



City of Santa Barbara California

II. E.

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: September 30, 2009
AGENDA DATE: October 7, 2009
PROJECT ADDRESS: 741 - 781 Chapala Street (MST2009-00268)
The Pharmacy Medical Cannabis Dispensary
TO: Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner *DK*
Kelly Brodison, Assistant Planner *KAB*

I. PROJECT DESCRIPTION

The project consists of establishment of a medical cannabis dispensary at 741 Chapala Street. The dispensary will occupy four existing commercial condominium spaces totaling 2,324 square feet. The project site is part of the Paseo Chapala mixed use building which contains twenty-nine residential and eleven commercial condominiums. The applicant has submitted an operational plan that details how the business would be operated to comply with Chapter 28.80 of the City of Santa Barbara Zoning Code. With regard to security, there would be twelve (12) cameras set up to monitor the inside and outside of the building to insure that no loitering, nuisances, or criminal activity occurs in and around the building. The lease space includes a retail operation that will be maintained separate from the secure dispensary area. The commercial space is currently vacant awaiting issuance of this permit.

II. REQUIRED APPLICATIONS

The discretionary application required for this project is a Medical Cannabis Dispensary Permit (MCDP) (SBMC §28.80.030).

III. RECOMMENDATION

The proposed project conforms to the City's Zoning and Building Ordinances and policies of the General Plan. Therefore, Staff recommends that the Staff Hearing Officer approve the project, making the findings contained in Section VII of this Staff Report, and subject to the conditions of approval in Exhibit A.



APPLICATION DEEMED COMPLETE: August 31, 2009

DATE ACTION REQUIRED: October 30, 2009

IV. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant: JoAnna La Force	Property Owner: Ray Mahboob
Parcel Numbers: 037-530-034, 035, 036, 037 & 038	Lot Area: 2,324 sq. ft
General Plan: General Commerce	Zoning: C-2
Existing Use: Commercial/Vacant	Topography: Flat

Adjacent Land Uses:	
North - Commercial	South – Multi Family Residential
East – Commercial	West –Commercial

V. ZONING ORDINANCE CONSISTENCY

The proposed project is a commercial use in an existing tenant space with a visible store front, that, with the issuance of the dispensary permit, would meet the land use requirements of the C-2 Zone. Parking is provided in the attached parking structure accessed off of De la Guerra Street with 20 spaces allotted for the commercial uses in the mixed use building.

VI. ISSUES

A. LOCATION LIMITATIONS FOR DISPENSARIES

Pursuant to Section 28.80.060 of the City Zoning Code, a dispensary may be in the C-2 zone. However, dispensaries are not permitted within 500 feet of a park, school, or other dispensary. The subject site satisfies all location limitations of the Medical Cannabis Dispensary Ordinance.

B. OPERATIONAL REQUIREMENTS

A dispensary shall be permitted and maintained only in compliance with the Operational Requirements as specified in Section 28.80.070 of the City Zoning Code. The applicant has completed the required background check and has provided a detailed Operations Plan. The Operations Plan demonstrates the proposed dispensary will operate in accordance with the Operational Requirements as required in the Ordinance. To prevent nuisance issues, the applicant's security measures include an alarm system, security cameras, lighting, a security guard and patient screening. No smoking or use of marijuana is permitted on the premises and the applicant is required to monitor and control loitering and nuisances in the surrounding area and keep the area free of trash. The applicant intends to maintain close relationships with neighbors in order to address any issues before they become problems. If any nuisance, health or safety issues result from this business, the City would have the ability to revoke this permit, or modify the conditions of the permit to correct any problems that might arise.

C. CRITERIA FOR ISSUANCE OF A DISPENSARY PERMIT

Section 28.80.090 (B) of the City Zoning Code lists the criteria for issuance of a dispensary permit. The Staff Hearing Officer, or the Planning Commission on appeal, shall consider the following criteria in determining whether to grant or deny a dispensary permit:

1. *That the dispensary permit is consistent with the intent of the state Health & Safety Code for providing medical marijuana to qualified patients and primary caregivers, and the provisions of this Chapter and the Municipal Code, including the application submittal and operating requirements herein.*

The operational plan submitted by the applicant and the applicant's responses to the limitations of Section 28.80.060 of the City Zoning Code, indicate the intent and purpose of the dispensary is to provide medical marijuana to qualified patients and primary caregivers. Although the lease space includes retail operation, it will be maintained separately from the secure dispensary area. No minors, non-patients or non-caregivers are allowed into the dispensary area. Patient and/or caregivers will be verified prior to entry into the dispensary. The applicant has passed the required background check, and the proposed security measures have been found to be adequate by the Police Department. Record keeping requirements will allow the city to monitor and audit the proposed use as necessary. Therefore, this criterion has been met.

2. *That the proposed location of the Dispensary is not identified by the City Chief of Police as an area of high crime activity (e.g., based upon crime reporting district/statistics as maintained by the Police Department).*

The project was routed to the Police Department, whose personnel conducted a site investigation. The area is not considered to be an area of high crime activity based upon crime reporting statistics. Therefore, this criterion has been met.

3. *For those applicants operating other Dispensaries within the City, that there have not been significant numbers of calls for police service, crimes or arrests in the area or to the applicant's existing dispensary location.*

The applicant does not operate, and has not previously operated, any dispensaries within the City. Therefore, this criterion does not apply to this applicant.

4. *That all required application fees have been paid and reporting requirements have been satisfied in a timely manner.*

The applicant has submitted all required application fees. No reporting requirements are required at this time. Therefore, this criterion has been met.

5. *That issuance of a dispensary permit for the dispensary size requested is justified to meet needs of the community.*

The proposed dispensary size of 2,324 net square feet has been determined to be an acceptable size in order to safely and efficiently run a dispensary. The proposed dispensary has frontage and windows along Chapala Street as well as the main entrance for patients and employees. There is a reception space with a

waiting area. Patients will be screened prior to being allowed to enter the dispensary area and seats will be provided for patients waiting to be screened. New patients of the cooperative may enter the registration office directly from the reception area. Also, the proposal is to use an existing commercial space and will not by increasing the floor area or commercial square footage within the City. Therefore, this criterion has been met.

6. *That issuance of the dispensary permit would serve needs of City residents within a proximity to this location.*

The proposed location would be southeast of a major transportation corridor, and would accommodate patients in the Downtown, West Downtown and Lower West neighborhoods. The proposed dispensary will provide a location that is easily accessible by patients without private transportation. There are no other dispensaries within 500 feet of this location, and currently, there are no permitted dispensaries within 2,000 feet. Therefore, the dispensary would serve the needs of local residents and this criterion has been met.

7. *That the location is not prohibited by the provisions of this chapter or any local or state law, statute, rule or regulation, and no significant nuisance issues or problems are anticipated or resulted, and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished.*

The project site is on a C-2 zoned lot and is within an area of the City that allows Medical Cannabis Dispensaries (See Exhibit D). Although the dispensary is on the first floor of a mixed use building containing residential units, no prohibitions for a dispensary at this location were identified in any local, state, statute or rule or regulation. To prevent nuisance issues, the security measures include alarm systems, security cameras and patient screening. The front entry of the dispensary has large windows and has good visibility from Chapala Street for police surveillance. No smoking or use of marijuana is permitted on the premises and the applicant is required to control loitering and nuisances in the surrounding areas and keep the area free of trash. Therefore, this criterion has been met.

8. *That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.*

See finding #7 above. The applicant has designed the floor plan and incorporated security measures to assist in reducing potential crime-related problems and as

specified in SBMC §28.80:070. Specific measures include a minimum of twelve (12) video surveillance cameras, a registered alarm system, licensed security personnel and a state-of-the-art security systems. In addition the dispensary will operate from 10:00 a.m. – 7:00 p.m. and therefore will not be open for business at night. Therefore, this criterion has been met.

9. *That all reasonable measures have been incorporated into the security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, cannabis use in public, or creation of a public or private nuisance, or interference with the operation of another business.*

The site plan indicates that the applicant will install twelve (12) video surveillance cameras within the business premises in order to monitor the lobby and the dispensary area. The applicant has also stated willingness to install four (4) additional cameras, in the parking garage to monitor the enclosed parking area.

Security personnel will be on-site during business hours and will be responsible for enforcing the operational requirements of the dispensary, including: enforcing the requirements to disallow cannabis use on the site, control of conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, cannabis use in public, or creation of a public or private nuisance, or interference with the operation of another business. These measures should insure that the patrons' conduct is controlled. Therefore, this criterion has been met.

10. *That the dispensary would not adversely affect the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance; or that the dispensary will generally not result in repeated nuisance activities, including disturbances of the peace, illegal drug activity, cannabis use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.*

See 7-9 above. On-site security will patrol outside areas to ensure no one is loitering outside the premises, in the parking garage or the residential portion of the building. The proposed hours of operation are limited to 10 a.m. to 7 p.m. seven (7) days a week. Therefore, there should be no nighttime disturbances associated with this dispensary. If any of the above conditions result from this business, the City would have the ability to revoke this permit, or modify the conditions of the permit to correct any problems that might arise. Therefore, this criterion has been met.

- 11. That any provision of the Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws, will not be violated.*

No provisions of any code, condition of a City-issued permit, or any other local or state law, regulation or order or any condition imposed by permits issued in compliance of those laws has been identified. A condition of approval is included to ensure continued compliance with Municipal Code Section 28.80.070. Therefore, this criterion has been met.

- 12. That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.*

No false statements of fact or omissions have been discovered by staff. This finding must be based on the information provided in the application package and any testimony presented by the applicant at the SHO hearing. The SHO must make this finding based on a judgment of the facts as stated within the entire record.

- 13. That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City.*

The applicant has passed the background check. Per the applicant's statements, the applicant has not engaged in any unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City of Santa Barbara in the past. Therefore, this criterion has been met.

C. ENVIRONMENTAL REVIEW

Staff has determined that the project qualifies for an exemption from further environmental review under Section 15301 (Existing Development) of the California Environmental Quality Act (CEQA) Guidelines. The project involves minor alterations to an existing commercial tenant space in order to operate a medical cannabis dispensary in accordance with the City's requirements.

D. DESIGN REVIEW

Due to the relatively minor exterior changes proposed as part of the project (landscaping and parking), design review was not required prior to consideration by the Staff Hearing Officer. However, design review will be required for all exterior changes at the project site. This requirement is included as a condition of approval for the project.

VII. FINDINGS

The Staff Hearing Officer finds the following:

- A. MEDICAL CANNABIS DISPENSARIES (SBMC CHAPTER 28.80)**
1. The dispensary permit complies with the limitations on the permitted locations of a dispensary pursuant to Section 28.80.060 of Zoning Ordinance as described in Section VI.A of the Staff Report.
 2. The dispensary permit complies with the criteria set forth in Section 28.80.090 (Criteria for Review of Dispensary Applications) of the Zoning Ordinance, as explained in Section VI.B of the Staff Report and the Applicant's submittal.
 3. This dispensary permit is approved conditioned upon compliance with the operational requirements specified in Section 28.80.070 of the Zoning Ordinance and the conditions of approval outlined in Exhibit A.

Exhibits:

- A. Conditions of Approval
- B. Site Plan and Floor Plans
- C. Operational Plan
- D. Medical Cannabis Dispensaries Allowed Location Downtown Map



City of Santa Barbara California

STAFF HEARING OFFICER CONDITIONS OF APPROVAL

741 – 781 CHAPALA STREET

MST 2009-00268; MEDICAL CANNABIS DISPENSARY

OCTOBER 7, 2009

1. This Medical Cannabis Dispensary Permit is conditioned upon continued compliance with the operational standards specified in Santa Barbara Municipal Code section 28.80.070.
2. Applicant shall operate the dispensary in accordance with the Operational Plan and information submitted to the City Planning Division on May 20, 2009.
3. The project is subject to the review and approval of the Historic Landmarks Commission (HLC) prior to issuance of any building permits.
4. Prior to commencement of the business, the tenant improvements and modifications to the floor plan in conformance with the revised floor plan submitted September 2, 2009, or as modified City Building Official, shall be completed and shall have cleared final building inspection. The applicant shall obtain a Building Permit for said interior changes.
5. Prior to the anniversary date of the issuance of this permit, the operator shall submit an annual renewal fee, if such fee is established by the City Council.
6. Applicant shall apply for an alarm system permit. Said alarm system shall be installed and registered per SBMC Chapter 9.100 and shall meet the requirements of the Santa Barbara Police Department.
7. The street front windows shall be kept clear of any obstructions including any interior or exterior window treatments to facilitate visibility from the street. The front lobby shall not have any signs or obstructions that would limit visibility of the lobby from Chapala Street.
8. Prior to the issuance of a Building Permit, the operator of the dispensary shall be required to apply for and obtain a Business Tax Certificate pursuant to Chapter 5.04, as required by the State Board of Equalization. Dispensary sales shall be subject to sales tax in a manner required by state law.
9. In order to comply with SBMC §28.80.070.A., prior to any involvement with the dispensary, all new employees, volunteer workers, or any person exercising managerial authority over the dispensary shall apply for and obtain a background check cleared through the City Police Department prior to commencement of activities associated with the dispensary.

10. The hours of operation for the dispensary shall be limited to between 10:00 a.m. and 7:00 p.m.
11. The security personnel hired to comply with SBMC Section 28.80.090.B.9 shall be licensed by the California Bureau of Security and Investigative Services. The licensed security personnel's responsibilities shall include enforcing the requirements to disallow cannabis use on the site, control of conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, cannabis use in public, or creation of a public or private nuisance, or interference with the operation of another business.

POR. PUEBLO LANDS

CHAPALA

ST



rotation = 42°24'50"

1" = 20'
SCALE



LEGEND

- G=Garage Area
- P=Patio Area

FIRST FLOOR

NOTES

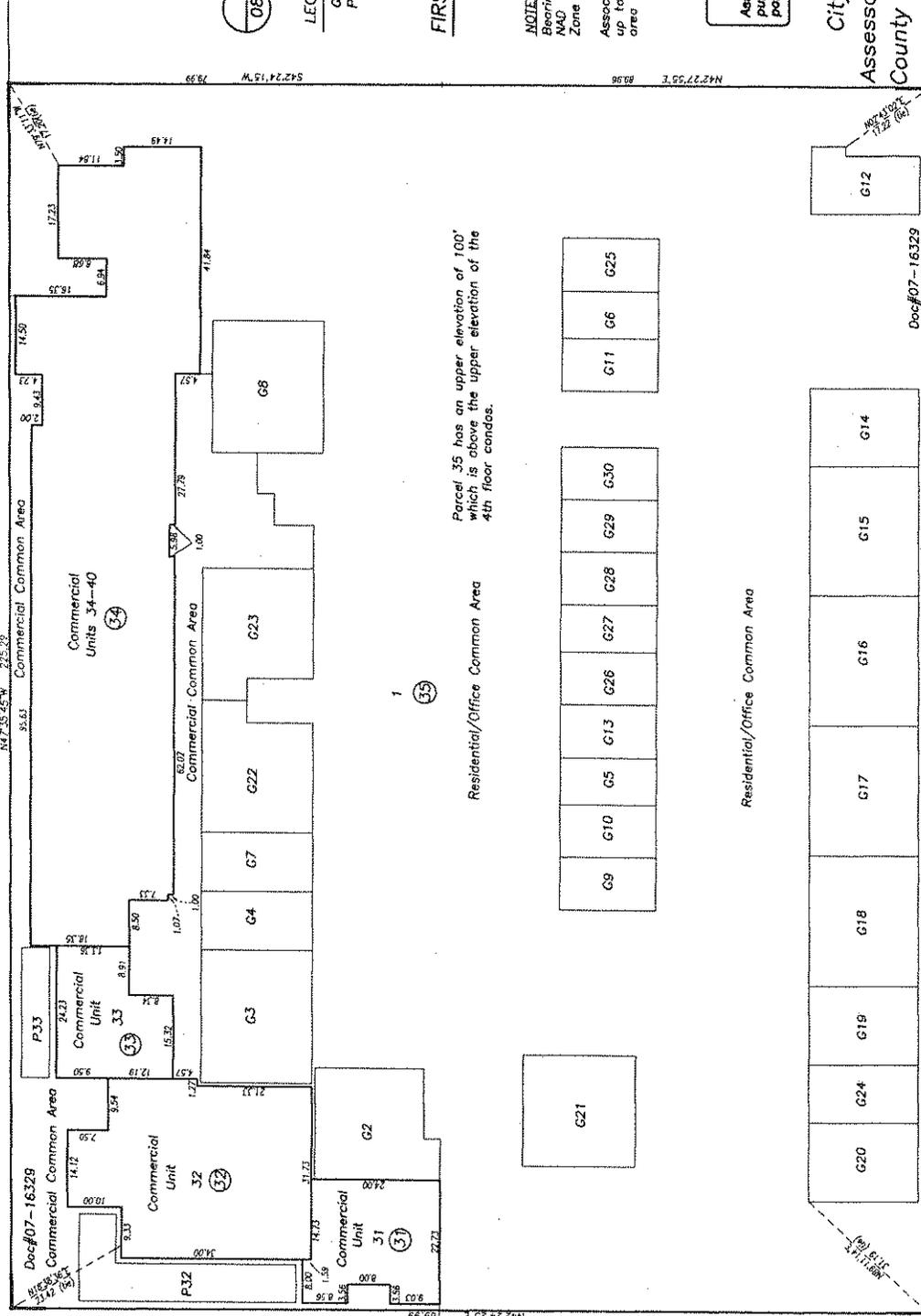
Bearings and distances are in NAD 83 State Plane System, Zone V, U.S. Foot
 Association owns residential/office common area up to an elevation of 100'. Undivided common area has a lower elevation than 100'.

NOTICE

Assessor Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

City of Santa Barbara
 Assessor's Map Bk, 037 -Pg, 53
 County of Santa Barbara, Calif.

11/07 New Page from 082-38



Doc#07-16329

N47°36'21"W 225.20



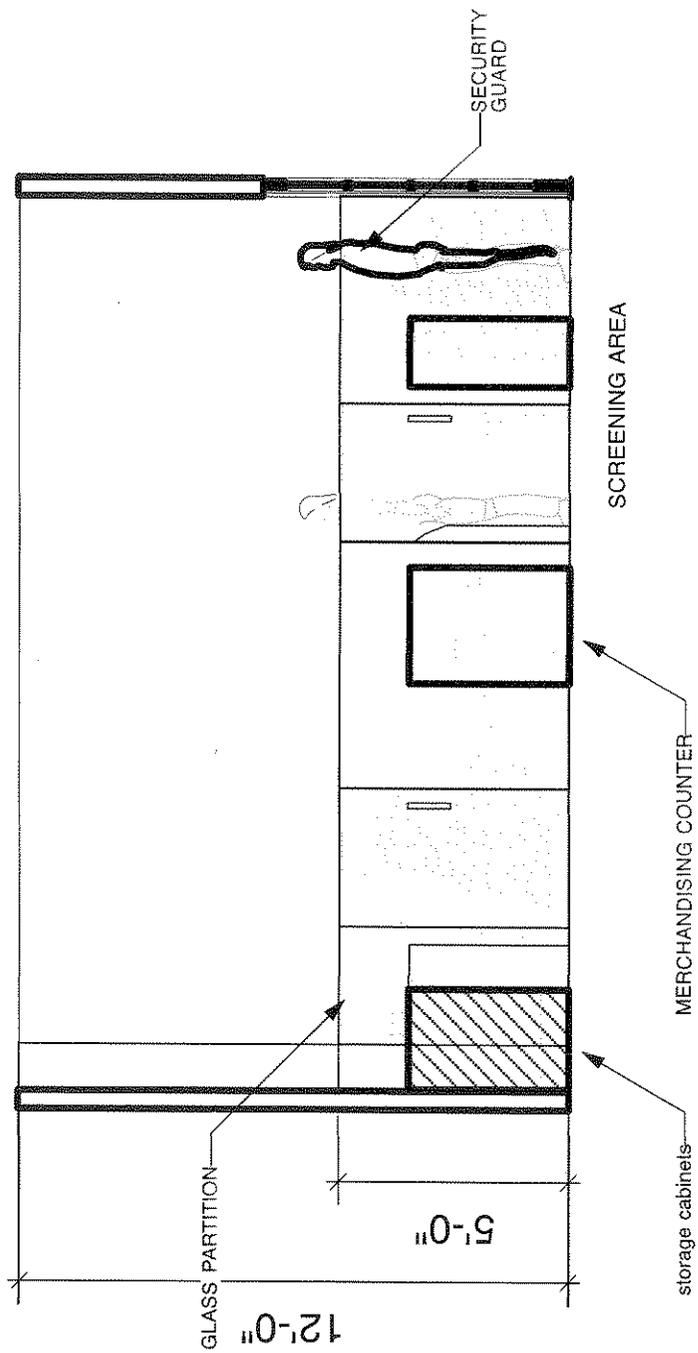
03/06/2007 Doc.# 07-016329, Tract 20686, Condominium Plan for Lot 1 "Paseo Chapala"

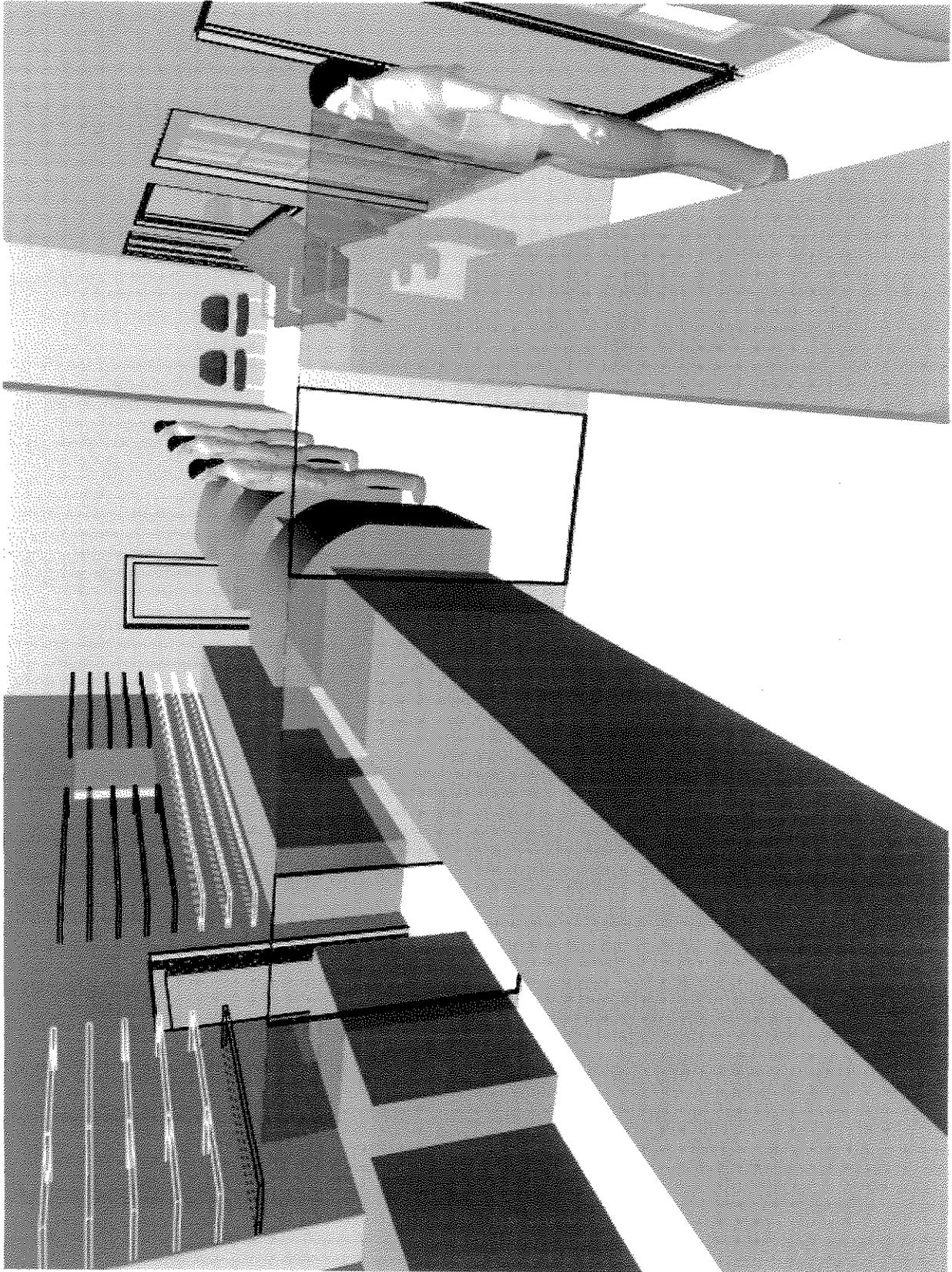
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DE LA GUERRA





THE FARMACY

GLOBAL ORGANIC MEDICINE

May 20, 2009

Danny Kato
Development Review Supervisor
City of Santa Barbara Planning Department
630 Garden Street
Santa Barbara, CA 93101

**Re: Medical Cannabis Dispensary Permit Application
The Farmacy Santa Barbara, Inc.
781 Chapala Street, Santa Barbara, California
APN 037-350-034 through 037-350-039; Land Use Zone C-2**

Dear Mr. Kato:

We look forward to bringing The Farmacy® to Santa Barbara to serve the medical needs of our community. I have been a Clinical Pharmacist, licensed by the State of California, since 1975, and have been involved in several medical organizations since that time. My most rewarding time has been working with Hospice, managing pain treatment for terminally ill patients — thus, my passion for people to have safe access to natural adjunctive therapies.

As a Pharmacist, I am accustomed to the regulations and requirements of pharmacies. With that in mind, I spearheaded in the Los Angeles area three “pharmacy” locations, all dispensing plant-based medicines and herbs, including cannabis, in an open design similar to a pharmacy like Rite Aid and Longs. The actual dispensary area, however, is restricted to patients and dispensary personnel. Only patients that have been screened and strictly verified are allowed — all enforced by security personnel.

Through The Farmacy, we bring a fresh look to the medical cannabis dispensaries, which have been well received in each community of which we have been a part. There are no dingy, backroom, “closed” deals, susceptible to criminal activity. Rather, we treat cannabis as medicine just like any of the other 300+ herbs that may be used for a person’s medical needs. Approach and design translate into complete openness as suggested by all laws and ordinances, eliminating criminal activity whether from within or from the outside.

Strict protocols and requirements apply to dispensing of all of our herbal medicines, especially cannabis. Complete registration of a patient occurs, along with the verification by his/her physician. Only verified patients enter the area where any cannabis is dispensed. Security is strict, yet discreet; there is no loitering, no shady activity, only the appropriate

The Farmacy® Venice
1509 Abbot Kinney Blvd
Venice, CA 90291
310.392.3890

The Farmacy® Westwood
1035 Gayley Avenue
Westwood, CA 90024
310.208.0820

The Farmacy® West Hollywood
7825 Santa Monica Blvd
West Hollywood, CA 90024
323.848.7981

www.ourfarmacy.com

EXHIBIT C

Danny Kato
City of Santa Barbara Planning Department
May 20, 2009
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medical dispensing activity in a wholesome and nurturing environment for qualified patients. The Pharmacies in the Los Angeles area, Westwood, West Hollywood and Venice, are embraced by those communities. City Council members, Compliance personnel and law enforcement regularly visit us and applaud our efforts and approach. We have been a subject of much media interest, locally in California and nationally, as we present the way marijuana dispensaries should operate. We are open and transparent in our operations, and we only operate within the parameters of each community's ordinance. We have never been cited for any violations whatsoever, in fact, we have passed an IRS audit on one of our facilities, the first such audit in the country I am told.

In summary, we know how to run dispensaries, fully compliant with the law and for the best interest of the medical needs of our patients. I have been a resident of the greater Santa Barbara community for the past 17 years; thus, I have a special interest in providing medical assistance to this community in an upright and professional manner.

Thank you for your assistance and approval of my application for the Chapala location, as supported by our immediate neighboring businesses and association. I have appended a list of the attachments, including the legal opinion of Tim Buynak of Buynak Law, opining as to our conformance with Santa Barbara's Ordinance, just as we do with every application. Should any further information be necessary, I am more than happy to provide it.

I look forward to your favorable determination.

Best Regards



JoAnna LaForce, R.Ph., CGP
President

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1509 Abbot Kinney Blvd
Venice, CA 90291
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17246:BLF:v1

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COMMERCIAL ASSOCIATION
924 Laguna Street, Suite B
Santa Barbara, CA 93101

May 22, 2009

City of Santa Barbara
Planning Department
Santa Barbara, CA
Attn: Susan Reardon, Staff Hearing Officer

Dear Hearing Officer Reardon:

I am the President of the Paseo Chapala Commercial Association governing all of the Paseo Chapala commercial units numbered 721-729 Chapala Street.

The Association has considered the proposed operations of *The Farmacy* related to 781 Chapala Street, including an on-site medical marijuana dispensary, and reviewed the letters written by neighboring existing businesses, Esau's and Silvergreens.

The Association believes it is in the best interest of Paseo Chapala to support *The Farmacy's* application to the City for a Medical Cannabis Dispensary Permit and urges you to approve such application

Best Regards,

Ray Mahboob, President



BUYNAK LAW FIRM

820 STATE STREET, 4TH FLOOR
SANTA BARBARA, CA 93101

TELEPHONE: (805) 966-7000
FAX: (805) 966-7227

S. TIMOTHY BUYNAK
PRINCIPAL

DIRECT DIAL: (805) 966-7575
TBUYNAK@BUYNAKLAW.COM

May 20, 2009

Susan Reardon, Hearing Officer
City of Santa Barbara Planning Department
630 Garden Street
Santa Barbara, CA 93101

Re: **Opinion of Compliance**
Santa Barbara Ordinance No. 5449
The Pharmacy Santa Barbara, Inc.
781 Chapala Street, Santa Barbara, California

Greetings!

The Pharmacy has requested our review of their design, operation and application to the City of Santa Barbara for a medical cannabis dispensary permit for compliance with City Ordinance No. 5449 (Ordinance); the Compassionate Use Act of 1996 (Proposition 215) and the Medical Marijuana Program Act (Senate Bill 420), now codified at California Health & Safety Code Sections 11357, *et seq.*, as well as State Attorney General Edmund G. Brown, Jr., Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (August 2008), herein, collectively, "Dispensary Law." As outlined below, we are of the opinion that the design and operation of The Pharmacy at 781 Chapala Street, Santa Barbara, California will be compliant with the Dispensary Law, as presented in the Application, together with the following considerations and understanding as provided by the Principal within The Pharmacy, JoAnna LaForce, pharmacist, as well as review of their Los Angeles operations within the cities of Westwood, West Hollywood and Venice.

The Pharmacy. The purpose of The Pharmacy, as evidenced by their current literature and practice within three Los Angeles locations, is to dispense for medical purposes only, organic plant-based medicines, including cannabis along with 300+ additional herbs. The operation of The Pharmacy is dedicated to this calling with management by a registered California State pharmacist (JoAnna LaForce). It employs strict controls for dispensing its medicines and for security; the utilization of cannabis is only for the medical needs of its patients/members from a restricted dispensing area. The operation is refined, secure and safe, modeled after an old-fashioned apothecary, with a professional staff, which provides patients the comfort and assurance that their medical needs will be met, as prescribed by their outside physician. There will be no physician on site at the Chapala location; no physicians are linked with The Pharmacy. Consistent with the purpose and intent of the Ordinance, specifically Section 28.80.010,

The Farmacy, based on past practices and representations within its Application, will, in my opinion, operate to promote health, safety and the general welfare of the residents and businesses of the City of Santa Barbara. They have gained the written support of the adjacent businesses, Esau's and Silvergreens, as well as the approval of their homeowner's association for the commercial units. The principles, protocols and leadership of Ms. LaForce bode well for ensuring the appropriate purposes and uses of The Farmacy at the Chapala location, as does its design. Like the Los Angeles locations, The Farmacy Santa Barbara, Inc., with JoAnna LaForce as the principal and president of the corporation, is an appropriate applicant and permittee (Section 20.80.20.A and D); neither The Farmacy Santa Barbara, Inc. nor JoAnna LaForce or any of The Farmacy entities at other locations have any criminal history.

The Design/Floor Plan. The Farmacy's design at the Chapala location — like the Los Angeles Farmacy locations under the authorizations of the cities of Westwood, West Hollywood and Venice — is an “open design,” rather than the “closed design” of most dispensaries. The Farmacy, as stated, models itself after usual pharmacies like Longs, CVS and Rite Aid, etc. This means that there is a secure area in which only qualified patients and dispensary personnel are allowed. Similar to a usual pharmacy, there is a merchandise and reception area; merchandise in this area only includes non-cannabis creams, salves, and beauty products, books, periodicals, posters and like items. The Farmacy at Chapala (like the Los Angeles Farmacys) will not sell or display any drug paraphernalia or any implement that may be used to administer medical cannabis (Ordinance, Section 28.80.070.F.2.).

Design Assists with Security. Ms. LaForce advises that similar designs in Los Angeles have assisted with security. Particularly, Ms. LaForce advises that in their five years of operation in Los Angeles they have never been a subject of a robbery, assault or battery, while other “closed design” dispensaries in the immediate area (e.g., one across the street from the West Hollywood location) have been robbed four to five times a year. Ms. LaForce ascribes this lack of criminal activity at The Farmacy locations to their openness and usualness (like other retail locations), rather than fostering criminal activity in the closed backroom circumstances of the “closed designs.”

Consistent with the Ordinance (Section 28.80.070.C)

- The dispensary is behind a secure counter; once built, it can not be enlarged.
- The entrance to the building is strictly controlled, with a security camera viewing the entrance, with monitors in the main office.
- Security personnel will monitor the site regularly as is the practice at the Los Angeles locations, employing two to three security personnel onsite during hours of operation.
- The dispensary area, where cannabis is dispensed, is strictly controlled to only allow patients, with a security guard monitoring patients' entry; only qualified dispensary personnel are allowed behind the dispensary counter.



- All patients or caregivers going into the dispensary area must first be qualified as a patient with a valid written recommendation from an outside physician.
- Restrooms will be locked and under the control of the dispensary personnel at all times.

City Location. According to the legend attached to the Ordinance, the Chapala location is a permitted location. There are no schools, churches or other conflicting activities within 500 feet of the location.

- It is a storefront location, highly visible from Chapala Street.
- It is within permissible C-2 zoning of the City.

Operations. The Chapala location's *Operations Manual*, as observed by our review of The Farmacy operations as exhibited at the Los Angeles activities, provide that:

- The dispensary only dispenses to a qualified patient with a current valid physician's recommendation as required by Health & Safety Code Section 11362.5.
- All patients are credentialed; computer records are maintained, including verifications of the individual (current California drivers license/identification card), and verification is gained from the recommending physician's office personnel.
- No physicians are on site.
- Cannabis is not consumed by patients on the premises, including within the dispensary area, and not within any accessory structures, parking lot or parking areas, or the surrounding areas within 200 feet of The Farmacy's entrance. The Chapala Street visibility undermines loitering or the congregation of patients.
- Patients only receive a restricted, personal amount of cannabis at any time; computer systems are linked to avoid an individual's visits to more than one Farmacy dispensary.
- Notices and signs pursuant to the Ordinance are assured; employees' and patients' records are properly maintained; staff training regularly occurs to understand the rules and procedures of dispensing and compliance with State and local law (including Dispensary Law); security personnel are trained in the safety and maintenance requirements of the premises and for the entry of only qualified patients in the dispensing area.

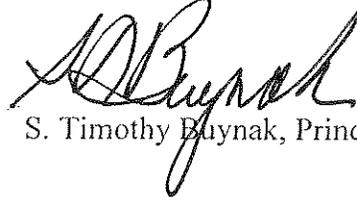
Compliant with Dispensary Law. We have evaluated The Farmacy, its dispensing practices and operations, along with all of the statements in the Application; and based thereon,



Susan Reardon, Hearing Officer
City of Santa Barbara Planning Department
May 20, 2009
Page 4 of 4

we are of the opinion that the design and the operation of The Pharmacy at 781 Chapala Street, Santa Barbara, California, as presented in its application, will be compliant with the Dispensary Law.

For Buynak Law,



S. Timothy Buynak, Principal

STB/jd
17239:BLF/v1





OPERATIONS MANUAL

I. General Protocols

- A. No Minors will be allowed to access the waiting area, screening area or “Separate and Secure Dispensing Area” behind the glass partition, unless they are a qualified patient and are in the presence of their parent or guardian as established by documentation.
- B. Licensed Security Guards, hired from a professional security company will be wearing Farmacy uniforms and will be present on site during operating hours.
- C. All potential Patient/Members must check in with the Initial Farmacy Receptionist and then proceed to the Check-In/Screening station for recommendation and identification verification prior to accessing the “Separate and Secure Dispensing Area.
- D. All Doors will be locked from the exterior, except large double doors (Entry/Exit #1) and single door to the north (Entry/Exit #2). The four-hour fire-rated hallway is code required for fire exiting the three retail businesses; Esau’s uses the hallway for access to their bathrooms and the parking garage. A security camera will monitor the rear hall and ramp at all times. The hallway doors, leading from the Farmacy will be locked at all times, under control of management, with exiting by the public and employees for bathrooms use only. The bathrooms will remain locked and the keys controlled by Farmacy staff. All products will enter through the front door.
- E. Persons other than Patients or Caregivers, are to NOT enter or access the “Separate and Secure Dispensing Area” or the screening/waiting areas.
- F. “Words Have Power” — Cannabis and its medical value is to be communicated in the utmost professional and medical way.
 - (1) Cannot be referred to as “weed,” “ganja,” “pot,” “dope,” etc.
- G. No employee is allowed in The Farmacy® alone.
- H. Maintain the “Very Open Feeling” that has made The Farmacy® a safe and secure healing herbal collective.

II. Morning — Entering the Farmacy

- A. Security Guard to unlock Front door for/with the Store Manager.
- B. Security Guard and Store Manager to disarm alarm and perform visual inspection of entire store, including parking garage by Security Guard.
 - (1) If burglarized, or suspicious activity has occurred: stop, secure the space and contact authorities.

III. Morning — Opening Procedures

- A. Prior to Staff arriving, Manager (and assistant, if needed) perform inventory check of pre-packaged & bulk cannabis.

OPERATIONS MANUAL (CONTINUED)

- B. Manager organizes cannabis for Staff pickup.
- C. Staff arrives and performs all duties per Opening Checklist (i.e., cleaning, etc.).
- D. Cannabis Staff members move cannabis from Secure Area to Dispensary Area.
- E. Cannabis Staff members prepare counter stations for patients/members.
 - (1) Cannabis Staff organizes counter samples and stores the medicine in area below countertop at Dispensing Area.
 - (2) The Farmacy carries approximately 30--40 different types of cannabis. Sample jars will be filled with each variety for patients' viewing.
 - (a) Patients CANNOT touch cannabis, only view and smell.
- F. Reception staff prepares menu for the day.
- G. Pre-Opening Staff Meeting.
 - (1) All staff members to meet 15 minutes prior to opening to discuss upcoming daily events and are educated on new inventory.
- H. Doors Open.
 - (1) Two Security Guards. One security guard primarily located at the main entry will be responsible to monitor the exterior during business hours to control loitering, crime, illegal or nuisance behavior. He will also maintain the premises and public right-of-way and the parking lot, to control litter, debris and trash. A second security guard, who is always present at the end of the check-in/screening area ensures that only screened, verified patients/caregivers are admitted into the actual cannabis dispensing area. Only verified persons will be allowed into the dispensary. The security guard allows entry into the actual dispensing area by access through the glass partition by way of unlocking a locked/glass door (buzzer) — it is only in this separate and secure area that cannabis is kept and dispensed. To ensure additional security, the guard covering the main entry, and exteriors of the premises will be in direct communication with Staff and the security guard at the glass partition.

IV. Dispensary Area Procedures

- A. Initial Reception. Make sure that each person has an identification and recommendation letter from a medical professional; no minor can come past the counter unless they have a guardian or parent in addition (verify this); have everyone sit down in the waiting area or proceed to the screening counter if there is room. Please keep it very orderly, professional and calming.

OPERATIONS MANUAL (CONTINUED)

B. Screening Counter; Patient Verification:

- (1) Pharmacy Staff members at the check-in screening area will review California identification card or driver's license of patient/member for authenticity. If patient/member has Farmacy Patient Card, staff will scan card and check California ID.
- (2) ONLY VALID CALIFORNIA ID'S WILL BE ACCEPTED.
- (3) Verify patient Recommendation from an approved Health Practitioner.
- (4) Verify with the Medical Board of California or the Osteopathic Medical Board of California that the attending physician has a license in good standing to practice medicine or osteopathy in the state.
- (5) Contact the physician by facsimile, telephone, or mail to confirm that the medical records submitted by the patient are a true and correct copy of those contained in the physician's office records. Have the doctor facsimile a copy to the Farmacy.
- (6) The recommendation must be printed on paper and created at the doctor's office at the time the patient was seen. Handwritten notes written on a scrap of paper or prescription pad are not acceptable.
- (7) The recommendation cannot have changes, white-outs, or modifications, even if the doctor has initialed such change. Scan Recommendation.
- (8) Create Patient Card with ID number.
- (9) Patient to fill out and sign the Collective Agreement in two places:
 - (a) Permission for doctor to release private health information, and
 - (b) Agree to respect and abide by the rules and guidelines of Prop. 215 and Bill 420 of the medical marijuana law.
- (10) Hand out and discuss The Farmacy's rules and requirements and introductory package.
 - (a) No cannabis consumption within the dispensary, or within the vicinity of The Farmacy (200 feet).
 - (b) Nothing in California Health and Safety Code Section 11362.5, *et. seq.*, shall authorize a qualified patient to engage in smoking cannabis under any of the following circumstances:
 - In any place where smoking is prohibited;
 - In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence of an authorized user;

OPERATIONS MANUAL (CONTINUED)

- On a school bus;
 - While in a motor vehicle that is being operated; or
 - While operating a boat.
- (c) YOU MAY NOT RESELL OR DISTRIBUTE YOUR MEDICATION.
- (d) Do not drive while medicated, and must obey the rules of the California Health and Safety Code 11362.79.
- (e) No minors, unless accompanied by a parent or guardian, are allowed.
- (f) No use of cannabis slang terms, “weed,” “ganja,” etc.
- B. Primary Caregiver Verification and Rules:
- (1) A caregiver must have written documentation stating that he/she is the patient’s caregiver. It can be obtained from either a doctor or a Notary Public. This can be an amendment to the patient’s letter of recommendation or a separate sheet of paper. If the document is a separate sheet, it must name the caregiver as well as the patient.
- (2) The caregiver and the patient must be together the first time they come in.
- (a) If the patient is bedridden (cannot get out of bed), a doctor can provide a written letter stating so.
- (b) In such a case, the caregiver can sign in, but the patient must still be verified.
- (c) The caregiver must also provide all of the patient’s information just as the patient would himself/herself.
- (d) The caregiver is given a copy of the collective agreement to bring to the patient, to be returned signed.
- (3) The patient and caregiver may be on the sales floor together only once. The patient should be able to take the caregiver in the first time, only to show them which medicines they like and to inquire about proper medication. After the first visit, the two cannot be on the sales floor at the same time. When a caregiver checks in, you must also check in the patient, and vice versa.
- (4) Inform the caregiver of the rule under section IV.A(10)(c) above —“YOU MAY NOT RESELL OR DISTRIBUTE YOUR MEDICATION” — and that it is a violation of state law to purchase medicine for anyone other than the patient they give care to.

OPERATIONS MANUAL (CONTINUED)

- C. Patient will proceed to “Check-In” counter and display Farmacy ID card.
 - (1) Cannabis Staff Member at the counter discusses medication, provides sample jars for viewing and fragrance.
 - (a) Patients CANNOT touch cannabis, only view and smell fragrance.
 - (b) Samples CANNOT pass across the edge of the counter top.
 - (c) Not more than three (3) samples can be out at one time for one patient.
 - (d) Cannabis Staff Member WILL NOT turn back on patient during viewing sample and fragrance.
 - (e) ALL SAMPLES MUST BE RETURNED AND SECURED UNDER COUNTER PRIOR TO FILLING PATIENT’S RECOMMENDATION.
 - (2) Cannabis Staff Member, after securing all samples, proceeds to storage areas along the wall of the secured area of the dispensing section, behind Counter, to fill the Recommendation according to the elections of the Patient.
 - (3) Cannabis Staff Member returns with Recommendation, using the scale at “Check-Out” counter to verify weight and Recommendation.
 - (4) Patient pays the Counter Staff and leaves “Dispensing Area.”

V. Closing Procedures

- A. Fifteen (15) minutes prior to closing time, all doors are closed by Security Guard.
- B. Staff alerts patients and customers, “The Farmacy is closing.”
- C. Cannabis Staff Members move cannabis pre-packaged and bulk products to Manager to confirm totals sold. Manager performs a weigh out, confirming weight.
 - (1) If product does not weigh out correctly, Manager consults with Cannabis Staff Members.
 - (2) No one leaves until the Manager determines where the error occurred.
 - (a) Cameras will be viewed to see if theft has occurred.
 - (b) If theft has occurred, authorities will be contacted.
- D. When all cannabis product has been accounted for, Manager will release staff.
- E. Manager will place cannabis product in safe located in Storage Area.
- F. Manager and a Security Guard will close and secure all doors and arm alarm.
- G. Gelatos and other infused edibles will be left in cool case overnight.

OPERATIONS MANUAL (CONTINUED)

VI. Staff Training

- A. Pharmacy Staff are given extensive training in federal (Department of Health and Human Services) and state (Health Insurance Probability and Accountability Act) laws regarding the privacy and protection of patients' medical records and other health information. The Pharmacy General Manager will be responsible for ensuring the procedures are followed.
- B. Security guards will be licensed and are -hired from third-party security services, and in addition to standard training by their agency, will also receive training on operational and security procedures for each facility.



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MEDICAL CANNABIS DISPENSARY PERMIT APPLICATION**

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LOCATION AND OPERATIONAL REQUIREMENTS

28.80.060 Limitations on the Permitted Location of a Dispensary.

A. Permissible Zoning for Dispensaries. A dispensary may only be located within the C-2 or C-M zoned areas of the City as so designated in the General Plan, Title 28 of the Municipal Code, and City Zoning map, provided, however, that dispensaries may also be located on parcels situated as follows:

1. any parcel fronting on State Street between Calle Laureles and the westerly boundary of the City at the intersection of State Street and Calle Real;
2. any parcel fronting on Milpas between Canon Perdido Street and Carpinteria Street;
3. any C-P zoned parcel fronting on Cliff Drive within 1000 feet of the intersection of Cliff Drive and Meigs Road;

The Farmacy's Medical Cannabis Dispensary will be located on Parcels 037-530-034 through 037-530-039. These Parcels are separate tax assessor "parcels" (Section 28.04.515); each is zoned C-2; they are located in the Central Business District, which allows such use at 1/500 for parking and has a zone of benefit of 20%.

This location is allowed for dispensaries pursuant to the City Ordinance's Medical Cannabis Dispensary Map – Downtown Allowed Locations. The parcel is not located within 500 feet of a park or another dispensary, or fronting State between Cabrillo and Arrellaga.

Currently, the only Medical Cannabis Dispensary permitted under SBMC 28.80 is at 331 N. Milpas Street. The only possible legally non-conforming dispensary is located at 3128 State Street. The non-conforming status has not been verified. Other applications pending are 631 Olive Street and 500 N. Milpas Street. None of these are within 500 feet of The Farmacy's proposed Chapala Street location.

B. Storefront Locations. A dispensary shall only be located in a visible storefront type location which provides good public views of the dispensary entrance, its windows, and the entrance.

This Farmacy location is within Paseo Chapala, a commercial condo complex with its own commercial association, Paseo Chapala Commercial Association and commercial common area; the upper floors are residential condos and have a separate association, Paseo Chapala Residential/Office Association. The space was planned, designed and built for a business like The Farmacy, essentially store sales. The Farmacy location is flanked by Esau's and Silvergreens restaurants. Both businesses have submitted letters approving of The Farmacy; the landlord, Ray Mahboob as well as the Paseo Chapala Commercial Association have submitted letters of approval. The Paseo Chapala

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Residential/Office Association has submitted a letter objecting on the basis of "residential use", but the parcels involved are C-2 zoned for commercial purposes only. See Tab 11 for "parcel" explanation and involved with the Paseo Chapala Residential/Office Association. The entrances and exits to The Farmacy all face Chapala Street, directly across from Paseo Nuevo Mall; there are good public views of the entrance, floor space and operations. The rear hallway/door will not be used for entry of product; all entries will be in plain view through the front door.

In fact, The Farmacy has championed the full public openness of its locations, as can be seen at its three permitted and supervised locations in Los Angeles — West Hollywood, Venice and Westwood. The Santa Barbara space is designed with an open design, to ensure safety, security and appropriateness in the dispensary. The Farmacy operates for the medical needs of its patients and does not sanction or tolerate any inappropriate activity. The open design fosters security; no Farmacy location has been the subject of a robbery, assault, etc., or other crime during its day operations, due, we believe, to our open design and operational procedures (other "closed" dispensaries in the vicinities of the Los Angeles Farmacys have experienced robberies; they are all the typical caged, closed designs; once inside, everyone and everything on the inside is at risk).

There is a 4-hour rated fire hallway running along the rear of the Chapala Street space between the retail area and the covered garage. The four-hour fire-rated hallway is code required for exiting the three retail businesses. Esau's uses the hallway for access to their bathrooms and the parking garage. Security cameras will monitor the rear hall and ramp at all times. The hallway doors, leading from the Farmacy will be locked at all times, under control of management, with exiting by the public and employees for bathroom use only. The bathrooms will remain locked and the keys controlled by Farmacy staff. All products will enter through the front door.

C. Areas and Zones Where Dispensaries Not Permitted. Notwithstanding subparagraph (A) above, a dispensary shall not be allowed or permitted in the following locations or zones:

1. On a parcel located within 500 feet of a school or a park; or
2. On a parcel located within 500 feet of a permitted dispensary; or
3. On a parcel fronting on State Street between Cabrillo Boulevard and Arrellaga Street; or
4. On a parcel zoned R-O or zoned for residential use.

There is no conflicting use within 500 feet; the zoning is C-2 for the Parcels. Also, please refer to our response to subparagraph (A) and (B) above. The Parcels are not zoned for residential use.

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D. Locational Measurements. The distance between a dispensary and the above-listed uses shall be made in a straight line from any parcel line of the real property on which the dispensary is located to the parcel line of the real property on which the facility, building, or structure, or portion of the building or structure, in which the above-listed use occurs or is located.

We have utilized the Locational Measurement guidelines in our response to subparagraph (C), above, and there is no conflicting use.

28.80.070 Operating Requirements for Dispensaries.

Dispensary operations shall be permitted and maintained only in compliance with the following day-to-day operational standards:

See the attached *Operations Manual* (at Tab "M" of our Application) for daily opening and closing, day-to-day and general operating procedures. The Farmacy has a proven record; it has, under the permission and oversight of the cities of Venice, West Hollywood and Westwood, continuously operated three dispensaries with the same design as presented; they have had no citations, no restraints, etc. with their current three operations; the Farmacy knows how to appropriately operate dispensaries under medical marijuana ordinances. They have passed an IRS audit of their LA operations, the first in the country. The officials at these cities welcomed their entry into the marketplace and continue to applaud their operations as being totally above-board and clean. The Farmacy Santa Barbara's principal, JoAnna LaForce, a California registered pharmacist and a certified geriatric pharmacist, is highly regarded within her field and participates with the boards and commissions of various cities, helping them craft their ordinances within the parameters of state and local law.

A. Criminal History. A dispensary permit applicant, his or her agent or employees, volunteer workers, or any person exercising managerial authority over a dispensary on behalf of the applicant shall not have been convicted of a felony or be on probation or parole for the sale or distribution of a controlled substance.

The principal, JoAnna LaForce, has never been convicted of a felony, nor has she been on probation or parole for the sale or distribution of a controlled substance. See Section N. There are now two background checks, the initial one and subsequent one through the Santa Barbara Police Department. The Farmacy is advised that the report will be or has been sent directly to the Santa Barbara Police Dept (Captain Martel) and from him, to the Planning Division of the City. It has not been provided to The Farmacy directly.

B. Minors. It is unlawful for any dispensary permittee, operator, or other person in charge of any dispensary to employ any person who is not at least 18 years of age. Persons under the age of 18 shall not be allowed on the premises of a dispensary unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian.

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The entrance to a dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of 18 are precluded from entering the premises unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian.

The Farmacy will not employ any person who is not at least 18 years of age. Each employee will have a criminal background check required by code. A sign will be posted at the entrance to the Farmacy indicating that persons under the age of 18 are precluded from entering the closed dispensary area, unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian. No minors, non-patients or non-caregiver's are allowed in the dispensary's separate and secure area.

There are effectively four primary areas on the premises as shown on the plan (Tab J – general lobby, initial reception and lobby waiting area (where initial screening occurs & proposed patients/caregivers with recommendations wait for technical & full screening); the screening area where recommendations are reviewed, patients & caregivers identified, doctors' offices called, and other activities to verify each patient/caregiver; and finally, the area where herbs and plant medicine are dispensed, all under the scrutiny of a security guard. There is a substantial barrier with a gate going into the dispensing area, which gate is latched and locked, to be opened by the security guard only when the patient/caregiver has been fully cleared by the screening personnel. Tab J shows renderings of the gate, wall and security personnel. The barrier is substantial and cannot be jumped. Herbs & plant medicine (including cannabis) are dispensed in bank teller type openings along the dispensing counter. The employee area behind the counter also is secured by a gate and wall, accessed from either side by buttons by employees only. This barrier is also substantial.

A security guard will be present always at the end of the screening counter and the prevent entry into the Farmacy's separate and secure dispensing area. See attached floor plan for the location of the security guard at the check-in counter at the glass partition wall. Just like the Los Angeles locations, each patient and caregiver is registered and cleared by their recommending physician through the computer data base. See the operations manual for how a patients' recommendation is verified. The Farmacy Santa Barbara has two separate screening areas with a separate lobby waiting area for patients and caregivers. At the initial dispensary reception area, regular staff will screen potential patients/caregiver's awaiting verification. At the check-in/screening counter, regular staff computer operators will verify patient identification and recommendations.; once cleared by reception personnel, the patients waiting in the separate lobby waiting area will be admitted into the actual dispensing area by the security guard situated at the end of the check-in/screening area. This security guard is always present to ensure that only screened, verified patients/caregivers are admitted into the actual cannabis dispensing area. The security guard allows entry into the actual

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dispensing area by access through the glass partition by way of the glass door— it is only in this separate and secure area that cannabis is kept and dispensed. To ensure additional security, there will be a second security guard covering the main entry, exteriors of the premises and the actual cannabis dispensing area.

C. Dispensary Size and Access. The following dispensary and access restrictions shall apply to all dispensaries permitted by the Chapter:

1. A dispensary shall not be enlarged in size (i.e., increased floor area) without a prior approval from the Staff Hearing Officer amending the existing dispensary permit pursuant to the requirements of this Chapter.

The dispensary size will remain as approved by the Staff Hearing Officer and the corresponding building permit.

2. The entrance area of the dispensary building shall be strictly controlled. A viewer or video camera shall be installed in the door that allows maximum angle of view of the exterior entrance.

The Farmacy will have a camera video surveillance system that will monitor the inside and outside of the entrance to the building premises (two cameras). See the Floor Plan (Tab "J") for the location of cameras and the video surveillance security system. A security camera installed on the exterior of the front entrance, approved by HLC, will monitor the public right of way on Chapala. Two security cameras will be installed in the 4-hour fire rated hallway. A person will be picked up on camera as they approach The Farmacy from Chapala Street. Upon entering the main entry of The Farmacy, a camera just inside the door will again pick up the person; other security cameras are located throughout the premises and dispensary will capture the person while on the premises from different angles, at all times. A security camera will be installed in front of check-out cashier window #1, behind the glass partition wall, just inside the entrance to the separate and secure dispensing area, to capture the image of everyone who enters and exits the dispensing area. Security cameras are located behind the three herbalist/cashiers check-out windows, in the offices and other locations.

3. Dispensary personnel shall be responsible for monitoring the real property of the dispensary site activity (including the adjacent public sidewalk and rights-of-way) for the purposes of controlling loitering.

In addition to the camera/video surveillance system stated above, a security guard will be responsible for opening the business with the manager and controlling the exterior environment while the manager deactivates the alarm system. Thereafter, there are two security guards on the property at all times — a security guard will control the access of patients to the dispensing area. See response to 28.80.070.B above and then, a different, second security guard will monitor the remainder of the premises, including the exterior of the premises to control loitering, crime, illegal or nuisance behavior. This

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second security guard's main station will be at the main entry to the Farmacy. The first security guard's main station will be the final screening counter.

4. Only dispensary staff, primary caregivers, qualified patients and persons with bona fide purposes for visiting the site shall be permitted within a dispensary.

The Farmacy security guards and staff will be responsible for only allowing access to the separate and secure dispensing area to primary caregivers, qualified patients and dispensary staff. The minimum number of employee's staffing the Farmacy at any given time will be seven. The maximum number of employees is twelve.

5. Potential patients or caregivers shall not visit a dispensary without first having obtained a valid written recommendation from their physician recommending use of medical cannabis.

The Farmacy reception staff is responsible for verifying written recommendations from qualified physicians; the physicians' offices are called; we know the medical community. See *Operations Manual* for additional information. This is a usual procedure at our other locations.

6. Only a primary caregiver and qualified patient shall be permitted in the designated dispensing area along with dispensary personnel.

The Farmacy security guards will be responsible for permitting only primary caregivers and qualified patients into the separate and secure dispensing Area. Our *Operations Manual* particularly describes the verification and admittance procedures and the role of our security guards; they are professionally trained and licensed security and particularly on our individual operation.

7. Restrooms shall remain locked and under the control of Dispensary management at all times.

New separate ADA-compliant male and female restrooms are being provided within The Farmacy; they will remain locked; access keys will be under the control of dispensary management at all times.

D. Dispensing Operations. The following restrictions shall apply to all dispensing operations by a dispensary:

1. A dispensary shall only dispense to qualified patients or primary caregivers with a currently valid physician's approval or recommendation in compliance with the criteria in California Health and Safety Code Section 11362.5 et seq.

The Farmacy has a rigorous check-in procedure, verifying patients and the letter of recommendation of their physician. Thus, we have the reception staff as well as the security guard ensuring that only qualified patients and primary caregivers enter the

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secure dispensing area where cannabis (and other medicinal herbs and plant-based medicines) are dispensed.

The Farmacy's *Operations Manual* states that the intent and purpose of the dispensary is to provide medical marijuana to qualified patients and primary caregivers as per the California Health and Safety Code and the City of Santa Barbara Municipal Codes. (See The Farmacy's *Operations Manual* at Section IV.)

2. Prior to dispensing medical cannabis, the dispensary shall obtain a verification from the recommending physician's office personnel that the individual requesting medical cannabis is or remains a qualified patient pursuant to state Health & Safety Code Section 11362.5.

See The Farmacy's *Operations Manual* at Section IV, which sets forth The Farmacy's procedure for verifying a potential patient's physician's recommendation.

3. A dispensary shall not have a physician on-site to evaluate patients and provide a recommendation or prescription for the use of medical cannabis.

The dispensary will not have a physician on-site, and no recommendations will be distributed to patients. All recommendations will be verified with the patient's physician off-site office.

E. Consumption Restrictions. The following medical marijuana consumption restrictions shall apply to all permitted dispensaries:

1. Cannabis shall not be consumed by patients on the premises of the dispensary.

The Farmacy's *Operations Manual* and training policies specifically state that at no time will consumption of cannabis be allowed in or on the dispensary premises by staff, patients and/or caregivers — this includes the dispensary parking lot and within 200 feet of the dispensary, as per the Ordinance. Patients and caregivers are notified of these policies during their initial consultation and upon each purchase.

Additionally, the patients and primary caregivers will be reminded upon leaving The Farmacy of the rules stated in City Ordinance 28.80.070.E — specifically, that cannabis cannot be consumed by patients on the premises or within 200 feet of the premises. Additionally, they are reminded of State Health Code laws for consumption (CA Codes 11362.79); possession (CA Code 11362.77); use (CA Code 11362.79); and transporting (CA code 11362.765). SBMC allows oral consumption by qualified employees only according to the recommendations of their physician..

The term "premises" includes the actual building, as well as, any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the dispensary's entrance. Dispensary employees who are qualified patients may consume cannabis within the enclosed building area of the premises, provided such consumption occurs only via oral consumption (i.e., eating only) but not by means of smoking or vaporization.

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2. Dispensary operations shall not result in illegal re-distribution of medical cannabis obtained from the dispensary, or use or distribution in any manner which violates state law.

The Farmacy operations shall not result in the illegal use or re-distribution as per CA Code 11362.765.

F. Retail Sales of Other Items by a Dispensary. The retail sales of dispensary-related or marijuana use items may be allowed under the following circumstances:

1. With the approval of the Staff Hearing Officer, a dispensary may conduct or engage in the commercial sale of specific products, goods, or services in addition to the provision of medical cannabis on terms and conditions consistent with this chapter and applicable law.

The Farmacy Santa Barbara is also a global green organic store offering healing plant-based medicines. We will sell organic herbs and various medicinal products and associated retail goods. "Merchandising Areas" means areas where non-cannabis products will be displayed and sold. These non-cannabis products include vitamins, healing herbs, flower essences, literature on healthy living, and clothing. None of the non-cannabis merchandising will include drug paraphernalia or any implement that could be used to administer medical cannabis.

2. No dispensary shall sell or display any drug paraphernalia or any implement that may be used to administer medical cannabis.

The Farmacy does not sell any drug paraphernalia or vaporizers or other devices to administer medical cannabis.

3. A dispensary shall meet all the operating criteria for the dispensing of medical cannabis as is required pursuant to California Health and Safety Code Section 11362.5 et seq.

The owner and operators meet all the operating criteria for the dispensing of medical cannabis as required pursuant to California Health and Safety Code Section 113662.5. See Buynak Law Opinion as The Farmacy meets all requirements of all dispensary laws on the state and local level.

G. Operating Plans. In connection with a permit application under this Chapter, the applicant shall provide, as part of the permit application, a detailed Operations Plan and, upon issuance of the dispensary permit, shall operate the dispensary in accordance with the Operations Plan, as such plan is approved by the Staff Hearing Officer.

See attached *Operations Manual* and *The Farmacy Floor Plan*, attached.

1. Floor Plan. A dispensary shall have a lobby waiting area at the entrance to the dispensary to receive clients, and a separate and secure designated area for dispensing medical cannabis to qualified patients or designated caregivers. The primary entrance shall be located

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and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

The Farmacy's Floor Plan, attached, delineates -the main entry, retail area, initial reception, separate lobby waiting area, check-in/screening area and the separate and secure dispensary. The Floor Plan shows a locked and secured Dispensary Counter as the Secure Area for dispensing medical cannabis.

As previously described, there are barriers and gates, 5 ft high, restricting all unauthorized persons from the dispensing area; the gates are locked, the patient/caregiver gate is opened only by the security guard and employee area gate, by the employees only.

The doors of the retail establishment open within three feet of the public right away and are already landscaped, have HLC approved lighting, are ADA compliant, and are unobstructed both physically and visually. See photos of Paseo Chapala taken from Paseo Nuevo sidewalk (at Tab "G").

2. Storage. A dispensary shall have suitable locked storage on premises, identified and approved as a part of the security plan, for after-hours storage of medical cannabis.

The area designated as "Office" will have a reinforced door and walls. The Office will have two safes for storage of all cannabis products and will be reinforced as per the security system company's recommendations. This has been standard practice in The Farmacy's three LA dispensaries.

3. Security Plans. A dispensary shall provide adequate security on the premises, in accordance with a security plan approved by the Chief of Police and as reviewed by the Staff Hearing Officer, including provisions for adequate lighting and alarms, in order to ensure the safety of persons and to protect the premises from theft.

The security system is comprised of: (1) -Two security guards (see security guard duties in the Farmacy's *Operations Manual and this document*); (2) a video surveillance system; and (3) an alarm system approved by the Santa Barbara Police Department, as per SBMC 9.100.

4. Security Cameras. Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage and to report loitering, crime, illegal or nuisance activities. Security video shall be maintained for a period of not less than 72 hours.

The entire premises and all adjacent areas will have a camera video surveillance system which monitors the inside and outside of the premises. See the Floor Plan for location of cameras and video surveillance security system. A security camera installed on the exterior of the front entrance, approved by HLC, will monitor the public right of way on Chapala. A person will be picked up on camera as they approach The Farmacy from Chapala Street. Upon entering the establishment, a security camera just inside the door

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will capture the person's face, and other cameras located throughout the premises will capture the person while in the building from different angles, at all times. Security cameras will be installed in the 4-hour fire rated hallway to monitor the hall, garage entry and bathroom doors. A camera is installed in front of check-out cashier window #1, behind the glass partition wall, just inside the entrance to the separate and secure dispensary area, to capture the image of everyone who enters the dispensing area. Cameras are located behind the herbalist/cashiers check-out windows, in the offices and other locations.

In addition to the camera/video surveillance system stated above, a security guard will be responsible for opening the business with the manager and controlling the exterior environment while the manager deactivates the alarm system. The security guard will also control access of patients in the establishment. The security guard will monitor the exterior of the premises to control loitering, crime, illegal or nuisance behavior of patrons. The digital recording will be kept for two weeks.

5. Alarm System. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition within the dispensary at all times.

The robbery and burglary alarm system shall be installed by a licensed company, with a business license from the City of Santa Barbara. The alarm system will be approved/permitted by the Police Department and comply with SBMC 9.100.

6. Emergency Contact. A dispensary shall provide the Chief of Police with the name, cell phone number, and facsimile number of an on-site community relations staff person to whom the City may provide notice of any operating problems associated with the dispensary.

The Farmacy will provide a contact number of a local staff person to the Chief of Police before the Certificate of Occupancy is issued. The emergency contact information is part of the required permit for the alarm system, as per SBMC 9.100.

H. Dispensary Signage and Notices.

1. A notice shall be clearly and legibly posted in the dispensary indicating that smoking, ingesting or consuming cannabis on the premises or in the vicinity of the dispensary is prohibited.

A sign shall be displayed/posted behind the dispensary counter visible to the patients to meet the requirements of City Ordinance 28.80.070.H.1. The sign shall read: "SMOKING, INGESTING OR CONSUMING CANNABIS ON THE PREMISES OR WITHIN 200 FEET OF THE DISPENSARY IS PROHIBITED".

2. Signs on the premises shall not obstruct the entrance or windows.

Sign permits will be obtained in compliance with the sign program for Paseo Chapala. All signs will be approved by the Sign Committee and installed by a licensed contractor.

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All exempt signs and window signage will meet SBMC 28.70. Signs shall not obstruct windows or entrances.

3. Address identification shall comply with Fire Department illuminated address sign requirements.

The addresses of the retail spaces are currently placed in the transom windows facing Chapala Street. The address signs will meet the Fire Departments criteria, as shown on the building permit set of plans.

4. Business identification signage shall comply with the City's Sign Ordinance (SBMC Chapter 22.70) and be limited to that needed for identification only, consisting of a single window sign or wall sign that shall not exceed six square feet in area or 10 percent of the window area, whichever is less.

Sign permits will be obtained in compliance with the sign program for Paseo Chapala and SBMC 28.80. All signs will be approved by the by the Sign Committee and installed by a licensed contractor. All exempt signs will meet SBMC 28.70, and meet the 10% window area rule.

I. Employee Records. Each owner or operator of a dispensary shall maintain a current register of the names of all volunteers and employees currently working at or employed by the dispensary, and shall disclose such registration for inspection by any City officer or official, but only for the purposes of determining compliance with the requirements of this chapter.

Management shall keep records and criminal background records on site in the safe secure area for inspection by City officials.

J. Patient Records. A dispensary shall maintain confidential health care records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.71 et seq., as a protection of the confidentiality of the cardholders, or a copy of the written recommendation from a physician or doctor of osteopathy stating the need for medical cannabis under state Health & Safety Code Section 11362.5.

Management shall maintain confidential patient records in accordance with federal (Department of Health and Human Services) and state (Health Insurance Probability and Accountability Act) laws regarding the privacy and protections of patient medical records and other health information. Patient records shall be stored in a locked safe. Compliance with Health & Safety Code Section 11362 et seq will occur as required above.

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K. Staff Training. Dispensary staff shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding dispensing in compliance with state and local law, and properly trained or professionally-hired security personnel.

All dispensary staff shall receive training in the rules and procedures regarding dispensing medical cannabis. All staff members must abide by the policies and procedures set forth in the *Operations Manual* (see Staff Training, Section V of the *Operations Manual*, attached).

L. Site Management.

1. The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours, if directly related to the patrons of the subject dispensary.

Two trained security guards will be on duty when the dispensary is open. The security guard will be responsible for opening the business with the manager, and controlling the exterior environment while the manager deactivates the alarm system. One security guard will also control access of qualified patients to the secure dispensary area. The second security guard will monitor the exterior of the premises to control loitering, crime, illegal or nuisance behavior of patrons. The primary manager will monitor the security surveillance cameras whenever he or she is in the office. The assistant manager will monitor the security surveillance cameras when the primary manager is not in the office. A dispensing area access guard will always be in place; the second guard will relieve this person for breaks, lunch etc.

2. The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.

See response to paragraph L.1, above. The security guard will monitor the exterior during business hours to control loitering, crime, illegal or nuisance behavior. The manager will assist with site surveillance through the site surveillance cameras in the office and will dispatch the guard and/or assistant manager when necessary.

3. The operator shall provide patients with a list of the rules and regulations governing medical cannabis use and consumption within the City and recommendations on sensible cannabis etiquette.

All patients are given an educational package with their first visit to The Farmacy at the time they are entered into the computer system as a new patient. This package includes the foregoing items and more. Patients must provide their doctor's recommendation, the recommendation is verified and a valid California identification is checked.

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M. Trash, Litter, Graffiti.

1. The operator shall clear the sidewalks adjoining the premises plus 10 feet beyond property lines along the street, as well as any parking lots under the control of the operator, as needed to control litter, debris and trash.

The security guard, besides a regular cleaning crew, will maintain the premises and public right-of-way, the parking lot, and 10 feet beyond the property lines to control litter, debris and trash .

2. The operator shall remove all graffiti from the premises and parking lots under the control of the operator within 72 hours of its application.

The operator will remove all graffiti from the premises within 72 hours of application.

N. Compliance with Other Requirements. The dispensary operator shall comply with all provisions of all local, state or federal laws, regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.

The Farmacy will comply with all applicable laws, regulations and orders, including those of the City of Santa Barbara. In addition, The Farmacy has legal advisors to inform the owner and employees of existing and new legislation, laws, regulations and orders from the City, State and federal governments. See Opinion of Buynak Law, for example.

O. Display of Permit. Every dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such dispensary in a conspicuous place so that the same may be readily seen by all persons entering the dispensary.

A valid permit issued with this chapter will be displayed in a conspicuous place to all entering the Dispensary.

P. Alcoholic Beverages. No dispensary shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

No ABC license will be held or maintained by The Farmacy. No business will operate on site that sells alcoholic beverages. The security guard(s) will make sure that no alcoholic beverages are consumed on the premises.

Parking Requirements. Dispensaries shall be considered office uses relative to the parking requirements imposed by Section 28.90.100(I).

The lessor has agreed to provide 12 covered parking spaces, located behind The Farmacy in Paseo Chapala.

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APPROVAL CRITERIA

Describe how the dispensary meets the criteria below. Staff recommends that you add a discussion below each criterion in this Microsoft Word document. You can block and move this discussion into a letter or other format of your choice.

28.80.090.B. Criteria for Issuance. The Staff Hearing Officer, or the Planning Commission on appeal, shall consider the following criteria in determining whether to grant or deny a dispensary permit:

1. That the dispensary permit is consistent with the intent of the State Health & Safety Code for providing medical marijuana to qualified patients and primary caregivers, and the provisions of this Chapter and the Municipal Code, including the application submittal and operating requirements herein.

The Farmacy will be operating under the Health and Safety Code, including its attached *Operations Manual*, the statements made in the Application and all conditions of the City.

2. That the proposed location of the Dispensary is not identified by the City Chief of Police as an area of high crime activity (e.g., based upon crime reporting district/statistics as maintained by the Police Department).

The crime report for the proposed location received from Christina Nail of the Santa Barbara Police Department is attached in Exhibit 12 and does not indicate the area as an area of high crime activity.

3. For those applicants operating other Dispensaries within the City, that there have not been significant numbers of calls for police service, crimes or arrests in the area or to the applicant's existing dispensary location.

Applicant does not operate a dispensary within the City of Santa Barbara. There have been no criminal instances at any of The Farmacy's LA locations after five years of continuous operation.

4. That all required application fees have been paid and reporting requirements have been satisfied in a timely manner.

The appropriate fees were paid upon the acceptance of this application. Planner Danny Kato is not sure what the reporting requirements are that are referred above, possibly the criminal background checks. Applicant will comply with these reporting requirements.

5. That issuance of a dispensary permit for the dispensary size requested is justified to meet needs of community.

There are currently no legal dispensaries within the downtown Santa Barbara area. The only legal dispensary is at 331 N. Milpas Street. The Farmacy will serve the needs of the

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downtown area. The demographic studies and patient counts for the Santa Barbara area justify the need for this and other dispensaries in Santa Barbara. Tab 13 outlines The Farmacy's community involvements and how it serve the elderly/geriatric population, hospice patients and facilities, medical professionals, Hispanic populace and be a resource for the community because of the education, training, experience , dedication and passion of The Farmacy personnel to the medical use of hers and plants, including cannabis. See also the response to #6 & #10 below.

6. That issuance of the dispensary permit would serve needs of City residents within a proximity to this location.

There are currently no legal dispensaries within the downtown Santa Barbara area. The only legal dispensary is at 331 N. Milpas Street. The only possible legally non-conforming dispensary is located at 3128 State Street-uptown. The non-conforming status has not been verified. Other applications pending are 631 Olive Street, 2 W. Mission Street and 500 N. Milpas Street. The 500 N. Milpas Street dispensary is currently awaiting an appeal at the Planning Commission.

The demographic studies and patient counts for the Santa Barbara city area justify the need for this and other dispensaries in Santa Barbara. See the attached "Community Involvement" letter (Tab 13) that identifies the City's needs for legal dispensaries and the needs of the residents within the direct vicinity of this location.

7. That the location is not prohibited by the provisions of this chapter or any local or state law, statute, rule or regulation, and no significant nuisance issues or problems are anticipated or resulted, and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished.

The Farmacy's proposed dispensary at 781 Chapala Street is an allowed location by SBMC 28.80. No other state or local laws, statutes or regulation could be identified prohibiting the dispensary. No nuisance problems are anticipated. The owners have three stores in Los Angeles that operate under the same procedures and policies and are open the same hours, and no robberies or nuisances have ever occurred. If any nuisances or problems arise, they will be controlled by the security guard and management on site, according to the *Operations Manual*.

8. That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.

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The security guards on site will be responsible for managing access and operations. The video surveillance system has 12 security cameras located throughout The Farmacy. A cameras will view the entry and public right-of-way along Chapala Street. Staff will be able to monitor the rear fire access corridor and the public frontage through various cameras. The floor plan of The Farmacy is very open — therefore, there is an open line of sight. The initial reception area and the separate lobby waiting area provide a queuing point for patient and caregivers to be screened and admitted to the separate and secure dispensing area. A camera inside the glass partition will capture the image of all patients and caregivers as they enter the dispensary. Additional, cameras behind the check-out cashiers, similar to bank tellers, will capture all transactions. Payment is made directly to the cashier/herbalist at the check-out windows. The primary manager will monitor the security surveillance system located in the office. When the primary manager is not present, the assistant manager will be monitoring the surveillance system. There are very few places, if any, for people to congregate or linger. Staff is trained and available to prevent people from congregating in the right-of-way, and monitor the entire establishment. The exterior of the building has approved lighting in all the archways, on the corners of the building, and along the walkways to the garage. The garage is well lit throughout the night. The retail space is located between two restaurants. The restaurants utilize all available private exterior space for outdoor table seating, leaving only the public sidewalk open for walking.

9. That all reasonable measures have been incorporated into the security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, cannabis use in public, or creation of a public or private nuisance, or interference with the operation of another business.

Please see our responses to paragraphs 8 and 10, above and below.

10. That the dispensary would not adversely affect the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance; or that the dispensary will generally not result in repeated nuisance activities, including disturbances of the peace, illegal drug activity, cannabis use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

The Farmacy owner believes this store will impact this area in a positive, healthy way compared to the current, typical dispensary model. The Farmacy will bring a needed customer base to the Paseo Chapala corridor, lending support to local businesses with its clientele. No loitering or public nuisance have been reported in the three operating Los Angeles locations, therefore none are anticipated or perceived to be a factor in the Santa Barbara location. The patients of the Farmacy are not of the character to harass

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other people, affect their health or safety, or create nuisances. That was the old model of locked-down, dark-mirrored, shady type establishments. The Farmacy opens at 10:00 a.m. and dispensing closes at 7:00 p.m. Thus, there will be no early morning nor late night activity or disturbances. Double/illegal parking is not an option on busy Chapala Street.

The Farmacy will serve the health of our community as vouched by its Community Outreach (Tab 13) along with a letter from David Bearman, M.D., who applauds The Farmacy's more open, dynamic, professional and herb/plant medicine approach.

11. That any provision of the Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws, will not be violated.

The Farmacy will not undertake any such violations.

12. That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

The Farmacy has not made any false statements of material fact or knowingly not provided material fact to obtain the permit. The Farmacy's slogan is "Very Open" — all information submitted is factual.

13. That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City.

If the applicant did operate a business within the City of Santa Barbara, no unlawful or deceptive business acts would occur. However, the applicant currently does not operate a business within the City of Santa Barbara.





BUYNAK LAW FIRM

820 STATE STREET, 4TH FLOOR
SANTA BARBARA, CA 93101

TELEPHONE: (805) 966-7000
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S. TIMOTHY BUYNAK
PRINCIPAL

DIRECT DIAL: (805) 966-7575
TBUYNAK@BUYNAKLAW.COM

July 23, 2009

Kelly Brodison, Assistant Planner
Planning Division
City of Santa Barbara
630 Garden Street
Santa Barbara, CA 93101

Via Hand Delivery

JUL 23 2009
CITY OF SANTA BARBARA
PLANNING DIVISION

**Re: Paseo Chapala Commercial Association and
Paseo Chapala Residential/Office Association
Medical Cannabis Dispensary Permit Application (MCDP)
The Farmacy Santa Barbara
741-781 Chapala Street, Santa Barbara, California
MST No. 2009-00268
APN 037-350-034 through 037-350-039; Land Use Zone C-2**

Dear Planner Brodison:

This letter summarizes the outreach and participation that The Farmacy Santa Barbara Team has had with the associations at Paseo Chapala — the Paseo Chapala Commercial Association and the Paseo Chapala Residential/Office Association. The Paseo Chapala Commercial Association as well as the businesses occupying its units have all supported The Farmacy's application, all as presented in the permit application. The Paseo Chapala Residential/Office Association has indicated its opposition to The Farmacy Santa Barbara's application on the basis that "the restricted use of Paseo Chapala prohibits the dispensary." (Campanella letter, July 16, 2009, page 2.) The Farmacy Santa Barbara's location is appropriate, as it is zoned C-2 and was part of the grid within the enabling Ordinance. Homeowners within the Paseo Chapala Residential/Office Association generally complimented The Farmacy's business and store presentation at their meeting. However some owners felt that The Farmacy was in the wrong location for their "property values." No particular changes to the business plan, operation, etc., have been requested by the Residential/Office Association, although

solicited by The Farmacy, along with an offer to provide visits/bus trips to The Farmacy's Los Angeles locations.

Background. There has been a meeting and communication between the Paseo Residential/Office Association owners and representatives of The Farmacy. The meeting included a full presentation with a floor plan, rendering and package of The Farmacy's past history, personnel, etc., along with personal, school and church recommendations, all after The Farmacy provided a copy of their full application to the City. Subsequent to the meeting, the following communications occurred:

- Farmacy Letter of July 8, 2009 (Exhibit A)
- Buynak Law Firm Letter of July 8, 2009 (Exhibit B)
- Paseo Chapala Residential/Office Association Letter of July 16, 2009 (Exhibit C)
- Buynak Note to Mr. Campanella of July 17, 2009 (Exhibit D)

In spite of personal invitations and the offer of a free bus trip, no visits to the three Farmacy locations are known to have occurred, which The Farmacy believes would show that they are essentially a low-impact store.

Paseo Chapala Commercial Association. The Paseo Chapala Commercial Association has given approval to The Farmacy's permit application, as have all the businesses occupying its units. Santa Barbara Ordinance No. 5449 does not specifically require such association approval, but there is a box on the City's *Modification Performance Standard Permit* submittal packet, which states "For a project that has Homeowner Association, a letter from the Homeowner Association is required to be submitted with the application." It is for this reason that the Paseo Chapala Commercial Association's letter was submitted.

There is an Enabling Declaration, Santa Barbara County Recorded Document No. 1007-0016329, which establishes the Paseo Chapala Commercial Association as the association for the commercial units, separate and distinct from owners forming the Residential/Office Association. See Exhibit E.

In summary, the applicable association overseeing 781 Chapala Street is the Paseo Chapala Commercial Association. The Paseo Chapala Residential/Office Association has no governance over the parcel subject to the Medical Cannabis Dispensary Permit application.

C-2 Zoned Parcel. The basic objection of the Paseo Chapala Residential/Office Association is "that the residential use of Paseo Chapala prohibits the dispensary." Santa Barbara Ordinance No. 5449 does not restrict a dispensary where there is residential use. Rather,



the Ordinance particularly identifies the zones, like The Farmacy's C-2 zone, as a permissible zoning for dispensaries. There is a further prohibition "on a parcel zoned R-0 or zoned for residential use." (Section 28.80.060 C4.) The important words, however, being "a parcel." Zoning ordinance of the City of Santa Barbara, Section 28.04.515, defines a "parcel" as "a plot of land shown with separate identification on the latest equalized County assessment roll." The "parcels" involved are Assessor Parcel Nos. 037-350-34 through 037-350-39, each of which carries the zoning of C-2. There is no R-0 zone on these parcels and no zoning for residential use, as these parcels were designated for commercial use only. There is a complete separation in the planning, development and governance documents of the respective units at Paseo Chapala — whether they be commercial, office or residential. Commercial is on the bottom floor, with a buffer of office units, and finally residential units on the upper floors. Particularly, airspace development as has occurred with Paseo Chapala simply means that there are vertical parcels, rather than just horizontal ones touching the lands.

Admissions by Residential Owners— "Great business, great presentation." The Farmacy Santa Barbara is a low-impact storefront operation, with hours of 10:00 a.m. to 7:00 p.m. The Farmacy's other locations have quite nicely fit in as normal stores. With its open design, The Farmacy Santa Barbara has attempted to be sensitive to the City, its community, the adjacent business owners, and the adjacent neighbors.

The business plan and store presentation/operation, as evidenced by Exhibit A and Exhibit C, and in the Residential/Office Association meeting, were applauded by the homeowners. The objection is not with The Farmacy's business but seems to be a concern over the value of units, a concern that would be forthcoming with any commercial use of the space — a 7-11, a food market, another restaurant, etc. The City has designated the exact space chosen by The Farmacy for dispensaries; thus, it is appropriate.

Outreach; Lack of Specific Concerns. The Farmacy Santa Barbara on several occasions has offered visits to its facilities by Residential/Office Association owners, and has even offered a free bus trip. Such a field trip would evidence the same mild commercial use that is shown in its application, a use that is supported by residents, schools and churches, besides the governmental entities, chambers of commerce, patients, medical associations, etc.

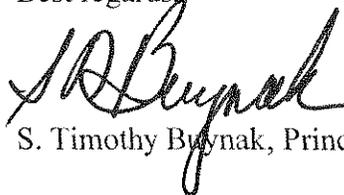
In this general outreach, The Farmacy has gone further and requested specifics of the residential owners. (See Exhibit B, based on some comments at the Residential/Office Association meeting.) In spite of these requests, the residential owners and Association have not provided specific input, but have simply stated that they do not want the dispensary to be permitted. At times, during the meeting, the owners wanted more security, then less security; use of the garage, non-use of the garage; etc. The Farmacy has not been robbed in its locations in Los Angeles, although it has operated for five years. The Farmacy has always been a good neighbor in its communities and is recognized for its healthy, organic approach to plant and herbal medicine.



Kelly Brodison, Assistant Planner
City of Santa Barbara
July 23, 2009
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In summary, The Farmacy will be a good neighbor, contribute to the Santa Barbara community, and address all of the concerns of its neighbors, now and in the future, as it believes that the objectives of everyone on the block are consistent — to have a wholesome, vibrant neighborhood.

Best regards,



S. Timothy Buynak, Principal

cc: JoAnna LaForce, R.Ph., CGP

STB/jjd

Enclosures:

- Exhibit A: The Farmacy's July 8, 2009 Letter to John Campanella (President, Paseo Chapala Residential/Office Association)
- Exhibit B: Buynak Law Firm's July 8, 2009 Letter to John Campanella
- Exhibit C: Paseo Chapala Residential/Office Association July 16, 2009 Letter to Kelly Brodison, City of Santa Barbara Planning Department
- Exhibit D: Buynak Law Firm's July 17, 2009 Email to John Campanella
- Exhibit E: *Enabling Declaration of Paseo Chapala (Partial)*



THE FARMACY

GLOBAL ORGANIC MEDICINE

July 8, 2009

John Campanella, President
Paseo Chapala Homeowners Association
c/o Bermant Homes
5383 Hollister Avenue, Suite 150
Santa Barbara, CA 93112

Via Email and U.S. Mail

Re: The Farmacy Santa Barbara

Dear John:

On behalf of The Farmacy, I wish to thank you, your Board and the owners who attended the meeting yesterday and reviewed our proposed Santa Barbara Farmacy.

Everyone at the meeting complimented us on The Farmacy — our approach to healing and our “concept,” “business plan,” and “presentation.” This is usual for The Farmacy; we hear these accolades repeatedly in our communities, in local and national articles and reportings, about our passion, our global organic medicine, which includes cannabis and hundreds of other plants, herbs, tinctures, etc.

The concern seemed to be about the location, although we are simply a light retail operation, closing at 7:00 p.m. everyday, with only qualified patient traffic. No use of medical cannabis on site occurs; no paraphernalia, no loitering — all strictly enforced. The “proof is always in the pudding.” Any of our three Los Angeles locations are open to everyone to review and inspect; we are happy to have a bus trip. Susan Leahy’s (manager from Westwood that attended the meeting) cell phone is 310.941.8227; mine is 805.331.1136. I am a Carpinteria resident and happy to meet anyone locally at any time. Each of our Los Angeles locations is in mixed-use areas (residential and commercial), one with an adjacent school. All are in similar situations to 781 Chapala, with shops nearby, usually a Whole Foods, just as Paseo Nuevo.

Currently, I am on my way to the International Cannabis Research Symposium in Chicago. My land use team continues to work with the City of Santa Barbara to finalize the design according to the City’s Planning staff’s requests. I would ask that you communicate to Tim Buynak, our land use attorney (805.966.7575) any and all input and requests from your association, so that we can have the best possible design and operation according to the City and your association. As indicated, we are moving on a timeline required by our landlord, Ray Mahboob, as well as the City, so that any input should be provided to Mr. Buynak early next week. I have asked Tim Buynak to also write to you to try to identify the particulars that my team heard yesterday.

The Farmacy® Venice
1509 Abbott Kinney Blvd.
Venice, CA 90291
310.392.3890

The Farmacy® Westwood
1035 Gayley Avenue
Westwood, CA 90024
310.208.0820

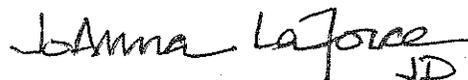
The Farmacy® West Hollywood
7825 Santa Monica Blvd.
West Hollywood, CA 90024
323.848.7981

www.ourfarmacy.com

John Campanella, President
Paseo Chapala Homeowners Association
Page 2 of 2
July 8, 2009

Thanks for your assistance. I will presume that this letter will be disseminated to your Board and the individual owners. If you would like me to communicate directly with anyone, I am happy to do that if you would simply let me know.

Best regards,



JoAnna LaForce, R.Ph., CGP
President
The Pharmacy Santa Barbara, Inc.

cc: Tim Buynak

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TELEPHONE: (805) 966-7000
FAX: (805) 966-7227

S. TIMOTHY BUYNAK
PRINCIPAL

DIRECT DIAL: (805) 966-7575
TBUYNAK@BUYNAKLAW.COM

July 8, 2009

John Campanella, President
Paseo Chapala Homeowners Association
c/o Bermant Homes
5383 Hollister Avenue, Suite 150
Santa Barbara, CA 93111

Re: Paseo Chapala Homeowners' Concerns

Dear John:

As I provide JoAnna LaForce's letter to you for dissemination throughout the Association and to the owners, I have written, as she has asked, to identify "particulars" that JoAnna's Pharmacy team heard yesterday from your group.

Timing. Our timing is dictated by the City's turn-around requirements and our landlord, Ray Mahboob. We have met with the City Planning staff and are revising our application to accommodate their requests. We will be submitting our revisions next week, either on Friday, July 17 or before.

Association/Owners' Input. So that we can accommodate the Association and homeowners, I would ask that any suggestions and requests be provided next Monday, so that they may be considered for incorporation by The Pharmacy Santa Barbara team. The team is also happy to meet if that is easier.

Areas of Concern. The following areas seem to be of concern to some homeowners:

- (1) **Security Cameras in the Parking Garage.** We can have these, or not. We would like your preference; I believe that the cameras can be discreet.
- (2) **Security Cameras in Front.** These, again, can be discreet. We can simply have one inside, but we would like to know your group's preference.
- (3) **Security Personnel.** Your group's preference on attire and visibility. At other Pharmacy locations, they are discreet.
- (4) **Homelessness.** How can we help with your group's homeless concerns.

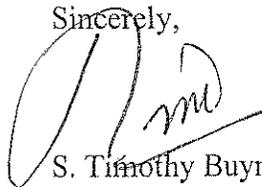
John Campanella, President
Paseo Chapala Homeowners Association
July 8, 2009
Page 2 of 2

- (5) **Nuisance.** The Farmacy is not such, but what would help to aid in alleviating that perception. Our signage at other locations says it is simply "Global Organic Medicine." The current restaurants have more of an impact on the block than The Farmacy would.
- (6) **Loitering.** Again, this is prohibited and will be a condition of our permit. Our security personnel make sure that none occurs; the reception area is large, and with other locations, this "largeness" is to make sure that everyone is inside.
- (7) **Mixed Use.** Ordinance 5449 was put in place in March, 2008, well after Paseo Chapala was completed. The Ordinance particularly designates places for dispensaries, with 781 Chapala pretty much at the center of the downtown area. All locations are close to residential neighborhoods, within a block usually. Maybe you can explain your thoughts on mixed use, as The Farmacy is a simple retail location, closing at 7:00 p.m. or earlier.

As JoAnna's letter points out, she and I are happy to meet with you, your representatives, a committee of owners, or owners, to further understand concerns, take suggestions or recommendations. I am providing this to you directly, as there seems to be some concern that we did not provide information quickly. We were advised that the Association did not want any information, to just show up at the meeting, but, voluntarily, I made sure that you and manager Nguyen had the full application, only to be criticized for that voluntary effort. I look forward to whatever lines of communication you desire, but the past effort to contact Matt LaBrie, to contact manager Nguyen, to provide things to you, didn't seem to work.

We look forward to working with your group, to allow The Farmacy to be a good neighbor.

Sincerely,



S. Timothy Buynak, Principal

STB/jd

cc: JoAnna LaForce, R.Ph., CGP



THE PASEO CHAPALA RESIDENTIAL / OFFICE ASSOCIATION

Ms. Kelly Brodison
Assistant Planner
City of Santa Barbara
630 Garden Street
Santa Barbara, CA 93101

July 16, 2009

RECEIVED
JUL 16 2009

RE: Medical Cannabis Dispensary Permit Application
The Pharmacy Santa Barbara, Inc.

CITY OF SANTA BARBARA
PLANNING DIVISION

Dear Ms. Brodison,

We understand that the above application has been filed and is in the process of being reviewed. We are writing this letter to clarify information that was provided in the application and also to state our opposition to this tenant locating at Paseo Chapala.

Under Section 28.80.060 B. of the application, it states that there are separate associations for the commercial portion of this property and the residential portion, which is accurate. It also states that the "condo association" has written a letter approving of The Pharmacy at this location. We want to be clear that only the commercial association, which is 100% controlled by the landlord who is working with this tenant, has written such a letter. The Paseo Chapala Residential/Office Association not only does not endorse having The Pharmacy locate at Paseo Chapala, we are emphatically opposed to it.

Our opposition to The Pharmacy locating in Paseo Chapala is not a comment on how The Pharmacy runs their operation, nor on the appropriateness of the dispensing of medical marijuana. We simply think that it is inappropriate to locate this type of business within a high-end, mixed-use development, with 29 residential units. Although The Pharmacy presents letters stating what good neighbors they are, it is our understanding that none of their locations are actually in buildings that also house residential units. This use, if allowed by the City, would be much more appropriate in a stand-alone building or in a building surrounded solely by commercial businesses versus a mixed-use community.

We feel this is supported by Section 28.80.060 C.4. of the Municipal Code on Medical Cannabis Dispensaries which does not allow dispensaries on a parcel zoned R-O or zoned for residential use. This is not withstanding the fact that the dispensaries can only be located on parcels zoned C-2 or C-M. The mere fact that a dispensary is proposed on C-2 land doesn't mean it is approved, since residential uses have to be considered. As you know there is not a residential-commercial mixed use zoning in the City, but pyramid zoning that allows residential use on C-2 zoned land. The City needs to review new commercial proposals as to their impact on existing residential - commercial mixed-use projects, just as it does for the impact on residential-office (R-O) and strictly residential neighborhoods. In these cases, dispensaries are prohibited, and it should be the same for residential-commercial mixed-use.

We request the City immediately confirm with the applicant and our Association, that the residential use of Paseo Chapala prohibits the dispensary. This will save everyone time, money and consternation.

The residential-office component of Paseo Chapala, above the ground floor retail commercial, is not secured during the day. The large enclosed parking lot on ground level cannot be secured and serves retail commercial and residential-office. There are two open drive entrances, an adjoining open parking lot owned by another with access rights through the garage and several entrances for pedestrians. This lot cannot be secured to prevent improper activities from those who are leaving the dispensary and walking around the corner and into the garage structure which is heavily used.

Despite assurances from The Farmacy that they are different, we are concerned about the likelihood of increased crime, and the potential that our neighborhood will change for the worse. The Farmacy insists they will provide adequate security and that their guards will actually be a help to us in preventing other issues at Paseo Chapala. Frankly, since we have become fully occupied, there is very little of concern relating to our project safety; and, we don't think the presence of guards at the property will be a positive for those who frequent the other commercial businesses nearby or for our residents. The mere fact that guards are needed tends to confirm the suspicion that there are likely to be problems.

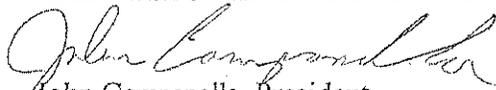
We believe the individuals who operate and represent The Farmacy are sincere. We, as a board, recently met with them to get a better understanding of their operation. However, we still feel there are considerable risks associated with having a medical marijuana dispensary at Paseo Chapala. Even if none of the problems associated with such dispensaries actually occur, it can be argued that a certain perception still exists that can only have a negative effect on Paseo Chapala.

In an informal poll of our residents, of the first 18 who have responded, 16 are against the idea of The Farmacy located at Paseo Chapala. We will be asking them to provide their direct input to the City as well.

We respectfully ask that you deny this application due to the residential use of the Paseo Chapala parcel and ask The Farmacy to look for a strictly commercial location. Please respond to the Association via our management company, Bartlein & Company, Inc. attn: James Nguyen, 3944 State Street, Suite 200, Santa Barbara, CA 93105

Sincerely,

THE PASEO CHAPALA RESIDENTIAL / OFFICE ASSOCIATION


John Campanella, President

cc: Board members, James Nguyen - Bartlein & Company

John Donohue

From: S. Timothy Buynak
Sent: Friday, July 17, 2009 4:44 PM
To: 'John Campanella'
Cc: Ray Mahboob
Subject: RE: Dispensary - Board Letter

John Campanella
Goleta, CA

John -

Thanks for the transmittal. On your comments, the "parcels" on which The Farmacy is to operate are C-2 zoned parcels, not residential zoned parcels. A "parcel" is an area of land with a separate identification number as set out in the latest Equalized County Assessment Roll, per the City Code. Thus, I do not understand your comment. The affected parcels have been so designated and graphed by the Ordinance itself, which was previously noticed to all affected owners. To my knowledge, the Association and its owners voiced no objection to the Ordinance's inclusion of the affected parcels.

We are proceeding with our resubmission. To the best that I can understand the Residential/Office Association's concerns, they will be addressed in the resubmission. Thanks for the input provided. Two of the Farmacy's LA locations are contiguous to residential neighbors & a school; no robberies have occurred in their 5 years of operations. We again invite your group to take a trip (we are willing to pay for a bus) to observe The Farmacy locations.

Please realize that the communications lines for the Association and for the owners are always open as The Farmacy desires to be good neighbor and Santa Barbara community member. The Farmacy appreciates the positive comments at the meeting and in your letter about how great their business plan is, their sincerity and the benefits of their herb & plant medicinal business; in time, we hope your owners will embrace The Farmacy for the benefits it brings to them, their property and our Santa Barbara community as a whole.

I have chosen this quick method of communication so that you can easily disseminate this email to the owners, who also received your communication.

Tim

S. Timothy Buynak, Principal

Buynak Law Firm
820 State Street, Fourth Floor
Santa Barbara, CA 93101
805.966.7575 (Direct)
805.966.7227 (Fax)
TBuynak@BuynakLaw.com
www.BuynakLaw.com

CONFIDENTIALITY NOTICE

7/23/2009

This message and any attachments may be confidential and contain information protected by the attorney-client and/or attorney work product privileges. They are intended for the addressee only. If this transmission is received in error, please call our Office Manager at 805.966.7000 for destruction instructions.

REQUIRED IRS NOTICE (CIRCULAR 230)

Pursuant to the requirements of U.S. Treasury Regulation Circular 230, any tax advice contained in this communication (including any attachments) is not intended to be used, and cannot be used, to avoid penalties imposed under the United States Internal Revenue Code or to promote, market or recommend to another person any tax-related matter.

From: John Campanella [mailto:john@bdcdevelopment.com]
Sent: Friday, July 17, 2009 3:01 PM
To: S. Timothy Buynak
Cc: Ray Mahboob
Subject: FW: Dispensary - Board Letter

Tim:

The Board appreciated Joanna, the other store operators and yourself coming to our meeting on Tuesday and telling us about the Farmacy.

The homeowners concern as you heard is about the marijuana component. Attached is a copy of the Board letter we discussed, that was submitted to the City yesterday. This corrected the comment in the Farmacy application, that might infer that The Paseo Chapala Residential / Office Association was in favor of the concept, and also referred to the municipal ordinance that states a dispensary shall not be permitted on a parcel zoned for residential use. We requested that this last point be confirmed quickly by zoning staff.

Sincerely,

John Campanella

President, The Paseo Chapala Residential / Office Association

RECORDING REQUESTED BY
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2007-0016329

When Recorded Return To:

Hanna & Van Atta
525 University Avenue, Suite 705
Palo Alto, California 94301

Recorded | REC FEE 358.00
Official Records |
County of | CONFORMED COPY 2.00
Santa Barbara |
Joseph E. Holland |

011:49AM 06-Mar-2007 | BC
Page 1 of 119

#1 Decd 119-1
#2 CMAP CC1
CC2

1448962-UNC

CONDOMINIUM PLAN
ATTACHED

KANT-037-082-28

ENABLING DECLARATION
ESTABLISHING A PLAN FOR OWNERSHIP OF
PASEO CHAPALA, A MIXED USED CONDOMINIUM PROJECT

THIS DECLARATION CONTAINS A JUDICIAL REFERENCE PROVISION AND A BINDING ARBITRATION PROVISION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT. YOU MUST READ THE JUDICIAL REFERENCE AND ARBITRATION PROVISIONS CAREFULLY AND SHOULD CONSULT LEGAL COUNSEL WITH ANY QUESTIONS.

IF THIS DOCUMENT CONTAINS ANY RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, NATIONAL ORIGIN, SOURCE OF INCOME AS DEFINED IN SUBDIVISION (P) OF SECTION 12955 OF THE GOVERNMENT CODE, OR ANCESTRY, THAT RESTRICTION VIOLATES STATE AND FEDERAL FAIR HOUSING LAWS AND IS VOID, AND MAY BE REMOVED PURSUANT TO SECTION 12956.2 OF THE GOVERNMENT CODE. LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER PERSONS SHALL NOT BE CONSTRUED AS RESTRICTIONS BASED ON FAMILIAL STATUS.

Law Offices of
Hanna & Van Atta
525 UNIVERSITY AVENUE, SUITE 705
PALO ALTO, CA 94301
TELEPHONE (650) 321-5700

**ENABLING DECLARATION
ESTABLISHING A PLAN FOR OWNERSHIP OF
PASEO CHAPALA, A MIXED USED CONDOMINIUM PROJECT**

THIS DECLARATION, made the ____ day of _____, 2006, by Paseo Chapala, LLC, a California limited liability company, hereinafter referred to as "Declarant," is made with reference to the following facts:

A. Location of Property. Declarant is the Owner of certain real property (the "Property") located in the City of Santa Barbara ("City"), County of Santa Barbara ("County"), State of California, more particularly described as on that certain subdivision map entitled "Final Map No. 20,686, for Condominium Purposes", filed for record in the Office of the Recorder of Santa Barbara County, California, on December 1, 2004, in Book 200 of Maps, page(s) 46-48.

B. Intention. Declarant intends to create a "Condominium Project," as defined in Section 1351(f) of the California Civil Code, to subdivide the Property as authorized by Section 66427 of the California Government Code into "Condominiums" as defined in Section 783 of the California Civil Code and to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all the Condominiums created pursuant to the Davis-Stirling Common Interest Development Act. Declarant intends to develop and improve said the Property by constructing twenty-nine (29) residential Condominiums (four (4) of which contain a small office within the Unit); one (1) Office Condominium; and up to ten (10) Commercial Condominiums. Three (3) of the Commercial Units (numbers 31, 32 and 33) are fixed in size and configuration and the boundaries are as described in the Condominium Plan. Other Commercial Units (which may not exceed seven (7) in number) shall be created within the Grid Area (see definitions section 1.30). These Units defined as "Grid Units" shall consist of any number but not fewer than 100 of Commercial Modules (see definitions section 1.10). The dimensions and boundaries of a Grid Unit shall be established by a description contained in a deed by which title to the Grid Unit is first conveyed by Declarant to the initial buyer of such Grid Unit.

C. Owner=s Interest. The development shall be referred to as the "Project" as defined in section 1.49. The Owner of a Condominium will receive a separate interest in an individual Unit and an undivided interest in common in a portion of the Common Area. Each Condominium shall have appurtenant to it a membership in either the Commercial Association or the Residential/Office Association, both of which are nonprofit mutual benefit corporations.

D. General Plan of Improvement. Declarant intends by this document to impose upon the Project mutually beneficial restrictions under a general plan of improvement for the benefit of all of the Condominiums and the Owners thereof.

NOW, THEREFORE, Declarant hereby declares that the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions and easements, all of which are imposed as equitable servitudes pursuant to a general plan for the development of the Project for the purpose of enhancing and protecting the value and attractiveness of the Project, and every part of it, in accordance with the plan for the improvements of the Project and its division into Condominiums. All of the limitations, covenants, conditions, restrictions and easements shall constitute covenants that run with the land and are binding upon Declarant and its successors and assigns, and all parties having or acquiring any right, title or interest in or to any part of the Project or the property.

ARTICLE I. DEFINITIONS

A. Definitions.

- 1.1. **"Articles"**: The Articles of Incorporation of an Association, as amended from time to time.
- 1.2. **"Assessment"**: The cost of maintaining, improving, repairing, operating and managing the Project which is to be paid by each Owner as determined by an Association, and shall include Regular Assessments, Special Assessments and Reimbursement Charges.
- 1.3. **"Assessment Lien"**: Described in section 4.11.
- 1.4. **"Board" or "Board of Directors"**: The governing body of an Association.
- 1.5. **"Bylaws"**: The bylaws of an Association, as amended from time to time.
- 1.6. **"City"**: The City of Santa Barbara, State of California.
- 1.7. **"Commercial Area"**: The area containing the Commercial Units and Commercial Common Area designated on the Condominium Plan.
- 1.8. **"Commercial Association"**: The Paseo Chapala Commercial Association, a California non-profit mutual benefit corporation, the members of which shall be the Owners of Commercial Units.
- 1.9. **"Commercial Common Area"**: All of the Commercial Area except for the Commercial Units, as shown on the Condominium Plan.
- 1.10. **"Commercial Module"**: A cube, described on the Condominium Plan, located within the Grid Area, identified by a combination of letter and number. The Commercial Modules are described on sheets 6 and 7 of the Condominium Plan, and the size (given in square feet of floor area rather than in cubic feet) of each Commercial Module is indicated on Exhibit "B-1" attached hereto.
- 1.11. **"Commercial Owner"**: The Owner of a Commercial Unit as described on the Condominium Plan.
- 1.12. **"Commercial Unit"**: A Condominium used for commercial purposes, located in the Commercial Area. Commercial Units, other than Units 31, 32 and 33, are Grid Units, and are described on pages 6 and 7 of the Condominium Plan. Grid Units shall be as described in the Grant Deed to the individual Grid Unit purchaser and shall be composed of one hundred (100) or more Commercial Modules, as shown on the Condominium Plan, together with a percentage interest in the Commercial Common Area.
- 1.13. **"Common Area(s)"**: Commercial Common Area, Residential/Office Common Area and Undivided Interest Common Area.

1.14. "Common Expenses": Those expenses for which the respective Associations are responsible under this Declaration, including, but not limited to, the following: (a) actual and estimated costs of maintaining, managing and operating the Project; (b) unpaid Regular Assessments, Special Assessments, Reimbursement Charges, and amounts a Board determines are necessary to maintain the Reserve Fund at adequate levels; (c) the costs of all utilities for the Common Areas, or that are metered to more than one Condominium, and any other utilities or services (such as trash removal) that are billed to an Association for the benefit of the Project; (d) the costs of managing and administering an Association, including compensation for managers, accountants, attorneys, and employees; (e) the costs of maintenance, repair and replacement of Common Area improvements and facilities required by this Declaration and all other expenses incurred by an Association for the common benefit of the Owners, including the cost of maintenance, janitorial services, elevator maintenance, and other maintenance services that benefit the Project; (f) premiums for all insurance covering the Project or an Association's fair share of the premiums for such coverages if obtained by the Master Association and insurance policies for the directors, officers and agents of an Association, and bonding the Members of the Boards; (g) taxes paid by an Association; and (h) amounts paid by an Association for discharge of any lien or encumbrance levied against the Project (or portion thereof).

1.15. "Common Interest": The proportionate undivided interest in a Common Area that is part of each Condominium as set forth in this Declaration.

1.16. "Condominium": An estate in real property as defined in California Civil Code ' 783 and 1351(f), consisting of an undivided interest in common in a portion of the Project and a separate interest in space called a Unit. In this Project, there are Commercial Units, Residential Units and Office Units.

1.17. "Condominium Documents": This Declaration, as amended from time to time, the exhibits, if any, that are attached to this Declaration together with the other basic documents used to create and govern the Project, including the Map, the Articles, the Bylaws, and the Condominium Plan (but excluding unrecorded Rules adopted by a Board or an Association).

1.18. "Condominium Plan": The recorded three-dimensional floor plan of the Condominiums located in the Project which identifies the Common Areas, and each Unit as a separate interest pursuant to California Civil Code ' 1351. The Condominium Plan is attached hereto as Exhibit "A" and incorporated by reference herein.

1.19. "County@: The County of Santa Barbara, State of California.

1.20. "Declarant": Paseo Chapala LLC, a California limited liability company, and any successor or assign that expressly assumes the rights and duties of the Declarant under this Declaration, in a recorded written document.

1.21. "Declaration": This Enabling Declaration, as amended or supplemented from time to time.

1.22. "DRE": The California Department of Real Estate and any department or agency of the California state government that succeeds to the DRE's functions.

1.23. "Eligible Mortgages": Mortgages held by "Eligible Mortgage Holders".

1.24. "Eligible Mortgage Holder": A First Lender who has requested notice of certain matters from the Association in accordance with section 9.6C.

1.53. "Residential/Office Association": The Paseo Chapala Residential/Office Association, a California non-profit mutual benefit corporation, members of which shall be the Owners of Condominiums in the Residential/Office Area.

1.54. "Residential/Office Area": The area containing Residential Units and Office Units and Residential/Office Common Area designated "Residential/Office Area" on the Condominium Plan.

1.55. "Residential/Office Common Area": All of the Residential/Office Area except for the Residential Units and the Office Unit, as shown on the Condominium Plan.

1.56. "Residential/Office Unit": Units 2, 21, 22 and 23, each of which may be used for residential and/or office purposes.

1.57. "Residential Owner": The Owner of a Residential Unit.

1.58. "Residential Unit": A Unit used for residential purposes located in the Residential/Office Area.

1.59. "Right to Repair Law": Division 2, Part 2, Title 7 (commencing with Section 895) of the California Civil Code.

1.60. "Rules": The rules adopted from time to time by an Association pursuant to section 5.2D.

1.61. "SB 800": The "Right to Repair Law."

1.62. "Share": The percentage in and to a Common Area allocated to and appurtenant to each Unit.

1.63. "Special Assessments": A Special Assessment levied by an Association pursuant to section 4.3B.

1.64. "Undivided Interest Residential/Office Common Area": All of the Residential/Office Area above elevation 100 feet.

1.65. "Unit": The elements of a Condominium, as further defined in section 2.2A, which are not owned in Common with the Owners of other Condominiums in the Project. Each Unit is identified by separate number, or letter or combination thereof on the Condominium Plan.

1.66. "Utility Facilities": Defined in section 6.1.

B. Interpretations:

1.67. "General Rules": This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for creating and operating a residential/retail/condominium development and maintaining the Common Areas. As used in this Declaration, the singular includes the plural and the plural the singular. The masculine, feminine and neuter each includes the other, unless the context dictates otherwise.

(3) to make a decision to levy monetary fines, levy Reimbursement Charges, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline;

(4) to make a decision to levy Regular Assessments or Special Assessments; or

(5) to make a decision to bring suit, record a claim of lien or institute Foreclosure proceedings for default in payment of Assessments.

N. Security: Each Board shall have the power (but not the obligation) to contract for security service for the Common Area over which it has control. Notwithstanding the foregoing, if either Association elects to provide any security services or systems, neither that Association nor its Board shall be deemed to have made any representation or warranty to any Owner, nor the tenants or invitees of any Owner, nor to any other Person using the facilities or Improvements within the Project regarding security or safety. Each Owner shall be responsible for the security and safety of Persons who occupy or use the Condominium owned by the respective Owner. The Associations shall not be subject to any claims or liability in connection with the provision of any security service or security system, or the failure to provide any security service or security system, within any portion of the Project.

O. Appointment of Trustee: Each Board acting on behalf of its Association, has the power to appoint or designate a trustee to enforce Assessment Liens by sale as provided in section 4.11 and California Civil Code ' 1367.1(d).

P. Litigation/Arbitration: The Boards of the Associations have authority to enter into a contingent fee contract with an attorney in a matter involving alleged design or construction defects in the Project, only as to the facilities or improvements the Associations are responsible for maintaining as provided herein, only if the matter is not resolved pursuant to the procedures set forth in section 9.14, and only after getting the vote at a duly noticed and properly held membership meeting, of a majority of the Members other than Declarant.

If, and to the extent that, there is any inconsistency between this section 5.2P and applicable provisions of the California Civil Code pertaining to the commencement of an action by either Association for construction defect litigation, the applicable provisions of the California statutes shall control.

Q. Other Powers: In addition to the powers contained herein, the Boards may exercise the powers granted to a nonprofit mutual benefit corporation under California Corporations Code ' 7140.

R. Common Area Improvements: Each Board shall have the authority and power to demolish, remove and reconstruct any and all improvements on or over or under its Common Area in a manner not inconsistent with this Declaration, and to construct, improve and repair improvements that are appropriate for the use and benefit of the Members of that Association, and to charge for the use of such improvements, provided that a Board shall not include in any Regular Assessment or Special Assessments the cost of any new capital improvement which exceeds \$5,000 in cost to be expended in any one calendar year, unless fifty-one percent (51%) or more of the voting power of either Association previously shall have approved said expenditure.

7.13. Right to Lease:

A. Any Residential Unit Owner who wishes to lease his Condominium must meet each of the following requirements, and the lease will be subject to these requirements whether they are included within the lease or not:

- (1) all leases must be in writing;
- (2) the lease must be for the entire Condominium and not merely parts of the Condominium, unless the Owner remains in occupancy;
- (3) all leases shall be subject in all respects to provisions of the Declaration, the Bylaws, and all Rules adopted by the Residential/Office Association Board;
- (4) all Owners who lease their Condominiums shall promptly notify the Secretary of the Associations in writing of the names of all tenants and members of tenants' family occupying such Condominiums and shall provide the Secretary of the Residential/Office Association with a complete copy of the lease. All Owners leasing their Condominium shall promptly notify the Secretary of Residential/Office Association of the address and telephone number where such Owner can be reached;
- (5) no Owner shall lease his Unit for a period of less than thirty (30) days.

B. Any failure of any tenant to comply with the Declaration, Bylaws, and Rules, shall be a default under the lease, regardless of whether the lease so provides. In the event of any such default, the Owner immediately shall take all actions to cure the default including, if necessary, eviction of the tenant;

C. The Association having jurisdiction over the Unit in question shall give the tenant and the Owner notice in writing of the nature of the violation of the Declaration and/or Rules, and twenty (20) days from the mailing of the notice in which to cure the violation before the Associations may file for eviction.

D. Each Owner shall provide a copy of the Declaration, Bylaws and all Rules of each tenant of his or her Unit. By becoming a tenant, each tenant agrees to be bound by the Declaration, the Bylaws and the Rules, and recognizes and accepts the right and power of the Associations to evict a tenant for any violation by the tenant of the Declaration, the Bylaws, and Rules.

7.14. Architectural Control: There shall be no alteration, modification, painting or other improvement or physical change to any portion of Common Area, or to Units (~~AAlterations~~) unless and until the same has been approved in writing by an Architectural Control Committee (~~ACommittee~~) appointed by the Boards of both Associations. Notwithstanding the foregoing, an Owner may improve or alter any improvements within the interior boundaries of the Owner's Unit, provided such improvement or alteration does not impair the structural or acoustical integrity of any Common Area, the utilities or other systems servicing the Common Area or other Condominiums, does not involve altering any Common Area (including bearing walls).

A. **Submittal Requirements.** If any Owner desires to make any Alterations that requires approval under this section 7.14, the Owner shall submit to the Committee such plans, specifications and other relevant materials required by the Board showing the nature, kind, shape, color, size, materials and location of any proposed Alterations. The Board or the Committee shall review such submitted plans, specifications and materials for approval as to quality of workmanship and design and harmony of external design of such Alterations with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation:

(1) No permission or approval of the Committee shall be required to repaint in accordance with Declarant's original color scheme, or to rebuild in accordance with Declarant's original plans and specifications.

(2) No permission or approval shall be required to repaint in accordance with a color scheme previously approved by the Committee, or to rebuild in accordance with plans and specifications previously approved by the Committee. Nothing contained in this paragraph shall be construed to limit the right of an Owner to paint the interior of his or her Unit any color desired.

B. Landscaping and replacement of landscaping and vegetation in the Common Areas of the Project shall only be undertaken by an Association. No Alterations to such landscaping or other to any decks, balconies, patios or yards of the Project may occur without the approval of the Committee.

C. The Committee shall consist of three (3) members. Declarant may appoint all of the original members of the Committee and all replacements until the first anniversary of the issuance of the original final public report for the Project. The Declarant reserves to itself the power to appoint a majority of the members to the Committee until ninety percent (90%) of all the Condominiums in the Project have been sold or until the fifth anniversary of the issuance of the final public report for the Project, whichever occurs first. After one (1) year from the of issuance of the original public report for the Project, the Residential/Office Association Board shall have the power to appoint one (1) member to the Architectural Control Committee until ninety percent (90%) of all the Condominiums in the Project have been sold or until the fifth anniversary date of the issuance of the final public report for the Project, whichever first occurs. Thereafter, the Residential/Office Association Board shall have the power to appoint two (2) of the members of the Architectural Control Committee, and the Commercial Owners Association shall appoint the third Member. Members appointed to the Architectural Control Committee need not be Members of the Associations. A majority of the Architectural Control Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the successor shall be appointed by the person, entity or group which appointed such member until Declarant no longer has the right to appoint any members to the Committee, and thereafter the Boards shall appoint such a successor. Neither the members of the Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to this Declaration. In the event the Committee fails to approve or disapprove plans and specifications in writing within thirty (30) days after the same have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with. Approval of plans by the Committee shall in no way make the Committee or its members or the Board or its members responsible for or liable for the improvements built after approval of the plans, and the Owner whose plans are approved shall defend, indemnify and hold the Committee, the Boards, the Associations, and its members, harmless from any and all liability arising out of such approval.

D. Approval Requirements: In the event the Committee fails to approve or disapprove a submittal for Alterations in writing within thirty (30) days after the same have been submitted to it, the submittal will be deemed disapproved. Approval of plans by the Committee or the Board shall in no way make the Committee or its members or the Board or its members responsible for or liable for the improvements built after approval of the plans, and the Owner whose plans are approved shall defend, indemnify and hold the Committee, the Board, the Associations, and its members harmless from any and all liability arising out of such approval.

E. Governmental Approvals: All Alterations on or within Units or the Common Areas of the Project shall comply with all design requirements, approvals and procedures of the City. Before commencement of any alteration or improvements approved by the Architectural Review Committee, the Owner shall comply with all appropriate governmental laws and regulations. Approval by the Committee does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction.

F. Completion of Work; Review of Work: Upon approval of the Committee, the Owner shall diligently proceed with the commencement and completion of all work so approved by the Committee in compliance with the approvals granted. The work must be commenced within six months from the date of approval unless the Committee permits the work to be commenced at a later time.

(1) If the work is not commenced within six months after the approval date, or such later time as the Committee has granted, then the approval shall be deemed cancelled, and the Owner must reapply to the Committee before undertaking any such work.

(2) The Committee shall inspect work within sixty days after a notice of completion has been delivered to the Committee by the Owner. The Committee may also inspect the work at any time prior to completion as it deems appropriate to determine that the Committee approval is being followed. The Committee is to inspect the work performed, and determine whether it was performed and completed in compliance of the approval granted in all material respects.

(3) If at any time during the construction of any work, the Committee finds that the work was not performed or completed in compliance of the approval granted in all material respects, or if the Committee finds that the appropriate approval which was required for any work was not obtained, the Committee shall notify the Owner in writing of the non-compliance. The notice shall specify in writing the particulars of non-compliance, and shall set forth the requirement of the Owner to remedy the non-compliance. The Committee shall determine in its reasonable judgement whether an alteration, modification or improvement complies with the approval as granted in material respects. Minor changes, deviations or imperfections that do not negatively affect or impact the Project shall not be considered as non-compliance.

(4) If the Committee has determined that an Owner has not constructed an improvement in compliance with the approval granted in all material respects, and if the Owner fails to remedy such non-compliance in accordance with provisions of the notice of non-compliance, then after expiration of 30 days from the date of such notification, the Committee shall provide Notice and Hearing to consider the Owner=s continuing non-compliance. At the Hearing, if the Committee finds that there is no valid reason for the continuing non-compliance, the Committee shall then require the Owner to remedy the non-compliance as necessary and appropriate in the determination of the Committee so as to result in the improvement being rendered as reasonably in compliance as is appropriate for the overall good and benefit of the Project, or remove the same within a period of not more than 45 days from the date of the Committee's determination. If the Owner does not comply with the Committee's ruling within such period, or within any extension of such period as the Committee, in its discretion may grant, the Committee may refer the matter to the Board of the Association having jurisdiction over the Unit in question, and, after notice and hearing, that Board may: (1) remove the non-complying improvement, (2) remedy the non-compliance, (3) institute legal proceedings to enforce compliance or completion.

(5) After ninety percent (90%) of the Units in the Project have been sold by the Declarant, an Owner who has submitted an application to the Committee may appeal a decision to deny or conditionally approve the Owner=s application to the Board of the Association having jurisdiction over the Unit in question by written appeal to the Board. The Board shall notify the appealing Owner in writing of the date set for a hearing regarding the Owner=s appeal within ten (10) days after receipt of the Owner=s appeal. The hearing shall be held within thirty (30) days after receipt of the Owner=s appeal by the Board. The Board shall make its determination on the appeal in writing delivered to the appealing Owner within ten (10) days after the hearing. The determination of the Board shall be final.

G. Structural Integrity: Nothing shall be done in or on any Unit or in or on the Common Area which will impair the structural integrity of any building.

7.15. Window Coverings: All drapes, curtains, shutters, blinds or other window coverings visible from the street or Common Areas shall be beige, white, off-white in color, or natural or stained wood, or lined in beige, white, or off-white, or as the case may be, of colors, materials and patterns which are approved by the Architectural Control Committee.

7.16. Clothes Lines: There shall be no laundering or drying of clothes outside of a Unit. No draping of towels, carpets, or laundry over exterior railings shall be allowed.

7.17. Power Equipment and Motor Vehicle Maintenance: Except for alterations being made pursuant to section 7.14 and repairs and maintenance of Units, no power equipment, hobby shops, or motor vehicle maintenance (other than emergency work) shall be permitted on the Project. Approval shall not be unreasonably withheld, and in deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections. All waste containing Hazardous Materials shall be disposed of properly by each Owner.

7.18. Liability of Owners for Damage to Common Area: The Owner of each Condominium shall be liable for all damage to the Common Area or improvements to the extent described in section 5.1A.

7.19. Attachments to Buildings: Nothing shall be attached to the exterior of any Common Area without consent of the Architectural Committee and the Board having jurisdiction over the area in question.

The Farmacy Santa Barbara
741-781 Chapala Street, Santa Barbara
MST No. 2009-00268
Medical Cannabis Dispensary Permit
July 6, 2009

COMMUNITY INVOLVEMENT

Because we are an integrated natural medicine "Farmacy," we provide many more services, therapies, and complementary medicines to the community, besides providing medical cannabis.

1. Elderly/geriatric population: 32.9% of all households were made up of individuals and 11.4% had someone living alone who was 65 years of age or older. 13.8% of Santa Barbara's population are 65 years of age or older. The median age in Santa Barbara is 35 years. This is consistent with the The Farmacy patient/member demographics. The average age is 39 years. The number of patients over 65 years of age is growing, as federal regulations lighten and they feel comfortable and secure entering our Collective.

A. Number of assisted living and skilled nursing facilities (i.e., Casa Dorinda, Valle Verde, Vista del Monte, Mission Terrace, Samarkand, to mention a few).

(1) Education to residents regarding natural plant-based medicines and herbs information (for example, how to take/use, dosing, routes of administration, side effects, and drug interactions).

B. Inservices to nursing and nurses aides regarding proper use of natural and complementary medicines.

C. Suggest alternate routes of administration for the elderly, including teas, edibles, tinctures and topicals.

2. Seven hospice care service agencies and facilities in City of Santa Barbara.

A. Provide information and counseling regarding management of pain, appetite stimulation, anxiety and side effects of chemotherapy, using medicinal herbs, including medical cannabis.

B. Various varieties, routes of administration, and consistency are very important. Standardization and consistency are provided by assaying varieties of cannabis provided and routes of administration with gas chromatography/mass spectrometry (GCMS) instrumentation by The Farmacy's qualified staff person, who holds a Ph.D. in biochemistry.

3. MDs, Osteopathic Doctors and Naturopathic Physicians will:

A. Provide data/information to patients' physicians and physician groups when needed.

B. Help physicians select the proper type of medical cannabis for their patients, and route of administration for their patients, and let them know what combination of herbs worked well for their patients.

4. People of Hispanic or Latino background, of any race, comprise 35.02% of the City's population.

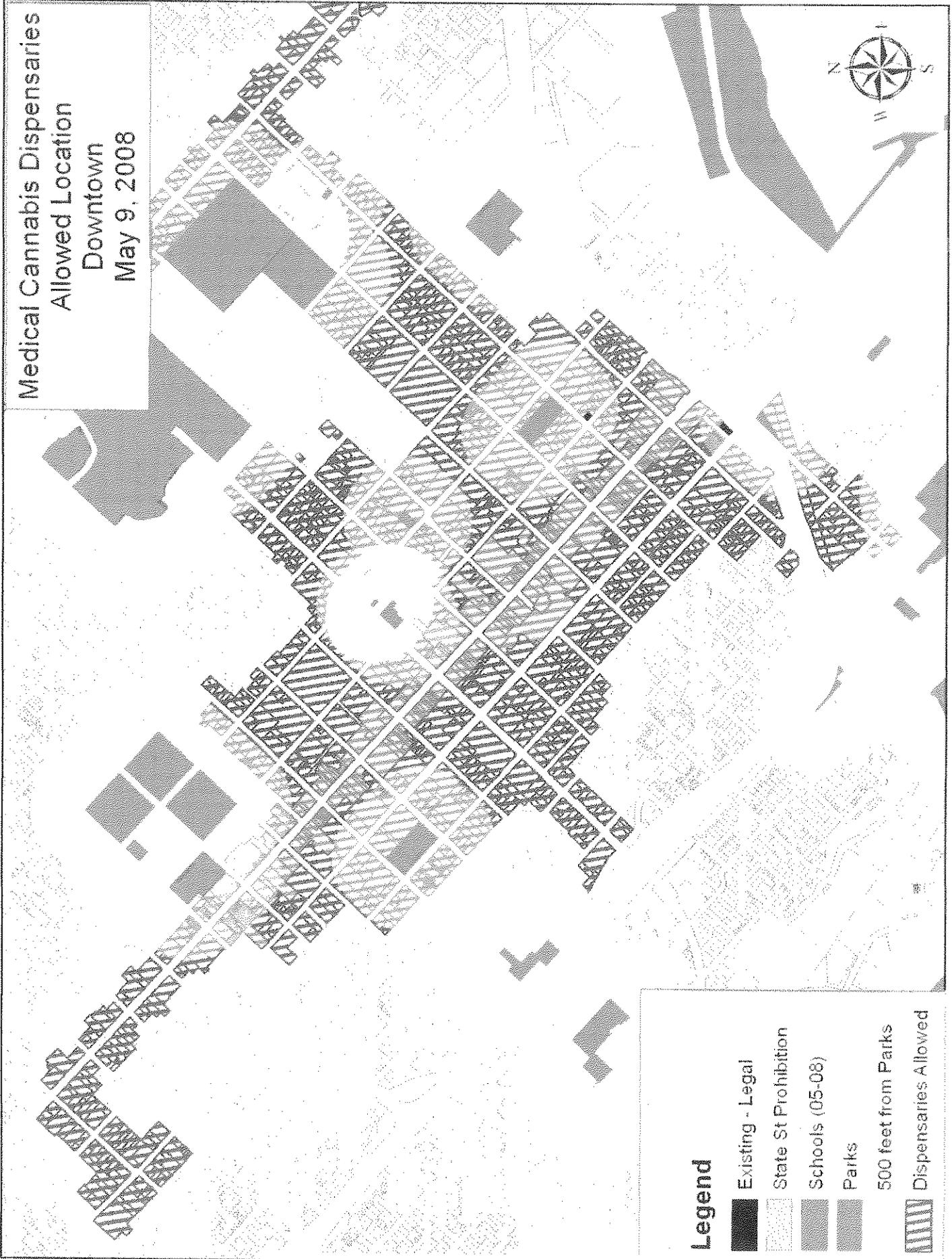
A. This is a population that is often neglected in the healthcare field. This culture has a history of deep involvement in natural plant-based medicines. The Farmacy attempts to provide bilingual staff to help our Hispanic clientele and medical cannabis patients make the best decisions regarding their wellbeing.

5. About 7.7% of families and 13.4% of the Santa Barbara population are below the poverty line, including 16.8% of those under age 18 and 7.4% of those age 65 or over. If one compares the per capita income to the actual cost of living, the number of people living below the poverty line is considerably higher.

A. We work with patient/members that are on state disability, MediCal, Medicare and other low-income programs — helping them get medical cannabis recommendations paid by MediCal. We give large discounts and help cover the cost of their recommendations and provide transportation to their doctors and hospitals, if needed. We offer a program whereby patients can process claims for reimbursement by their insurance carriers for their cannabis medication (e.g., GE Medical Billing: www.GEMBpatients.com).

6. The Farmacy is a resource center for the community — The Farmacy sponsors speakers and programs on a weekly basis. Written information regarding various community services offered in the City of Santa Barbara will be available in the education area within the Collective.

Medical Cannabis Dispensaries
Allowed Location
Downtown
May 9, 2008



- Legend**
- Existing - Legal
 - State St Prohibition
 - Schools (05-08)
 - Parks
 - 500 feet from Parks
 - Dispensaries Allowed

EXHIBIT D

