowed on the premises.
74. The consumption of food is prohibited on the premises.
75. The sale or consumption of any alcohol or tobacco products is prohibited on premises.
76. Performance entertainment as defined by LMMC Section 24.01.100 is prohibited.
77. Attractive nuisances dangerous to children, including but not limited to abandoned and broken equipment, iceboxes, refrigerators, and unprotected and/or hazardous pools, ponds and excavations are prohibited.
78. All cannabis products that can be ingested by eating or drinking shall have a warning label or sign advising them of the potential hazard associated with over-consumption.
79. The applicant shall keep accurate records of commercial cannabis activity and shall maintain all records related to commercial cannabis activity for a minimum of seven years.

80. Disposal of any unused or unwanted medical marijuana shall be in conformance with applicable State laws and shall not be disposed of, as or with, routine garbage.
81. The medical marijuana dispensary shall maintain a current register of the names of all employees currently employed by the dispensary and shall disclose such registration for any City officer or authorized official for purposes of determining compliance with local and state medical marijuana employment requirements.
82. All employees shall undergo a background check and any person who has been convicted of a felony shall not be employed by or operate, manage, control or own the dispensary facility or premise.
83. All employees of the medical marijuana dispensary shall have clearly visible photo identification badges that are to be worn at all times when they are on the premises of the facility.
84. All staff of the medical marijuana dispensary shall receive appropriate training for their intended duties as required by State and local law.
85. At least two (2) employees shall be on the premises during business hours.
86. Signs shall be posted on the outside of the dispensary and shall only contain the name of the business, limited to two colors.
87. Logos visible to the public are prohibited.
88. The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the dispensary in character size at least two inches in height.
89. The dispensary shall post and maintain professional quality sign consistent with LMMC Title 15 and Chapter 24.23 facing the parking lot(s) that reads "No loitering, no littering violators subject to arrest" in English and Spanish.
90. Site lighting shall be provided to illuminate the interior of the dispensary, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks such that the property is well lit at night to prevent loitering and eliminate hiding places. Lighting shall be of consistent levels to reduce contrast between shadows and illuminated areas and shall be hooded or oriented so as to deflect light away from adjacent properties.
91. Exterior site and building lighting shall remain illuminated at all times between sunset and sunrise with sufficient intensity to illuminate every portion of the premises including but not limited to parking, any accessory uses, and adjoining sidewalks.

92. The applicant shall maintain the premises and property in good condition and repair. All yards and other open spaces around buildings shall be kept free of waste, litter, junk, or storage of any material. Packing boxes, lumber, litter, dirt and other debris accumulated in vestibules, doorways or the adjoining sidewalks or outside commercial buildings and visible from public or private streets shall be prohibited. Maintenance of the property and the responsibility for such maintenance shall be that of the owner of record and/or the occupant, separately or jointly, and either or both may be cited for any violation on the building site.
93. All approved landscaped areas shall be properly maintained by regular watering, mowing, pruning, fertilizing, clearing of weeds and debris, the removal and replacement of dead or diseased plants and trees, and the repair and replacement of irrigation systems and integrated architectural features (e.g., fountains).
94. Landscape design and maintenance shall implement applicable CPTED principles which shall demonstrate the following to the satisfaction of the Police Department:
 - a. Trees shall be at least 8 feet above the ground and bushes shall be trimmed to less than 3 feet to allow for natural surveillance of the property.
 - b. Landscape shall not obstruct the view of any windows, doorway, security cameras and light.
95. All fences, structures, building materials, and architectural features shall be kept in good condition, both structurally and aesthetically. Awnings and other features constructed of materials subject to weathering and deterioration shall be replaced when they are worn, tattered, excessively faded, or otherwise in poor condition. All building and exterior finishes and architectural features shall be maintained to avoid the appearance of deterioration or disrepair from excessive weathering, paint chipping or peeling, excessive cracks, broken windows or doors, or other conditions that represent lack of proper property maintenance.
96. The approved Conditional Use Permit (CUP 17-95) shall be subject to medical marijuana maintenance reports, CUP inspection reports, and annual Police background checks for all employees. Payment for the Maintenance Report shall be submitted to the City no later than 60 days in advance of the required annual Maintenance Report due date. The annual Maintenance Report due date is the anniversary date of the effective date of the Conditional Use Permit.
97. Pursuant to the La Mesa Municipal Code (LMMC) Section 24.02.060, Conditional Use Permit 17-95 may be revoked or suspended by the Planning Commission if it determines that the permit was obtained through fraudulent representatives or the use was subsequently changed in operation contrary to representations or conditions applied pursuant to Measure U, LMMC Section 24.23. The permit may also be revoked due to legitimate loitering complaints, noise complaints, and smell complaints, or non-compliance with the Conditional Use Permit, or non-compliance with other applicable state or local regulations. The Conditional Use Permit may be revoked or suspended

due to failure to enact a correction ordered by the City, as well as non-compliance with the regulations of Measure U or failure to comply with any State law, regulation or code. The licensee shall have a reasonable opportunity and time to cure the complaint or possible non-compliance before being subject to revocation or suspension. If the use should create a nuisance to surrounding properties, staff shall schedule a public hearing before the Planning Commission to evaluate the operations of the business. If the Planning Commission finds that the operation is creating a nuisance, the Commission may then impose additional restrictions on the business.

98. The City or its designee shall have access to the 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. The applicant shall provide and deliver records to the City upon request.
99. City staff shall be allowed access to the premises in accordance with State law.
100. The medical marijuana dispensary licensee shall have a reasonable period of time, which shall not exceed 14 calendar days, to cure a legitimate complaint unless the complaint would result in an immediate danger to the public and shall be cured immediately as determined by local law enforcement or other appropriate authority.
101. Fire Protection systems shall be in operational order at all times.