



City of Lemon Grove  
City Council Regular Meeting Agenda  
Tuesday, April 3, 2018, 6:00 p.m.

Lemon Grove Community Center  
3146 School Lane, Lemon Grove, CA

*The City Council also sits as the Lemon Grove Housing Authority, Lemon Grove Sanitation District Board, Lemon Grove Roadway Lighting District Board, and Lemon Grove Successor Agency*

Call to Order

Pledge of Allegiance

Changes to the Agenda

Presentations:

Lemon Grove History Minute #16

Lemon Grove 40-Year Home Grown Business Recognition Series

Introduce Joel Gonzalez, Street Tech I

Recognize Sponsors of City's Special Events

Public Comment

(Note: In accordance with State Law, the general public may bring forward an item not scheduled on the agenda; however, the City Council may not take any action at this meeting. If appropriate, the item will be referred to staff or placed on a future agenda.)

1. Consent Calendar

(Note: The items listed on the Consent Calendar will be enacted in one motion unless removed from the Consent Calendar by Council, staff, or the public.)

A. City of Lemon Grove Payment Demands

Reference: Lydia Romero, City Manager

Recommendation: Ratify Demands

B. Waive Full Text Reading of All Ordinances on the Agenda

Reference: James P. Lough, City Attorney

Recommendation: Waive the full text reading of all ordinances included in this agenda; ordinances shall be introduced and adopted by title only.

C. Approval of the Fiscal Year 2018-2019 Road Maintenance Rehabilitation Account Funding Allocation

*The City Council will consider a resolution approving the Fiscal Year 2018-2019 Road Maintenance Rehabilitation Account Funding Allocation.*

Reference: Mike James, Assistant City Manager / Public Works Director

Recommendation: Adopt Resolution

2. Community Garden Lease Agreement

*The City Council will consider a resolution approving the lease agreement with the Lemon Grove Garden Group.*

Reference: Mike James, Assistant City Manager / Public Works Director

Recommendation: Adopt Resolution

3. Public Hearing/Appeal to Consider Appeal No. AA1-800-0001 Regarding the Denial of Zoning Clearance No. ZCM-170-0002; a Request to Apply for a Conditional Use Permit to Establish a Medical Marijuana Dispensary at 3515-21 Harris Street in the General Commercial/Heavy Commercial Zone

*The City Council will conduct the public hearing and consider a resolution upholding the Development Services Director's determination to deny ZCM-170-0002, a request to apply for a conditional use permit to establish a medical marijuana dispensary at 3515-21 Harris Street in the General Commercial/Heavy Commercial Zone.*

Reference: David De Vries, Development Services Director

Recommendation: Adopt Resolution

City Council Oral Comments and Reports on Meetings Attended at the Expense of the City.

(GC 53232.3 (d)) (53232.3. (d) states that members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.)

City Manager and Department Director Reports (Non-Action Items)

Closed Session

Conference with Legal Counsel – Anticipated Litigation, Significant Exposure to Litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9

Four cases

Adjournment

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In compliance with the Americans with Disabilities Act (ADA), the City of Lemon Grove will provide special accommodations for persons who require assistance to access, attend and/or participate in meetings of the City Council. If you require such assistance, please contact the City Clerk at (619) 825-3800 or email [sgarcia@lemongrove.ca.gov](mailto:sgarcia@lemongrove.ca.gov). A full agenda packet is available for public review at City Hall.

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**City of Lemon Grove Demands Summary**

Approved as Submitted:

Al Burrell, Interim Financial Consultant  
 For Council Meeting: 04/03/18

ACH/AP Checks 03/07/18-03/21/18

930,357.19

Payroll - 03/13/18

132,115.63

Total Demands

1,062,472.82

Check No	Vendor No	Vendor Name	Check Date	Vendor Name	Check Amount	
CHECK NO	INVOICE NO	VENDOR NAME	CHECK DATE	Description	INVOICE AMOUNT	CHECK AMOUNT
ACH	4154920380/031 3568860625/0318	SDG&E	03/07/2018	Electric Usage:St Light 1/31/18-2/28/18 Electric Usage:St Light 1/31/18-2/28/18	1,876.74 1,283.77	3,160.51
ACH	Refill 3/6/18	Pitney Bowes Global Financial Services LLC	03/07/2018	Postage Usage 3/6/18	250.00	250.00
ACH	Jan31-Feb27 18	California Public Empl Retirement System	03/09/2018	Pers Retirement 1/31/18-2/27/18	66,006.71	66,006.71
ACH	Feb18	Wells Fargo Bank	03/12/2018	Bank Service Charge - Feb'18	696.04	696.04
ACH	Feb18	Home Depot Credit Services	03/14/2018	Home Depot Charges - Feb'18	2,002.81	2,002.81
ACH	Mar13 18	Employment Development Department	03/15/2018	State Taxes 3/13/18	6,557.09	6,557.09
ACH	634500	Aflac	03/15/2018	AFLAC Insurance 03/15/18	714.24	714.24
ACH	Feb18	Colonial Life	03/15/2018	Colonial Optional Insurance - Feb'18	446.80	446.80
ACH	Refill 3/14/18	Pitney Bowes Global Financial Services LLC	03/15/2018	Postage Usage 3/14/18	250.00	250.00
ACH	Feb28-Mar13 18	Calpers Supplemental Income 457 Plan	03/16/2018	457 Plan 2/28/18-3/13/18	5,571.54	5,571.54
ACH	Refill 3/14/18b	Pitney Bowes Global Financial Services LLC	03/16/2018	Postage Usage 3/14/18b	250.00	250.00
ACH	Mar13 18	US Treasury	03/20/2018	Federal Taxes 3/13/18	21,062.96	21,062.96
ACH	Feb18	San Diego County Sheriff's Department	03/21/2018	Law Enforcement Services - Feb'18	462,217.00	462,217.00
9196	56354 76392 76448 76502	Anthem Blue Cross EAP	03/14/2018	Employee Assistance Program - Dec 17 Employee Assistance Program - Jan 18 Employee Assistance Program - Feb 18 Employee Assistance Program - Mar 18	165.00 165.00 165.00 165.00	660.00
9197	077653	Art's Lawnmower	03/14/2018	Chain Saw Repair	64.62	64.62
9198	2/22/2018	AT&T	03/14/2018	Backup City Hall Internet- 1/23/18-2/22/18	75.00	75.00
9199	5656148634	AutoZone, Inc.	03/14/2018	Diesel Exhaust Fuel - LGPW #32	26.94	26.94
9200	4670875	Bearcom	03/14/2018	Portable Radios Monthly Contract 2/22/18-3/21/18	150.00	150.00
9201	845750-9	BJ's Rentals	03/14/2018	Propane	24.14	24.14
9202	1803023	California Aquatics	03/14/2018	Fountain Monthly Svc - Civic Ctr Park - Feb '18	150.00	150.00
9203	3/13/18	California State Disbursement Unit	03/14/2018	Wage Withholding Pay Period Ending 3/13/18	161.53	161.53
9204	4025188164 4025193543 4025193544	Canon Solutions America, Inc.	03/14/2018	Canon Maintenance-Copier Usage 11/26/17-2/25/18 Basement Canon Maintenance-Copier Usage 11/27/17-2/26/18 Canon Maintenance-Copier Usage 11/27/17-2/26/18	53.20 581.05 52.88	687.13
9205	CenterMetal	Center Metal Products	03/14/2018	Refund/Center Metal Products/Busi Lic Fire Fees Overpd - 1/17/18	17.00	17.00
9206	694463600	Cintas Corporation #694	03/14/2018	Janitorial Supplies - 3/8/18	213.06	213.06
9207	235-12	Circulate San Diego	03/14/2018	Caltrans SSARP Project- 2/1/18-3/7/18	1,075.00	1,075.00
9208	1621 1625 1677	Clark Telecom & Electric Inc.	03/14/2018	Street Light Repairs- Feb '18 Street Light Dig Alert Mark Outs- Feb '18 Street Light Maintenance- Feb '18	578.01 299.32 141.76	1,019.09
9209	81871462	Corelogic Solutions, LLC.	03/14/2018	RealQuest Graphics Package - Feb'18	300.00	300.00
9210	18CTOFLGN08	County of San Diego- RCS	03/14/2018	800 MHZ Network - Feb'18	2,935.50	2,935.50
9211	201800196	County of San Diego/Assessor/Recorder	03/14/2018	Recording Services- 2/21/18	199.00	199.00

9212	3/1/2018 3/31/2018 3/29/2018 3/29/2018	Cox Communications	03/14/2018	Main Phone/Fire- 3/1/18-3/31/18 Phone/City Hall- 3/1/18-3/31/18 Internet/Community Ctr- 3/1/18-3/29/18 Peg Circuit Svc- 3/1/18-3/29/18	475.08 975.84 75.00 2,904.39	4,430.31
9213	0218.12.1529	Dexter Wilson Engineering, Inc.	03/14/2018	Metro JPA Wastewater Issues - Feb '18	9,290.00	9,290.00
9214	231598 376722	Evans Tire & Service Center	03/14/2018	LGPW #9 '00 Ford Ranger - Tire/Valve Stem/Balance LGPW #19 '99 Ford F350 - 2 Tires/Valve Stem/Balance/Svc Agreement	85.89 209.49	295.38
9215	Family Health	Family Health - Lemon Grove Plaza	03/14/2018	Refund/Family Health-LG Plaza/Busi Lic Overpd/TaxExempt 1/12/18	145.00	145.00
9216	8995	G & G Backflow Plumbing Service	03/14/2018	Backflow Assembly - Repaired & Tested Backflow- Brdwy/North	603.70	603.70
9217	00050619	Hudson Safe-T- Lite Rentals	03/14/2018	Drive Rivets for Sign Installations	75.78	75.78
9218	126299 126299 126300	Knott's Pest Control, Inc.	03/14/2018	Monthly Bait Stations- Civic Ctr - Mar 18 On Call Gopher Control-LG Park - Mar 18 Monthly Bait Stations- Sheriff - Mar 18	60.00 150.00 45.00	255.00
9219	Reimb-4/17-9/17	Lavigne, Joe	03/14/2018	Reimb: Materials to Repair E10 Steps	238.41	238.41
9220	201802	Lemon Grove Car Wash, Inc.	03/14/2018	Oil Change - LGPW#31 - 14 Ford Escape 2/21/18	39.54	39.54
9221	07-2366	Lemon Grove School District	03/14/2018	Fuel Services-PW: Feb '18	1,986.03	1,986.03
9222	Reimb-1/20/18	Loftis, Zach	03/14/2018	Reimb:Tuition-CmpOfcr2A HRM/2BGAF/Incid Cmdr/Loftis 8/17-12/17	456.00	456.00
9223	INV20453	Logiccopy	03/14/2018	Ricoh C3502 Copier Contract Charge- PW Yard- 3/7/18-4/6/18	51.58	51.58
9224	MAC Plastering	MAC Plastering Inc.	03/14/2018	Refund/MAC Plastering Inc./Busi Lic Late Fees Overpd - 2/15/18	27.50	27.50
9225	30423 31086	Marken PPE Restoration	03/14/2018	Personal Protective Ensemble Cleaning & Repairs Personal Protective Ensemble Cleaning & Repairs	210.00 54.96	264.96
9226	109306	Omega Industrial Supply Inc.	03/14/2018	Disinfectant/Industrial Wipes	689.58	689.58
9227	3101991202	Pitney Bowes Global Financial Services LLC	03/14/2018	Postage Meter Rental 12/30/17-3/29/18	180.75	180.75
9228	PD-37582 PD-37667	Plumbers Depot Inc.	03/14/2018	Sewer Camera - Repair OZ3 Camera/Replace Motor Driver Board Sewer Camera - Wheels & Tires	311.15 846.14	1,157.29
9229	31368362	RCP Block & Brick, Inc.	03/14/2018	Bulk Concrete Sand - Fire Station	142.55	142.55
9230	Feb18	SDG&E	03/14/2018	Gas & Electric 1/19/18-2/20/18	21,197.23	21,197.23
9231	315309932-2 315309933-2 315309934-2	Sharp Rees-Stealy Medical Centers	03/14/2018	Medical Exam - CL 12/1/17 Medical Exam/Lab Work - CL 12/1/17 Medical Exam - CL 12/1/17	41.00 375.00 45.00	461.00
9232	84447345	SiteOne Landscape Supply, LLC	03/14/2018	Irrigation Supplies/Sprinkler Controller/Latching Solenoid Rainbird	700.39	700.39
9233	289402 292179	State of California- Department of Justice	03/14/2018	Fingerprint Apps - Feb '18 Fingerprint App - MMD Applicant - Nov '17	256.00 32.00	288.00
9234	TheCourtyard	The Courtyard Villas	03/14/2018	Refund/LemonTree on LincolnLLC/Busi License Overpymt -1/17/18	69.00	69.00
9235	00061582 00061825	The East County Californian	03/14/2018	Ordinance No. 448 - Add Planning Comm to Muni Code Notice 3/1/18 Public Hearing Notice - TransNet Allocations Notice 3/1/18	108.50 42.00	150.50
9236	TheHomeDepot	The Home Depot #0659	03/14/2018	Refund/The Home Depot #0659/Busi Lic Fire Fees Overpd - 1/30/18	212.00	212.00
9237	2147-3 6632-0	The Sherwin-Williams Co.	03/14/2018	Graffiti Cleanup Supplies Graffiti Cleanup Supplies	25.75 55.24	80.99
9238	C34615	Valley Power Systems Inc.	03/14/2018	E10 Repairs - Temperature Reading Out of Range/Coolant Leak	3,383.43	3,383.43
9239	Mar13 18	Vantage Point Transfer Agents-457	03/14/2018	ICMA Deferred Compensation Pay Period Ending 3/13/18	580.77	580.77
9240	9802832330 9802027166	Verizon Wireless	03/14/2018	Modems- Cardiac Monitors - 2/4/18-3/3/18 Fire Prev Phone Line- 1/21/18-2/20/18	14.18 406.79	420.97
9241	71739962 71742960	Vulcan Materials Company	03/14/2018	Asphalt/SS1H 4.5 Gallon Bucket Asphalt/SS1H 4.5 Gallon Bucket	226.28 187.59	413.87
9242	2016.04-019	West Coast General Corporation	03/14/2018	LGA Realignment Proj- 1/1/18-1/31/18	151,342.28	151,342.28
9243	Reimb-2/22/18	Wrisley, Chris	03/14/2018	Training Reimb:Intermed Wildland Fire BehavTrng/Wrisley Jan 2018	253.00	253.00
9244	DSP MND Fee	County of San Diego/Assessor/Recorder	03/15/2018	Notice of Intent - Downtown Specific Plan/MND- Filing Fee	50.00	50.00
9245	LawOfc L Farris	Law Office of Laura J. Farris, Attorney at Law	03/15/2018	Claim Settlement	79,000.00	79,000.00
9246	C5399	A-Pot Rentals, Inc.	03/21/2018	Portable Restroom Rental/Volunteer Painting/Berry St Pk-2/24/18	122.10	122.10



9247	Reimb-3/11/18	Brackney, Cody	03/21/2018	Training Reimb-Rescue Systems 2- 2/26/18-3/2/18 Brackney	1,000.00	1,000.00
9248	Apr 2018	California Dental Network Inc.	03/21/2018	California Dental Insurance -Apr18	373.30	373.30
9249	124322-2018	California Park & Recreation Society	03/21/2018	CPRS Membership 6/1/18-5/31/19 - James	170.00	170.00
9250	18404951	Canon Financial Services Inc.	03/21/2018	Canon Copier Contract Charge 3/20/18-4/19/18	81.35	81.35
9251	69446539	Cintas Corporation #694	03/21/2018	Janitorial Supplies - 3/15/18	1,425.60	1,425.60
9252	FRS0000082 FRS0000082	City of El Cajon	03/21/2018	Overtime Reimbursement - Aliano- 2/10/18 Overtime Reimbursement - Cameron- 2/17/18	1,299.69 1,171.75	2,471.44
9253	19904 19906	City of La Mesa	03/21/2018	Overtime Reimbursement - Feb'18 FY17-18 Qtr 2-JPA Reconciliation- Oct-Dec '17	8,070.52 30,864.00	38,934.52
9254	81871044	Corelogic Solutions, LLC.	03/21/2018	Image Requests - Feb '18	11.00	11.00
9255	3/6/2018 3/6/2018 3/9/2018 3/4/2018	Cox Communications	03/21/2018	Calsense Modem Line:2259 Washington Ave 3/6/18-4/5/18 Calsense Modem Line:7071 Mt Vernon- 3/6/18-4/5/18 Calsense Modem Line:8235 Mt Vernon- 3/9/18-4/8/18 Phone/Rec Ctr/ 3131 School Ln 3/4/18-4/3/18	21.11 20.00 94.39 97.74	233.24
9256	0306182305	Domestic Linen- California Inc.	03/21/2018	Shop Towels & Safety Mats 3/6/18	73.10	73.10
9257	3/5-8/18	Esgil Corporation	03/21/2018	75% Building Fees- 3/5/18-3/8/18	5,461.40	5,461.40
9258	25962	Excell Security, Inc.	03/21/2018	Senior Center Security Guards - 3/10/18	558.88	558.88
9259	6-113-51945	Federal Express	03/21/2018	Shipping Charges- HR 2/21/18, 2/26/18	87.73	87.73
9260	112069	Fire Etc.	03/21/2018	100' Forestry Fire Hoses	906.72	906.72
9261	INV1013084	George Hills Company	03/21/2018	TPA Claims- Adjusting/Other Svcs- Feb 18	2,025.20	2,025.20
9262	2303.01	Lekos Electric, Inc.	03/21/2018	Furnish/Install 1 Solar Powered Rapid Flash Beacon-San Miguel	9,800.00	9,800.00
9263	IN1208745	Municipal Emergency Services Inc.	03/21/2018	E210 Multi Gas Detection Prev Maintenance/Oxygen Sensor	250.39	250.39
9264	74260	Pacific Safety Center	03/21/2018	Annual Membership Renewal 11/1/17-10/31/18	145.00	145.00
9265	Reimb 3/7/18	Schroeder, John	03/21/2018	Training Reimb-Rescue Systems 2- 2/26/18-3/2/18 Schroeder	1,000.00	1,000.00
9266	8048965087	Staples Advantage	03/21/2018	Office Supplies - City Hall	620.42	620.42
9267	Mar-18	Sun Life Financial	03/21/2018	Life Insurance - Mar18	120.06	120.06
9268	STMT 2/22/2018 STMT 2/22/2018	US Bank Corporate Payment Systems	03/21/2018	LGPW#34 Towing Assistance 1/24/18 LGPW#19 Repairs/New Starter & Battery Medical Wipes- Fire Service/Treadmill- Fire Locking File Cabinet - HR Training/Supervisor Academy-Gonzalez 4/17-30/18 PARMA Conference/Monterey-James 2/12-16/18 AutoCAD Software/Annual Subscription Refreshments/Risk Training 2/20/18 Daycamp Supplies Gas Grill Connector & Cord- Fire Oil Change/Air Filter/P431 Fire Vehicle Oil Change/Wiper Blades/Utility#10 Fire '08 F350 Refreshments/Engineer Exam 2/1/18 Supplies for EOC/Cables/Postage Dept Expense/Car Seat Cover/Water/Gatorade Paramedic License/Drum Desk Recycling Container/Mouse Pad/Desk Organizer	75.00 971.12 112.61 85.00 215.49 550.00 1,570.62 1,470.00 40.09 18.63 33.42 61.05 178.92 60.63 82.00 92.53 200.00 24.92	5,842.03
9269	3285057-CA	US HealthWorks Medical Group,PC	03/21/2018	DMV BAT Medical Exam - 2/23/18	226.00	226.00
9270	C35158	Valley Power Systems Inc.	03/21/2018	E10 Repair - Replace Air Compressor	2,541.21	2,541.21
					930,357.19	930,357.19

**LEMON GROVE CITY COUNCIL  
AGENDA ITEM SUMMARY**

**Item No.** 1.B  
**Dept.** City Attorney

**Item Title:** Waive Full Text Reading of All Ordinances on the Agenda.

**Staff Contact:** James P. Lough, City Attorney

**Recommendation:**

Waive the full text reading of all ordinances included in this agenda. Ordinances shall be introduced and adopted by title only.

**Fiscal Impact:**

None.

**Environmental Review:**

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration           |
| <input type="checkbox"/> Categorical Exemption, Section   | <input type="checkbox"/> Mitigated Negative Declaration |

**Public Information:**

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> None                     | <input type="checkbox"/> Newsletter article   | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting |   |

**Attachments:**

None.

**LEMON GROVE CITY COUNCIL**  
**AGENDA ITEM SUMMARY**

**Item No.** 1.C  
**Mtg. Date** April 3, 2018  
**Dept.** Public Works

**Item Title:** **Approval of the Fiscal Year 2018-2019 Road Maintenance Rehabilitation Account Funding Allocation**

**Staff Contact:** Mike James, Assistant City Manager / Public Works Director

**Recommendation:**

Adopt a resolution (**Attachment B**) approving the Fiscal Year 2018-2019 Road Maintenance Rehabilitation Account Funding Allocation.

**Item Summary:**

In 2017, the Road Repair and Accountability Act of 2017 (SB 1) was created to establish a new funding source in California’s transportation system. This bill established a Road Maintenance and Rehabilitation Account (RMRA) in the State Transportation Fund that is intended to address deferred maintenance on the state highway system and the local street and road system. A requirement of SB1 is for each entity to declare what it plans to use the funds for each year.

The staff report (**Attachment A**) outlines how revenues are allocated to local governments, defines what the eligible uses are and establishes the annual eligible project list to meet the reporting requirements of SB 1.

**Fiscal Impact:**

In Fiscal Year 2018-2019, the City anticipates receiving \$444,959 in RMRA funds.

**Environmental Review:**

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review         | <input type="checkbox"/> Negative Declaration           |
| <input type="checkbox"/> Categorical Exemption, Section [       ] | <input type="checkbox"/> Mitigated Negative Declaration |

**Public Information:**

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> None                     | <input type="checkbox"/> Newsletter article   | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting |   |

**Attachments:**

- A. Staff Report
- B. Resolution
- C. Projected FY 2018-2019 Revenues



## LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 1.C

Mtg. Date April 3, 2018

Item Title: **Approval of the Fiscal Year 2018-2019 Road Maintenance Rehabilitation Account Funding Allocation**

Staff Contact: Mike James, Assistant City Manager / Public Works Director

### Background:

In 2017, the Road Repair and Accountability Act (Act) of 2017 (SB 1) was created to establish a new funding source in California's transportation system. This bill established a Road Maintenance and Rehabilitation Account (RMRA) in the State Transportation Fund that is intended to address deferred maintenance on the state highway system and the local street and road system.

### Funding Details:

RMRA funds are derived from new gas tax, transportation improvement fees, and a portion of the diesel excise tax. The funds are continuously appropriated and apportioned to local governments monthly and not based on a reimbursement basis. The amount that any city may receive is allocated per capita. The City is expected to receive an approximate total of \$444,959 in Fiscal Year 2018-2019 (FY 2018-19) (**Attachment C**).

### Eligible Uses of RMRA Funding:

The use of RMRA local streets and roads funds is similar to the Highway Users Tax Account (HUTA) use rules. Pursuant to Streets and Highway Code Section 2030, RMRA local streets and roads allocations must be used for projects that include, but are not limited to, the following:

- Road maintenance and rehabilitation,
- Safety projects,
- Railroad grade separations,
- Traffic control devices, and
- Complete street components, including active transportation purposes, pedestrian and bicycle safety projects, transit facilities, and drainage and storm-water capture projects in conjunction with any other allowable project.

RMRA funds may also be used to satisfy a match requirement to obtain state or federal funds for eligible projects. SB1 also contains non-obligatory intent language regarding the use of funds. To the extent possible, cost-effective cities and counties are to program **uses such as:**

- Advanced recycling techniques that reduce greenhouse gas emissions;
- Automotive technologies, ZEV fueling, infrastructure-to-vehicle,
- Communications autonomous vehicle systems,
- Resiliency regarding climate change, fire, floods, sea level rise, and
- Complete street elements, access for bicycles, pedestrians.

# Attachment A

Lastly, if a city or county has an average pavement condition index that meets or exceeds 80, the city or county may spend its RMRA funds on transportation priorities other than the previously listed items (refer to Streets and Highways Code Section 2037).

## Discussion:

Each year a city or county must submit to the California Transportation Commission (CTC) an approved resolution that clearly describes all projects for which RMRA funds were expended including: description, location, funds expended, completion date, and estimated useful life of the project. There are two projects that were listed in the 2018 Regional Transportation Improvement Plan (RTIP) that identified using RMRA funds in FY 2018-19. Those projects are listed below:

*Project Title: Fiscal Year 2018-2019 Street Rehabilitation Project.*

*Project Description:* This project will allocate a portion of the RMRA funds to support its annual street rehabilitation project.

*Project Location:* There are numerous streets that make up the list. They are comprised of regional arterials, collector streets and residential streets.

*Project Cost Allocation:* \$194,959.

*Proposed Schedule for Completion:* Fiscal Year 2018-2019.

*Estimated Useful Life:* The streets useful life is anticipated to be equal to or greater than 10 years without major repair work.

*Project Title: Storm Drain Master Plan.*

*Project Description:* This project will allocate a portion of the RMRA funds to support the creation of the City's Storm Drain Master Plan.

*Project Location:* The City's storm drain system is contained in multiple areas citywide.

*Project Cost Allocation:* \$250,000.

*Proposed Schedule for Completion:* Fiscal Year 2018-2019.

*Estimated Useful Life:* The master plan document will be referenced for at least the next five-year period to support on-going capital improvement projects related to repairing and replacing the city's storm drain infrastructure.

If the resolution is adopted by the City Council, staff will forward the signed resolution to the CTC for acceptance by the May 1, 2018 deadline. |

## Conclusion:

|That the City Council adopts a resolution (**Attachment B**) approving the Fiscal Year 2018-2019 Road Maintenance Rehabilitation Account Funding Allocation. |

# Attachment B

## RESOLUTION NO. 2018 -

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA AMENDING THE FISCAL YEAR 2018-2019 BUDGET TO PROGRAM ROAD MAINTENANCE AND REHABILITATION ACCOUNT FUNDS

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**WHEREAS**, SB 1 (2017-2018, Beall) established a Road Maintenance and Rehabilitation Account to address deferred maintenance on the state highway system and on the local street and road system; and

**WHEREAS**, SB 1 established requirements for holding local governments accountable for the efficient use of public funds to maintain public streets and roads; and

**WHEREAS**, SB 1 requires that eligible cities submit a list of projects proposed to be funded with these funds pursuant to an adopted city budget to the California Transportation Commission per criteria and per a schedule established by the Commission; and

**WHEREAS**, in Fiscal Year 2018-2019 the following projects were identified as a proper use of Road Maintenance and Rehabilitation Account Funds:

*Project Title:* Fiscal Year 2018-2019 Street Rehabilitation Project.

*Project Description:* This project will allocate a portion of the RMRA funds to support its annual street rehabilitation project.

*Project Location:* There are numerous streets that make up the list. They are comprised of regional arterials, collector streets and residential streets.

*Project Cost Allocation:* \$194,959.

*Proposed Schedule for Completion:* Fiscal Year 2018-2019.

*Estimated Useful Life:* The streets useful life is anticipated to be equal to or greater than 10 years without major repair work.

*Project Title:* Storm Drain Master Plan.

*Project Description:* This project will allocate a portion of the RMRA funds to support the creation of the City's Storm Drain Master Plan.

*Project Location:* The City's storm drain system is contained in multiple areas citywide.

*Project Cost Allocation:* \$250,000.

*Proposed Schedule for Completion:* Fiscal Year 2018-2019.

*Estimated Useful Life:* The master plan document will be referenced for at least the next five-year period to support on-going capital improvement projects related to repairing and replacing the city's storm drain infrastructure; and

**WHEREAS**, the City Council finds it in the public interest to approve the project list for Fiscal Year 2018-2019.

# Attachment B

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Lemon Grove, California: |

1. Approves the allocation of Road Maintenance and Rehabilitation Account funds for street rehabilitation and storm drain master planning; and
2. Authorizes the City Manager or her designee to expend the funds as programmed for Fiscal Year 2018-2019. |

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/////



City of Lemon Grove – Fiscal Year 2018 - 2019 Estimated Revenues

**Local Streets and Roads - Projected FY2018-19 Revenues**

Based on State Dept of Finance statewide revenue projections as of January 11, 2018

Estimated 11 Jan 2018

	Highway Users Tax Acct (HUTA) <sup>(1)</sup> Streets & Highways Code					<sup>new SB1</sup> Loan Repayment <sup>(6)</sup>	TOTAL HUTA	<sup>new SB1</sup> Road Maintnc Rehab Acct <sup>(7)</sup>	TOTAL
	Sec2103 <sup>(5)</sup>	Sec2105 <sup>(3)</sup>	Sec2106 <sup>(3)</sup>	Sec2107 <sup>(3)</sup>	Sec2107.5 <sup>(4)</sup>				
<b>SAN DIEGO COUNTY</b>									
CARLSBAD	871,886	654,746	424,692	812,346	10,000	129,286	2,902,955	1,888,523	4,791,477
CHULA VISTA	2,054,016	1,542,471	993,995	1,913,750	10,000	304,575	6,818,807	4,449,043	11,267,850
CORONADO	189,342	142,187	95,985	176,412	5,000	28,076	637,004	410,120	1,047,123
DEL MAR	32,943	24,739	20,665	30,694	1,000	4,885	114,926	71,356	186,283
EL CAJON	788,151	591,865	384,366	734,329	10,000	116,869	2,625,580	1,707,152	4,332,732
ENCINITAS	477,538	358,609	234,778	444,927	7,500	70,811	1,594,163	1,034,358	2,628,521
ESCONDIDO	1,161,431	872,181	564,134	1,082,118	10,000	172,220	3,862,083	2,515,683	6,377,767
IMPERIAL BEACH	210,909	158,383	106,372	196,506	6,000	31,274	709,443	456,832	1,166,275
LA MESA	462,180	347,082	227,386	430,637	7,500	69,535	1,542,320	1,004,442	2,546,762
<b>LEMON GROVE</b>	<b>205,427</b>	<b>154,266</b>	<b>103,732</b>	<b>191,399</b>	<b>6,000</b>	<b>30,461</b>	<b>691,285</b>	<b>444,959</b>	<b>1,136,244</b>
NATIONAL CITY	409,273	332,403	230,796	437,221	7,500	89,383	1,300,700	1,010,430	2,383,242
OCEANSIDE	1,352,858	1,015,934	656,324	1,260,473	10,000	200,606	4,496,195	2,930,320	7,426,515
POWAY	385,270	289,320	190,343	358,961	7,500	57,129	1,288,523	834,504	2,123,026
SAN DIEGO	10,781,696	8,096,557	5,197,162	10,045,427	20,000	1,598,741	35,739,583	23,353,385	59,092,968
SAN MARCOS	720,984	541,426	352,019	671,748	7,500	106,910	2,400,586	1,561,666	3,962,252
SANTEE	437,764	328,740	215,623	407,869	7,500	64,913	1,462,409	948,205	2,410,614
SOLANA BEACH	103,706	77,879	54,744	96,624	3,000	15,378	351,331	224,630	575,961
VISTA	780,438	586,073	380,652	727,143	10,000	115,726	2,600,032	1,690,446	4,290,478
<b>SAN FRANCISCO COUNTY</b>									
SAN FRANCISCO	6,702,368	5,033,170	2,102,163	6,244,671	20,000	993,846	21,096,217	14,517,473	35,613,690
<b>SAN JOAQUIN COUNTY</b>									
ESCALON	55,238	41,481	28,078	51,466	2,000	8,191	186,454	119,647	306,101
LATHROP	177,175	133,051	79,465	165,076	5,000	26,272	586,040	383,766	969,806
LODI	491,108	368,799	211,763	457,571	7,500	72,823	1,609,564	1,063,750	2,673,314
MANTECA	584,556	438,975	251,144	544,638	7,500	86,680	1,913,492	1,266,161	3,179,654
RIPON	116,011	87,119	53,690	108,089	4,000	17,202	386,111	251,283	637,394
STOCKTON	2,457,563	1,845,517	1,040,468	2,289,739	10,000	364,415	8,007,702	5,323,135	13,330,837
TRACY	696,818	523,279	298,454	649,234	7,500	103,326	2,278,610	1,509,324	3,787,934
<b>SAN LUIS OBISPO COUN</b>									
ARROYO GRANDE	135,975	102,111	75,600	126,689	4,000	20,163	464,539	294,525	759,063
ATASCADERO	236,898	177,900	128,149	220,721	6,000	35,128	804,796	513,127	1,317,923
EL PASO DE ROBLES	243,377	182,765	131,523	226,757	6,000	36,089	826,509	527,159	1,353,668
GROVER BEACH	103,024	77,366	58,443	95,989	3,000	15,277	353,098	223,152	576,251
MORRO BAY	82,508	61,960	47,761	76,874	3,000	12,235	284,337	178,714	463,051
PISMO BEACH	63,227	47,480	37,721	58,909	2,000	9,375	218,712	136,950	355,662
SAN LUIS OBISPO	358,215	269,003	191,317	333,753	6,000	53,117	1,211,405	775,901	1,987,306

**LEMON GROVE CITY COUNCIL  
AGENDA ITEM SUMMARY**

**Item No.**   2    
**Mtg. Date**   April 3, 2018    
**Dept.**   Public Works  

**Item Title:** **Community Garden Lease Agreement**

**Staff Contact:** Mike James, Assistant City Manager / Public Works Director

**Recommendation:**

Adopt a resolution (**Attachment B**) approving the lease agreement (**Attachment B – Exhibit 1**) with the Lemon Grove Garden Group.

**Item Summary:**

After a presentation to the City Council at its meeting on February 6, 2018, direction was provided to staff to meet with the Lemon Grove Garden Group (Garden Group) and negotiate the terms of a lease agreement. Staff has met with the Garden Group and now returns with a draft agreement containing the negotiated terms and conditions to lease the city owned vacant lot located at 7730 Central Avenue, Lemon Grove, CA 91945.

The final rendering (**Attachment B – Exhibit 1**) shows the designed layout of the community garden. The staff report (**Attachment A**) contains the information that was shared with the City Council at its February 6<sup>th</sup> meeting in addition to the negotiated terms of the agreement.

At the end of the presentation and discussion, staff recommends that the City Council adopts a resolution (**Attachment B**) approving a lease agreement (**Attachment B – Exhibit 1**) with the Garden Group.

**Fiscal Impact:**

None.

**Environmental Review:**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Not subject to review          | <input type="checkbox"/> Negative Declaration           |
| <input type="checkbox"/> Categorical Exemption, Section [        ] | <input type="checkbox"/> Mitigated Negative Declaration |

**Public Information:**

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> None                                | <input type="checkbox"/> Newsletter article   | <input checked="" type="checkbox"/> Notice to property owners within 500 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting |  |

**Attachments:**

- A. Staff Report
- B. Resolution



## LEMON GROVE CITY COUNCIL STAFF REPORT

Item No.   2  

Mtg. Date   April 3, 2018  

Item Title: **Community Garden Lease Agreement**

Staff Contact: Mike James, Assistant City Manager / Public Works Director

### **Background:**

On July 18, 2017, the City Council received a summary report from Dr. Jessica Barlow, Sage Project Coordinator, with San Diego State University. One of the reports ([https://www.youtube.com/watch?v=1\\_JCWACEfP4](https://www.youtube.com/watch?v=1_JCWACEfP4)) presented that evening was from a graduate student, Ms. Katie Nager, who presented the idea of creating a Community Garden on the vacant, City-owned lot located at the northeast corner of Central Avenue and Olive Street. Ms. Nager researched and defined what a community garden is, how gardens may benefit a community, what are the initial steps and related costs to begin a garden, and how the City can support this project. Then she took an additional step and selected a vacant parcel in the City as a location for the community garden. As previously mentioned, the vacant parcel location at the northeast corner of Central Avenue and Olive Street was her recommendation for the best site in the City where the City could support a community group to independently build and maintain the garden. After Ms. Nager's presentation, the City Council directed staff to return with any proposals submitted by groups interested in creating a community garden. This staff report was created to present a proposal that was submitted by the Lemon Grove Community Garden Group (Garden Group) for a community garden at the site identified by Ms. Nager. On December 21, 2017, the Garden Group participants and City staff met to review and discuss the proposal for a community garden.

### Content of the Proposal:

The Garden Council is a locally based group of volunteers that are focused on growing and providing sustainable gardening practices in a central location. The Garden Group will be financially supported by Thrive Lemon Grove and Lemon Grove CHIP/Heal Zone. As shown in the proposal (page 25 of this staff report) there will be established positions within the Garden Council that have duties/responsibilities to maintain the continuity of the community garden should it be approved.

The proposal outlines the benefits of hosting a community garden that include:

- Access to healthier foods and learning how to live healthier lifestyles,
- Creating a safe, attractive and welcoming space for residents to gather and participate in productive and healthy activities, and
- Hosting workshops and garden training events, food preparation classes, and to share food with community members in need.

Building on the initial research that Ms. Nager performed, the Garden Group created a business plan that details what the community garden will look like, who will support the garden, how the garden will be built, how the resources will be acquired to build and maintain the garden, a timeline as to when the garden will be created based on the approval date, and rules and regulations for all participants to follow.

# Attachment A

## Staff Analysis:

The proposal and business plan submitted by the Garden Group contains a sound model and plan that shows what it will take for a community group to create, build and maintain a community garden. The site is an unused parcel that could be energized with the presence of a community driven activity that invites residents to actively participate. As it currently stands, there is no staff recommended activity for the parcel and the only times during the year that the site is used is during the City's Annual Bonfire and as a Christmas tree recycling site for residents.

During the initial discussion with the City Council the following topics were reviewed and direction was incorporated into the draft agreement.

- *Availability/Sustainability:* The proposed site is one of the last vacant parcels available for development in the City. If the community garden project were built but is not able to sustain itself, the City may be in a position where it will have to financially and physically support the garden, find another partner to manage the garden, or close it down. Additionally, once the garden is in place, the parcel will no longer be a site that could attract other developments projects.
- *Lease Payment:* There will be no payment provided from the Garden Group to the City.
- *Liability Insurance:* The Garden Group will pursue its own insurance policy.
- *Lighting:* No additional lighting will be required.
- *Term of the Agreement:* The initial term will be two-years with one year extension periods.
- *Trash Disposal:* The City will provide a dumpster (already in existence) to the Garden Group to use.

## **Discussion:**

On February 6, 2018, the City Council directed staff to meet and negotiate the terms and conditions for a lease agreement with the Garden Group to use the vacant lot located at 7730 Central Avenue. Staff met with the Garden Group on February 27<sup>th</sup> and March 6<sup>th</sup> to discuss the direction provided by the City Council and how that information will be integrated into a lease agreement. In summary the following items were discussed and integrated into the final rendering of the Garden Groups plan (**Attachment B – Exhibit 1**).

1. Additional Lighting: No additional lighting will be pursued at this time.
2. Expanded Footprint: City staff recommended that the Garden Group expand its site to also include the two asphalt vehicle parking spaces north of the dirt lot. This will help facilitate ease of access to raised garden beds on a flat, level and paved surface.
3. Helix Water District: City staff contacted Helix staff to help facilitate the installation of a water meter on site. All costs will be managed by the Garden Group.
4. Insurance: The Garden Group will acquire its liability and workers compensation (if needed) insurance without City assistance.
5. Layout: The Garden Group amended its setback for the fencing based on staff recommendation. Additionally, more detail was requested to be included on the layout (**Attachment B – Exhibit 1**) which will be inspected by the City at no charge.
6. Term: The initial term is two years. Renewal periods will be in one-year increments.

# Attachment A

7. Utilities: All utility costs, excluding EDCO Trash Services, will be managed by the Garden Group.

## **Public Notice:**

To inform, educate and involve local property owners, staff provided a written notice to all property owners within 500 feet of the proposed community garden. The notice provided information about the City Council public meeting, the date/time of the meeting, and the meeting location.

## **Conclusion:**

That the City Council adopts a resolution (**Attachment B**) approving a lease agreement (**Attachment B – Exhibit 1**) with the Lemon Grove Community Garden for the property located at 7730 Central Avenue, Lemon Grove, California.



# Attachment B

## RESOLUTION NO. 2018 -

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA APPROVING THE LEASE AGREEMENT WITH THE LEMON GROVE GARDEN GROUP FOR THE PROPERTY LOCATED AT 7730 CENTRAL AVENUE, LEMON GROVE, CALIFORNIA

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**WHEREAS,** the City owns and maintains the real property located at 7730 Central Avenue, Lemon Grove, California; and

**WHEREAS,** a Lemon Grove Garden Club is a community group that prepared a business plan, proposal and site diagram to construct and maintain a community garden at 7730 Central Avenue; and

**WHEREAS,** the Lemon Grove Garden Club is sponsored by Thrive Lemon Grove and Community Health Improvement Partners / Lemon Grove HEAL Zone groups; and

**WHEREAS,** the City Council finds it in the public interest that a lease agreement for a community garden is formed with the Lemon Grove Garden Club as the best use of the property.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Lemon Grove, California hereby:

1. Approves the lease agreement, business plan, and design layout (*Exhibit 1*) to allow the Lemon Grove Garden Club to construct and maintain a community garden at 7730 Central Avenue, Lemon Grove, California; and
2. Authorizes the City Manager or her designee to execute and manage all lease related documentation.

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**Attachment B – Exhibit 1**

**LEASE AGREEMENT FOR USE OF THE  
LOT LOCATED AT 7730 CENTRAL AVENUE,  
LEMON GROVE, CALIFORNIA 91945**

This Agreement is effective this \_\_\_\_\_ day of \_\_\_\_\_ 2018 by and between the City of Lemon Grove, a municipal corporation, hereinafter referred to as “City” and Thrive Lemon Grove (THRIVE), a non-profit corporation, and hereinafter referred to as “Lessee.” THRIVE has in turn subleased the agreement to the Lemon Grove Garden Club (“Lessee”).

RECITALS:

- 1) City owns certain real property located at the north east corner of Olive Street and Central Avenue or 7730 Central Avenue, Lemon Grove, CA 91945 (APN 480-173-02-00) or “LOT” that is approximately 0.13 acres in size.
- 2) The Lessee will occupy and manage a community garden in the LOT.
- 3) The City is willing to provide the LOT to the Lessee per the following term and description:
  - a) Term: Commencing on May 1, 2018, the term of the Lease shall be two years and one month ending on June 30, 2020. After which the term shall be year-to-year, as mutually agreed to by both parties. There shall be no holdover tenancy and any extension shall be subject to a written agreement approved by both parties.
  - b) Base Rent: \$0 per month (“Base Rent”).
- 4) City hereby leases to Lessee, and Lessee hereby leases from City, the LOT, for the Term of the rental, and upon all the terms, covenants and conditions set forth in this Agreement.

NOW, therefore, it is hereby agreed as follows:

**1. Facilities to be Provided to Lessee by City**

1.1 LOT

The general public shall not be wholly or permanently excluded from the premises or portion of the premises covered by this Lease; provided, however, that reasonable restrictions may be made, consistent with the right of the public to the use and enjoyment of the premises and the facilities therein, to enable the Lessee to use the premises for the purposes for which the same are allocated. All such regulations and restrictions shall be subject to written approval by the City Manager.

1.2 Equipment and Storage

Lessee may store tools, irrigation equipment, benches, and any garden related materials and supplies in the LOT.

Lessee is solely responsible for securing all supplies, furniture, fixtures, and equipment within the premises. Lessee is solely responsible for securing the premises each day against theft and damage of any property that is within the premises. The City has absolutely no responsibility for the replacement of any property that is damaged or lost due to theft and/or negligence.

# Attachment B – Exhibit 1

## 1.3 Premises

Lessee shall not assign, mortgage, pledge, hypothecate, encumber, or permit any lien to attach to, or otherwise transfer, this Lease or any interest hereunder, permit any assignment or other such foregoing transfer of this Lease or any interest hereunder by operation of law, sublet the Premises or any part thereof, or permit the use of the Premises by any persons other than Lessee and its employees.

## 1.4 Posting of Materials

No materials may be affixed to any fence or bulletin board in the LOT without prior approval by the City.

## 2. Permits and Process

### 2.1. The Lessee agreement to provide the following:

2.1.1. Installation per the drawing (**Exhibit 2**) shall be per San Diego Regional Standard Drawings.

2.1.2. A pre-inspection prior to installation is required to inspect: 1) the irrigation, root barrier, ground cover, and planting excavations, 2) the compost and soil materials prior to blending, and 3) the irrigation, root barrier, ground cover, and planting materials.

2.1.3. A final inspection is required after installation to inspect: 1) irrigation locations, types and flows, 2) planting locations, types and sizes, 3) ground cover depth, and 4) root barrier and tree staking installations.

2.1.4. Holes for plantings shall be excavated slightly shallower and a minimum of two times the width of the root ball or container. The root ball shall be set so that the top of the root ball will sit slightly higher than the final grade.

2.1.5. Compost shall be uniformly blended with excavated soil at a ratio of one-part compost (one-third) per two-parts soil (two-thirds). The compost-soil blend shall be backfilled around the root ball within the planting hole.

2.1.6. Turf and shallow planting areas shall include compost at a minimum depth of one inch and the area shall be tilled to a minimum five inches in depth.

2.1.7. Plantings shall be thoroughly watered during and after plantings.

2.1.8. Non-vegetated natural ground cover shall be a minimum of three inches deep and shall be one inch below surrounding paved surfaces.

2.1.9. New impervious surfaces shall direct storm water drainage to landscape areas.

2.1.10. Storm water shall not be diverted to flow onto adjacent property, non-irrigated areas, structures, walkways, roadways, or other paved areas, whether due to runoff, low head drainage, overspray, or other similar condition unless approved by the Engineering Division.

2.1.11. Water use shall conform to the Maximum Applied Water Allowance (MAWA).

# Attachment B – Exhibit 1

2.1.12. Best Management Practices shall be implemented at all times.

2.1.13. A signed landscape and irrigation certificate of completion, under penalty of perjury shall be submitted to the city, on a form provided by the city.

2.1.14. A manual shutoff valve shall be installed as close as possible to the water supply.

2.1.15. New irrigations systems may include an automatic irrigation controller and consist of drip, microspray, or MP rotator systems.

2.1.16. The property shall be maintained as follows:

2.1.16.1. Maintain the landscaping and irrigation system on the property.

2.1.16.2. Replace broken or malfunctioning irrigation system components with components of the same materials and specifications, their equivalent or better.

2.1.16.3. Ensure that when vegetation is replaced, replacement plantings are consistent with regulations in Chapter 18.44 of the Municipal Code.

## 3. Rules for Lessee Employees and Volunteers

Lessee shall obtain Worker's Compensation Insurance in accordance with State law for all employees and volunteers and shall provide City with a certificate of insurance as specified in Section 18 hereof.

## 4. Utilities

The City agrees to provide the following utilities at its cost - EDCO solid waste costs.

a) Lessee shall pay for all other utility and premises costs associated with the use of the Premises not identified in section 1 and 2.

b) Each May 1<sup>st</sup>, costs for utilities and maintenance will be evaluated by the City to determine if a future cost sharing agreement warrants inclusion.

## 5. Improvements to Facility

Lessee may, at its own expense, if consistent with the purpose of this Agreement in the opinion of the City, make any alterations or changes in the premises or cause to be made, built or installed thereupon, any improvements necessary or desirable for Lessee's use and may alter and repair any such improvements. Any application for an improvement to the premises must be made in writing by Lessee and submitted to the City's Community Services Division for review and consideration of approval. Prior to any improvement being made by the lessee, written approval must be received from the Community Services Division. Lessee agrees to take good care of the premises, fixtures and appurtenances and of all alterations, additions and improvements to any of them.

## 6. Retention of Improvements

All structures, fixtures and improvements whether heretofore or hereinafter installed or erected by Lessee, shall upon the expiration of this Agreement or any extension thereof,

# Attachment B – Exhibit 1

become the property of the City and shall not be removed from the above-described premises. At the sole discretion of the City, lessee may be required to remove any and all improvements.

## 7. **Right of Inspection**

The City shall always have the right to enter said premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the premises or to inspect the operations conducted on said premises. In the event that such entry or inspection by the City discloses that said premises or the operations conducted thereon are not in a safe, sanitary and satisfactory condition, the City may after one written warning, which was not complied with, terminate this Lease on one day's written notice.

## 8. **Discrimination**

Lessee shall not, for any reason, discriminate against any person because of race, sex, age, creed, color, disability or national origin.

## 9. **Smoking**

Smoking is prohibited anywhere inside the LOT or in the adjacent parking lot of Civic Center Park.

## 10. **Assignment**

Lessee shall not assign this Agreement, or any interest therein, or any part thereof; or any right or privilege appurtenant thereto or suffer any other person (the agents, officers and employees of City excepted) to occupy or use the said premises, without the prior written consent of the City Council of the City of Lemon Grove. Consent to one assignment, occupation or use by any other person shall not be deemed to be consent to any subsequent assignment, occupation or use by another person. Any such assignment without such consent shall be void and shall, at the option of City, terminate this Agreement. This Agreement shall not, nor shall any interest therein, be assignable, by operation of law, and if such an assignment is made, the City may terminate this Agreement, at its option.

## 11. **Compliance with Law**

Lessee shall, at its sole cost and expense, comply and secure compliance with all the laws, ordinances and requirements of all municipal, county, state and federal authorities now in force, or which may hereinafter be in force, pertaining to the said premises, or the operations conducted thereon, and shall faithfully observe, and secure observance with, in the use of the premises, all municipal and county ordinances and state and federal statutes now in force or which may hereinafter be in force, and shall pay before delinquency all taxes, assessments, and fees assessed or levied upon Lessee or the premises by reason of any buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by Lessee or by any reason of the business or other activities of Lessee upon or in connection with the said premises. Lessee shall comply with all rules or regulations of the City applicable to the Senior Center. The judgment of any court of competent jurisdiction, or the admission of Lessee or any assignee in any action or proceeding against them, or any of them, whether the City be a party thereto, or not, that Lessee or assignee has violated any such regulations, ordinance, or statute in the use of the Office shall be conclusive of that fact as between City and Lessee.

## 12. **Hold Harmless**

City, its agents, officers and employees, shall not be, nor be held liable, for any claims, liabilities, penalties, fines or for any damage to the goods, properties or effects of Lessee

# Attachment B – Exhibit 1

or any of Lessee's representatives, agents, employees, guests, licenses, invites, patrons or clientele or of any other persons whatsoever, nor for personal injuries to, or deaths of them, or any of them, whether caused by or resulting from any acts or omission of Lessee in or about the premises, or any act or omission of any person or from any defect in any part of the premises or from any other cause or reason whatsoever.

Lessee agrees to protect, defend, indemnify and hold harmless City, its officers, agents and employees from any and all liability, claims, suits, liens and judgments, of whatever nature, including injury to any person, arising from performance or failure to perform obligations of this Agreement caused or claimed to be caused by Lessee, its agents or employees during the times and at the places that Lessee is using City's facilities. Lessee agrees it is its duty to defend even if the claim appears without merit.

City agrees to protect, defend, indemnify and hold harmless Lessee, its officers, agents and employees from any and all liability, claims, suits, liens and judgments, of whatever nature, including injury to any person, arising from performance or failure to perform obligations of this Agreement caused or claimed to be caused by City, its agents or employees during the times and at the places that City is using its facilities. City agrees it is its duty to defend even if the claim appears without merit.

## 13. Liability Insurance

Lessee agrees to secure and maintain commercial general liability and commercial automobile liability insurance with an insurance carrier satisfactory to City to protect against loss from liability imposed by law for damages on account of bodily injury, including death resulting there from, suffered or alleged to be suffered by any person or persons whatsoever resulting directly or indirectly from any act or activities of Lessee or any person, including volunteers for Lessee or under Lessee's control or direction and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from acts for activities under Lessee's control or direction. Such public liability and property damage insurance shall be maintained in full force and effect during the entire term of this Agreement in the amount of not less than \$1,000,000 for combined single limit or single occurrence and not less than \$2,000,000 per annual aggregate if an aggregate is applicable. Proof of such insurance shall be filed with City by Lessee prior to conducting any activities under this lease, and shall be in a form satisfactory to the City Attorney.

## 14. Additional Insured Status

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Lessee including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Lessee's insurance (at least as broad as ISO Form CG 20 10).

## 15. Primary Coverage

For any claims related to this contract, the Lessee's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.

## 16. Workers Compensation

# Attachment B – Exhibit 1

Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.

## 17. Waiver of Subrogation

Lessee hereby grants to City a waiver of any right to subrogation which any insurer of said Lessee may acquire against the City by virtue of the payment of any loss under such insurance. Lessee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

## 18. Certificate of Insurance

The commercial general liability and commercial automobile liability policies required herein shall name the City as an additional insured as well as include the applicable endorsement. A certificate of insurance shall be provided for each policy required herein and have a Non-cancellation without thirty (30)-day notice to City clause and shall provide that copies of all cancellation notices shall be sent to the City Clerk. All insurance policies shall be filed with the City Clerk. Provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which Lessee may be held responsible for the payment of damages to persons or property resulting from its activities or the activities of any person or persons for which it is otherwise responsible.

## 19. Termination after Notice for Failure to Comply with Agreement

Should City determine that Lessee appears to be in violation of the Agreement (except for violations specified in Section 21 herein) it shall give Lessee thirty (30) day notice of intent to terminate at the address specified in Section 23 hereof and identify the perceived violations. If said violations are not corrected within that time, this Agreement shall be then forthwith terminated.

## 20. Termination in the Interest of the Public Health, Safety and Welfare

The City may terminate this Agreement without notice and cause the Office to be immediately vacated in the following instances.

- a. The City finds that the operation of Lessee at the Office poses a threat to the public health, safety or welfare.
- b. The Lessee fails to keep the insurance required by this contract in full force and effect.
- c. The Lessee is placed in receivership or bankruptcy or is determined to be insolvent.

Notwithstanding any of the above, Lessee shall be given a reasonable opportunity to cure a violation of Subsections (a) and (b), above, by City. Lessee shall have thirty (30) days to cure any violation of (a) or (b) before termination of this Agreement. During this time period, Lessee shall not be allowed to occupy the Office while the operation is a threat to public health, safety or welfare or while required insurance coverage is not in place.

## 21. Termination by Either Party

Either party may terminate this lease upon thirty (30) days written notice to the other party pursuant to Section 23.

- a. After a termination request has been accepted, a site walk will be performed by both Parties to determine if the facility is in the same condition as it was in the initial occupation.
- b. Any costs to repair or replace the facility will be paid for with the initial deposit funds.

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- c. Should there not be any repair or replacement costs, the full deposit will be returned to the Lessee within thirty (30) days of the final date of occupation.

## 22. Care of Premises

Lessee shall give prompt notice to the City of any damage to the premises. Lessee shall not commit, or suffer to be committed, any injury, or any public or private nuisance on the premises and shall keep the premises clean and clear of refuse and obstructions and shall dispose of all garbage, trash and rubbish in a manner satisfactory to the Community Services Superintendent.

## 23. Assigns

Time is of the essence of each and all of the terms and provisions of this Lease and this Lease shall inure to the benefit of and be binding upon the parties herein and any successors of Lessee as fully and to the stipulations and Agreements in this Lease shall extend to, and bind any assignees of this Lease.

## 24. Notices

Any notice or notices provided for by this Lease or by law to be given or served upon Lessee may be given or served by depositing in the United States mail, postage prepaid, a letter addressed to said Lessee at the premises address stated at the commencement hereof and to GARDEN GROUP CONTACT; or may be personally served upon said Lessee (or any one of them), or any person hereafter authorized by Lessee to receive such notice, or by posting the notice in a conspicuous place on the premises; and any notice or notices provided for by this Lease to be served upon City may be given or served by letter addressed to: the City of Lemon Grove, Public Works Department, 3232 Main Street, Lemon Grove, CA 91945. Any notice or notices given or served as provided herein shall be effective and binding for all purposes upon the principals of the parties.

## 25. Remedies of City

In the event (a) that Lessee files a voluntary petition in bankruptcy, or (b) that Lessee shall be adjudicated as bankrupt, or (c) that Lessee make a general assignment for the benefit of creditors, then in either or any of said events, City may at its option, without further notice or demand upon Lessee, immediately cancel and terminate this Lease; this remedy is cumulative to other rights of the City provided by law or by this Lease, and shall not be deemed to limit said other rights in any manner.

## 26. Waiver

The waiver by the City of any breach of any term, condition or covenant herein contained shall not be deemed to be a waiver of any simultaneous breach of any other term, covenant or condition herein contained. Any failure on the part of the City to require or exact full and complete compliance with any of the covenants, conditions or terms of this Lease shall not be construed, as in any manner changing or waiving the terms hereof or to stop the City from enforcing in full the provisions hereof; nor shall the terms of this Lease be changed or altered in any manner whatsoever other than by written Agreement of the City and the Lessee.

## 27. Vacation of Premises

At the termination of this Lease for any reason Lessee will peaceably vacate and yield to the City any building structure that Lessee may occupy or use, pursuant to this Lease, which belongs to the City.

## 28. Cost and Attorney's Fees

If any Party brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter



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defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The "Prevailing Party" shall include, without limitation, a Party who substantially obtains or defeats the relief sought as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, City shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

## **29. Dispute Resolution.**

29.1. Mediation: City, Lessee, and Broker(s) agree to mediate any dispute or claim arising between them out of this agreement or any resulting transaction, before resorting to arbitration or court action. Paragraphs (2) and (3) below apply whether or not the arbitration provision is initiated. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover any attorney fees, even if they would otherwise be available to that party in any such action. This mediation provision applies whether or not the arbitration provision is initiated.

### **29.2. Arbitration Disputes:**

**29.2.1.** Lessee and City agree that any dispute or claim in Law or equity arising between them out of this agreement or any resulting transaction, which is not settled through meditation, shall be decided by neutral, binding arbitration, including and subject to paragraphs (2) and (3) below. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of real estate transactional law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law. In all other respects, the arbitration conducted in accordance with Part III; Title 9 of the California Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered in any court having jurisdiction. The parties shall have the right to discovery in accordance with Code of Civil Procedure 1283.05.

**29.2.2. EXCLUSIONS FROM MEDIATION AND ARBITRATION:** The following matters are excluded from mediation and arbitration: (i) a judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or installment land sale contract as defined in Civil Code 2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; (iv) any matter that is within the jurisdiction of a probate, small claims, or bankruptcy court; and (v) an action for bodily injury or wrongful death or any right of action to which Code of Civil Procedure 337.1 or 337.15 applies. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a violation of the mediation and arbitration provisions.

**29.2.3. Brokers:** City and Lessee agree to mediate and arbitrate disputes or claims involving either or both brokers, provided either or both brokers have agreed to

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such mediation or arbitration prior to, or within a reasonable time after, the dispute or claim is presented to brokers. Any election by either or both brokers to participate in mediation or arbitration shall not result in brokers being deemed parties to the agreement.

NOTICE: BY INITIALING IN THE SPACE BELOW, YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW, YOU ARE GIVING UP YOUR RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION.

Initials: City: \_\_\_\_\_ Lessee: \_\_\_\_\_

**City of Lemon Grove  
a municipal corporation**

**Thrive Lemon Grove  
a non-profit corporation**

\_\_\_\_\_  
Lydia Romero, City Manager

\_\_\_\_\_  
NAME, TITLE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

**Lemon Grove Garden Club**

\_\_\_\_\_  
NAME, TITLE

\_\_\_\_\_  
DATE

**Approved as to Form:**

\_\_\_\_\_  
James P. Lough, City Attorney

\_\_\_\_\_  
DATE

**Attest:**

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\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
DATE

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Prepared by:  
**npprosperity**

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[www.npprosperity.net](http://www.npprosperity.net)  
(760) 579-1279



*“Community Gardening is not just about growing vegetables, but about growing community”*



**Brenda Balmer**  
President and Chief Executive Officer  
[brenda@npprosperity.net](mailto:brenda@npprosperity.net)



**Brad Wiscons**  
Chief Administrative and Innovation Officer  
[brad@npprosperity.net](mailto:brad@npprosperity.net)

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**nprosperity**

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## **Business Plan**

### **Mission/Vision/Goals & Objectives/Purpose**

Lemon Grove Community Garden gathers Lemon Grove area residents to grow community and provide sustainable gardening practices in our centrally located park.

Lemon Grove was once an agricultural town, and it is our vision to reconnect the community to this history and to reinvigorate our connection to our food. We believe that with the support of the City of Lemon Grove, Thrive Lemon Grove, and HEAL Zone, the Lemon Grove Community Garden will be a vital and vibrant park and gathering place for all ages, economic, and socio-cultural backgrounds to come together with common purpose.



### **Needs Assessment**

In early 2017, the Sage Project, a partnership between SDSU and the City of Lemon Grove, presented a report to the City Council, outlining the need for community garden and green space in Lemon Grove, and the benefits of such a commitment (Nager, KA 2017. Growing Community: Bringing Green Spaces and a Community Garden to Lemon Grove). The report includes a detailed site proposal, strategies for cost neutrality, alternative plans of action, and additional guides and resources for construction, maintenance and operations of a sustainable community garden in Lemon Grove. This business plan builds on the work of the Sage Project. In this section, we provide an overview of the needs assessment, and refer you back to the full report for details.

**Overlapping Wants and Needs Identified by City of Lemon Grove, CBOs, and Residents:** There are many things that city officials, community based organizations and residents agree on. First is a shared desire for increased education, exposure and access to both nutritious food and healthy activities, including a stated goal in the General Plan of the City of Lemon Grove to provide access to healthy food. Additionally, there is a shared desire to see open spaces transformed into green spaces that can be used for productive activities and increasing community cohesion. And finally, there is a strong desire to ensure that the project is sustainable, including shared commitment and responsibility between residents, city officials, and community based organizations for the necessary maintenance and operation of green spaces and community gardens.

The report notes that studies on food deserts and underserved communities consistently demonstrate better health and stronger community when there is access to community gardens. Key data that is descriptive of conditions and needs in Lemon Grove comes from a Geographical Information System survey conducted through USC in 2013, and reported in the Growing Community report, which found that Lemon Grove residents have limited access to nutritious, healthy food, but have excessive access to fast-food, liquor stores and small convenience stores selling processed high calorie foods. These conditions along with a lack of park space and community gardens in the area, are linked to high rates of obesity found among residents in low-income neighborhoods.

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**Access to Healthier Foods – Conditions:** The Growing Community report documents the prevalence of fast food restaurants, bars and liquor stores in Lemon Grove, noting that of the 920 businesses listed in Lemon Grove, a total of six businesses provide access to fresh fruits and vegetables, compared to 24 fast food restaurants. Further, the location of most fast food restaurants geographically overlaps areas with the lowest income levels. In this way, unhealthy food choices and behaviors are socially, economically, and structurally reinforced based on location.

**Access to Healthier Foods – Community Garden Benefits:** Eating fresh produce can be expensive, and in certain zip codes, geographically inaccessible. Community gardens provide families with the opportunity to grow their own fruits, vegetables, and herbs to supplement their diets.



**Healthy Lifestyles - Conditions:** It has been found that diseases related to lifestyle factors, such as obesity, diabetes, heart disease, and stroke are more prevalent in Lemon Grove than other places in San Diego (Healthy Communities Index data assessment tool). Among other factors in the built and socio-economic environment, lack of access to healthy food and recreational opportunities contribute to existing health conditions.



**Healthy Lifestyles – Community Garden Benefits:** Community gardens and green spaces provide numerous social and economic benefits to a city and its residents, including opportunities for physical activity in a welcoming community setting; opportunities to learn and share information through workshops and community networking; and a supplement of healthy fruits and vegetables for residents and the neighborhood.

**Community – Conditions:** There is a reported desire among city representatives and local CBOs to change community resident mindsets about healthy eating habits. It is the contention of Growing Community researchers that access alone will not accomplish this, and that engaging residents in educational activities in community is the best way to encourage residents to adopt healthier lifestyles.



**Community Garden Benefits to Community:** The benefits of community gardens to increasing community cohesion include the provision of safe, attractive, and welcoming spaces for residents to gather and participate in productive and healthy activities, as well as a place to congregate, hold workshops, provide gardening training and food preparation classes, and to share food with community members in need. In addition, community gardens revitalize rundown or problem places in ways that improve appearances, and increase pride.

**Environment and Community:** The City of Lemon Grove’s Health and Wellness Element (adopted July 2014) lists “Insufficient parks and recreation areas” as an existing condition. The City’s Health and Wellness Element describes the food environment in Lemon Grove as 45% counter take-out and drive-thru restaurants, 13% grocery stores/food retailers, 17% sit-down restaurants, 18% convenience stores, and 7% bars with mostly unhealthy snacks. The City’s Health and Wellness Element also candidly acknowledges that while the City has a diverse amount of healthy food retailers along Broadway, residents could benefit from additional healthy food retailers along other major corridors (e.g. Massachusetts Avenue and Skyline Drive). And to help increase the availability of healthy produce, the





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City modified its Zoning Ordinance to allow community gardens. The Zoning Ordinance also allows farmer’s markets, although none currently exist. The Sage Report notes that “green spaces and community gardens are small but impactful measures taken to lessen pollution and potential consequences of extreme weather conditions,” potentially decreasing the intensity of environmental damage caused by everyday life.

**Environmental Benefits:** There is abundant evidence that green spaces and community gardens positively impact urban environments by helping to regulate air quality and climate; reduce energy consumption by countering the warming effects of pavement; improve water quality and increase rain retention and filter city runoff; and reduce soil erosion.

## *Project Description*

The Lemon Grove Garden Council proposes to establish a community-driven community garden at 7733 Central Avenue (cross street: Olive Street), fiscally sponsored by the nonprofit Thrive Lemon Grove. The space is shown in the graphic illustration below. The proposed location is city property, and the Lemon Grove Community Garden Council, with submission of this business plan, officially requests the support of the city in the form of permission to use this space. While this has been determined to be the most functional space for the planned community garden, plans are easily transferrable to a different site if the City of Lemon Grove prefers.

Over the course of one month, the Sage Project Principal Investigator (PI) researched possible sites to identify the most suitable location for a successful, sustainable, and affordable community garden. 7733 Central Avenue was chosen for its central location, visibility within the community, functionality, and amenities in place. This space has a drainage pipe installed under the sidewalk at the lowest level point of the property. It has accessible and functioning water systems, including a water meter – these are connected to active sprinkler systems. The adjacent parking lot has a wide entrance, allowing for easy loading and unloading of large materials, and providing ample parking for members, alleviating concerns about impact on availability of street parking for local businesses. Two large dumpsters are located close to the site entrance, which the Lemon Grove Community Garden would be willing to adopt. Finally, there is an abundance of streetlights in place around this property and surrounding properties.

## *7733 Central Avenue Location*



One percent of NPP net profits are donated to charitable 501(c)(3) organizations each year

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Planning and discussion with the City of Lemon Grove began in 2015 beginning with discussion at Thrive Lemon Grove meetings, and project development with Thrive Lemon Grove staff. The community was involved early via community presentations at the Lemon Grove Heal Zone meeting and at the Lemon Grove Health Fair on 9/12/15. At that time, interested volunteers (37 to date) signed up. The idea was first presented to the Lemon Grove City Council on 10/20/15. In April 2016, the Lemon Grove Garden Council met with the City of Lemon Grove City Manager, submitted a proposal, and held a follow up meeting in August of 2017. A demonstration garden was constructed on the property of a Lemon Grove Community Garden volunteer in September 2017 (photos below). The Lemon Grove Garden Council meets twice each month, and has demonstrated commitment and perseverance as it has learned how to plan, and advocate for this project.



The proposed design for a community garden at 7733 Central Avenue includes 34 raised gardening beds constructed from wood with hardware cloth bottoms to discourage gophers, including those sized for single members, groups, and families, and taller beds, easier for seniors and those with physical disabilities to reach, a gardening shed and kiosk, a raised, three-segment bed for compost (cinder block) with signage, basic gardening tools, and self-regenerating plants. All components are intended to be stylistically consistent with city public property aesthetics. It is expected that tools and extra site materials will be obtained by donations from local businesses and residents, Craigslist “free stuff” sites etc. Notably, the Growing Community PI found free or very low-cost sources for all the basic items required to start-up a community garden, including wood for raised beds and the tool shed, building supplies for start-up (loaned by volunteers), gardening tools, self-regenerating plants, and soil. As the garden site matures, the Lemon Grove Garden Council will continue to add amenities to the site, including butterfly gardens and fruit trees; and a permanent sign will be placed on the fence bordering Central Avenue – design approval will be sought from the City. A Sample Site Design is shown in the graphic illustration below.

The garden will exemplify sustainable practices, with every component, phase and aspect of garden operations vetted to the degree possible for environmental sustainability. Garden leadership is committed to “cradle to grave” analysis looking at embodied energy and associated carbon footprint, habitat destruction, resource depletion and pollution. For example, forest products for raised bed construction and mulch will be from sustainably managed forests, or reclaimed/salvaged; fertilizer will be from sustainable sources, such as byproducts from local agriculture or animal husbandry operations,



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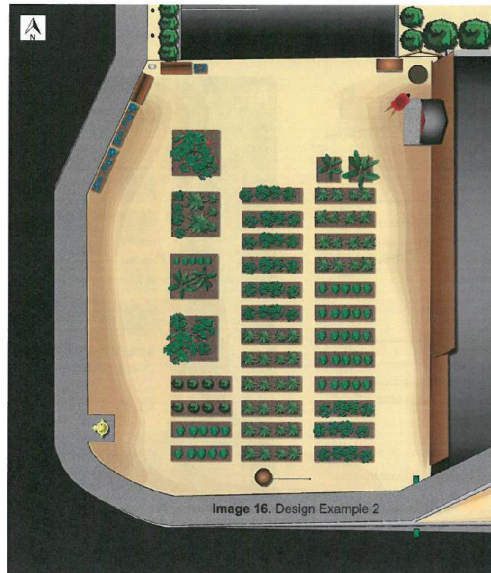
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with consideration of the impact of mining for mineral soil amendments, or pest control. Movement toward animal-free fertilizing (a now proven and viable alternative) will be the long-term goal. Adherence to environmental accountability will ultimately be paramount for maintenance of the of Earth's ecosphere and will be promoted through established garden practices and ongoing workshops. The garden represents the "seed" for the larger vision of protection of our planet through community cooperation.

Drip irrigation will be installed in each garden bed, and connected to a timer in order to ensure consistent watering, as well as maximum water efficiency. A hose with automatic shut-off will be available for hand watering. The garden site will be fenced for security, and members will have the combination to a locked gate. The current intention is for fencing to be black with vertical bars, subject to city approval. In addition to street lighting, a light will be placed at the gate to facilitate safety and ease of lock-up.

Membership in the Lemon Grove Community Garden will require a membership contract, including a fee for a one-year membership payable quarterly (\$25/quarter = \$100 annually) with specified volunteer requirements (six hours per year), or application for a fee waiver due to financial hardship and alternative volunteer service. Membership will be available to residents of Lemon Grove and surrounding areas with priority given to Lemon Grove residents. Membership materials, and garden rules will be available in English and Spanish, with other languages added as need is identified.

## Sample Site Design



Source: Nager, K., (2017). *Growing Community: Bringing Green Space and a Community Garden to Lemon Grove*. California, United States: San Diego State University. SAGE Project.

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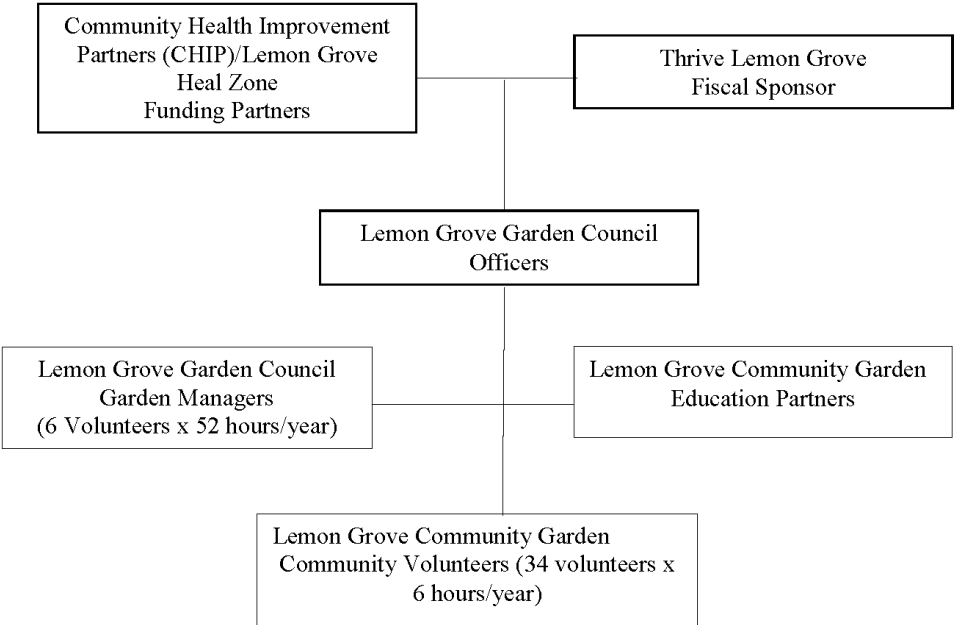
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**Project Leadership & Governance:** The Lemon Grove Garden Council has established a governance structure that includes elected members (Chair, Treasurer (from nonprofit Thrive organization), Secretary, Membership Chair, Communication Chair) and six (6) volunteer Garden Managers who will oversee the garden and who will be available on Saturday mornings and Wednesday evenings to provide advice and guidance to gardeners. In addition, a Core Committee, currently consisting of 13 committed volunteers, is dedicated to serve for one year to oversee and do the work of establishing the community garden. Monthly meetings currently take place at The Lemon Grove Library Community Room, and are expected to transition to the garden site once established.

**Lemon Grove Garden Council Leadership**

- ⊗ Walt Oliwa, Chair
- ⊗ Joyce Moore, Treasurer
- ⊗ TBD, Secretary
- ⊗ John Hochman, Environmental Sustainability Officer
- ⊗ Kirk Taylor, Education & Workshop Coordinator
- ⊗ Cynthia Rodriguez, Social Media Chief
- ⊗ George Wycoff, Gardening Advisor
- ⊗ George Gastil, Business Liaison
- ⊗ TBD, Membership Coordinator
- ⊗ TBD, Garden Managers
- ⊗ TBD, Resource Development and Fundraising Chair

**Lemon Grove Garden Council Organizational Chart**



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## Plan for Start-Up and Implementation

The Lemon Grove Garden Council is prepared to begin the implementation process for the Lemon Grove Community Garden as soon as permission is acquired to use the site. Given the ideal, year-round growing season in San Diego County, gardening can commence at any point during the year. Starts and seedlings will be provided to new gardeners by a steering committee with expertise on growing seasons in order to ensure a successful start. The table below provides an overview of the anticipated timeline for getting to an operational community garden. In month one, the Lemon Grove Garden Council and core volunteers will test the soil for heavy metals, and will begin officially acquiring materials once site access is confirmed. Plans for acquisition of liability protection against personal injury or damage to public or garden property will be finalized using the San Diego Community Garden Network and the American Community Garden Network as resources. In addition, the Communication Chair will begin the volunteer recruitment effort via existing social media pages as well as word of mouth in the community, through community based organizations, and at community events. It is expected that interest in community garden membership will be high, so procedures for tracking sign-ups, and fees will be completed in month two, following which, outreach and sign-ups will commence. Once these tasks are well underway, the Garden Council will begin scheduling work events. The work events will consist of an educational portion, at which time the Garden Council will teach residents and other volunteers the construction method for the garden boxes and shed, following which they will oversee the completion and placement of the boxes. While work on construction of garden boxes and the shed is in progress, the Garden Council and core volunteers will finalize the LG Community Garden Contract and Rules, and will establish ongoing volunteer roles and procedures. The volunteer schedule will be established beginning in month four in anticipation of the grand opening in month five. The LG Garden Council proposes an overall six-month implementation timeline in case aspects of the implementation take longer than anticipated.

Start-Up/Implementation Timeline						
Task	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
Site Access	✓					
Obtain Materials	✓	✓				
Recruit Volunteers	✓	✓				
Schedule Work Events (garden box and shed construction)		✓				
Implement Work Events			✓	✓		
Finalize LG Community Garden Contract		✓				
Finalize LG Community Garden Rules		✓				
Complete Plan for Tracking Plot Sign Ups and Fees		✓				
Outreach/Plot Sign Up (Ongoing)		✓	✓	✓	✓	✓
Establish Ongoing Volunteer Roles and Procedures			✓			
Recruit and Schedule Volunteers (Ongoing)				✓	✓	✓
Targeted Completion & Grand Opening					✓	

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## ***Funding for Start-Up***

The Lemon Grove Garden Council has identified donated and volunteer resources for most of the materials and labor needed to establish the community garden. The budget below provides an overview of expected income and expenses.

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Lemon Grove Community Garden					
Implementation Budget					
Income					
		Cash	In-kind	Total	Notes
<b>Donations</b>					
	Materials/ Supplies/ Equipment		\$ 13,390	\$ 13,390	
	Personnel		\$ 1,500	\$ 1,500	Volunteer time of Lemon Grove Community Garden Committee Volunteers 100 hours at \$15/hour
			\$ 6,000	\$ 6,000	Volunteer time of community members, master gardeners, and others 400 hours at \$15/hour
			\$ 400	\$ 400	Reduced Rate for skilled trades
	Cash	\$ 1,100		\$ 1,100	
<b>Grants</b>					
<b>Subtotal</b>					
		\$ 1,100	\$ 21,290	\$ 22,390	
<b>Expenses</b>					
		Cash	In-kind	Total	Notes
<b>Personnel</b>					
	Committee Members		\$ 1,500	\$ 1,500	100 hours @ \$15/hour
	Other Community Members		\$ 6,000	\$ 6,000	400 hours @ \$15/hour
	Skilled Trades	\$ 400	\$ 400	\$ 800	Reserve is licensed plumber and/or electrician needs to conduct hookups
<b>Utilities</b>					
	Water Start Up	\$ 100		\$ 100	Reserve for potential deposit (refundable)
	Electrical Start Up	\$ 100		\$ 100	Reserve for potential deposit (refundable)
	Trash/Recycling Start Up		\$ -	\$ -	Reserve for potential deposit (refundable)
	Liability Insurance	\$ 500		\$ 500	Insurance with American Community Gardening Association - year 1
<b>Supplies</b>					
	Irrigation and Water distribution system		\$ 800	\$ 800	drip irrigation system plus hose bibs
	Electrical Distribution System		\$ 300	\$ 300	for use for security lighting and educational area
	Security Lights		\$ 100	\$ 100	
	Picnic Table and benches		\$ 250	\$ 250	lumber and paint only
	Shed		\$ 500	\$ 500	lumber and paint only
	Shade structure		\$ 200	\$ 200	shade cloth and poles for educational / picnic area
	Signage		\$ 40	\$ 40	
	Kiosk/ Bulletin Board		\$ 100	\$ 100	
	Compost bins		\$ 300	\$ 300	
	Lumber for garden beds		\$ 1,500	\$ 1,500	lumber and hardware
	Hardware cloth under beds		\$ 500	\$ 500	prevent gopher infestation
	Soil for garden beds		\$ 500	\$ 500	organic soil
	Gardening Tools		\$ 200	\$ 200	hoses, rakes, hoes, wheelbarrows, etc
	Wood chips for walking paths		\$ 800	\$ 800	
	Miscellaneous Supplies		\$ 300	\$ 300	Trash and recycling containers, flowers, trees, seed starter trays
	Fencing Supplies		\$ 7,000	\$ 7,000	6 ft chainlink and posts only
<b>Subtotal</b>					
		\$ 1,100	\$ 21,290	\$ 22,390	
<b>P/L</b>					
		\$ -	\$ -	\$ -	

## Plan for Operation

**Oversight:** Day to day management of the garden will be accomplished by six volunteer Garden Managers. Garden Managers are dedicated volunteers with gardening knowledge that will be available

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on Saturday mornings, Wednesday evenings or by phone to answer questions (phone numbers posted on the notice board), and as needed to supervise repairs or provide trouble shooting.

**Volunteers:** The Lemon Grove Community Garden is structured with several different types of volunteers, including elected leadership (described above), the Core Committee of 13 dedicated volunteers to ensure a robust project start-up, six Garden Managers who will support and oversee the garden on an ongoing basis, and community garden members, each of whom will be expected to contribute a minimum of six hours annually to support garden maintenance (34 boxes x 6 hours each = 204 hours annually or 17 hours/month of dedicated maintenance).

**Compost:** A compost bin will be set up in a central location at the garden site, and will be maintained with vegetable compost weekly by Garden Managers and volunteers to ensure that it does not pose a problem with odor or pests. The compost bin will be in a three-section design with rotating signage: **Organic Vegetable Waste HERE; Let It Sit!; Ready to Use!**

**Tools:** Basic gardening tools will be acquired by the Core Committee via donations from businesses, volunteers, and other community members, as well as via Craig's List "free stuff" sites. Tools will be stored in the tool shed at the gardening site and available for member use.

**Trash:** Trash bins will be available on site and will be emptied weekly. Trash service will be defrayed with membership fees.

**Water:** In order to ensure maximum water conservation while also ensuring that garden beds receive ample water, drip irrigation will be installed in each garden bed and connected to a timer. A hose with automatic shut-off nozzle will be available for hand watering. No unattended watering will be allowed except for the drip irrigation. Water costs will be defrayed with membership fees.

**Education:** The Lemon Grove Community Garden is envisioned as a demonstration garden. In addition to active gardening beds, the Lemon Grove Garden Council will leverage knowledge and skills of community partners such as Master Gardeners, the San Diego Community Garden Network, garden leadership and membership, to share gardening knowledge, sustainability tools, nutrition information and more to maintain an active educational workshop schedule (projected once a month), coordinated by a volunteer Education Coordinator.

**Amenities:** As the Lemon Grove Community Garden matures, leadership and dedicated volunteers plan to add picnic tables (multi-purpose – picnics, meetings, workshops), shade, fruit trees, butterfly gardens, and a dedicated garden plot to grow produce for families in need. A sharing table will provide space for sharing of free seedlings, seeds, and extra produce in a public, unfenced portion of the garden.



**Membership:** As discussed above, membership in the Lemon Grove Community Garden will require a membership contract, including a fee for a one-year membership payable quarterly (\$25/quarter = \$100 annually) with specified volunteer requirements (six hours per year), or application for a fee waiver due to financial hardship and alternative volunteer service. Membership will be available to residents of Lemon Grove and surrounding areas with priority given to Lemon Grove residents. Membership materials, and garden rules will be available in English and Spanish, with other languages added as need

# Attachment B – Exhibit 1

Prepared by:

**nprosperity**

Prosperity for justice, health, peace & beauty

is identified. Limited financial assistance will be made available for qualified applicants with financial hardship.

**Community Garden Rules:** The following rules for the Lemon Grove Community Garden will be posted on the notice board at the garden site for easy reference.

- ☼ Garden open dawn to dusk, 7 days a week, with plot owner or designated individual to care for plot on a weekly basis.
- ☼ Each gardener is responsible for maintenance of their plot, watering, weeding and harvest.
- ☼ Unattended watering not permitted, except timer drip; report any leaks to a Garden Manager; conserve water by mulching.
- ☼ Borrowed tools available in shed, must be cleaned and returned and not taken home or left out.
- ☼ Unattended plots after three months will be reassigned.
- ☼ Be considerate, keep plot trimmed and weeded, debris to compost.
- ☼ Children welcome with adult and supervised. Family and friends welcome with garden member. No pets except service animals.
- ☼ Organic pest control and fertilizers only. Organic mulch only. Any questions to Garden Managers who will be available Saturday morning or by phone.
- ☼ Dispose of weeds in compost bin. Organic compost from home can be added if appropriate.
- ☼ All members are required to volunteer a minimum of six hours per year for general maintenance. Attending monthly meetings is encouraged.
- ☼ No contraband (weapons, illegal substances).
- ☼ No growing illegal, addictive or dangerous plants.
- ☼ Act courteously and respect neighbors.
- ☼ No smoking or alcohol use, no loud music.
- ☼ Picnicking OK but no cooking.

**Garden Best Practices:** The Lemon Grove Community Garden Council has plans to generate a written resource for garden best practices that will include a pest management philosophy. The garden will have a stringent requirement to adhere to USDA organic standards for all growing operations as per USDA Organic Production and Handling Requirements found here: <https://www.ecfr.gov/cgi-bin/text-idx?SID=aeefe979da9db33b62068ba449dd086c&mc=true&node=sp7.3.205.c&rgn=div6>.

## **Partners**

The work of the Lemon Grove Garden Council would not be possible without knowledgeable and supportive partners, and plans to acknowledge all contributors, including the City of Lemon Grove with a sign or plaque at the garden site. Partners include but are not limited to the following:

- City of Lemon Grove
- Community Health Improvement Partners (HEAL Zone)
- Thrive Lemon Grove (fiscal sponsor)
- Master Gardener Association of San Diego
- The Lemon Grove Clergy Association
- The Live Well San Diego – East Region Leadership Team

# Attachment B – Exhibit 1

Prepared by:



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In addition, the Lemon Grove Garden Council has obtained letters of support from a variety of businesses, community based organizations, and residents which are available upon request.

## Plan for Sustainability

The Lemon Grove Garden Council has developed a balanced operations budget (below) that reflects use of sustainable, ongoing resources, along with thrifty, volunteer driven operations. Sustainable resources include membership fees, donations of materials, supplies and equipment, volunteer time, volunteer expertise, small cash donations that will be solicited at all events, and regular applications for mini grants for special purchases.

Expenses include personnel (all volunteer), utilities (paid using membership fees), supplies (cash or donations), and repairs and maintenance (cash or donations/volunteer time). The expense portion of the budget accounts for two discounted or waived garden bed fees annually, and includes an annual reserve for unexpected expenses.

Lemon Grove Community Garden						
Operations Budget						
Income						
		Cash	In-kind	Total	Notes	
	Garden Bed Bed Usage Fee	\$ 3,400		\$ 3,400	34 garden beds @ \$100 / year	
	<b>Donations</b>					
	Materials/ Supplies/ Equipment		\$1,000	\$ 1,000	Compost/ Soil/ Wood Chips Gardening tools	
	Personnel		\$ 18,000	\$ 18,000	Volunteer time of Lemon Grove Community Garden Committee Volunteers 100 hours/month at \$15/hour	
			\$ 36,000	\$ 36,000	Volunteer time of community members, gardening educators, and others 200 hours/month at \$15/hour	
	Cash	\$ 2,000		\$ 2,000	Donations received at Educational and Special Events	
	Grants	\$ 1,000		\$ 1,000	Minigrants received received from groups such as grocers, garden shops, hardware stores, healthcare agencies, or foundations	
	<b>Subtotal</b>	\$ 6,400	\$ 55,000	\$ 61,400		
Expenses						
		Cash	In-kind	Total	Notes	
	<b>Personnel</b>					
	Garden Oversight, Education, Cleanliness, and Safety (Committee Members)		\$ 18,000	\$ 18,000		
	Garden Oversight, Education, Cleanliness, and Safety (Others)		\$ 36,000	\$ 36,000		
	<b>Utilities</b>					
	Water	\$ 1,200		\$ 1,200		
	Electric	\$ 600		\$ 600		
	Trash/ Recycling	\$ 700		\$ 700		
	Liability Insurance	\$ 500		\$ 500	Annual premium with American Community Gardening Association	
	Supplies	\$ 1,000	\$ 1,000	\$ 2,000		
	Repairs & Maintenance	\$ 1,500		\$ 1,500		
	Discounted or Waived Garden Bed Fees	\$ 200		\$ 200	2 garden beds @ \$100/year	
	Reserve	\$ 700		\$ 700		
	<b>Subtotal</b>	\$ 6,400	\$ 55,000	\$ 61,400		
<b>P/L</b>		\$ -	\$ -	\$ -		



# Attachment B – Exhibit 1

Prepared by:

**nprosperity**

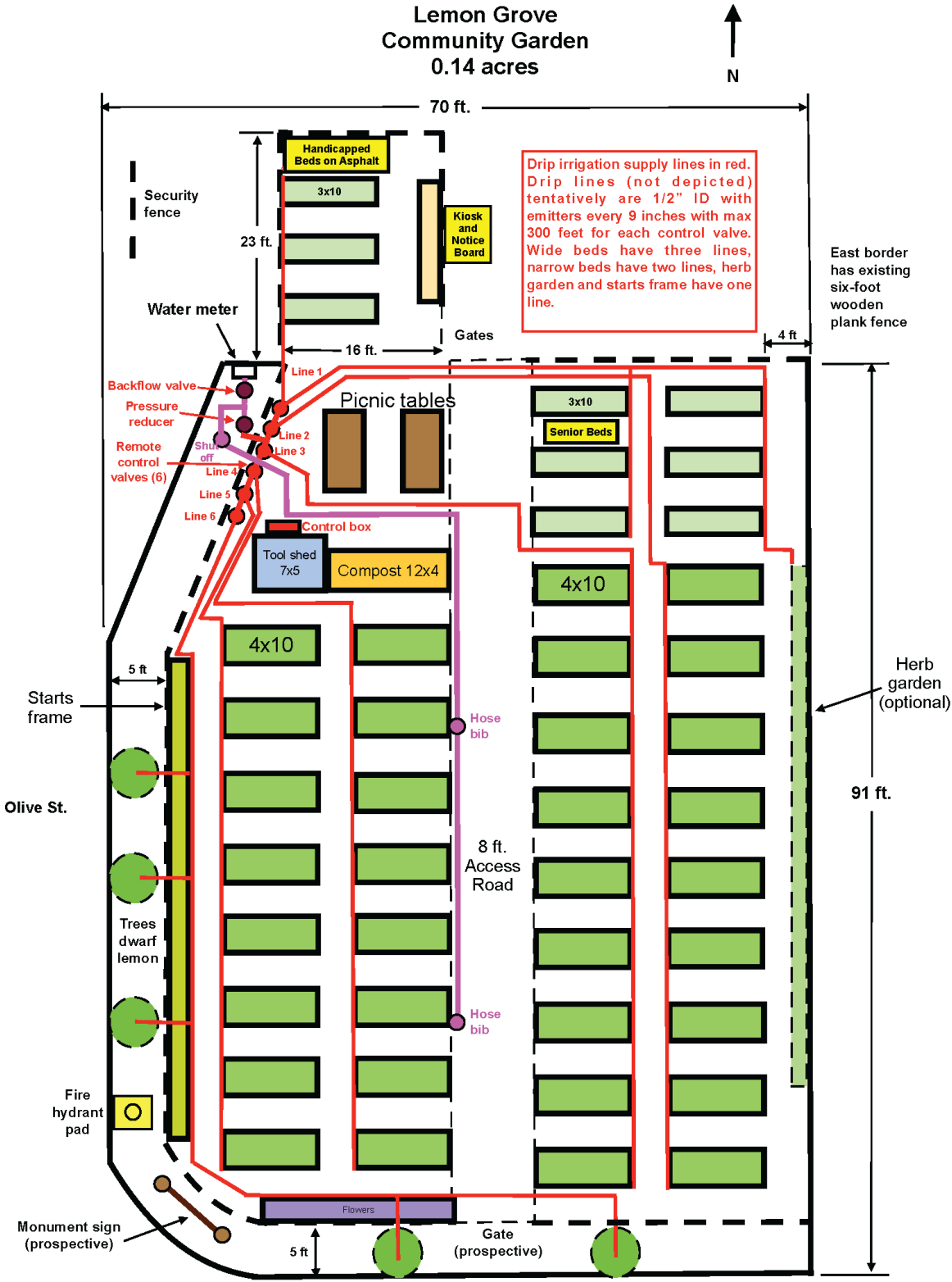
Prosperity for justice, health, peace & beauty

Many thanks for this opportunity to present our business plan to the City of Lemon Grove. We are eager to launch our partnership and the Lemon Grove Community Garden!

Please contact Walt Oliwa at (619) 944-4378 or email [lemongrovecommunitygarden@gmail.com](mailto:lemongrovecommunitygarden@gmail.com) for additional information or for clarification.



# Attachment B – Exhibit 1



**LEMON GROVE AGENCY NAME  
AGENDA ITEM SUMMARY**

**Item No.**   3    
**Mtg. Date**   April 3, 2018    
**Dept.**   Development Services Department  

**Dept. Dir.** \_\_\_\_\_  
**City Mgr.** \_\_\_\_\_  
**City Atty.** \_\_\_\_\_

**Item Title:** **Public Appeal to Consider Appeal No. AA1-800-0001 Regarding the Denial of Zoning Clearance No. ZCM-170-0002; a Request to Apply for a Conditional Use Permit to Establish a Medical Marijuana Dispensary at 3515-21 Harris Street in the General Commercial/Heavy Commercial Zone**

**Staff Contact:** Lydia Romero, City Manager

**Recommendation:**

1. Conduct the public hearing; and
2. Adopt a Resolution (Attachment B) upholding the Development Services Director's determination to deny ZCM-170-0002, a request to apply for a conditional use permit to establish a medical marijuana dispensary at 3515-21 Harris Street in the General Commercial/Heavy Commercial Zone. This space is expandable

**Item Summary:**

Materials submitted after agenda was published.

**Fiscal Impact:**

NONE

**Environmental Review:**

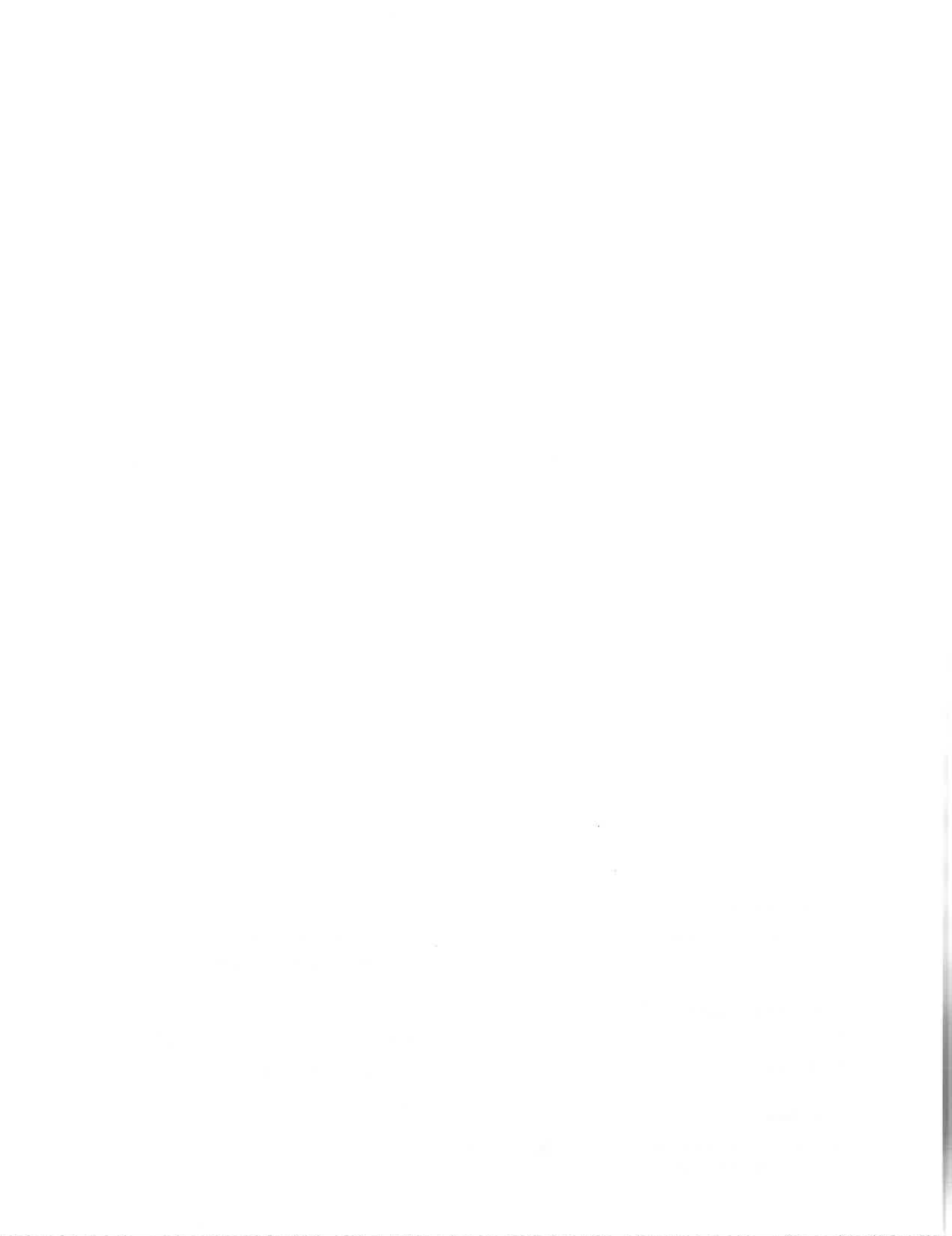
- |   |   |
|---|---|
| <input type="checkbox"/> Not subject to review          | <input type="checkbox"/> Negative Declaration           |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

**Public Information:**

- |   |   |
|---|---|
| <input type="checkbox"/> None               | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Neighborhood meeting                     |

**Attachments:**

- A. Letter from Gina Austin, Austin Lega Group dated March 30,2018



## Austin Legal Group

LAWYERS  
3990 OLD TOWN AVE, STE A-112  
SAN DIEGO, CA 92110

LICENSED IN CALIFORNIA & HAWAII  
TELEPHONE  
(619) 924-9600

FACSIMILE  
(619) 881-0045

Writer's Email:  
gaustin@austinlegalgroup.com

March 30, 2018

City of Lemon Grove  
City Council  
3232 Main Street  
Lemon Grove, CA 91945

Re: **3515 Harris Street**, Appeal of ZCM-170-0002/AA1-800-0001 (the "Application")

Dear City Council Members:

Austin Legal Group, APC represents KIM Investments, LLC and Joe Yousif (the "Applicant") for a MMD located at 3515 Harris Street, Lemon Grove ("MMD Location"). This letter provides additional support for the Applicant's appeal of the City's retroactive denial of its Zoning Clearance Application.

As discussed below, good grounds exist for this appeal because 1) City staff erroneously applied the law and 2) the findings underpinning the denial of the zoning clearance are not supported. Accordingly, the City Council should grant the Applicant's appeal and reverse staff's decision to deny the Application.

### **FACTUAL BACKGROUND**

On November 30, 2017, the Applicant attempted to submit a Zoning Clearance application in accordance with the City's rules and regulations ("Application"). The Development Services Director refused to accept the application and indicated that the City Attorney would determine whether or not an application could be submitted. On December 5, 2017, the City Attorney's office notified this office that it would accept the Application from the Applicant. That same day, December 5, 2017, the Applicant submitted its Application, which included a letter from the Department of Social Services that a licensed child care located at 3335 Citrus Street forfeited its license on October 11, 2017 (See Exhibit 1.)

On January 8, 2018, the Applicant received the City's first round of comments. (See Exhibit 2.)

On January 25, 2018, in response to a public records request, the City provided the most recent update on MMD applications as of January 24, 2017. (See Exhibit 3.) The Applicant's status is identified on page 4 as "Meets distance restrictions" and "Deemed incomplete."

On February 7, 2018 the Applicant submitted responsive documents to each issue identified in the City's January 8, 2018 comment letter.

On February 15, 2018, the Applicant received a letter from the City stating that after the Applicant's February 7, 2018 submission the City received "evidence that there is a new State-licensed family daycare home within 1,000 feet of the subject property which disqualifies the subject property from eligibility...." (See Exhibit 4.)

On February 15, 2018, the Applicant filed this appeal.

On March 8, 2018, the City identified the address of the licensed child care facility as 3335 Citrus Ave.

On March 15, 2018, the Applicant went to the Department of Social Services and obtained a copy of the state licensing documents relative to 3335 Citrus Avenue. The documents received indicate that on February 13, 2018, 3335 Citrus Avenue received a "*provisional license*" that became effective on February 21, 2018. (See Exhibit 5.)

### **BASIS FOR APPEAL**

#### **I. STAFF'S DECISION TO DENY THE APPLICATION VIOLATES THE LAW**

The City denied the Application by combining its zoning clearance process with a "deemed complete" determination. Specifically, the City denied the Application when it learned a non-operational daycare facility was issued a provisional license *after* the City determined the MMD Location met the City's separation requirement from protected uses, or gave it a zoning clearance approval. Put another way, the City rationalized its decision to deny the previously approved zoning clearance because the Application was not "deemed complete." The City's basis for denial is unsupported in the law and the City's decision to deny the Application is arbitrary and capricious.

##### **A. Staff's Decision To Deny The Application Violates The Municipal Code**

On prior occasions, and in the context of other uses like liquor stores, strip clubs, and adult stores, the City has unequivocally indicated that zoning clearance approval is a condition precedent for a change in use and that the City will not process a conditional use permit without zoning clearing. (See Exhibit 6.) In Exhibit 6, Mr. De Vries emphasized portions of the municipal code that require Zoning Clearance prior to submitting application packages. Mr. DeVries' logic in Exhibit 6 is that a zoning clearance is the first step for a change in use is consistent with the municipal code.

The Lemon Grove Municipal Code ("LGMC") has an independent section which specifically discusses zoning clearance. LGMC section 17.28.070, entitled "Zoning Clearances" states as follows:

A. Purpose. This section establishes procedures for conducting a zoning clearance review to ensure that all proposed uses, structures,

and/or *improvements* comply with the applicable requirements of this *code*. The zoning clearance ***serves as a record of compliance***. ***Prior to***, or concurrent with, submitting an application for any *business* license, *building* permit, *improvement*, subdivision, or other change in use, the applicant shall obtain a zoning clearance. A zoning clearance also serves as a record of *decisions* for proposed uses, structures, and/or *improvements*, which may not require additional approvals or permits in this *code*. (emphasis added in bold.)

C. Application Procedures. *Application packages* for zoning clearances shall be processed according to Section 17.28.020. Development services department staff shall process and decide zoning clearance applications *ministerially*. (Ord. 434 § 5, 2015; Ord. 386 § 3, 2009)

Thus for a change in use, a threshold zoning clearance determination is required prior to an application for any change in use. After that determination is made, and assuming the change in use is cleared, the LGMC sets forth the second step of the process of submitting an application package.

LGMC section 17.28.020 governs application procedures submitting and processing proposed uses. This section makes clear that zoning clearance and the application package are two separate processes.

LGMC section 17.28.020(D) states that "[p]rior to submitting *application packages* for permits or other approvals, the applicant shall obtain a zoning clearance according to Section 17.28.070. Thereafter, *application packages* shall be submitted to the development services department upon a prescribed form, accompanied by applicable fees according to subsection (D)(1), and related materials necessary to show that the proposed *use, structures, and/or improvements* of the property comply with applicable provisions of this *code*, state law, federal law and the requirements and conditions of any associated permit. Each application filed by, or on behalf of, one or more property owners shall be verified by at least one such owner or the owner's authorized agent attesting to the truth and correctness of all facts, statements, and information presented."

LGMC section 17.28.020(E)(1) states that "[u]pon initial submittal, *application packages* shall be distributed to applicable departments for review. No more than thirty *days* following the date of initial submittal, *application packages* shall be *deemed complete* or incomplete with a request for more information. Once the requested information is received, the thirty-day staff review cycle restarts. No action shall be taken on applications not yet *deemed complete*."

The LGMC does not define "deemed complete." There is also a difference between "deemed complete", "deemed complete but needs more information," and "deemed incomplete." While the LGMC clearly states that zoning clearance means the application complies with the Municipal Code and gives the applicant a threshold determination that the use meets the City's minimum conditions of approval in the Municipal Code. There is no such definition for the application package process which

is further evidence that the "deemed complete" process was not intended to part of the period by which a sensitive use could be used by the City to deny an Application that was already given zoning clearance.

It is clear from subsections D and E that submission of an application package is predicated on a zoning clearance and zoning clearance approval acts as a one way gate- once zoning clearance is given, the City has given its consent to the use and the Application proceeds through a separate process for approval.

The City's February 15, 2018 Zoning Clearance denial letter erroneously states the zoning clearance requires the application meet the separation requirements and that the application be deemed complete. The City's ad hoc interpretation is unsupported in its municipal code and the City ignores the fact that there are two separate processes: Zoning clearance and deemed complete.

Here, the City's January 25, 2018 response to the public records request shows a determination that the MMD Location met the LGMC separation requirements which constituted the Application's zoning clearance. In this circumstance, the City's decision to deny the Application because a day care appeared after the MMD Location was given its zoning clearance, but before the Application was deemed complete, was improper. The MMD Location met City's separation requirements and there should never have been a "look back" for protected uses

City staff inaccurately denied the Applicant's zoning clearance application *after* it determined the MMD Location met the City's distance restrictions. City staff also failed to confirm the presence of an operational daycare prior to denying the Application.

#### **B. Measure V Does Not Support Denial**

Measure V section 17.32.090(B) states that "an application may be submitted provided the proposed facility meets the required distance measurements [emphasis added]." The application in question was submitted *prior* to 3335 Citrus Street becoming a licensed daycare facility. Neither measure V nor the LGMC requires or even suggest that the distance measurement should be considered or evaluated each time the applicant submits supplemental information.

#### **C. Bulletin 23 Does Not Support Denial**

In March 2017, the City authored an informational bulletin, Bulletin 23, to "supplement" and "support" the "regulations contained in the Lemon Grove Municipal Code (LGMC)..." Bulletin 23 does not replace the LGMC, rather it summarizes various categories of information applicable to MMD's. Notably, Bulletin 23 identifies the zoning clearance and conditional use permits as *separate* processes. "A zoning clearance is a ministerial permit granted by Development Services Director to conduct a specified use or to make a zoning determination."



Bulletin 23 states that an application must include all of the required information. There is no dispute that the Applicant included all of the required information. Rather, the issue is one of *quality* of what was submitted. The submittal checklist returned by the City identifies all materials as having been submitted (See Exhibit 2.) Specifically, all materials required to be submitted related to Section 17.32 of the LGMC are identified with check marks acknowledging that they were included in the submittal package. (See Exhibit 3, pg 7). The Application here clearly met the standard. In fact, the cover letter to states that “incomplete items are submitted and/or corrected accordingly.” Nowhere in the January 4, 2018 letter does the City state that required items were not submitted. Rather, the City acknowledges that that some of the items are not relevant due to the new state laws and is “updating is Medical Marijuana Cultivation Source Agreement and the Planning Permit Submittal Checklist for Medical Marijuana Dispensaries to reflect new State provisions, clarify common question and update requirements.” The Applicant notified the City prior to submittal that the requirements we not consistent with State law and submitted each required item.

**II. THE CITY ERRONEOUSLY CONSIDERED A NON-OPERATIONAL DAY CARE AFTER IT DETERMINED THE MMD LOCATION MET THE DISTANCE RESTRICTIONS FOR PROTECTED USES**

The City's March 8, 2018 letter states that there is family daycare home at 3335 Citrus. Noticeably absent from the staff report is confirmation from the daycare operator that childcare is actually occurring at 3335 Citrus and/or that children are present.

LGMC section 17.08.003 defines Licensed Day Care Facilities as follows:

“Day care” means a facility, **licensed and equipped as required by law**, which provides non-medical care and supervision for periods of less than twenty-four hours. This term shall include nursery schools.

1. “Small family day care” means day care that is provided in a single-family dwelling for up to eight people in accordance with Section 1597 of the California Health and Safety Code. The day care provider shall reside in the home.
2. “Large family day care” means day care that is provided in a single-family dwelling for up to fourteen people in accordance with Section 1597 of the California Health and Safety Code. The day care provider shall reside in the home.

The plain language of LGMC section 17.08.003 *requires that non-medical care and supervision is actually occurring on site.* Thus, the mere existence of a license should not, and does not, automatically create a protected use. The plain language of the City's municipal also requires actual onsite use. It is nonsensical to find a “protected use” at a home where no onsite childcare services are actually occurring, which is the situation with 3335 Citrus Street. There is no actual onsite supervision at 3335 Citrus Street. As shown in the photographs attached to this letter, 3335 Citrus Street is *vacant*.

The City's de facto rationalization to use 3335 Citrus Street to deny the Application is legally and factually unsupportable.

### III. PUBLIC POLICY DISFAVORS THE CITY'S CURRENT POSITION ON ITS ZONING CLEARANCE PROCESS

The City's decision to deny the Application based on retroactive application of a protected use gives precedent for a convoluted and impractical procedure in the application process that is costly to both the City and the Applicant.

From a purely practical standpoint, the zoning clearance is "**one and done.**" The Applicant gets one shot at the clearance and the answer is yes or no. If no, the Applicant must wait at least one year before making a second request. If yes, the Application proceeds to the second part of the process. With this Application, the "one and done" was favorable to the Applicant which propelled the City and the Applicant into the information gathering process.

Information gathering can go on for repeated thirty-day cycles until the application is "deemed complete." The City has not, and does not, require a new zoning clearance every time the City and the Applicant go through another round of information gathering. The City's decision to deny the Application in this circumstance, after the zoning clearance approval and during the information gathering period, runs contrary to past practices and essentially nullifies the zoning clearance approval's impact on the application process. The City's denial on this Application means that the first zoning clearance that the Applicant and the City relied on to move the application package forward was immaterial. It is nonsensical for the City to take the position now that a zoning clearance can be denied at any time after the zoning clearance "go ahead" was given. Not only does this position create chaos in the application process, it is damaging to the City and future applicants and has damaged the City and this Applicant.

The Applicant and the City both detrimentally relied on the MMD Location's zoning clearance approval. Both the Applicant and the City have devoted time and resources since the zoning clearance approval to process the Application. Not only did the Applicant pursue the Application in reliance on the City's zoning clearance approval, the City also processed the Application after the zoning clearance approval. Presumably neither the Applicant nor the City want to spend time and resources processing applications that can be rejected at any time.

Thus the City's current position that the zoning clearance can be changed at any time will throw the application process into uncertainty for, at minimum, the following two reasons: 1) there is only one zoning clearance review and the City has now opened the door for repeated re-evaluation turning the "one and done" into a cyclical free for all; and 2) the City's position that zoning clearance is tethered to a "deemed complete" determination lacks certainty because the municipal code fails to define when an application is "deemed complete." This makes the entire process uncertain and impractical. The City should adhere to its position that a zoning clearance approval is done once and is a prerequisite to processing a conditional use permit. If the City adheres to this position, once zoning clearance approval is given, it starts processing the conditional use permit and does not, and cannot, look back at

City of Lemon Grove  
March 30, 2018  
Page 7

the zoning clearance. With respect to this Application, if the City follows its own practices, it improperly denied the Application and it should reverse that denial and allow the Application to proceed.

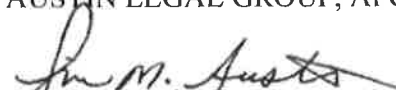
**IV. THE APPLICANT IS AGREEABLE TO A DEVELOPMENT AGREEMENT**

In order to help the City avoid future uncertainties related to the poor drafting of Measure V, the Applicant is willing to enter into a development agreement that would vest the Applicant's zoning clearance as of the initial submittal date and would provide financial benefits to the City. Development Agreements are very common in the cannabis industry and many cities without tax measures have implemented them to insure stability for both the City and the applicant. Examples of California cities that use Development Agreements for this purpose include Lake Elsinore, Desert Hot Springs, Sacramento, Ceres, Oakley, Patterson, Dixon, Stanislaus County, Yolo County, Cudahy, Huntington Park, Lancaster, Oakdale, and Oroville.

\* \* \*

For the reasons stated above, the Applicant respectfully requests the City Council reverse the denial of the Zoning Clearance.

Sincerely,  
AUSTIN LEGAL GROUP, APC

  
Gina M. Austin, Esq.

cc: Development Services Director

**EXHIBIT 1**  
**Childcare License Forfeiture**



CDSS

WILL LIGHTBOURNE  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
**COMMUNITY CARE LICENSING DIVISION**

CCLD Regional Office  
7575 METROPOLITAN DR., STE 110  
SAN DIEGO, CA 92108



EDMUND G. BROWN JR.  
GOVERNOR

September 25, 2017

BLAIR, KEISHA  
BLAIR, KEISHA FAMILY CHILD CARE – 376622864  
7379 Broadway Street, #118  
Lemon Grove, CA 91945

Dear Ms. Blair:

SUBJECT: FORFEITURE OF LICENSE

The license issued to you at the above facility address is forfeited pursuant to Health and Safety Code Sections 1524, 1568.061, 1569.19, or 1596.858. Your license is no longer valid and all provision of care and supervision must cease at this location. The reason for the forfeiture is:

- Licensee has sold or transferred the facility or property
- On 09/25/2017, the Licensee has surrendered the license to the Department. We acknowledge receipt of your license and/or your statement that you are surrendering your license. The surrender or your license does not deprive the Department of its authority to institute or continue an administrative action against you.
- Licensee has moved from one location to another.
- Licensee has been convicted of an offense specified in Section 220, 234.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
- Licensee has abandoned the facility by informing Community Care Licensing that he/she no longer accepts responsibility for the facility.
- Licensee has abandoned the facility due to the following:
  1. Community Care Licensing has been unable to determine the licensee's whereabouts and information of the licensee's whereabouts cannot be obtained from the facility's staff, if any staff can be contacted; and
  2. Licensee has failed to respond to daily phone inquiries made for five consecutive days from \_\_\_/\_\_\_/\_\_\_ through \_\_\_/\_\_\_/\_\_\_; and
  3. Licensee failed to respond to letter dated \_\_\_/\_\_\_/\_\_\_.
- Licensee has failed to pay the annual fee pursuant to Health and Safety Code Sections 1523.1 (Community Care Facilities), 1568.05 (Residential Care Facilities for the Chronically Ill), 1569.185 (Residential Care Facilities for the Elderly), or 1596.803 (Child Care Facilities). The forfeiture of your license does not deprive the Department of its authority to institute or continue an administrative action against your license. If administrative action results in the revocation of your license, your application for a new license will not be processed until two years have elapsed from the date of the revocation pursuant to Health and Safety Code Sections 1520.3, 1568.065, 1569.16, and 1596.851.

If you have not already done so, please send your license to the above address. If you continue to operate a facility without a license you are in violation of the Health and Safety Code and may be subject to civil penalties. If you wish to operate a facility again, you must reapply and be approved for a new license. If you have any questions about this action, please call me at (619) 767-2224 or write to Community Care Licensing at 7575 Metropolitan Drive, Suite 110, San Diego Ca 92108.

Sincerely,

MARIE HERNANDEZ  
Licensing Program Analyst

**EXHIBIT 2**  
**City Response to First Submission**



**CITY OF LEMON GROVE**  
Development Services Department

"Best Climate On Earth"

Date: January 4, 2018

KIM Investments, LLC  
RRJJ, LLC  
Attn. Jilette Yousif  
2221 Camino Del Rio South # 207  
San Diego CA 92108

Gina Austin  
3990 Old Town Ave., Ste. A112  
San Diego, CA 92110

SUBJECT: Notice of Incomplete for Zoning Clearance Application ZCM-170-0002 for property located at 3515 Harris Street, in the City of Lemon Grove (APN:479-052-07-00).

Mr. Yousif and Ms. Austin,

The City has completed the application review for the above referenced project. Titles, chapters, and sections referenced are from the Lemon Grove Municipal Code (available on our website at [www.lemongrove.ca.gov](http://www.lemongrove.ca.gov)).

As stated in Measure V, Ch. 17.32, the required findings of fact are required in order for the City Council to approve this project are as follows (also restated in Bulletin 23):

**17.32.080 Findings.**

In addition to the findings required for the granting of a conditional use permit by Section 17.28.050 of this title, the decision making authority shall consider the following:

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

B. Whether the proposed use complies with Title 17 of the Lemon Grove Municipal Code. (Ord. 443 § 1, 2016)

**17.28.050 Conditional use permits.**

A. Purpose. This section establishes procedures for accommodating proposed uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings that are otherwise prohibited in this code. This section assures that any area will assume or retain the characteristics intended by zoning. This section also establishes procedures for processing conditional use permit applications.

B. Uses Subject to These Provisions.

1. Uses outlined in specific zoning districts.

C. Findings. A conditional use permit may be approved if all of the following findings are made:

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

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

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

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

D. Application. Application packages for conditional use permits shall be processed according to Section 17.28.020. The city council shall hear and decide all conditional use permit applications during the course of at least one public hearing, conducted according to Section 17.28.020(G). (Ord. 434 § 5, 2015; Ord. 386 § 3, 2009)

**For reference, only the Planning Division reviews Zoning Clearance applications and does not do a full review for compliance of the Municipal Code. Once the Zoning Clearance application is deemed complete, a Conditional Use Permit may be applied for where a full compliance check with the Municipal Code and an interdepartmental review is conducted. Some corrective items are noted herein. As reflected in Bulletin 23, the zoning clearance process for a marijuana dispensary is twofold: 1) Does the application meet separation requirements from permitted marijuana dispensaries and protected uses; and 2) Is the application provided complete. Once these two reviews are satisfied, the applicant is eligible to submit a conditional use permit. Staff recommended this process to City Council at the March 7, 2017 City Council meeting. The process is such, so that when a conditional use permit is applied for after zoning clearance approval notice of complete, staff can then take in the \$1,500 deposit and updated application form and route the application, plans and materials to the various reviewing departments for corrections and/or conditions if any. This project has been found to be incomplete and the following corrections shall be addressed prior to resubmittal.**

#### **Planning (David De Vries- 825-3812)**

The Planning Division is in the process of updating its Medical Marijuana Cultivation Source Agreement and the Planning Permit Submittal Checklist for Medical Marijuana Dispensaries to reflect new State provisions, clarify common questions and update requirements. As you are aware the existing checklist requires that a consultation with a planner be conducted prior to submission for a zoning clearance and this was not done. Had this been conducted, many of these items could have been identified. A minimum of one completed and signed source agreement with appropriate materials is required to qualify for a conditional use permit. Questions related to distribution requirements will be addressed in the new source agreement. In the interim, please submit the State license for the cultivation source and its corresponding Type 11 distributor and the signed contract between the cultivator and the distributor. I have reviewed the checklist and marked complete and incomplete items. This checklist will need to be signed and returned with your resubmittal. Please ensure the incomplete items are submitted and/or corrected accordingly. For further clarification, the following items shall be required for your revised plan submittal:

1. Resubmit eight copies of the plans with appropriate corrections listed herein. Plans shall be stapled together then folded to an 8 ½ by 11 inch size or similar;
2. The subject property is zoned General Commercial and Heavy Commercial within Special Treatment Area III (STA III). The more restrictive zoning requirements prevail. The title sheet indicates that lot coverage exceeds the 35 percent maximum required. A commercial



- loading space may be required if the total commercial floor area exceeds 3,000 square feet. Revise the plans accordingly.
3. Amend plans to include elevations and floor plans for all buildings to remain on-site. Include the proposed land use descriptions of all buildings to remain within plans and in the scope of work. Revise the scope of work in the title sheet to include existing buildings to remain and to be demolished and proposed land uses for these facilities. Sheet A7.00 Existing Site Conditions is referenced in Title Sheet, but is not included in plan package. Revise the plans accordingly.
  4. The lighting plan shall include a description and legend to display the level of intensity in laymen's terms. All exterior areas are required to be illuminated.
  5. Ten percent of the property is required to be landscaped in accordance with Chapter 18.44 and Section 17.24.050(B). The landscape plans do not comply with Chapter 18.44 and Section 17.24.050. Revise the plans accordingly. Reference Bulletin 21 attached.
  6. The architectural investigation shall be revised to include a stamp by a licensed architect and include an analysis and evidence showing compliance with Title 15. Note existing and proposed occupancy classifications and load and revise the plans and architectural investigation to reflect any change in occupancy and provide evidence of compliance with Title 15 including ADA access and fire requirements.
  7. Provide easement records for Exceptions # 7 and # 8 on page 4 of the preliminary title report.
  8. Storm water Forms I-1 and I-2 are both checked yes. Amend the forms to accurately reflect the proposed improvements on the property.
  9. The operations manual references cultivation activities proposed on-site on page 11, but there are no references to cultivation shown in other materials. Also, the operations manual references no weapons on-site, but the general notes on the title sheet of the plans implies weapons will be on-site. Amend the submittal materials to clarify these discrepancies.
  10. Note in the employee manual that the City of Lemon Grove must authorize revisions to the manual.
  11. A drainage study shall be required if drainage patterns are altered.
  12. Drainage on-site shall drain into landscape areas prior to exiting the site.
  13. Provide a completed and signed Hazardous Materials Management Plan Questionnaire (attached).
  14. Provide Live Scan background checks for all operators, directors, employees, and volunteers submitted directly to City of Lemon Grove business license clerk for processing.
  15. Provide a statement of information, by-laws and operating agreement for Kim Investments LLC.
  16. Provide a valuation estimate for improvements proposed on-site.
  17. Provide exterior elevation plans and amend the site plan to include all proposed signage on-site including design, size, color, type and location. Include any images proposed.
  18. Amend the site and floor plan to show deliveries and pick ups for cash and marijuana. A secured vehicle staging is preferred.
  19. Show proposed seating as a part of the floor plan.

Additional comments may be provided upon receipt of the above referenced items. Please feel free to call me during counter hours (8am-10am and 3pm-5:30pm) at (619) 825-3812 if you have any questions.

Sincerely,



David De Vries  
Development Services Director

CC: ZCM-170-0001 File

Enclosures:  
Completed Planning Permit Submittal Checklist (MMD)  
Hazardous Materials Management Plan Questionnaire  
Landscape and Irrigation Bulletin 21



## PLANNING PERMIT SUBMITTAL CHECKLIST (MEDICAL MARIJUANA DISPENSARY)

Development Services Department / Planning Division  
3232 Main Street, Lemon Grove, CA 91945  
Phone: 619-825-3805 Fax: 619-825-3818

Completed by *David DeVries* 1/4/18 [www.lemongrove.ca.gov](http://www.lemongrove.ca.gov)

Consult with a planner to check the items required for your initial submittal. Thereafter, submit all of the items required with your planning permit application. Include this form completed and signed with the submittal. Applications deficient of any checked items may prohibit your submittal. Titles, Sections and Chapters referenced re from the Lemon Grove Municipal Code (LGMC) unless otherwise noted.

OFFICE USE ONLY

COMPLETE

INCOMPLETE

### PLAN PREPARATION GUIDELINES

<input checked="" type="checkbox"/>	Submit <u>8</u> sets of plans folded to 8 1/2 X 11.	X	
<input checked="" type="checkbox"/>	First sheet shall clearly state scope of work for entire project, including renovated landscape areas, and existing building(s) size(s) and land use(s).		X
<input checked="" type="checkbox"/>	All plans shall be drawn on uniform sheets.	X	
<input type="checkbox"/>	Development plans shall be prepared by an architect or civil engineer licensed to practice in the State of California.		
<input checked="" type="checkbox"/>	All plans/maps shall be clearly labeled with sheet title, project name and project location.	X	
<input checked="" type="checkbox"/>	Completed application forms and fees.	X	
<input checked="" type="checkbox"/>	All plans shall be clear, scaled to a standard architect's or engineer's scale (1"=16' prohibited), and legible.	X	
<input checked="" type="checkbox"/>	All plan sheets (site, floor plans, elevations, landscape, grading, etc.) shall be consistent with each other.	X	

### SITE PLAN *(see sample attached)*

<input checked="" type="checkbox"/>	Full compliance with Title 17 is required. This includes minimum parking, loading space, and landscape requirements.	?	X
<input checked="" type="checkbox"/>	Clearly state scope of work for entire project, including renovated landscape areas, and existing building(s) size(s) and land use(s).		X
<input checked="" type="checkbox"/>	Date of preparation and/or revisions.	X	
<input type="checkbox"/>	Precise legal description.		X
<input checked="" type="checkbox"/>	North arrow oriented towards the top of the sheet and a legend identifying any symbols.	X	
<input checked="" type="checkbox"/>	Property line and dimensions.	X	
<input checked="" type="checkbox"/>	A vicinity map showing the precise location of the project. Show nearest cross streets on all sides of the project site, with approximate distances from the site.	X	
<input checked="" type="checkbox"/>	Show adjacent streets (distance between property line and centerline of streets).	X	
<input type="checkbox"/>	Street cross-sections.		
<input checked="" type="checkbox"/>	Right-of-way width, including existing width and area proposed to be dedicated.		X
<input checked="" type="checkbox"/>	Dimensions and nature of all easements, labeled with recordation number.		X
<input checked="" type="checkbox"/>	Existing topography on site with drainage flow lines, including natural ground (contours), trees, and drainage courses.		X
<input type="checkbox"/>	Conceptual grading. Use San Diego Regional Standard Drawings for grading specifications.		
<input checked="" type="checkbox"/>	Street improvements (existing & proposed) fronting the property, including curbs, gutter, sidewalks, water lines, sewer lines, utility poles, fire hydrants, and street lights. Use San Diego Regional Standard Drawings for street specifications. A street dedication, street improvements, and overhead utility grounding may be required. Please reference Chapter 12.10		X

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<input checked="" type="checkbox"/>	Utility locations.		X
<input checked="" type="checkbox"/>	Location and dimensions of existing and proposed buildings and structures.		X
<input type="checkbox"/>	Improvements, property boundaries, and Map #s within 100 feet of the subject site.		
<input checked="" type="checkbox"/>	Parking layout with labeled stall size and location, aisles, driveway approaches, curb cuts, pedestrian access, and utility vehicle access.	X	
<input checked="" type="checkbox"/>	Handicap parking spaces and loading zones.	X	
<input checked="" type="checkbox"/>	Location, height, and materials of walls and fences (existing and proposed).		X
<input checked="" type="checkbox"/>	Location of refuse areas, including wall and fence heights, and materials.	X	
<input type="checkbox"/>	Location of any outdoor storage areas and screening devices.		
<input checked="" type="checkbox"/>	Required and proposed setback dimensions and building separations.		X
<input checked="" type="checkbox"/>	Conceptual landscape & irrigation labeled with irrigation location and type, plant species, size, and location, and ground cover type and depth below grade in compliance with Chapter 18.44. Location of all existing and proposed trees. Identify whether the trees are to be preserved, relocated or removed. Use San Diego Regional Standard Drawings for specifications. <i>see landscape bulletin 21 attached.</i>		X
<input checked="" type="checkbox"/>	Label and dimension all surface improvements (e.g., walkways, driveways, patios, landscape areas). Note where existing topography is sloped or flat with drainage flow arrows.		X
<b>A tabular summary including the following:</b>			
<input checked="" type="checkbox"/>	Gross and net acreage.	X	
<input checked="" type="checkbox"/>	Gross floor area per building or unit and total floor area for all buildings.	X	
<input checked="" type="checkbox"/>	Proposed density (dwelling units per net acre for residential subdivisions and floor area ratio for commercial and industrial developments).	X	
<input checked="" type="checkbox"/>	Lot Coverage Ratio (percentage of site covered by all buildings and structures).	X	
<input checked="" type="checkbox"/>	Pervious Surface Coverage Ratio (post and pre-development percentage of lot covered by pervious surfaces).		X
<input checked="" type="checkbox"/>	Required and proposed number of parking spaces, (covered, uncovered, and handicapped accessible, as applicable).		X
<b>FLOOR PLAN</b>			X
<input checked="" type="checkbox"/>	Interior layout (labeled) and dimensions of all levels.	X	
<input type="checkbox"/>	Finished floor elevation of ground floors.		
<input checked="" type="checkbox"/>	Proposed demolition, provide square feet to be demolished.	X	
<input checked="" type="checkbox"/>	Location of all openings (windows and doors).	X	
<b>ROOF PLAN</b>			X
<input type="checkbox"/>	Dimensions of roof overhang(s).		
<input checked="" type="checkbox"/>	Location of rooftop equipment and screening.		X
<b>EXTERIOR ELEVATIONS</b>			
<input checked="" type="checkbox"/>	Illustrative elevations of all sides of <u>all</u> buildings and structures.		X
<input type="checkbox"/>	Proposed and existing roof and siding materials labeled on each sheet of the elevations. Note if roof and siding materials will match existing buildings on-site.		
<input checked="" type="checkbox"/>	Proposed and existing building colors labeled on each sheet of the elevations.	X	
<input checked="" type="checkbox"/>	Heights of all structures (measured from average finished grade to peak of roof). Show finish floor MSL, finish pad MSL, finished grade, average finished grade, spot elevations within 5' of building footprint and dimensions to highest points of structure.	X	
<input checked="" type="checkbox"/>	Conceptual sign locations, sizes and type.		X
<input checked="" type="checkbox"/>	Roof top equipment and screening treatment for rooftop equipment.		X
<input type="checkbox"/>	Cross sections and architectural details.		
<b>ADDITIONAL REQUIREMENTS</b>			
<input checked="" type="checkbox"/>	Environmental Initial Study application.	X	

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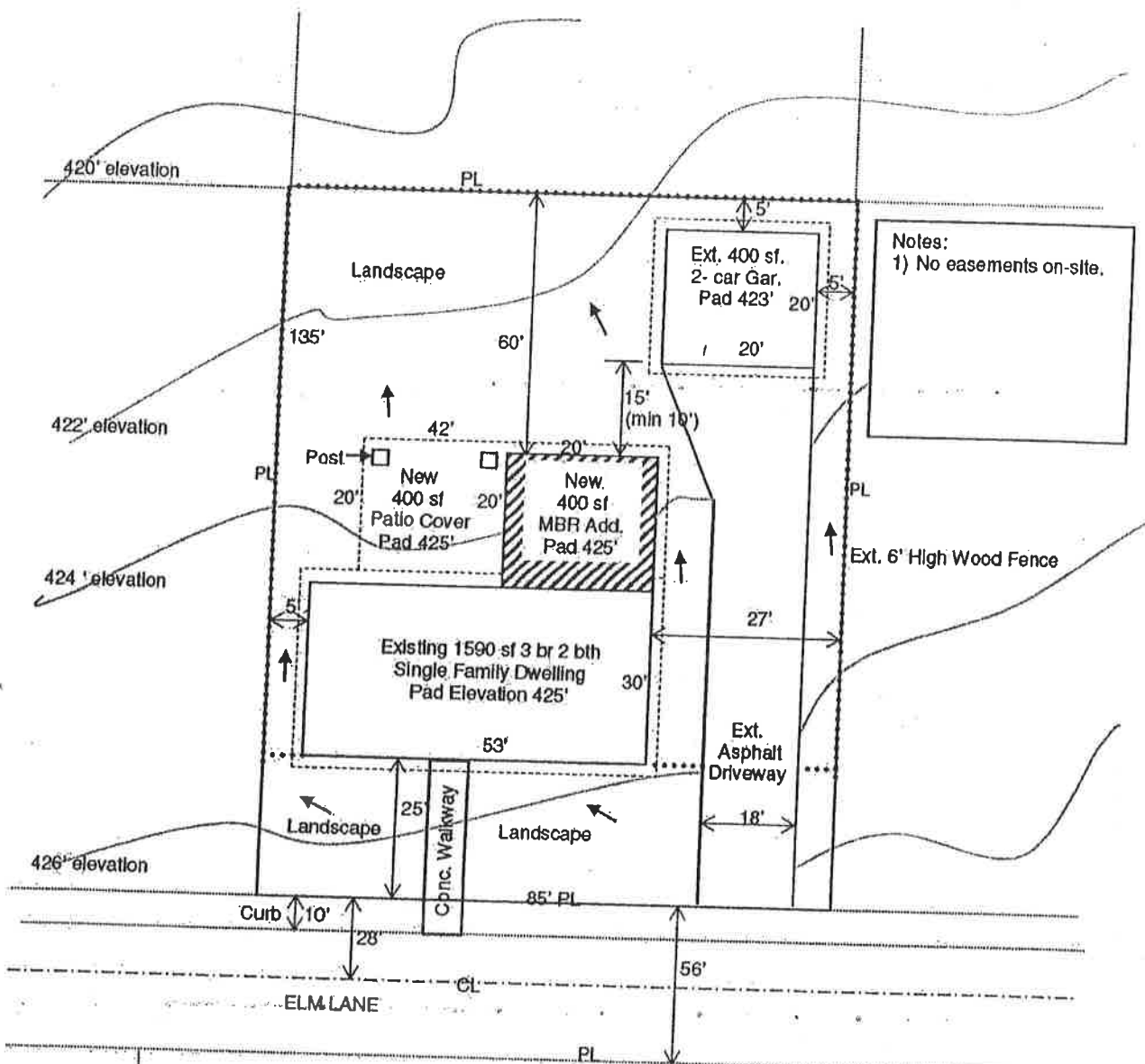
<input checked="" type="checkbox"/>	Interior/Exterior site photographs.			X
<input type="checkbox"/>	Photo Simulation/Perspective Drawing: A photo simulation or perspective drawing may be required in addition to photos.			
<input type="checkbox"/>	View/Line of Sight Study: A view/line of sight study may be required to show the project has adequate line of sight for vehicular circulation. This study shall be prepared and stamped by a licensed civil engineer.			
<input checked="" type="checkbox"/>	Preliminary title report and copies of recorded documents listed in <u>Schedule B</u> and easements plotted on an APN map. <i>exceptions</i>			X
<input type="checkbox"/>	Chain of Title			
<input checked="" type="checkbox"/>	Copy of County Assessor Building Construction Records			
<input type="checkbox"/>	Licensed Land Survey		X	
<input checked="" type="checkbox"/>	Phase I and II Environmental Assessments <i>(demolition includes ground disturbance)</i>			X
<input type="checkbox"/>	Biological Assessment			
<input type="checkbox"/>	Cultural Resource Assessment			
<input checked="" type="checkbox"/>	Air Quality Study <i>if carbon filters and HVAC are not proposed.</i>			X
<input checked="" type="checkbox"/>	Parking Study by a <i>licensed traffic engineer.</i>			X
<input checked="" type="checkbox"/>	STORMWATER BMPS. Intake Forms I-1, I-2, and I-3 must be filled out as applicable to the project. Projects requiring submittal of Form I-1 only are required to submit a complete Form I-1. Projects requiring submittal of Form I-2 require Construction Stormwater BMP Notes and Permanent Stormwater BMP Notes on their site plan. Projects requiring submittal of Form I-3 must provide a Storm Water Quality Management Plan and for projects without a Grading Plan, a separate Construction BMP Plan is required (pre- and post-construction impervious area is required to be shown on the plans).		X	
<input type="checkbox"/>	Geotechnical Study			
<input type="checkbox"/>	Acoustical Analysis/Noise Study			
<input checked="" type="checkbox"/>	Traffic Analysis <i>by a licensed traffic engineer.</i>			X
<input type="checkbox"/>	Conceptual Grading Plan. Use San Diego Regional Standard Drawings for grading specifications.			
<input checked="" type="checkbox"/>	Conceptual Landscape & Irrigation Plans labeled with irrigation location and type, plant species, size, and location, and ground cover type and depth below grade in compliance with Chapter 18.44. Location of all existing and proposed trees. Identify whether the trees are to be preserved, relocated or removed. Use San Diego Regional Standard Drawings for specifications. <i>see bulletin attached</i>			X
<input checked="" type="checkbox"/>	Other materials as required (Reference Chapter 17.32 of the LGMC for further details): <input checked="" type="checkbox"/> Completed City business license application (City of Lemon Grove Form) <input checked="" type="checkbox"/> Dispensary Operations Manual and Standards including transaction and employee handling instructions and curriculum <input checked="" type="checkbox"/> Employee training manual <input checked="" type="checkbox"/> Live Scan background checks for all directors, employees, and volunteers submitted on a form provided by the City of Lemon Grove with appropriate fees paid. <input checked="" type="checkbox"/> Names and contact information for dispensary director and community liaison <input checked="" type="checkbox"/> Names and contact information for all officers of any LLC with any ownership interest or operational interest in the proposed medical marijuana dispensary. <i>See notes</i> <input checked="" type="checkbox"/> Lighting plan <input checked="" type="checkbox"/> Fire flow analysis <input checked="" type="checkbox"/> Waste disposal plan <input checked="" type="checkbox"/> A weapons storage and use plan <i>see notes</i> <input checked="" type="checkbox"/> Architect investigation and scope of work including requirements for proper ventilation to prevent mold and reduce odors to below a level of significance. Facility shall be in full compliance with Title 15 of the Municipal Code. <i>See notes</i> <input checked="" type="checkbox"/> State Board of equalization seller's permit *Continued to Next Page			X

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# SAMPLE SITE PLAN



**Notes:**  
1) No easements on-site.

**SITE ADDRESS:**

**APN:**

**EXISTING CONDITIONS:** 1590 sf SFR w/  
400 sf 2-car garage

**SCOPE OF WORK:** 400 sf MBR Addition  
and 400 sf Patio Cover

**OWNER:**

NAME, MAILING ADDRESS, PHONE, EMAIL

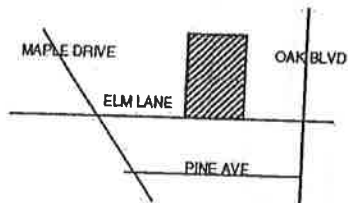
**PREPARED BY:**

NAME, MAILING ADDRESS, PHONE, EMAIL



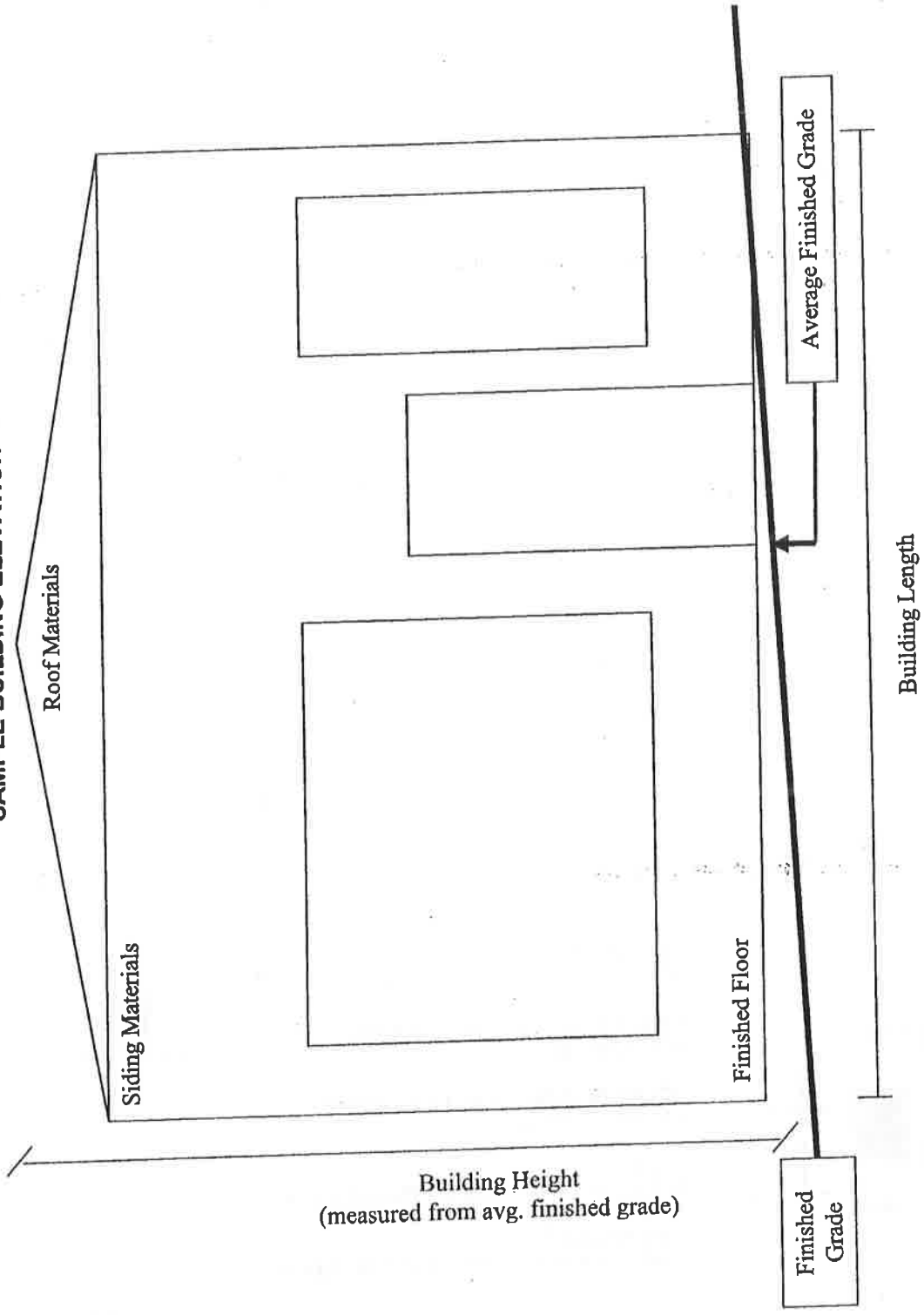
Scale 1"=50'

**VICINITY MAP**  
NO SCALE



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**SAMPLE BUILDING ELEVATION**



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# HEARTLAND FIRE & RESCUE

SERVING THE CITIES OF EL CAJON, LA MESA AND LEMON GROVE

## Hazardous Materials Management Plan Questionnaire

This form is provided by Heartland Fire & Rescue fire prevention staff to determine the amounts of hazardous materials stored on site. Please indicate the types and quantities of hazardous materials that are used and stored on site. Please indicate the unit of measurement used for the quantity. \*LB – Pounds, GAL – Gallons, and CF – Cubic Feet

### Indoor Storage of Hazardous Materials

#### Amounts

	Yes	No	Quantity	LB/GAL/CF*	MAQ
1. More than 30 gallons of flammable liquids	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	
a. Class IA flash point <73°F and boiling point <100°F			_____	_____	30
b. Class IB flash point <73°F and boiling point >100°F			_____	_____	120
c. Class IC flash point >73°F and boiling point <100			_____	_____	120
2. More than 120 Gallons of combustibile liquids	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	
a. Class II closed cup flash point >100°F and <140°F			_____	_____	120
b. Class IIIA closed cup flash point >140°F and <200°F			_____	_____	330
c. Class IIIB closed cup flash point >200°F			_____	_____	13200
3. More than 45 gallons of flammable cryogenics	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	45
4. More than 1,000 cubic feet of flammable gas	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	1000
5. More than 125 pounds of flammable solids	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	125
6. Explosives in any amount	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	1
7. Inert gas in any amount	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	N/A
8. Organic peroxide in any amount	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	1
9. Oxidizer in any amount	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	1
10. More than 1,500 cubic feet of an oxidizing gas	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	1500
11. More than 4 cubic feet of pyrophoric chemical	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	4
12. Unstable (reactive) chemical in any amount	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	1
13. More than 5 cubic feet/pounds of an water reactive material	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	5
14. More than 5,000 solid pounds or 500 gallons of a corrosive	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	500
15. More than 10 solid pounds of a highly toxic chemical	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	10
16. More than 500 pounds of toxic chemicals	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	500

MAQ section is for Fire Department use only

Address: \_\_\_\_\_ Business Name: \_\_\_\_\_

Name of person completing this form: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## LANDSCAPE & IRRIGATION

Development Services Department  
3232 Main Street, Lemon Grove, CA 91945  
Phone 619-825-3805  
[www.lemongrove.ca.gov](http://www.lemongrove.ca.gov)

INFORMATION  
BULLETIN

21

June 2016

The following regulations apply to all new and renovated landscape areas which require submittal of a building, planning, or landscape permit application and appropriate fees, however, new plantings and additions to existing irrigation systems are considered to be maintenance with no permit requirements provided the existing landscape and irrigation system is not substantially renovated. **Please reference Sections 17.24.050 and 18.08.130 and Chapter 18.44 of the Municipal Code for further clarification and exceptions associated with the requirements herein.**

**Applications shall include a landscape documentation package that contains the following elements:**

1. Planting and irrigation plans that describe the landscaping (size, type, water use classification [WUCOLS], and location) and irrigation (type and location) for the project. The plans shall include the following notes and schematics:
  - a. Installations shall be per San Diego Regional Standard Drawings (appropriate drawings shall be added to plans).
  - b. A pre-inspection prior to installation is required to inspect: 1) the irrigation, root barrier, ground cover, and planting excavations, 2) the compost and soil materials prior to blending, and 3) the irrigation, root barrier, ground cover, and planting materials. Contact the project planner for an inspection.
  - c. A final inspection is required after installation to inspect: 1) irrigation locations, types and flows, 2) planting locations, types and sizes, 3) ground cover depth, and 4) root barrier and tree staking installations. Contact the project planner for an inspection.
  - d. Holes for plantings shall be excavated slightly shallower and a minimum of two times the width of the root ball or container. The root ball shall be set so that the top of the root ball will sit slightly higher than the final grade.
  - e. Compost shall be uniformly blended with excavated soil at a ratio of one part compost (one-third) per two parts soil (two-thirds). The compost-soil blend shall be backfilled around the root ball within the planting hole.
  - f. Turf and shallow planting areas shall include compost at a minimum depth of one inch and the area shall be tilled to a minimum five inches in depth.
  - g. Plantings shall be thoroughly watered during and after plantings.
  - h. Nonvegetated natural ground cover shall be a minimum of three inches deep and shall be one inch below surrounding paved surfaces.
  - i. New impervious surfaces shall direct storm water drainage to landscape areas.
  - j. Storm water shall not be diverted to flow onto adjacent property, nonirrigated areas, structures, walkways, roadways, or other paved areas, whether due to runoff, low head drainage, overspray, or other similar condition unless approved by the Engineering Division.
  - k. Water use shall conform to the Maximum Applied Water Allowance (MAWA).
  - l. Best Management Practices shall be implemented at all times.

- m. Each person issued a landscape approval shall submit a signed certificate of completion, under penalty of perjury, on a form provided by the city.
2. Minimum plantings per landscape area are required as follows:
- a. An area shall be devoted to landscaping which amounts to a minimum of fifteen percent of total lot area in residential developments, and ten percent of the total lot area in nonresidential developments.
  - b. Landscape areas may consist of very low and low water use plant materials per WUCOLS.
  - c. Landscape areas consisting of moderate and high water use plant materials per WUCOLS shall not exceed a ratio of 1 part planting area (one-third) per 2 parts of no water use natural nonvegetated ground cover (two-thirds). Alternative landscapes not in compliance with this regulation are allowed provided they comply fully with the State MWELO.
  - d. A minimum of 25 percent of the landscape area shall consist of vegetated plant materials.
  - e. A minimum of one 15 gallon tree shall be provided per 1,000 sq. ft. of landscape area (existing trees included).
  - f. A minimum of 100 sq. ft. of edible planting area or one 15 gallon fruit or nut tree shall be planted for each dwelling unit, but for no more than five dwelling units on a single lot.
  - g. For all off-street parking areas of five or more spaces, an area equivalent to a minimum of ten percent of the area provided for parking shall be landscaped. Such landscaping shall be considered as a portion of the landscaping required for the entire lot. As part of this landscaping, one tree for every six parking spaces, or fraction thereof, shall be provided and located so as to visually disrupt long rows of parked automobiles. These trees shall be at least fifteen gallons in size, may be clustered and shall be provided with a means of irrigation and properly maintained.
3. Slopes greater than twenty-five percent shall be irrigated with an Irrigation system with a precipitation rate of 0.75 inches per hour or less to prevent runoff and erosion. An applicant may employ an alternative design if the plan demonstrates that no runoff or erosion will occur.
4. All wiring and piping under a paved area that a vehicle may use, such as a parking area, driveway or roadway, shall be installed inside a PVC conduit.
5. Irrigation piping and irrigation devices within twenty-four inches of a vehicle or pedestrian use area and that deliver water, such as sprinkler heads, shall be installed below grade. The director may allow on-grade piping where landform constraints make below grade piping infeasible.
6. Low volume or subsurface irrigation shall be used to irrigate any vegetation within twenty-four inches of an impermeable surface unless the adjacent impermeable surfaces are designed and constructed to cause water to drain entirely into a landscaped area.
7. A manual shutoff valve shall be installed as close as possible to the water supply. Additional manual shutoff valves shall be installed between each zone of the irrigation system and the water supply.
8. New irrigations systems shall include an automatic irrigation controller and consist of drip or microspray systems.
9. High-efficiency, matched-precipitation rate sprinkler nozzles shall be required at all homes (residential landscapes), common areas, parks, and commercial/industrial landscapes.
10. Dedicated meters for outdoor water use shall be required as follows:
- a. In single-family residences with one or more acre(s) of irrigated landscape,
  - b. In all parks and common areas,

- c. In commercial, industrial, government, and multi-family sites with 5,000 square feet or more of irrigated landscape;
- 11. Enroll all new irrigation meters (except those at single-family residences) in the Helix Water Budget Program and provide documentation of irrigated landscape area at the time of meter purchase.
- 12. Pervious and porous surfaces that minimize runoff shall be encouraged.
- 13. New roofs shall be encouraged to direct storm water to landscape areas or to water capture and reuse containers.
- 14. Except in RL and RL/M districts, all planting areas shall be bounded by a curb having a minimum height of six inches.
- 15. If grading is proposed, the following shall be included:
  - a. A grading plan that complies with Sections 18.08.130 and 18.08.070.
  - b. All slopes shall include an irrigation system which shall be used by the permittee to promote the growth of plants to protect the slopes against erosion. The plan shall show the finished configuration and elevations of each landscaped area including the height of graded slopes, the drainage pattern, pad elevations, finish grade and any stormwater retention improvements.
  - c. The landscape documentation package shall be prepared by a licensed landscape architect.
  - d. Provide a soil management report that provides the analysis of the soil within each landscaped area of the project and makes recommendations regarding soil additives.

**After approval of a landscape and irrigation plan, the owner is required to:**

- 1. Maintain and operate the landscaping and irrigation system on the property.
- 2. Replace broken or malfunctioning irrigation system components with components of the same materials and specifications, their equivalent or better.
- 3. Ensure that when vegetation is replaced, replacement plantings are consistent with regulations in this Chapter.

**Please coordinate with the Planning Division regarding questions.**

**EXHIBIT 3**  
**January 26, 2017 Status Email**

**Austin, Gina**

---

**From:** Susan Garcia <sgarcia@lemongrove.ca.gov>  
**Sent:** Friday, January 26, 2018 7:30 AM  
**To:** Austin, Gina  
**Subject:** FW: Lemon Grove Public records request MMD Status Summary

Gina, I apologize for any delay, I was off a couple of days this week.

*Respectfully,  
Susan*

Susan Garcia, City Clerk  
City of Lemon Grove | 3232 Main Street | Lemon Grove, California 91945  
Phone: 619.825.3841 | Fax: 619.825.3818 |  
www.lemongrove.ca.gov

**From:** David DeVries  
**Sent:** Thursday, January 25, 2018 2:03 PM  
**To:** Susan Garcia <sgarcia@lemongrove.ca.gov>  
**Subject:** Lemon Grove Public records request MMD Status Summary

Here's the most recent update on MMD applications updated summary for the PRA. I highlighted the sites that are still eligible.

Medical Marijuana Dispensary Applications Updated 1/24/2018					
PROJECT NUMBER	ADDRESS	APPLICANT	CONTACT	PROPERTY OWNER	STATUS
ZC1-700-0002 Submitted 3/20/17	6859 Federal Blvd.	Federal and College Group, Inc.	Nidia Castaneda	Federal and College LLC 6859 Federal	Zoning Clearance Deemed complete: Meets distance restrictions.
CUP-180-0002 Submitted 1/22/18					CUP status: in review.
ZC1-700-0003 Submitted 3/20/17	3515 & 3521 Harris St.	LG Wellness, LLC Jessica McElfresh 12555 High Bluff Drive, Suite 30 San Diego, CA 92130	Jessica McElfresh 12555 High Bluff Drive, Suite 30 San Diego, CA 92130	RRJJ, LLC	Denial letter sent 3/21/17: distance restrictions

**Medical Marijuana Dispensary Applications  
Updated 1/24/2018**

<b>PROJECT NUMBER</b>	<b>ADDRESS</b>	<b>APPLICANT</b>	<b>CONTACT</b>	<b>PROPERTY OWNER</b>	<b>STATUS</b>
ZC1-700-0004 Submitted 3/20/17  CUP-170-0001 Submitted 10/4/17	6470 Federal Blvd.	Sean McDermott	Sean McDermott	Wing Avenue Investment, LLC Keith Anderson	Zoning Clearance Deemed complete: Meets distance restrictions.  CUP Notice of Corrections sent 11/7/17.
ZC1-700-0005 Submitted 3/21/17	3475 Lemon Grove Ave.	Nature Nurse, Inc. Ryan Goldman	Ryan Goldman	Goldman Family Trust	Denial letter sent 3/23/17: MMD's not permitted in CC zone.
ZC1-700-0006 Submitted 3/21/17	7309 Broadway	Marty Frank	Elidia C. Dostal Law Offices of Elidia C. Dostal, APC 3170 Fourth Avenue, Suite 250 San Diego, CA 92103 619.254.8939 <a href="mailto:elidia@ecdlawoffices.com">elidia@ecdlawoffices.com</a> <a href="http://www.ecdlawoffices.com">www.ecdlawoffices.com</a>	John Marks	Does not meet distance restrictions. Denial letter sent 4/3/17. Admin. Appeal filed on 4/5/17. Denial upheld by City Council on July 18, 2017.
ZC1-700-0007 Submitted 3/21/17	6302 Federal Blvd.	Rakesh Goyal	Rakesh Goyal	Starr Skinner	Does not meet distance restrictions. Denial letter sent 4/3/17.
ZC1-700-0008 Submitted 3/27/17	6360 Federal Blvd.	Adam Knopf	Alan Austin	Terry and Deborah Mammen Family Trust	Does not meet distance restrictions. Denial letter sent 4/3/17. Application withdrawn by property owner 4/26/17.
ZC1-700-0009 Submitted 3/27/17	3494 & 3510 Harris St.	Adam Knopf	Abhay Schweitzer	Elliott Family Trust	Does not meet distance restrictions. Denial letter sent 4/3/17. Attempted to appeal denial but did not file appeal within 10-day period.
ZC1-700-0010 Submitted 3/30/17	8249 Broadway	Rodi Mikha	Jessica C. McElfresh P.O. Box 230363 Encinitas, CA 92023	Rodi Mikha	Does not meet distance restrictions. Denial letter sent 4/3/17 Admin. Appeal filed on 4/12/17. Continuance requested. Set for City Council public hearing on 8/15/17. Application withdrawn on 8/14/17.

**Medical Marijuana Dispensary Applications  
Updated 1/24/2018**

<b>PROJECT NUMBER</b>	<b>ADDRESS</b>	<b>APPLICANT</b>	<b>CONTACT</b>	<b>PROPERTY OWNER</b>	<b>STATUS</b>
ZC1-700-0011 Submitted 4/3/17	8247 Broadway	Blake Marchand	Blake Marchand	S&S Nelson Family Ltd. Partnership	Does not meet distance restrictions. Denial letter sent 4/6/17.
ZC1-700-0012 Submitted 4/6/17	8260 Broadway	Pick Axe Holdings, LLC Christopher Williams	Pick Axe Holdings, LLC Christopher Williams	Mattar Family Trust of 1990	Does not meet distance restrictions. Denial letter sent 4/17/17. Appeal filed on 4/20/17. Continuance requested. Set for City Council Public Hearing on 8/15/17. Denial upheld by City Council on 8/15/17.
ZC1-700-0013	3536 Olive Street	Brian R. Booth	Urban City	Francisco Corral	Does not meet distance restrictions. Denial letter sent 4/24/17.
ZC1-700-0016 Submitted 6/1/17  CUP-180-0001 Submitted 1/18/18	6915 North Ave.	Pick Axe Holdings, LLC Christopher Williams	Pick Axe Holdings, LLC Christopher Williams Appeal Contact: Gina Austin <a href="mailto:gaustin@austinlegalgroup.com">gaustin@austinlegalgroup.com</a>	Mattar Family Trust of 1990	Does not meet distance restrictions. Denial letter sent 6/13/17. Appeal filed on 6/21/17. Set for City Council Public Hearing on 8/15/17 and continued to 9/19/17. City Council determined that MMD meets distance requirements on 9/19/17. Application deemed complete.  CUP status: in review.
ZC1-700-0017 Submitted 7/6/17	2295 Lemon Grove Way	Pick Axe Holdings, LLC Christopher Williams	Pick Axe Holdings, LLC Christopher Williams	MAVA	Does not meet distance restrictions. Denial letter sent 8/3/17. Attempted to appeal denial but did not file appeal within 10-day period.
ZC1-700-0018 Submitted 9/12/17	8280 Broadway	Pick Axe Holdings, LLC Christopher Williams	Pick Axe Holdings, LLC Christopher Williams	Mattar Family Trust of 1990	Does not meet distance restrictions. Denial letter sent 10/11/17.
ZCM-170-0001 Submitted 10/16/17	7303 Broadway	7303 Broadway Inc. c/o Chris Francy	7303 Broadway Inc.	Atete Majdiyazdi	Deemed incomplete: Meets distance restrictions.



**Medical Marijuana Dispensary Applications**  
**Updated 1/24/2018**

<b>PROJECT NUMBER</b>	<b>ADDRESS</b>	<b>APPLICANT</b>	<b>CONTACT</b>	<b>PROPERTY OWNER</b>	<b>STATUS</b>
ZCM-170-0002 Submitted 12/6/17	3515 Harris	Kim Investments LLC Jilette Yousif	Gina Austin	RRJJ, LLC Jilette Yousif	Deemed incomplete: Meets distance restrictions.

Thanks,

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

**EXHIBIT 4**  
**City Denial Letter**



**CITY OF LEMON GROVE**  
Development Services Department

"Best Climate On Earth"

Date: February 15, 2018

KIM Investments, LLC  
RRJJ, LLC  
Attn. Jilette Yousif  
2221 Camino Del Rio South # 207  
San Diego CA 92108

Gina Austin  
3990 Old Town Ave., Ste. A112  
San Diego, CA 92110

SUBJECT: Notice of Denial for Zoning Clearance Application ZCM-170-0002 for property located at 3515 Harris Street, in the City of Lemon Grove (APN:479-052-07-00).

Mr. Yousif and Ms. Austin,

On February 7, 2018, staff received a resubmittal package for subject application to establish a medical marijuana dispensary (MMD) at the subject property in the City of Lemon Grove. Thereafter, **we received evidence that there is a new State-licensed family daycare home within 1,000 feet of the subject property which disqualifies the subject property from eligibility for a conditional use permit and the application is therefore denied.** The application package resubmittal will not be reviewed since the application is denied.

As reflected in Bulletin 23, the zoning clearance process for a marijuana dispensary is twofold: 1) Does the application meet separation requirements from permitted marijuana dispensaries and protected uses; and 2) Is the application provided complete. Once these two reviews are satisfied, the applicant is eligible to submit a conditional use permit. Staff recommended this process to City Council at the March 7, 2017 City Council meeting. The process is such, so that when a conditional use permit is applied for after zoning clearance approval notice of complete, staff can then take in the \$1,500 deposit and updated application form and route the application, plans and materials to the various reviewing departments for corrections and/or conditions if any.

In order for staff to process a conditional use permit application for a MMD, the application must include all of the information required by Chapter 17.32 of the Lemon Grove Municipal Code, as well as the items listed on the City's MMD Planning Permit Checklist. Additionally, the location of the proposed MMD must comply with the zoning requirements and distance restrictions contained within Chapter 17.32. If any of the required items are missing, or if the proposed location does not meet the zoning requirements and distance restrictions, then staff cannot process a conditional use permit application. Please review the requirements of Chapter 17.32 and the MMD Planning Permit Checklist prior to submitting another application. Please also verify that the site chosen meets the distance restrictions established by Chapter 17.32. Staff's decision to deny this application may be appealed to the Lemon Grove City Council pursuant to Lemon Grove Municipal Code, Section 17.28.020(I). Appeals must be filed in writing within 10 calendar days of the date on this denial letter and must include a filing fee of \$75.00. Appeals must be filed using forms provided by the Development Services Department.

Please feel free to call me during counter hours (8am-10am and 3pm-5:30pm) at (619) 825-3812 if you have any questions.

Sincerely,



David De Vries  
Development Services Director

CC: ZCM-170-0002 File

**EXHIBIT 5**  
**Childcare License**

LIS055M LICENSING INFORMATION SYSTEM - FACILITY PROFILE DATE: 02/21/18

EVALUATOR: Q405 DO: 20 FAC NBR: 37 6627345 STATUS: LICENSED  
FAC NAME: PINTOR, KRISTINA FAMILY CHILD CARE CAPACITY: 0008  
FAC ADDR: 3335 CITRUS STREET, LEMON GROVE, CA 91945  
FAC MAIL: 3335 CITRUS STREET, LEMON GROVE, CA 91945  
FAC TYPE: FAMILY DAY CARE CLIENT SERVED: CHILDREN/INFANT  
FAC FIRST LICENSED: 02/12/18 APP REC'D: 01/09/18  
COUNTY: SAN DIEGO DIRECTOR: KRISTINA PINTOR PHONE: (619)309-7230  
DATE CAP CHG: DATE CAP APPR: ANNUAL FEES CURRENT: YES  
LICENSEE NAME: PINTOR, KRISTINA  
LIC MAIL: 3335 CITRUS STREET, LEMON GROVE, CA 91945  
LIC EFF DATE: 02/12/18 TYPE: INDIVIDUAL  
FAC DUAL IDENTIFIER: N DUAL LICENSE NBR: FCRB: . . .  
COMMENTS MAX. CAP(WHEN THERE IS AN ASSISTANT PRESENT): 12 - NO MORE THAN  
4 INFANTS. CAP 14 - NO MORE THAN 3 INFANTS. 1 CHILD IN  
KINDERGARTEN OR ELEMENTARY SCHOOL AND 1 CHILD AT LEAST AGE 6.

FAC CLOSED DATE: E-MAIL:  
LAST VISIT DATE: 02/12/18 TYPE: PRELICENSING  
LAST DEFERRED VISIT DATE: TYPE:  
SPH: 000 REQ VISIT: N  
R = MENU, Y = DATES, F = SUMMARY, H = PAYMENT HISTORY, E= EMERGENCY Enter>

LIS055M LICENSING INFORMATION SYSTEM - FACILITY PROFILE DATE: 02/13/18

EVALUATOR: Q405 DO: 20 FAC NBR: 37 6627345 STATUS: PROVISIONAL LICENSE  
FAC NAME: PINTOR, KRISTINA FAMILY CHILD CARE CAPACITY: 0008  
FAC ADDR: 3335 CITRUS STREET, LEMON GROVE, CA 91945  
FAC MAIL: 3335 CITRUS STREET, LEMON GROVE, CA 91945  
FAC TYPE: FAMILY DAY CARE CLIENT SERVED: CHILDREN/INFANT  
FAC FIRST LICENSED: 02/12/18 APP REC'D: 01/09/18  
COUNTY: SAN DIEGO DIRECTOR: KRISTINA PINTOR PHONE: (619)309-7230  
DATE CAP CHG: DATE CAP APPR: ANNUAL FEES CURRENT: YES  
LICENSEE NAME: PINTOR, KRISTINA  
LIC MAIL: 3335 CITRUS STREET, LEMON GROVE, CA 91945  
LIC EFF DATE: 02/12/18 EXP DATE: 02/28/18 TYPE: INDIVIDUAL  
FAC DUAL IDENTIFIER: N DUAL LICENSE NBR: FCRB:  
COMMENTS MAX. CAP (WHEN THERE IS AN ASSISTANT PRESENT): 12 - NO MORE THAN  
4 INFANTS. CAP 14 - NO MORE THAN 3 INFANTS. 1 CHILD IN  
KINDERGARTEN OR ELEMENTARY SCHOOL AND 1 CHILD AT LEAST AGE 6.

FAC CLOSED DATE: E-MAIL:  
LAST VISIT DATE: TYPE:  
LAST DEFERRED VISIT DATE: TYPE:  
SPH: 000 REQ VISIT: N  
R = MENU, Y = DATES, F = SUMMARY, H = PAYMENT HISTORY, E= EMERGENCY Enter>

**EXHIBIT 6**  
**Prior City Emails**



## Austin, Gina

---

**From:** Austin, Gina  
**Sent:** Monday, April 10, 2017 1:24 PM  
**To:** 'David DeVries'; 'Eric Craig'  
**Cc:** 'Abhay Schweitzer (abhay@techne-us.com)'  
**Subject:** RE: 8260 Broadway MMD Zoning Clearance Submittal

David,

What you attached was my letter not a determination. As I understand it no determination has been made yet (according to my client's discussion with Eric this morning). Further, in this instance it appears the City simply mismeasured. We are requesting that the City take into account the measurements in the letter or a survey instead of denying the application. If this takes longer than usual we understand. However, it is improper to deny based upon inaccurate information when the City has been provided the correct information.

Gina

---

**From:** David DeVries [mailto:ddevries@lemongrove.ca.gov]  
**Sent:** Monday, April 10, 2017 1:19 PM  
**To:** Austin, Gina; Eric Craig  
**Cc:** Abhay Schweitzer (abhay@techne-us.com)  
**Subject:** RE: 8260 Broadway MMD Zoning Clearance Submittal

Received. This zoning clearance application has already been reviewed and a determination given (see attached).

The Municipal Code clearly points out that a zoning clearance is required for all changes in land uses. In this particular instance, a zoning clearance cannot be granted for the reasons provided. To be clear, the City will not accept a conditional use permit application without substantial evidence that the land use is in conformance with our city codes. A new zoning clearance application would be required to make this determination. Based on my review of your findings in your attached letter, no change in my determination would be given. I hope this helps.

### 17.12.070 Uncertainty of use classifications.

A. It is recognized that in the development of a comprehensive zoning ordinance, not all uses of land can be listed, nor can all future uses of lands be anticipated. The listings of uses permitted or permitted subject to a conditional use permit in each zone, or subject to a conditional use permit, are illustrative and meant to indicate the types and scales of development intended for each district. A use may have been omitted from the list of those specified as permissible in each of the various districts herein designated, or ambiguity may arise concerning the appropriate classification of a particular use within the meaning and intent of this chapter. Where such uncertainty exists, the development services director shall determine the appropriate classification for any such use.

### 17.28.020 Application procedures.

A. Purpose. This section establishes procedures for submitting and processing applications for proposed uses, structures, and/or improvements of real property, and related matters subject to this title; authorize the city to establish, modify, and collect fees, and set time limits for processing.

D. Application Submittal. Prior to submitting application packages for permits or other approvals, the applicant shall obtain a zoning clearance according to Section 17.28.070. Thereafter, application packages shall be submitted to the development services department upon a prescribed form, accompanied by applicable fees according to subsection (D)(1), and related materials necessary to show that the proposed use, structures, and/or improvements of the property

comply with applicable provisions of this code, state law, federal law and the requirements and conditions of any associated permit. Each application filed by, or on behalf of, one or more property owners shall be verified by at least one such owner or the owner's authorized agent attesting to the truth and correctness of all facts, statements, and information presented.

17.28.070 Zoning clearances.

A. Purpose. This section establishes procedures for conducting a zoning clearance review to ensure that all proposed uses, structures, and/or improvements comply with the applicable requirements of this code. The zoning clearance serves as a record of compliance. Prior to, or concurrent with, submitting an application for any business license, building permit, improvement, subdivision, or other change in use, the applicant shall obtain a zoning clearance. A zoning clearance also serves as a record of decisions for proposed uses, structures, and/or improvements, which may not require additional approvals or permits in this code.

B. Exemptions. To the extent allowed by law, applications for miscellaneous building permits, at the determination of the development services director, shall be exempt from this chapter.

C. Application Procedures. Application packages for zoning clearances shall be processed according to Section 17.28.020. Development services department staff shall process and decide zoning clearance applications ministerially. (Ord. 434 § 5, 2015; Ord. 386 § 3, 2009)

Thanks,

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

---

**From:** Austin, Gina [<mailto:gaustin@austinlegalgroup.com>]  
**Sent:** Monday, April 10, 2017 12:50 PM  
**To:** David DeVries <[ddevries@lemongrove.ca.gov](mailto:ddevries@lemongrove.ca.gov)>; Eric Craig <[ecraig@lemongrove.ca.gov](mailto:ecraig@lemongrove.ca.gov)>  
**Cc:** Abhay Schweitzer ([abhay@techne-us.com](mailto:abhay@techne-us.com)) <[abhay@techne-us.com](mailto:abhay@techne-us.com)>  
**Subject:** 8260 Broadway MMD Zoning Clearance Submittal  
**Importance:** High

David,

Please see attached correspondence relative to the MMD Zoning Clearance submittal for 8260 Broadway. As explained in more detail in the attached letter, St. John of the Cross Catholic School is more than 1000' property line to property line (without consideration of intervening structures.) As such, we are requesting the City re-assess its measurements and issue the appropriate zoning clearance determination.

If required, the applicant will submit a survey by a certified engineer. In either instance, we are requesting that the application continue to move forward through the CUP process as the application was both for zoning clearance and a CUP.

Thank you

Gina

Gina M. Austin

AUSTIN LEGAL GROUP, APC | 3990 Old Town Ave., Ste A112, San Diego, CA 92110 |

Ofc: 619-924-9600 | Cell 619-368-4800 | Fax 619-881-0045

**Confidentiality Notice**

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**LEMON GROVE CITY COUNCIL  
AGENDA ITEM SUMMARY**

**Item No.** 3  
**Mtg. Date** April 3, 2018  
**Dept.** Development Services Department

**Item Title:** **Public Appeal to Consider Appeal No. AA1-800-0001 Regarding the Denial of Zoning Clearance No. ZCM-170-0002; a Request to Apply for a Conditional Use Permit to Establish a Medical Marijuana Dispensary at 3515-21 Harris Street in the General Commercial/Heavy Commercial Zone**

**Staff Contact:** David De Vries, Development Services Director

**Recommendation:**

1. Conduct the public hearing; and
2. Adopt a Resolution (**Attachment B**) upholding the Development Services Director's determination to deny ZCM-170-0002, a request to apply for a conditional use permit to establish a medical marijuana dispensary at 3515-21 Harris Street in the General Commercial/Heavy Commercial Zone.

**Item Summary:**

On March 8, 2018, the Development Services Director (Director) denied Zoning Clearance Application No. ZCM-170-0002, a request to establish a medical marijuana dispensary (MMD) on a 0.2 acre commercial property located at 3515-3521 Harris Street. The application was denied because the proposed MMD would be at a property located within 1,000 feet of one State-licensed family daycare facility. The City confirmed with staff at the Department of Social Services (DSS) that the family daycare facility was licensed as of February 13, 2018 (**Attachment G**). The appellant, Jillette Yousif of KIM Investments, LLC, subsequently filed an appeal and request for public hearing, stating the licensed daycare home location was not disclosed. The appellant's attorney stated the specific reasons for the appeal will be presented at the City Council public hearing. Staff's discussion regarding the protected use, the appeal and DSS confidentiality requirements related to family daycare homes are provided herein (**Attachment A**).

**Fiscal Impact:**

None.

**Environmental Review:**

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration           |
| <input type="checkbox"/> Categorically Exempt             | <input type="checkbox"/> Mitigated Negative Declaration |

**Public Information:**

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> None   | <input type="checkbox"/> Newsletter article                                  | <input type="checkbox"/> Tribal Government Consultation Request |
| <input checked="" type="checkbox"/> Notice published in local newspaper | <input checked="" type="checkbox"/> Notice to property owners within 500 ft. |   |

**Attachments:**

- A. Staff Report
- B. Resolution of Denial
- C. Lemon Grove Municipal Code Chapter 17.32 (Measure V)
- D. Draft City of Lemon Grove Medical Marijuana Zoning Map
- E. ZCM-170-0002 Completed Application Form
- F. Letter from DSS regarding Forfeiture of License for Licensed Daycare
- G. Evidence of Licensed Daycare within 1,000 feet of 3515-21 Harris Street
- H. Staff Denial Letter for ZCM-170-0002
- I. AA1-800-0001 Completed Appeal Form
- J. Map Showing Distance Between Uses
- K. Notice of Appeal Hearing and Protected Use Address for AA1-800-0001
- L. Excerpt from DSS Frequently Asked Questions Publication
- M. Information Request Letter from City to DSS, dated February 9, 2017
- N. Response Letter from DSS to City dated February 21, 2017

# Attachment A

## LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 3  
Mtg. Date April 3, 2018

**Item Title:** Public Appeal to Consider Appeal No. AA1-800-0001 Regarding the Denial of Zoning Clearance No. ZCM-170-0002; a Request to Apply for a Conditional Use Permit to Establish a Medical Marijuana Dispensary at 3515-21 Harris Street in the General Commercial/Heavy Commercial Zone

**Staff Contact:** David De Vries, Development Services Director

### **Background:**

In November 2016, voters in the City of Lemon Grove passed Measure V, an initiative removing the City's prohibition of medical marijuana dispensaries (MMDs) and establishing performance standards and a permit process by which MMDs may be established. Measure V was subsequently codified in Chapter 17.32 of the Lemon Grove Municipal Code (**Attachment C**). The permit process for MMDs requires approval of a conditional use permit (CUP), and the performance standards prohibit MMDs on properties within 1,000 feet of certain protected uses, including licensed daycare facilities (See Lemon Grove Municipal Code (LGMC) Section 17.32.090).

In order to identify and map the location of protected uses, staff relied upon on a variety of resources including, but not limited to, the website for the California Department of Social Services (DSS), which is the licensing agency for daycares throughout the State of California. As part of this research, staff discovered that DSS does not disclose the addresses of licensed family daycare homes to the general public. Such uses are conducted in private residential settings where there is an expectation of privacy and where the dissemination of such information is restricted by law. This policy is explained in the DSS Frequently Asked Questions publication (**Attachment L**). Based on a request from the City, DSS staff supplied a list of family daycare homes and their addresses to the staff at the City of Lemon Grove, provided that City staff would not disclose the list to the general public (**Attachments M and N**). To provide the public with a map identifying potential locations for MMDs, while protecting the locations of family daycare homes, City staff created a draft map with 1,000 foot buffers around the parcels where known protected uses are located. Staff then made those buffers opaque to obscure the underlying parcel geography (**Attachment D**).

On March 7, 2017, staff presented a report to City Council describing the recommended draft review procedures and draft conditions of approval for requests to establish MMDs. Staff also presented the draft Medical Marijuana Zoning Map it had created. The review procedures include using the Zoning Clearance (ZC) process as the initial step in screening and reviewing of MMD applications. Complete ZC applications for sites which meet the zoning criteria and distance restrictions described in LGMC Chapter 17.32 and which include all required application materials will be deemed complete, and the applicants may then submit for CUP application review followed by consideration of approval by the City Council. ZC applications for sites that do not meet the specified separation criteria are denied by staff and those that do not have the required materials are found to be incomplete. Staff's decision to deny any application is subject to appeal to the City Council, pursuant to LGMC Section 17.28.020(I).

On March 21, 2017, Zoning Clearance application ZC1-700-0003, a request to apply for a CUP to operate a medical marijuana dispensary (MMD) at 3515-21 Harris Street (Subject Property),

## Attachment A

was denied because the property was located within 1,000 feet of a State-licensed family daycare facility and no appeal was filed.

Subsequently, the State provided evidence to the City that two licensed family daycares within 1,000 feet of the Subject Property had both surrendered their licenses. These were the same and only facilities which previously restricted a MMD at the Subject Property. This new evidence allowed the prospective MMD to reapply for a zoning clearance for a MMD on December 6, 2017 and subsequently the City provided the appellant a Notice of Incomplete on January 4, 2018 because several materials required for a CUP submittal were not submitted. Subsequently, on February 13, 2018, DSS informed the City that a new small family daycare was licensed as of February 12, 2018 at one of the previously licensed daycares that had surrendered their license and was within 1,000 feet of the Subject Property (**Attachment G**). Because the Subject property was now within 1,000 feet of a protected use, a small family daycare, the Development Services Director denied the Zoning Clearance application in process (ZCM-170-0002) on February 15, 2018 (**Attachment H**) determining the Subject Property was ineligible for a dispensary.

On February 20, 2018, the appellant filed AA1-800-0001, an administrative appeal of the Director's decision (**Attachment I**). The appeal states the specific reasons for the appeal are as follows:

"Additional information will be submitted if Mr. DeVries makes the address of the alleged protected use available. As time is of the essence, I am requesting the appeal hearing as soon as practicable."

On March 8, 2018, out of an abundance of caution and in order to provide a full and open opportunity for the appellant to understand the reason staff denied the zoning clearance permit, and to allow the appellant to respond accordingly, staff disclosed the address of the protected use within 1,000 feet of the Subject Property and disclosed it to be a licensed family daycare facility (**Attachment K**). The date of the appeal hearing was also a part of this notice.

On March 8, 2018, staff contacted the family daycare operator via an email and written letter and informed them that their location would be disclosed to the appellant.

As of March 28, 2018, no additional information has been received from the appellant, but a written response from the appellant's attorney is expected prior to the City Council public hearing.

### **Discussion:**

The purpose of this appeal is to determine whether a MMD is allowed to proceed with a conditional use permit application based on a determination that the subject property is within 1,000 feet of a protected use, in this instance a licensed daycare facility. Staff contends that it has discovered appropriate evidence and made appropriate measurements to justify that there is a licensed daycare facility within 1,000 feet of the Subject Property.

As stated above, City staff contacted the State to obtain licensee status about the family daycare home within 1,000 feet of the subject property. Under the Public Records Act ("PRA"), the City is bound to protect information forwarded under these conditions. The relevant PRA section states as follows:

#### **Government Code Section 6254.5. [Excerpts only]**

Notwithstanding any other law, if a state or local agency discloses a public record that is otherwise exempt from this chapter, to a member of the public, this disclosure shall constitute a waiver of the exemptions specified in Section 6254 or 6254.7, or other similar provisions of law. For purposes of this section, "agency" includes a member, agent, officer, or employee of the agency acting within the scope of his or her membership, agency, office, or employment. ...



## Attachment A

This section, however, shall not apply to disclosures: ...

(e) Made to a governmental agency that agrees to treat the disclosed material as confidential. **Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes that are consistent with existing law.**

Typically, once a confidential record is disclosed, the disclosure constitutes a waiver of the privilege to keep the record confidential. However, there is a specific exemption when confidential records are shared between agencies. The City is bound by the State's confidentiality request. The State of California only agreed to share its list of licensed family daycare homes, on the condition that the City keep the list confidential. The City does not have the right to turn over the licensed daycare list to any person, however, individual daycare operations may be disclosed out of an abundance of caution and in order to provide a full and open opportunity for the appellant to understand the reason staff denied the zoning clearance permit, and to allow the appellant to respond accordingly.

Notwithstanding the confidentiality of the information shared with the City by DSS, applicants may have options in locating family daycare homes including: 1) canvassing their proposed location for other businesses which may prohibit their siting; 2) conducting internet research regarding daycare facilities that advertise on the internet; and 3) phoning DSS regarding daycare facilities in their community.

Regarding natural and constructed barriers, Measure V states "measurement is made between the closest property lines of the premises in which the regulated uses and protected uses are located." Measure V further states "the measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access." Measure V only references freeways and flood control channels as examples of constructed barriers. A freeway is defined as "an express highway, especially one with controlled access." Flood control is defined as "the act or technique of controlling river flow with dams, dikes, artificial channels, etc., so as to minimize the occurrence of floods." Staff contends that these constructed barriers only include major linear obstructions traversing for miles where pedestrian access is prohibited or severely limited and staff further contends that major collector streets like Broadway are accessible to pedestrians and are not constructed barriers and further contends that constructed barriers like fences and unpermitted barbed wire are not constructed barriers in accordance with Measure V. Reference Vehicle Code Section 21954 (Pedestrians Outside Crosswalks) which states "Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway so near as to constitute an immediate hazard." The Sheriff Division Lieutenant confirms that pedestrians crossings at the intersections of Broadway and either Harris Street and Citrus Street are legal and vehicles must yield to pedestrians at these uncontrolled intersections (unmarked crosswalks and no traffic signals). The Lieutenant also noted that when the unpermitted MMD at 7435-51 Broadway was operating, pedestrians were crossing Broadway (mostly from the Food-4-Less) to get to the dispensaries between New Jersey Avenue and West Street because of limited parking at the unpermitted MMD.

As stated in the Background section of this Report, the appellant was provided the address of the family daycare home within 1,000 feet of the Subject Property along with the date of the appeal hearing (**Attachment K**). The attached exhibit prepared by staff shows that using a straight line

## **Attachment A**

measurement between the two closest property lines of the Subject Property and of the licensed daycare facility, the licensed daycare facility (protected use) is 649 feet southwest of the Subject Property (**Attachment J**). The measurement was calculated using GIS ESRI software and the exhibit shows a screen shot of the measurement taken.

It's important to note that the geographic differences when using a straight line measurement between the prospective MMD at 6915 North Avenue and protected uses included:

1. The prospective MMD located at 6915 North Avenue is located adjacent to a Freeway On-ramp.
2. The protected uses within 1,000 feet of the prospective MMD located at 6915 North Avenue is separated by a steep slope with an approximate 25-foot elevation change.

The straight line measurement between the Subject Property and the protected use are not separated by a steep slope and there is not a Freeway On-ramp adjacent to either site and the closest freeway on-ramp is greater than 800 feet away from either site.

### **Public Information:**

The Notice of Public Hearing for this item was published in the March 22, 2018 edition of The East County Californian, and mailed to all property owners within 500 feet of the subject property.

As of March 28, 2018, the City has received no responses to the Notice of Public Hearing. At the time of the public hearing, staff will provide the City Council with any additional written comments that may be received after distribution of the staff report.

### **Conclusion:**

Staff recommends that the City Council conduct a public hearing and adopt a Resolution (**Attachment B**) upholding the Development Services Director determination to deny ZCM-170-0002, and denying a request to apply for a conditional use permit to establish a MMD at 3515-21 Harris Street.

## Attachment B

### RESOLUTION NO.

#### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE UPHOLDING THE DEVELOPMENT SERVICES DIRECTOR'S DETERMINATION TO DENY A REQUEST TO APPLY FOR A CONDITIONAL USE PERMIT TO ESTABLISH A MEDICAL MARIJUANA DISPENSARY AT 3515-21 HARRIS STREET (ZCM-170-0002), LEMON GROVE, CALIFORNIA**

---

**WHEREAS**, on November 8, 2016, voters in the City of Lemon Grove passed Measure V, an initiative removing the City's prohibition of medical marijuana dispensaries and establishing performance standards and a permit process by which medical marijuana dispensaries may be established; and

**WHEREAS**, Measure V includes the adoption of Lemon Grove Municipal Code Chapter 17.32 which prohibits the establishment of medical marijuana dispensaries within 1,000 feet of certain protected uses, including schools and licensed daycare facilities; and

**WHEREAS**, Measure V states "measurement is made between the closest property lines of the premises in which the regulated uses and protected uses are located." Measure V further states "the measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access." Measure V only references freeways and flood control channels as examples of constructed barriers. A freeway is defined as "an express highway, especially one with controlled access." Flood control is defined as "the act or technique of controlling river flow with dams, dikes, artificial channels, etc., so as to minimize the occurrence of floods." Examples of constructed barriers only include major linear obstructions traversing for miles where pedestrian access is prohibited or severely limited; and

**WHEREAS**, City staff requested and obtained a confidential list of licensed family daycare homes from the California Department of Social Services; and

**WHEREAS**, in order to obtain the confidential list of family daycare homes, City of Lemon Grove staff agreed to keep the information confidential; and

**WHEREAS**, Government Code Section 6254.5(e) specifically exempts government agencies from the requirement to disclose confidential information that was shared between agencies under an agreement to maintain the confidentiality of said information; and

**WHEREAS**, on March 13, 2017, the City received a confidential list from the California Department of Social Services noting at least two such facilities are within 1,000 feet of 3515-21 Harris Street (Subject Property); and

**WHEREAS**, on March 21, 2017, Zoning Clearance application ZC1-700-0003, a request to apply for a CUP to operate a medical marijuana dispensary (MMD) at the Subject Property, was denied because the property was located within 1,000 feet of a State-licensed family daycare facility and applicant did not appeal the application; and

**WHEREAS**, the State provided evidence to the City that two licensed family daycares within 1,000 feet of the Subject Property had both surrendered their license. These were the same facilities which previously restricted a MMD at the Subject Property. This new evidence allowed the prospective MMD to reapply for a zoning clearance for a MMD on December 6, 2017 and subsequently the City provided the appellant a Notice of Incomplete on January 4, 2018 because several materials required for a CUP submittal were not submitted; and

## Attachment B

**WHEREAS**, on February 13, 2018, DSS informed the City that a new small family daycare was licensed as of February 12, 2018 at one of the previously licensed daycares that had surrendered their license and was within 1,000 feet of the Subject Property; and

**WHEREAS**, on February 15, 2018, because the Subject Property was now within 1,000 feet of a protected use (a small family daycare), the Development Services Director denied the Zoning Clearance application in process (ZCM-170-0002) determining the Subject Property was ineligible for a MMD; and

**WHEREAS**, on February 20, 2018, the appellant, Jilette Yousif of KIM Investments, LLC, filed AA1-800-0001, an administrative appeal of the Director's decision; and

**WHEREAS**, on March 8, 2018, out of an abundance of caution and in order to provide a full and open opportunity for the appellant to understand the reason staff denied the zoning clearance permit, and to allow the appellant to respond accordingly, staff disclosed the address of the protected use affecting the Subject Property along with the date of the appeal hearing as evidenced by the letter attached to the Agenda Item Summary as Attachment "K". This licensed family daycare facility is located 649 feet southwest of the Subject Property using straight line measurement; and

**WHEREAS**, on March 8, 2018, staff contacted the family daycare operator via an email and written letter and informed them that their location would be disclosed to the appellant; and

**WHEREAS**, the appellant has failed to show that their facility is greater than 1,000 feet from the California-licensed daycare facility; and

**WHEREAS**, Vehicle Code Section 21954 (Pedestrians Outside Crosswalks) includes requirements that "every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway so near as to constitute an immediate hazard" meaning pedestrians are authorized to cross at Harris Street and Citrus Street and vehicles must yield to pedestrians at these uncontrolled intersections (unmarked crosswalks and no traffic signals); and

**WHEREAS**, on April 3, 2018, the City Council held a duly noticed public hearing to consider Administrative Appeal AA1-800-0001, an appeal of the Development Services Director's determination to deny ZCM-170-0002; and

**WHEREAS**, the appeal of this determination is not a project and is not subject to the environmental review requirements of the California Environmental Quality Act (CEQA); and

**NOW, THEREFORE, INCORPORATING THE ABOVE STATEMENTS HEREIN, BE IT RESOLVED** that the City Council of the City of Lemon Grove hereby:

1. Denies Jilette Yousif of KIM Investments, LLC Administrative Appeal No. AA1-800-0001 based on the above-findings; and
2. Upholds the Development Services Director's February 15, 2018 determination to deny Zoning Clearance No. ZCM-170-0002, a request to apply for a conditional use permit to operate a medical marijuana dispensary, at 3515-21 Harris Street, Lemon Grove, CA.

### 17.32.090 Medical marijuana dispensary regulations.

A. Zones. *Dispensaries* may be established by conditional use permit in the heavy commercial (HC), limited commercial (LC), general commercial (GC) and light industrial (LI) zones and subject to the distance requirements. *Dispensaries* are prohibited in mixed-use zones (Downtown Village Specific Plan and Central Commercial) and all residential zones (RLM, RL, RM, RMH).

B. Distance Requirements. An application may be submitted provided the proposed facility meets the required distance measurements. For purposes of measurements, all *dispensaries* are considered *regulated uses* and public parks as defined at Section 12.20.030 of Lemon Grove Municipal Code, playgrounds as defined at Section 18.28.020, subdivision (v), of the Lemon Grove Municipal Code, licensed day care facilities as defined at Section 17.08.030 of Lemon Grove Municipal Code, schools as defined at California Health and Safety Code Section 11362.768, subdivision (h), and alcohol and substance abuse treatment centers are considered *protected uses*. Measurement is made between the closest property lines of the *premises* in which the *regulated uses* and *protected uses* are located. A regulated use must not be:

1. Within one thousand feet of any other regulated use which is located either inside or outside the jurisdiction of the city,
2. Within one thousand feet from any protected use which is located either inside or outside the jurisdiction of the city.

The measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access.

#### C. Standards.

1. Background Check Required for *Directors* and Employees. The *director* and employees of a *dispensary* must obtain a LiveScan background check through the California Department of Justice or the San Diego County sheriff's department prior to employment. *Directors* convicted of a serious felony, as defined in California Penal Code Section 1192.7, subdivision (c), and Health and Safety Code Section 11359 (Possession for sale) within the previous ten years shall not be eligible for a license. Other potential collective employees and volunteers convicted of the crimes identified in this section in the previous five years are ineligible for employment or participation. If during employment with the *dispensary*, a *director* or employee is convicted of a crime identified in this section shall be immediately dismissed from employment or required to resign as a corporate board member or officer. For purposes of this section, a conviction in another state that would have been a conviction equivalent under California law to those convictions specified in this section will disqualify the person from employment or volunteering at the *dispensary*.

2. Security Personnel Required. *Dispensaries* shall have at least one uniformed security guard on duty during operating hours that possess a valid Department of Consumer Affairs "Security Guard Card."

3. Community Relations Liaison Required. *Dispensaries* shall designate a community relations liaison (liaison) who shall be at least eighteen years of age. The liaison may also be the *director* of the *dispensary*. To address community complaints or operational problems with the *dispensaries*, the individual designated as the community relations liaison shall provide his or her name, phone number and email address to the following:

- a. Lemon Grove city manager;



## Attachment C

b. San Diego County sheriff's department personnel supervising law enforcement activity in Lemon Grove;

c. All neighbors within one hundred feet of the *dispensary*.

4. Inspection of *Premises*. City code enforcement officers, San Diego sheriff's department staff, and any other employee of the city requesting admission for the purpose of determining compliance with the standards set forth in this section shall be given access to the *premises*. City and sheriff staff shall not retain information pertaining to individual patient records viewed during an inspection, and information related to individual patients shall not be made public. Inspectors will give reasonable notice of a scheduled inspection. Unannounced inspections of a *dispensary* may occur if city or sheriff's department staff have probable cause that the collective is violating the law.

5. Inspection Requirements. In order to facilitate verification that a *dispensary* operates pursuant to state and local laws, the following records must be maintained at the *premises* at all times and available for inspection by city code enforcement officers, San Diego sheriff's department staff, and any other employee of the city:

a. Client Records. The *dispensary* shall keep a record of its clients. The record shall include the following and shall be maintained for a two-year period:

i. *Qualified patient* member's name, name of *primary caregiver* when appropriate, and name of *licensed physician* recommending use of *medical marijuana* for the member.

b. *Medical marijuana* Records. *Dispensary* shall keep a record of its *medical marijuana* transactions. The following records shall be maintained for a two-year period and labeling shall occur as specified:

i. A record identifying the source or sources of all *medical marijuana* currently on the *premises* or that has been on the *premises* during the two-year period preceding the current date. The record shall include the name of the cultivator or manufacturer and the address of the cultivation or manufacturing location.

ii. All *medical marijuana* at the *premises* must at all times be physically labeled with information that will allow for identification of the source of the *medical marijuana*.

iii. All *medical marijuana* at the *premises* shall be physically labeled with the monetary amount to be charged.

c. Financial Records. *Dispensary* shall maintain records of all transactions involving money and/or *medical marijuana* occurring at the *premises*. Records shall be maintained for a two-year period preceding the current date.

d. Employee Records. *Dispensary* shall maintain a record of each employee/volunteer and *director*. The record shall include name and background check verification. Records shall be maintained for a two-year period following the end of an employee's employment or *director's* relationship with the *dispensary*.

6. *Operations manual*. The application for a conditional use permit shall include a detailed *operations manual* including, but not necessarily limited to, the following information:

a. Authorization for the city, its agents and employees, to seek verification of the information contained within the application;

b. A description of the staff screening process including appropriate background checks;

c. The hours and days of the week the *dispensary* will be open;

## Attachment C

- d. Text and graphic materials showing the site, floor plan and facilities of the *dispensary*. The material shall also show adjacent structures and land use;
  - e. A description of the security measures located on the *premises*, including, but not limited to, lighting, alarms, and automatic law enforcement notification;
  - f. A description of the screening, registration and validation process for *qualified patients*;
  - g. A description of *qualified patient* records acquisition and retention procedures;
  - h. The process for tracking *medical marijuana* quantities and inventory controls employed, including the source of *medical marijuana* (on-site cultivation, processing, or plant material, or processed products, received from outside sources);
  - i. Procedures to ensure accurate record keeping, including protocols to ensure that quantities purchased do not suggest re-distribution;
  - j. Other information required by the development services director.
7. Operating Standards. *Dispensaries* shall comply with all of the following operating standards. In addition to these standards, the *dispensaries* shall comply at all times with conditions outlined in the approved conditional use permit and the operational manual.
- a. Dispensing *medical marijuana* to an individual *qualified patient* or *primary caregiver* more than once a day is prohibited;
  - b. *Dispensaries* shall only dispense *medical marijuana* to an individual *qualified patient* or *primary caregiver* who has a valid, verified *licensed physician's* recommendation, and if appropriate, a valid *primary caregiver* designation. The *dispensary* shall verify that the *licensed physician's* recommendation is current and valid;
  - c. On-site evaluation by a *licensed physician* for the purposes of obtaining a qualified status is prohibited;
  - d. *Dispensaries* shall display the client rules and/or regulations in a conspicuous place that is readily seen by all persons entering the *dispensary*. The client rules and/or regulations shall include, but are not limited to:
    - i. Each building entrance to a *dispensary* shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming *medical marijuana* on the *premises* or in the vicinity of the *dispensary* is prohibited unless specifically authorized within the governing conditional use permit.
    - ii. The building entrance to a *dispensary* shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen are precluded from entering the *premises*.
    - iii. The hours of operation for an authorized *dispensary* shall be limited to between eight a.m. to eight p.m. or as specified within the conditional use permit.
    - iv. *Dispensaries* shall not permit the use or consumption of *medical marijuana* on-site unless specifically authorized under the conditional use permit.
    - v. *Dispensaries* shall not permit the on-site display of unprocessed marijuana plants or representations of marijuana plants in any areas visible to the public;
    - vi. All signage for *dispensaries* shall require a sign permit from the city prior to installation. Signage shall not include any terminology (including slang) or symbols for marijuana.

## Attachment C

vii. *Dispensaries* shall only permit the distribution of *medical marijuana* plant material and *medical marijuana* manufactured products from licensed sources as allowed by the approved conditional use permit. Such distribution shall be limited to *qualified patients* or *primary caregiver*;

e. *Dispensaries* shall maintain on the *premises* an on-site training curriculum capable of meeting employee, agents and volunteer training needs. The minimum training curriculum shall include professional conduct, ethics, and state and federal laws regarding patient confidentiality; specific procedural instructions for responding to an emergency, including robbery or violent incident.

f. *Dispensaries* shall maintain all necessary permits, and pay all appropriate taxes. *Dispensaries* shall also provide invoices to cultivators and manufacturers to ensure tax liability responsibility;

g. *Dispensaries* shall implement procedures as outlined in their approved *operations manual*;

h. *Dispensaries* shall submit an “annual performance review report” for review and approval by the development services director. The “annual performance review report” is intended to identify effectiveness of the approved conditional use permit, *operations manual*, and conditions of approval, as well as any proposed modification to procedures as deemed necessary. The development services director may review and approve amendments to the approved “*operations manual*”; and the frequency of the “annual performance review report.” *Medical marijuana* cultivation and dispensing monitoring review fees pursuant to the current Master Fee Schedule shall accompany the “annual performance review report” for costs associated with the review and approval of the report.

i. *Dispensaries* shall maintain twenty-four-hour recorded video surveillance of the *premises*. Recordings shall be retained for thirty days for inspection by city staff. City staff must provide valid cause for viewing video surveillance. City staff must ensure that patient privacy is safeguarded. Video surveillance will not be shared with law enforcement except when formally requested as part of a law enforcement investigation directly involving the *dispensary*.

j. Sales of alcoholic beverages are prohibited.

k. Sales of tobacco and tobacco products are prohibited.

l. Sales of drug paraphernalia are prohibited.

m. The location of the *dispensary* shall include the installation of a centrally monitored alarm system

n. Lighting shall be installed to adequately light the exterior and interior of the *dispensary premises* while in conformance with Section 17.28.080.

8. Source of *Medical marijuana*. A *dispensary* shall only dispense marijuana from the following sources and this information shall be included in the *operations manual*:

a. On-Site Cultivation for Authorized *Dispensary*. If the conditional use permit authorizes limited, on-site *medical marijuana* cultivation at the *dispensary*, on-site cultivation shall be considered an accessory use and shall not exceed twenty-five percent of the *dispensaries*' total floor area and in no case exceed one thousand five hundred square feet. In addition to these area limitations, the accessory use shall conform to the specific zone regulations, Section 17.24.060 Accessory Buildings and Uses, Section 17.32.100 of this title, and applicable Building and Fire Codes. The *operations manual* shall include information regarding the on-site cultivation including, but not limited to:

i. Description of measures taken to minimize or offset energy use from the cultivation or processing of *medical marijuana* on-site; and

ii. Description of chemicals stored or used; and



## Attachment C




iii. Description of any effluent discharged into the city's wastewater and/or stormwater system;

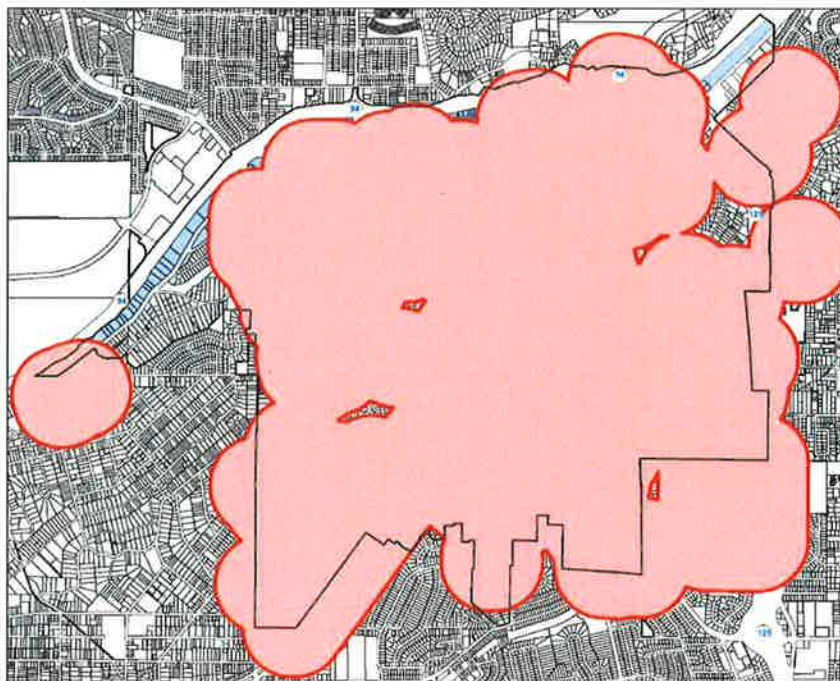
b. Licensed External Source. Until one year following the date when the California State Bureau of Medical Marijuana Regulation begins accepting applications for licenses, or sooner, if such a deadline is set by the Bureau, *dispensaries* shall source their *medical marijuana* from cultivators and manufacturers that have obtained a local business license or equivalent document showing that the organization is operating in zoning and regulatory compliance from another jurisdiction for the *medical marijuana* cultivation or manufacturing. One year from the date that the California State Bureau of Medical Marijuana Regulation begins accepting applications for licenses, or sooner, if such a deadline is set by the Bureau, all sources of *medical marijuana* or *medical marijuana* products sold in a *dispensary* must also have a state license for their *medical marijuana* activities. (Ord. 443 § 1, 2016)



Draft Lemon Grove Medical Marijuana Dispensary Zoning

Legend

-  Lemon Grove Boundary
-  Zones Permitting Dispensaries (With Approved CUP)
-  1,000 Foot Buffer Around Protected/Regulated Uses (Dispensaries Prohibited Inside the Buffers)



- NOTES:
- 1) This map may not include all protected uses, specifically those in surrounding jurisdictions
  - 2) To ensure privacy for family daycare homes, this map intentionally obscures the exact locations of protected uses
  - 3) Map last updated on July 5, 2017

0 1,000 2,000 Feet





## PLANNING PERMIT APPLICATION

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

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

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

**APPLICANT:** KIM Investments, LLC/ Joe Youaif (Jillette) **PHONE:** \_\_\_\_\_  
**ADDRESS:** \_\_\_\_\_ **FAX:** \_\_\_\_\_  
 \_\_\_\_\_ **EMAIL:** \_\_\_\_\_  
 \_\_\_\_\_

**PROPERTY OWNER:** RRJJ, LLC / Jillette Youaif **PHONE:** \_\_\_\_\_  
**ADDRESS:** \_\_\_\_\_ **FAX:** \_\_\_\_\_  
 \_\_\_\_\_ **EMAIL:** \_\_\_\_\_

**CONTACT PERSON:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_  
**ADDRESS:** \_\_\_\_\_ **FAX:** \_\_\_\_\_  
 \_\_\_\_\_ **EMAIL:** \_\_\_\_\_

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

**PROJECT NAME:** 3521 Harris MMD  
**PROJECT ADDRESS:** 3521 Harris Street, Lemon Grove, CA 91945  
**ASSESSOR PARCEL #:** 479-052-07-00 **SITE ACREAGE:** 10,241 sq

**DETAILED DESCRIPTION OF PROPOSED PROJECT USE, STRUCTURE, AND IMPROVEMENT:**

The proposed project consists of converting an commercial building into a Medical Marijuana Dispensary. The Scope of the project is to include the following:

1. Interior remodel of existing structure with non-structural and non-loadbearing walls,
2. Parking lot re-stripping,
3. Pedestrian access from the parking.
4. Misc. Site Improvements such as lighting, fencing and Security cameras.

DEVELOPMENT SERVICES





STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
**COMMUNITY CARE LICENSING DIVISION**  
CCLD Regional Office  
7575 METROPOLITAN DR., STE 110  
SAN DIEGO, CA 92108



EDMUND G. BROWN JR.  
GOVERNOR

October 11, 2017

PINTOR, KRISTINA & NEVAREZ, ESTHER  
PINTOR, KRISTINA & NEVAREZ, ESTHER FCCH – 376618658  
3335 CITRUS ST  
LEMON GROVE, CA 91945

Dear Ms. Kristina Pintor & Ms. Esther Nevarez:

SUBJECT: FORFEITURE OF LICENSE

The license issued to you at the above facility address is forfeited pursuant to Health and Safety Code Sections 1524, 1568.061, 1569.19, or 1596.858. Your license is no longer valid and all provision of care and supervision must cease at this location. The reason for the forfeiture is:

- Licensee has sold or transferred the facility or property
- Licensees have surrendered the license to the Department. We acknowledge receipt of your license and/or your statement that you are surrendering your license. Effective today (10/11/2017), your Family Child Care Home is closed.
- Licensee has moved from one location to another.
- Licensee has been convicted of an offense specified in Section 220, 234.4 or 284.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
- Licensee has abandoned the facility by informing Community Care Licensing that he/she no longer accepts responsibility for the facility.
- Licensee has abandoned the facility due to the following:
  1. Community Care Licensing has been unable to determine the licensee's whereabouts and information of the licensee's whereabouts cannot be obtained from the facility's staff, if any staff can be contacted; and
  2. Licensee has failed to respond to daily phone inquiries made for five consecutive days from \_\_\_/\_\_\_/\_\_\_ through \_\_\_/\_\_\_/\_\_\_; and
  3. Licensee failed to respond to letter dated \_\_\_/\_\_\_/\_\_\_.
- Licensee has failed to pay the annual fee pursuant to Health and Safety Code Sections 1523.1 (Community Care Facilities), 1568.05 (Residential Care Facilities for the Chronically Ill), 1569.185 (Residential Care Facilities for the Elderly), or 1596.803 (Child Care Facilities). The forfeiture of your license does not deprive the Department of its authority to institute or continue an administrative action against your license. If administrative action results in the revocation of your license, your application for a new license will not be processed until two years have elapsed from the date of the revocation pursuant to Health and Safety Code Sections 1520.3, 1568.065, 1569.18, and 1596.851.

If you continue to operate a facility without a license you are in violation of the Health and Safety Code and may be subject to civil penalties. If you wish to operate a facility again, you must reapply and be approved for a new license.

If you have any questions about this action, please call me at (619) 767-2224 or write to Community Care Licensing at 7575 Metropolitan Drive, Suite 110, San Diego Ca 92108.

Sincerely,

MARIE HERNANDEZ  
Licensing Program Analyst







## Attachment G

**David DeVries**

---

**From:** Hood, Michelle@DSS  
**Sent:** Tuesday, February 13, 2018 11:37 AM  
**To:** David DeVries  
**Subject:** RE: Family Daycare 3335 Citrus St., Lemon Grove, CA  
**Categories:** Projects

Hi David,  
Yes, there is a licensed facility at the address.

Michelle Hood  
Licensing Program Analyst  
Community Care Licensing Program  
San Diego Child Care Regional Office  
7575 Metropolitan Drive #110

r

**From:** David DeVries [mailto:  
**Sent:** Tuesday, February 13, 2018 11:21 AM  
**To:** Hood, Michelle@DSS  
**Subject:** Family Daycare 3335 Citrus St., Lemon Grove, CA

Hi Michelle, can you confirm that the family daycare at 3335 Citrus Street is now a licensed daycare facility? See attached. Hope all is well.

Thanks,

David B. De Vries, AICP  
Development Services Director  
City of Lemon Grove  
Development Services Department  
3232 Main St.  
Lemon Grove, CA 91945

w

# Attachment G

LIS055M LICENSING INFORMATION SYSTEM - FACILITY PROFILE DATE: 02/13/18

EVALUATOR: Q405 DO: 20 FAC NBR: 37 6627345 STATUS: PROVISIONAL LICENSE  
FAC NAME: FAMILY CHILD CARE CAPACITY: 0008  
FAC ADDR: 3335 CITRUS STREET, LEMON GROVE, CA 91945  
FAC MAIL: 3335 CITRUS STREET, LEMON GROVE, CA 91945  
FAC TYPE: FAMILY DAY CARE CLIENT SERVED: CHILDREN/INFANT  
FAC FIRST LICENSED: 02/12/18 APP REC'D: 01/09/18  
COUNTY: SAN DIEGO DIRECTOR: PHONE:  
DATE CAP CHG: DATE CAP APPR: ANNUAL FEES CURRENT: YES  
LICENSEE NAME: .  
LIC MAIL: 3335 CITRUS STREET, LEMON GROVE, CA 91945  
LIC EFF DATE: 02/12/18 EXP DATE: 02/28/18 TYPE: INDIVIDUAL  
FAC DUAL IDENTIFIER: N DUAL LICENSE NBR: FCRB:  
COMMENTS MAX. CAP(WHEN THERE IS AN ASSISTANT PRESENT): 12 - NO MORE THAN  
4 INFANTS. CAP 14 - NO MORE THAN 3 INFANTS. 1 CHILD IN  
KINDERGARTEN OR ELEMENTARY SCHOOL AND 1 CHILD AT LEAST AGE 6.

FAC CLOSED DATE: E-MAIL:  
LAST VISIT DATE: TYPE:  
LAST DEFERRED VISIT DATE: TYPE:  
SPH: 000 REQ VISIT: N  
R = MENU, Y = DATES, F = SUMMARY, H = PAYMENT HISTORY, E= EMERGENCY Enter>

**Personal Information Redacted**

# Attachment G

STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES  
COMMUNITY CARE LICENSING DIVISION

## FACILITY EVALUATION REPORT

CCLD Regional Office, 7575 METROPOLITAN DR., STE 110  
SAN DIEGO, CA 92108

<b>FACILITY NAME:</b>	FAMILY CHILD CARE	<b>FACILITY NUMBER:</b>	376627345
<b>ADMINISTRATOR:</b>		<b>FACILITY TYPE:</b>	810
<b>ADDRESS:</b>	3335 CITRUS STREET	<b>TELEPHONE:</b>	
<b>CITY:</b>	LEMON GROVE	<b>STATE:</b>	CA
<b>CAPACITY:</b>	8	<b>CENSUS:</b>	0
<b>TYPE OF VISIT:</b>	Prelicensing	<b>ANNOUNCED</b>	
<b>MET WITH:</b>		<b>ZIP CODE:</b>	91945
		<b>DATE:</b>	02/12/2018
		<b>TIME BEGAN:</b>	02:30 PM
		<b>TIME COMPLETED:</b>	04:00 PM

### NARRATIVE

1 Licensing Program Analyst (LPA) Michelle Hood and Joelle Redding conducted an announced pre-licensing  
2 site inspection with Applicant. This 1 story 2 bedroom, 1 bath home was toured and inspected to ensure  
3 environment is safe for the care and supervision of children.  
4  
5 Applicant owns the facility and has provided proof by mortgage statement. Applicant will use the following  
6 areas for child care: living room, bedroom 1, bathroom, side backyard play area. Off limits areas include: front  
7 yard, bedroom 2, kitchen (gated), and rear backyard. They are made inaccessible through the use of  
8 doorknob covers and safety gates. Applicant will utilize side backyard outdoor play area for outdoor activities,  
9 it is properly fenced. There are no bodies of water observed during time of visit. The fire extinguisher is rated  
10 2A 10B:C and is located in the kitchen, smoke and carbon monoxide detector is located in the living room  
11 and meet requirements and are operational. All poisons, cleaners and hazardous items in the home are  
12 inaccessible to children due to being placed in off limits areas (kitchen). Applicant will not be using the wall  
13 heater in the living room or hallway while children are present.  
14  
15 Children's toys and play equipment are available. Applicant states there are NO firearms or other weapons in  
16 the home. Applicant is enrolled in the 8 hours of preventative health training. Applicant will submit a copy of  
17 her certificate once completed. Pediatric CPR and First Aid certifications expire on 07/2018. Required  
18 documents will be posted. Applicant and all adults residing in the home have been cleared for criminal record  
19 and child abuse Index clearances. Applicant was advised that any new/additional adults must be cleared prior  
20 to working or residing in home. Any minor upon his/her 18<sup>th</sup> birthday must be fingerprinted within 30 days.  
21 Immunization records per SB792 were reviewed and are in compliance for applicant.  
22  
23 Advised applicant no changes should be made to the home without prior notice and/or approval from  
24 Licensing.  
25

**SUPERVISOR'S NAME:** Carl Shelton **TELEPHONE:** (619) 767-2205

**LICENSING EVALUATOR NAME:** Michelle Hood **TELEPHONE:** (691) 767-2241

**LICENSING EVALUATOR SIGNATURE:**



**DATE:** 02/12/2018

I acknowledge receipt of this form and understand my licensing appeal rights as explained and received.

**FACILITY REPRESENTATIVE SIGNATURE:**



**DATE:** 02/12/2018

This report must be available at Child Care and Group Home facilities for public review for 3 years.

LIC809 (FAS) - (09/04)

Page: 1 of 1

Personal Information Redacted

# Attachment G

STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES  
COMMUNITY CARE LICENSING DIVISION

## FACILITY EVALUATION REPORT (Cont)

CCLD Regional Office, 7575 METROPOLITAN DR., STE 110  
SAN DIEGO, CA 92108

FACILITY NAME: FAMILY CHILD CARE

FACILITY NUMBER: 376627345

VISIT DATE: 02/12/2018

### NARRATIVE

1 Incidental Medical Services (IMS) policy was discussed. For IMS information see Evaluator Manual -  
2 Regulation Interpretations and Procedures for Family Child Care Homes Section 102417. When any IMS is  
3 provided, a Plan for Providing IMS must be submitted to the Department. The following information regarding  
4 ADA was provided: US Department of Justice (USDODJ) toll-free ADA Information Line at (800) 514-0301  
5 (voice)/ (800) 514-0393 (TTY) and link to publication: Commonly Asked Questions about Child Care Centers  
6 and the ADA, available at: [http://www.ada.gov/child\\_care.htm](http://www.ada.gov/child_care.htm)  
7  
8 The New Provider Resource Packet was reviewed with the applicant including information on the following:  
9 SIDS, shaken baby, insurance, child abuse reporting, community resources, children's records, facility  
10 records, required postings, immunization's, unusual incident report, roster, car seat law, visual for  
11 ratio/capacity, fire/disaster drill log. Applicant was also informed the following items are prohibited during day  
12 care operating hours (walkers, exersaucers, jumpers and bouncy seats). Corporal punishment and smoking  
13 are prohibited in the day care.  
14  
15 The maximum capacity for a small family child care home was explained and handout give to Applicant.  
16  
17 Per new Senate Bill 792 pertaining to immunization's, which requires all adults in daycare operation to have  
18 proof of immunization or exemption for; Measles, Pertussis( Whooping Cough) and Influenza(Flu). Licensee  
19 has current verification of required immunization's for herself and helpers and is in full compliance.  
20  
21 Applicant shall comply with all regulations and laws governing family child care homes and be financially  
22 secure to operate a family child care home for children. Applicant shall email  
23 [childcareadvocates@ram.dss.ca.gov](mailto:childcareadvocates@ram.dss.ca.gov) to request to be on the distribution list for child care updates.  
24  
25 **A Provisional small license for a maximum capacity of 8 children will be granted effective today**  
26 **02/12/2018.**  
27  
28 Community Care Licensing WEB SITE: <http://www.cclcd.ca.gov>  
29  
30  
31  
32

SUPERVISOR'S NAME: Carl Shelton

TELEPHONE: (619) 767-2205

LICENSING EVALUATOR NAME: Michelle Hood

TELEPHONE: (601) 767-2241

LICENSING EVALUATOR SIGNATURE:



DATE: 02/12/2018

I acknowledge receipt of this form and understand my appeal rights as explained and received.

FACILITY REPRESENTATIVE SIGNATURE:



DATE: 02/12/2018

Personal Information Redacted



**CITY OF LEMON GROVE**  
Development Services Department

"Best Climate On Earth"

Date: February 15, 2018

KIM Investments, LLC  
RRJJ, LLC  
Attn: Jilette Yousif  
2221 Camino Del Rio South # 207  
San Diego CA 92108

Gina Austin  
3990 Old Town Ave., Ste. A112  
San Diego, CA 92110

SUBJECT: Notice of Denial for Zoning Clearance Application ZCM-170-0002 for property located at 3515 Harris Street, in the City of Lemon Grove (APN.479-052-07-00).

Mr. Yousif and Ms. Austin,

On February 7, 2018, staff received a resubmittal package for subject application to establish a medical marijuana dispensary (MMD) at the subject property in the City of Lemon Grove. Thereafter, we received evidence that there is a new State-licensed family daycare home within 1,000 feet of the subject property which disqualifies the subject property from eligibility for a conditional use permit and the application is therefore denied. The application package resubmittal will not be reviewed since the application is denied.

As reflected in Bulletin 23, the zoning clearance process for a marijuana dispensary is twofold: 1) Does the application meet separation requirements from permitted marijuana dispensaries and protected uses; and 2) Is the application provided complete. Once these two reviews are satisfied, the applicant is eligible to submit a conditional use permit. Staff recommended this process to City Council at the March 7, 2017 City Council meeting. The process is such, so that when a conditional use permit is applied for after zoning clearance approval notice of complete, staff can then take in the \$1,500 deposit and updated application form and route the application, plans and materials to the various reviewing departments for corrections and/or conditions if any.

In order for staff to process a conditional use permit application for a MMD, the application must include all of the information required by Chapter 17.32 of the Lemon Grove Municipal Code, as well as the items listed on the City's MMD Planning Permit Checklist. Additionally, the location of the proposed MMD must comply with the zoning requirements and distance restrictions contained within Chapter 17.32. If any of the required items are missing, or if the proposed location does not meet the zoning requirements and distance restrictions, then staff cannot process a conditional use permit application. Please review the requirements of Chapter 17.32 and the MMD Planning Permit Checklist prior to submitting another application. Please also verify that the site chosen meets the distance restrictions established by Chapter 17.32. Staff's decision to deny this application may be appealed to the Lemon Grove City Council pursuant to Lemon Grove Municipal Code, Section 17.28.020(I). Appeals must be filed in writing within 10 calendar days of the date on this denial letter and must include a filing fee of \$75.00. Appeals must be filed using forms provided by the Development Services Department.

## Attachment H

Please feel free to call me during counter hours (8am-10am and 3pm-5:30pm) at (619) 825-3812 if you have any questions.

Sincerely,



David De Vries  
Development Services Director

CC: ZCM-170-0002 File



**APPEAL APPLICATION &  
REQUEST FOR PUBLIC HEARING**

Community Development Department / Planning Division  
3232 Main Street, Lemon Grove, CA 91945  
Phone: 619-825-3805 Fax: 619-825-3818  
www.ci.lemon-grove.ca.us

APPLICANT: KIM Investments, LLC/Joe Yousif	PHONE:
ADDRESS:	FAX:
	EMAIL:
3521 Harris Street, Lemon Grove, CA 91945 (subject property)	
CASE/PROJECT NUMBER: ZCM-170-0002	

**DECISION /CONDITIONS OF APPROVAL BEING APPEALED (INCLUDE CONDITION ITEM NUMBERS):**  
The development services director denied the Zoning Clearance Application because a "new State-licensed family daycare home within 1,000 feet of the subject property disqualifies the subject property." Mr. DeVries refused to provide the address of the family daycare as of the date of this appeal.

**SPECIFIC REASON(S) FOR APPEAL OR REQUEST FOR PUBLIC HEARING:**  
Additional information will be submitted if Mr. DeVries makes the address of the alleged protected use available. As time is of the essence, I am requesting the appeal hearing as soon as practicable.

Attach additional sheets if necessary.

*[Signature]*  
Applicants Signature

Feb 20, 2018  
Date

**TO BE COMPLETED BY PLANNING STAFF**

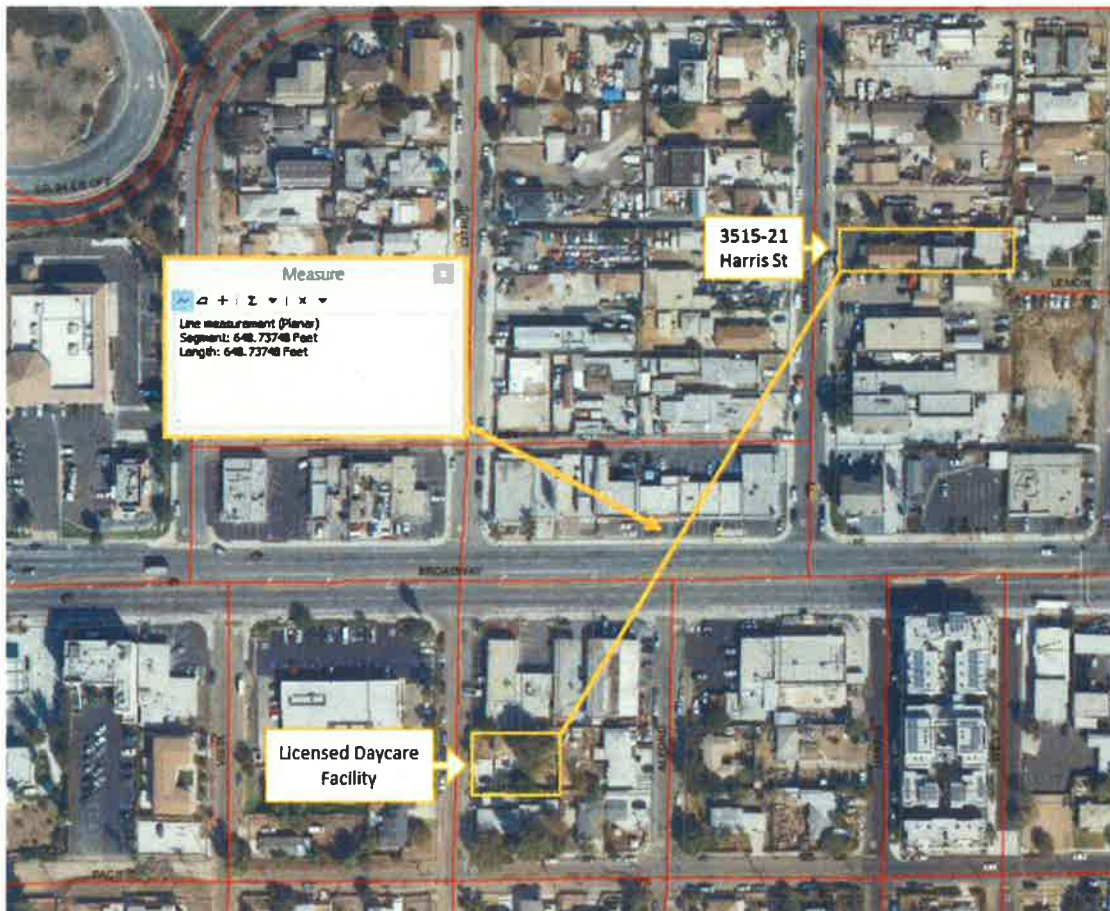
FILE #(s): AA 1-900-6001  
DATE: 2-20-18  
FEES: \$1,000.00 RECEIPT #:

**COMMENTS and/or CONDITIONS:**





Attachment J



Source: City of Lemon Grove GIS database 2018





**CITY OF LEMON GROVE**  
Development Services Department

"Best Climate On Earth"

Date: March 8, 2018

KIM Investments, LLC  
RRJJ, LLC  
Attn. Jilette Yousif  
2221 Camino Del Rio South # 207  
San Diego CA 92108

Gina Austin  
3990 Old Town Ave., Ste. A112  
San Diego, CA 92110

SUBJECT: Disclosure of protected uses within 1,000 feet of 3515 Harris Street (APN: 479-052-07-00); Zoning Clearance Application ZCM-170-0002, and Administrative Appeal AA1-800-0001.

Mr. Yousif and Ms. Austin,

This letter is in response to the administrative appeal received by the City for the denial of your zoning clearance application for a medical marijuana dispensary at the subject property. As described in the denial letter dated February 15, 2018, the application was denied because the subject property is within 1,000 feet of licensed daycare facilities.

In order to provide a full and open opportunity for you to understand the reason staff denied the permit, and to allow you to respond accordingly, we will disclose the physical street addresses of the licensed family daycare homes located within 1,000 feet of your proposed dispensary at 3515 Harris Street. Those addresses are:

- 3335 Citrus Street

The City Council hearing for your appeal has been advertised and scheduled for Tuesday, April 3, 2018. A copy of this letter will be attached to the City Council staff report. At the hearing, you may wish to request additional time to consider this new information, or you may wish to withdraw the appeal. If you decide you want to ask the City Council for more time, please contact me as soon as possible. You can reach me at (619) 825-3812, or by email at [ddevries@lemongrove.ca.gov](mailto:ddevries@lemongrove.ca.gov).

Please feel free to call me during counter hours (8am-10am and 3pm-5:30pm) if you have any questions.

Sincerely,

David De Vries  
Development Services Director

CC: AA1-800-0001 File





(<http://www.cdss.ca.gov/>)

## **Frequently Asked Questions**

### **Where can I find the facility definitions?**

See the Glossary link at the top.

### **Where can I find out more about how facilities are regulated in California?**

Please visit the Community Care Licensing (<http://www.cclid.ca.gov/>) website.

### **What is the best way to search?**

Select just one or a few of the available search terms. You will be able to filter your search on the Results screen.

### **Where can I find the definitions of the facility types?**

The definitions for the facility types can be found on the Glossary (<http://www.cclid.ca.gov/res/html/glossary.htm>) page.

### **I am looking for Foster Family Homes. Why can't I find them.**

The publication of names and addresses of Foster Family Homes is restricted by law and considered confidential.

### **Why can't I find the addresses for Small Family Child Care homes (less than 8 children)?**

Because these are Child Care providers' homes, the publication of addresses is restricted. To find Small Family Child Care home providers in your area, contact the Resource and Referral Network ([http://www.rrnetwork.org/find\\_child\\_care](http://www.rrnetwork.org/find_child_care)) or call 1-800-KIDS-793. The Network can also assist you in searching for the right child care for your child and can provide you with addresses of facilities in your area.

### **Why can't I see or search on street addresses for Large Family Child Care Homes?**

For Large Family Child Care Homes, you can still search using the City, Zip and County options. To obtain the address of a Large Family Child Care Home, please contact either the State Licensing Office, the Resource and Referral Network ([http://www.rrnetwork.org/find\\_child\\_care](http://www.rrnetwork.org/find_child_care)) or call 1-800-KIDS-793.

### **Why can't I get a list of Small Family Child Care homes?**

Information related to Small Family Child Care homes is restricted by law. Small Family Child Care home information is available to provide consumer information to parents with children in care and to parents seeking child care from a local child care home.





**CITY OF LEMON GROVE** Best Home On Earth  
Development Services Department

February 9, 2017

Michelle Hood, Office Services Supervisor I  
Community Care Licensing  
San Diego Child Care Regional Office  
7575 Metropolitan Drive #110  
San Diego, CA 92108

RE: Request for List of Small Family Daycare Homes with Addresses

Michelle

On November 8, 2016, voters in Lemon Grove passed Measure V, which removed the City's prohibition of medical marijuana dispensaries (dispensaries). Measure V (copy attached) allows dispensaries to be established by conditional use permit (CUP) subject to certain distance restrictions. One such distance restriction states that no dispensary shall be permitted within 1,000 feet of licensed daycare facilities. Therefore, City staff needs to identify the location of family daycare homes both inside the City boundaries and outside the City boundaries within 1,000 feet. The applicable postal codes we need information for are 91945, 91977, 91941, and 92114.

Our staff is sensitive to the need for privacy at family daycare homes. Therefore, if provided we do not intend to share this information with the general public. Our goal is to use the information to prepare a map for staff use only.

Sincerely,

David DeVries, AICP  
Director of Community Development  
City of Lemon Grove

Attachments

- 1 Measure V







WILL LIGHTBOURNE  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**



EDMUND G. BROWN, JR.  
GOVERNOR

February 21, 2017

Mr. David DeVries  
City of Lemon Grove  
3232 Main Street  
Lemon Grove, CA 91945

RE: Request for Confidential Child Care Facilities Data

This letter is in response to your letter request to obtain a copy of the confidential Small Family Child Care Home list, which are in-home child care facilities with 8 or fewer children enrolled, as well as the Large Family Child Care Home list, which are in-home child care facilities with 9-14 children enrolled.

In your letter, you expressed that the need for this list is to ensure that those applying for medical marijuana dispensaries are not located within 1,000 feet of a licensed daycare facility.

For your information, Health and Safety Code Section 1596.86(b) requires the Department of Social Services (DSS) to maintain the personal privacy of small family child care homes and prevent the use of lists containing their names, addresses, and other identifying information, except for administering the licensing program, facilitating the placement of children, and providing the names and addresses to resource and referral agencies funded by the Department of Education, and food and nutrition programs also funded by the Department of Education.

In consideration of your reasoning for requesting the Small Family Child Care Home list, and Child Care Licensing's administrative responsibility to protect the health and safety of its clients in care, it appears your request is in line with the mandate of the above statute.

I am including as an attachment to this letter, a copy of the fee schedule that contains the fee amount for the Small Family Child Care Home list. It also contains instructions for where to send your check.

Steven Blount of our Information Systems Division will receive a copy of this letter, so he will be aware that you have been approved to receive a copy of the list. It should be understood that the small family child care home list is to remain only in your possession, and not shared.

Thank you for your communication. If you have any questions or additional concerns, you may contact Jenni Fong, System Review Analyst.

Sincerely,

  
Shefia Fleming, Manager  
Child Care Program System Administration and Support Unit

Attachment

cc: Steven Blount, ISD