

RESOLUTION NO. 2020-63

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING A CANNABIS CONDITIONAL USE PERMIT TO ALLOW A
MEDICAL/ADULT USE CANNABIS DISPENSARY LOCATED AT 234-242
RESERVATION ROAD (APN 032-181-018) IN THE C-1 (RETAIL BUSINESS) ZONING
DISTRICT.

WHEREAS, Robert DiVito of Element 7 Marina submitted an application for a conditional use permit to operate a medical/adult-use cannabis dispensary; and,

WHEREAS, the proposed project requires discretionary approval, and, per Marina Municipal Code Section 19.08.010, it is the responsibility of the Planning Commission to consider and weigh the merits of the application and public input in relation to the policies, standards, and intent of the Marina General Plan and Marina Municipal Code in making a recommendation on the proposed cannabis dispensary to the City Council; and,

WHEREAS, on May 14, 2020, the Marina Planning Commission considered oral comments and written information concerning the proposed cannabis dispensary at a regularly scheduled Planning Commission meeting and recommended City Council consideration of a Cannabis Conditional Use Permit for the business; and,

WHEREAS, at the regular meeting of on June 2, 2020, the City Council considered the application and all public comment and found that the application meets the requirements of the Marina Municipal Code for Cannabis Conditional Use Permits as reflected in the findings below; and,

WHEREAS, the project is categorically exempt from the California Environmental Quality Act per Section 15301, Existing Facilities, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures and facilities involving negligible or no expansion of existing or former use.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marina does hereby approve a Cannabis Conditional Use Permit for Element 7 Marina at 234-242 Reservation Road with the following findings and conditions:

Findings

That the project:

1. Will comply with all of the requirements of the state and city, and any additional conditions of license for the operation of a cannabis dispensary.
2. Will not result in significant unavoidable impacts on the environment as the use will be conducted in an entirely enclosed building and noise and odor mitigation is planned and will be integrated into the use. In addition, no hazardous materials or systems will be utilized.
3. Includes adequate quality control measures to ensure that the dispensary would operate in accordance with industry standards with regard to security, product testing, etc.
4. Includes adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the state and not distributed out of state.

5. Will obtain a valid and fully executed commercial cannabis use permit pursuant to Chapter 5.76 of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations; will additionally enter into an operating agreement with the City ensuring on-going neighborhood compatibility and compliance with City regulations, as they may amended over time.
6. Will renew the cannabis use permit annually and execute a renewed operating agreement annually.
7. Will operate in good standing with all permits and licenses required by state law.

Conditions of Approval

Initial Establishment of Commercial Cannabis Operations

1. Substantial Compliance – The project shall be constructed in substantial compliance with the plans attached hereto as “**EXHIBIT A**”, submitted to the Planning Office on January 13, 2020, except as conditioned herein.
2. Lighting – Exterior Lighting Plan – All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Prior to issuance of a building permit, the Owner/Applicant, shall submit three (3) copies of an exterior lighting plan (including a photometric analysis) which shall indicate the location, type, and wattage of all light fixtures and include catalog sheet for each fixture. The lighting shall comply with the requirement of the California Energy Code set forth in California Code of Regulation, Title 24, Part 6. The exterior lighting plan shall be subject to approval by the Director of Community Development-Planning.
3. Occupancy Permit – Prior to obtaining an occupancy permit and commencing commercial operations, the applicant shall schedule an inspection with Community Development Department staff to verify compliance with the conditional use permit conditions of approval. Inspections by additional City departments may be required.
4. Development/Operating Agreement – Per MMC Section 5.76.030, prior to commencing commercial operations, the permittee shall enter into a development/operating agreement with the City setting forth the terms and conditions under which the dispensary will operate, including, but not limited to, payment of fees and taxes as mutually agreed, and other such terms and conditions that will protect and promote public health, safety, and welfare.
5. Permit Modifications – The City may modify this permit at any time as needed to clarify or augment requirements of the permittee, so long as modifications do not conflict with the MMC or State laws, as they may be amended from time to time. Modifications resulting in a new permit must be executed by the City and the permittee. If the City has made modifications to the permit and requested permit execution by the permittee, the prior permit may be deemed null and void and the permittee shall cease commercial operations until completing execution of the new permit.

Standard Cannabis Dispensary Operating Conditions

6. Right to Operate – Except as modified by required conditions of approval, the permittee shall have the right to operate a medical/adult-use cannabis dispensary, including non-storefront retail (delivery) in accordance with the conditional use permit application submitted on January 13, 2020.
7. Substantial Action Time Limit – If the permittee does not commence commercial cannabis activity in accordance with the terms of this Permit within one year of its issue date, this permit shall be deemed revoked. The City Manager or their designee may grant a 90-day extension to this time limit if the permittee can demonstrate that the delay was due to situations beyond their control, that significant progress towards establishing the use has been made, and there is cause to believe that the permittee will be ready to commence operations in accordance with the terms of this Permit within the 90-day period.
8. Permit Expiration - This permit shall have a duration of one year. The one-year period shall commence upon the date of occupancy. The Community Development Department may administratively renew the permit as long as the business is operating in compliance with the MCC and the permit's conditions of approval, has paid all taxes and fees in a timely manner, and has maintained possession of a current State license to operate the dispensary. The City may perform an annual inspection of the facility in conjunction with permit renewal to confirm ongoing compliance with conditions of approval.
9. Indemnification – The Owner/Applicant shall agree as a condition of approval of this project to defend, at its sole expense, indemnify and hold harmless from any liability, the City and reimburse the City for any expenses incurred resulting from, or in connection with, the approval of this project, including any appeal, claim, suit or legal proceeding. The City may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this condition.
10. State License – The permittee must provide a copy of a valid and current State license to operate a cannabis dispensary prior to initiating commercial business operations and must provide an updated copy whenever the license is renewed or amended. If at any time the State license expires or is revoked, the business must cease operations until a valid and current license is obtained.
11. Business License – The permittee shall obtain and maintain a City of Marina business license.
12. Posting of Permits and Licenses - The permittee shall conspicuously display, within the interior of the building near the entrance, a copy of the State License, the conditional use permit, the business license, and any other documentation required as proof of right to operate a cannabis dispensary on the premises.

13. Inspection Access - At any time and without prior notice, the business shall allow entry into the premises by the Marina Police Department, the Marina Fire Department, the Community Development Department, and any other staff, including Monterey County staff, charged with inspecting the business or enforcing the conditions of the conditional use permit. The business shall provide access to all portions of the premises as well as business records, if requested.

14. Compliance with State and Local Requirements – The permittee shall comply with all state and local requirements for operation of a cannabis dispensary, including those not listed on the conditional use permit, and as they may be amended over time.

15. Cannabis Consumption Prohibited on Premises – Cannabis shall not be smoked, ingested, or otherwise consumed on the business premises.

16. Alcoholic Beverages and Tobacco – Alcoholic beverages shall not be sold, dispensed, or consumed on the premises. Sale or consumption of tobacco is prohibited on the premises.

17. Payment of Taxes and Fees – The permittee shall pay any applicable taxes and fees due to the City in a timely manner.

18. Transfer of Permit – This conditional use permit is granted only to the applicant identified in this resolution for the site defined herein. This permit shall not be transferable to any other site or to any other person without the consent of the City.

19. Hours of Operation – The business may be open for customer-serving commercial activities between the hours of 9:00 am and 11:59 pm.

Site Security and Neighborhood Compatibility Conditions

20. Site Maintenance – The permittee shall maintain the premises' parking areas, driveways, accessways and grounds, landscaped areas, and exterior building surfaces in accordance with applicable City standards in the MMC.

21. Signage – Signage with graphics depicting cannabis is prohibited. Signage is subject to a sign permit.

22. Odor – Cannabis odors shall not be detectable outside of the facility. Prior to opening for business, the permittee shall demonstrate to City staff that odor prevention equipment is in place.

23. Security Guards and Cameras – The permittee shall maintain 24-hour security camera coverage of the premises. The premises shall be staffed by security guards to an extent sufficient to ensure the site safety and deter crime. Security guards shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times. Security personnel may not be armed.

24. Marina Police Department Notification – The permittee shall notify the Marina Police Department within 24-hours after discovering any breach of security.

25. Delivery – Employees delivering cannabis shall carry a copy of the following documents when making deliveries: copy of the dispensary’s permits and licenses authorizing delivery service; the employee’s government-issued identification; a copy of the delivery request; and chain of custody records for good being delivered.

Enforcement

26. Permit Revocation – Per MMC Section 19.08.010, the City may revoke this conditional use permit at any time for failure to comply with any state and local requirements, including but not limited to, conditions of approval and requirements regarding timely payment of taxes and fees.

PASSED AND ADOPTED by the City Council of the City of Marina at an adjourned regular meeting duly held on the 10th day of June 2020, by the following vote:

AYES, COUNCIL MEMBERS: Berkley, Urrutia, Morton, Delgado

NOES, COUNCIL MEMBERS: O’Connell

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

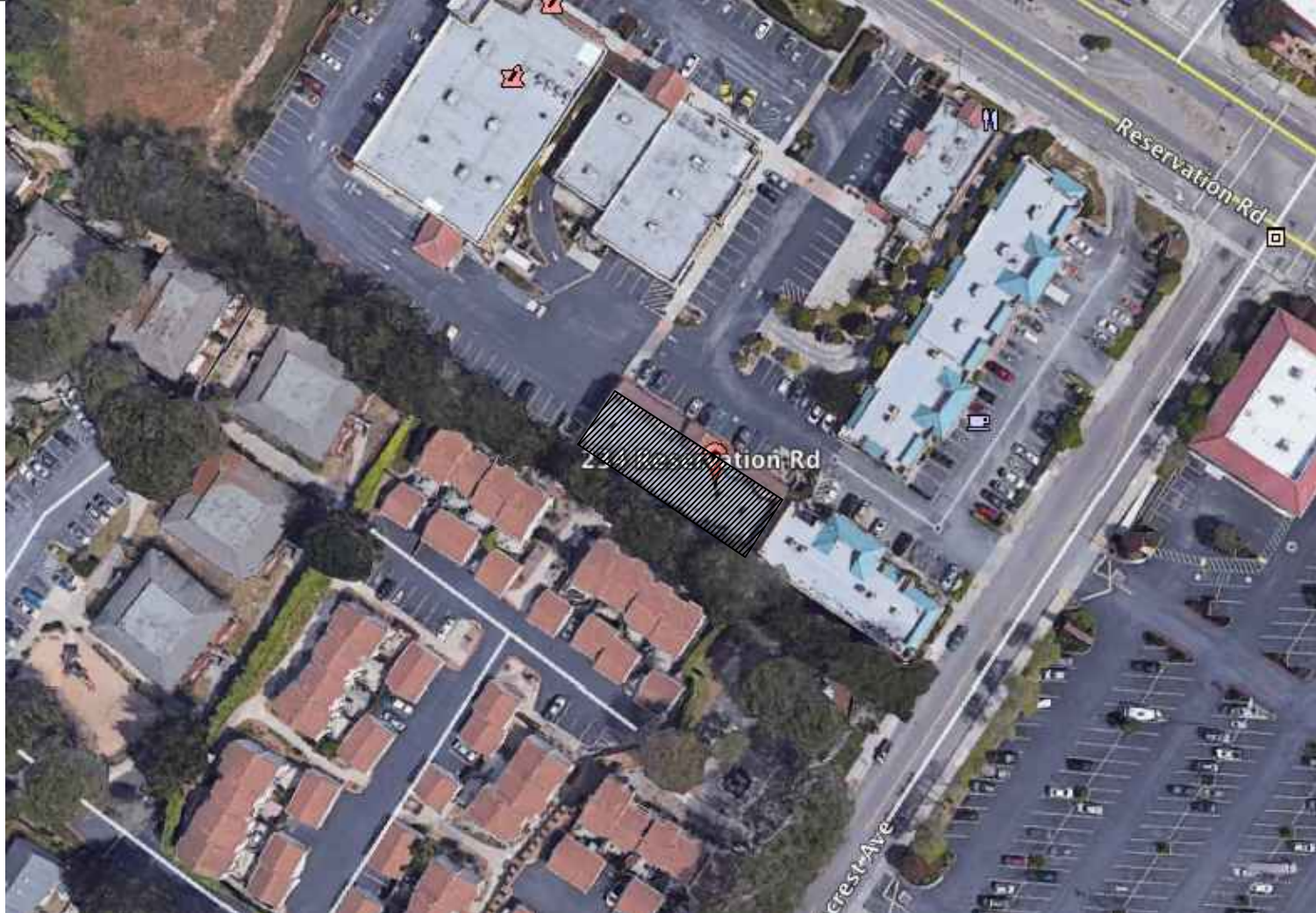
ATTEST:

Anita Sharp, Deputy City Clerk

ELEMENT 7 MARINA

PROPOSED PROPERTY DEVELOPMENT

234 Reservation Road, Marina, CA 93933

PROPERTY INFORMATION		VICINITY MAP	SATELLITE VIEW
PARCEL ID:032-181-018-000 PROPERTY TYPE:Single Unit CONSTRUCTION TYPE:-- ZONE:Commercial/Public Service 1 #STORIES: Property Boundary Description(s): Building Description(s): 234 RESERVATION ROAD, MARINA, CA 93933 SQUARE FOOTAGE5,000 SQ. FT.			
GOVERNING CODE		PARCEL MAP	
This project shall comply with the: 2016 California Building Code (CBC) 2016 California Residential Code (CRC) 2016 California Mechanical Code (CMC) 2016 California Plumbing Code (CPC) 2016 California Electrical Code (CEC) 2016 California Green Building Standards Code (CGBS) 2016 California Energy Code		DISPENSARY, DISTRIBUTION AND MANUFACTURING	
BUILDING SUMMARY		SCOPE OF WORK	
	LOT SIZE:	----- SQ. FT.	
	FLOOR AREA	5,000 SQ. FT.	
	LOT COVERAGE: 8,400 / -----	= ---%	
			
		SHEET INDEX	
		ARCHITECTURAL *A00 COVER SHEET *A01 SITE PLAN *A02 PROPOSED FLOOR PLAN *A03 PROPOSED SECURITY PLAN *A04 PROPOSED FLOOR AND SITE PLAN *A05 PROPOSED SAFTEY PLAN *A06 RESTRICTED ACCESS PLAN	

APPLICANT:
Robert DiVito
8033 Sunset Blvd., Unit 987
Los Angeles, CA 90046
Phone: (312) 823 7638
Email:
norwoodlawpro@gmail.com

DESIGN:
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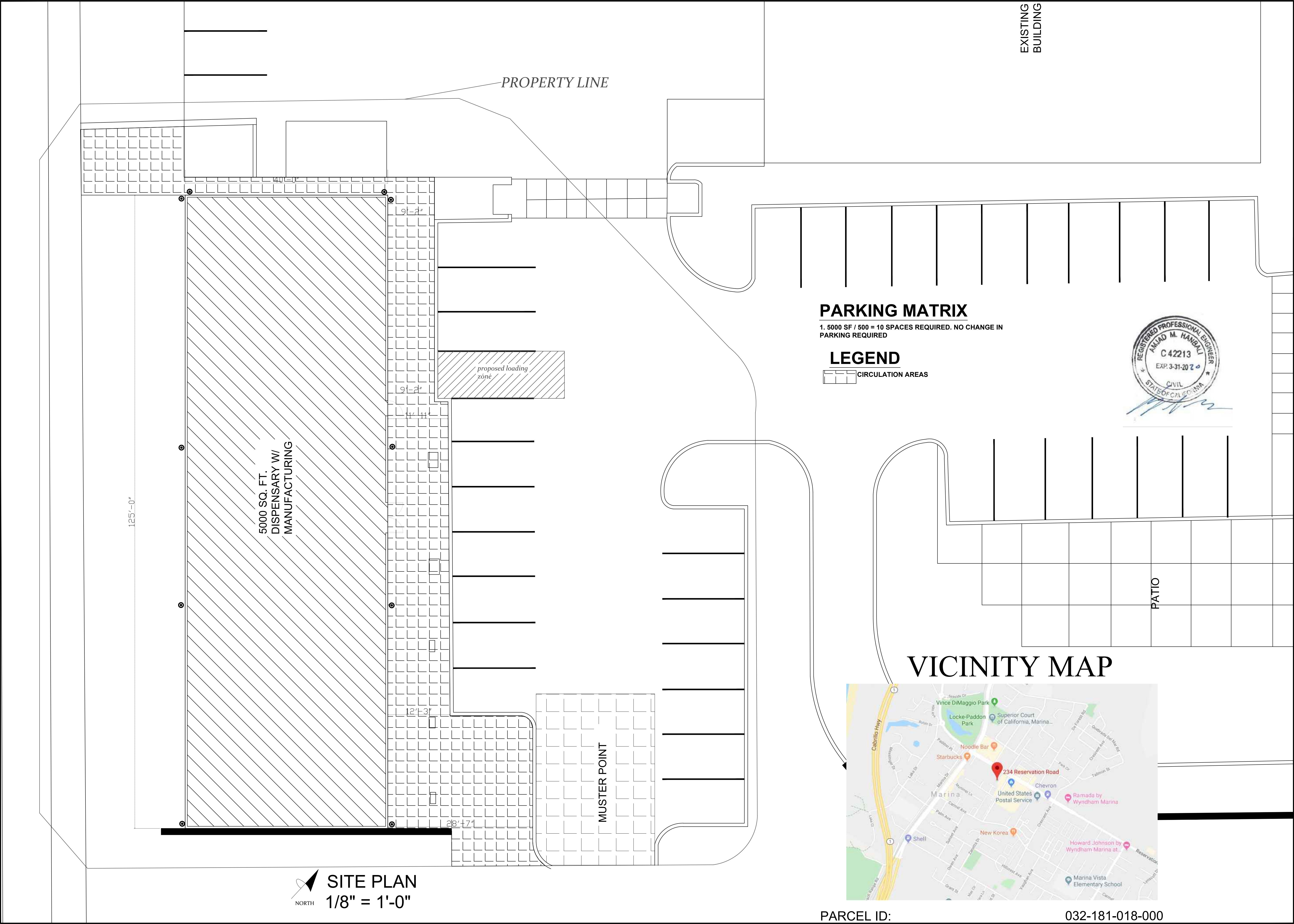
PROJECT TITLE

ELEMENT 7 MARINA
PROPOSED PROPERTY DEVELOPMENT
234 RESERVATION ROAD, MARINA CA 93933

REVISION HISTORY

COVER SHEET
RB 111518

CS



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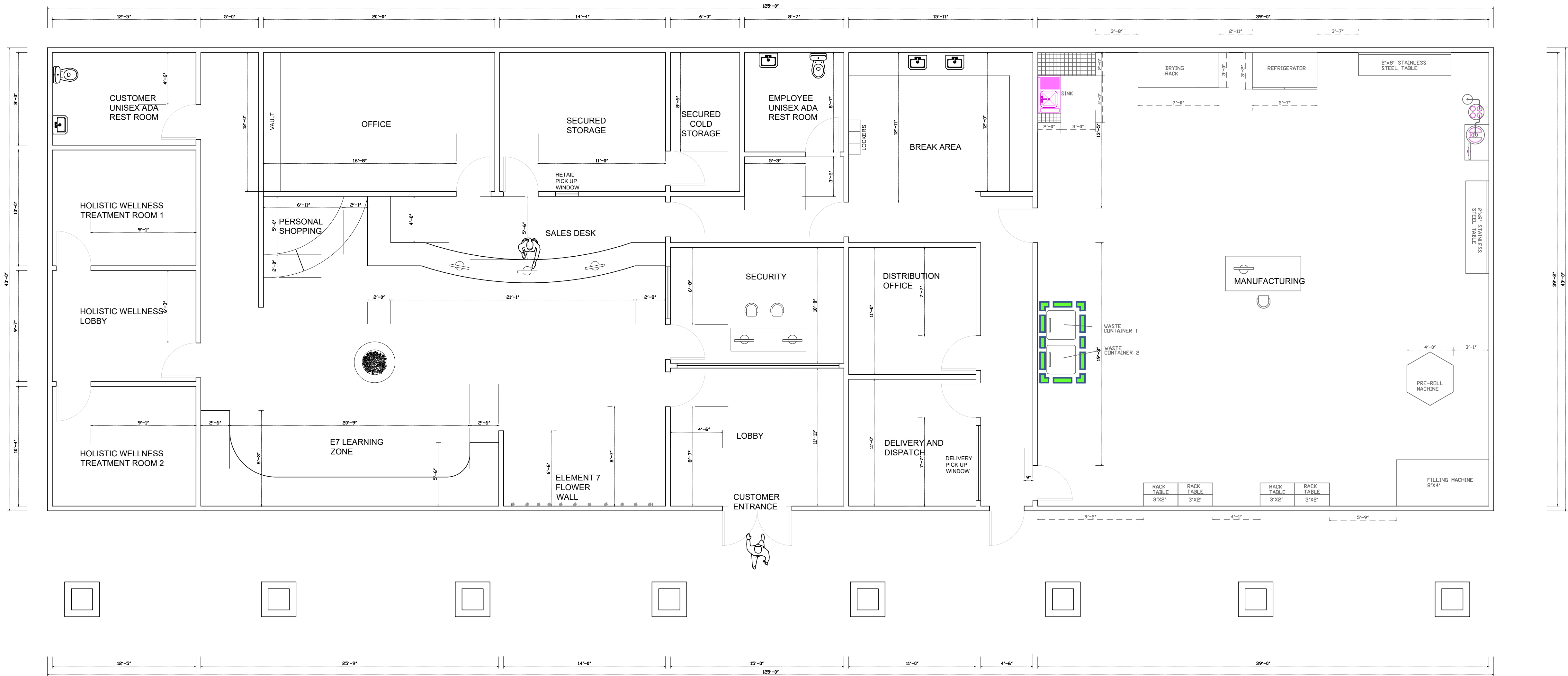
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PROJECT TITLE
**ELEMENT 7 MARINA
PROPOSED PROPERTY DEVELOPMENT
234 RESERVATION ROAD, MARINA CA 93933**

REVISION HISTORY

**COVER SHEET
RB 111518**

A-01



FLOOR PLAN
3/16" = 1'-0"



PROJECT TITLE

**ELEMENT 7 MARINA
PROPOSED PROPERTY DEVELOPMENT
234 RESERVATION ROAD, MARINA CA 93933**

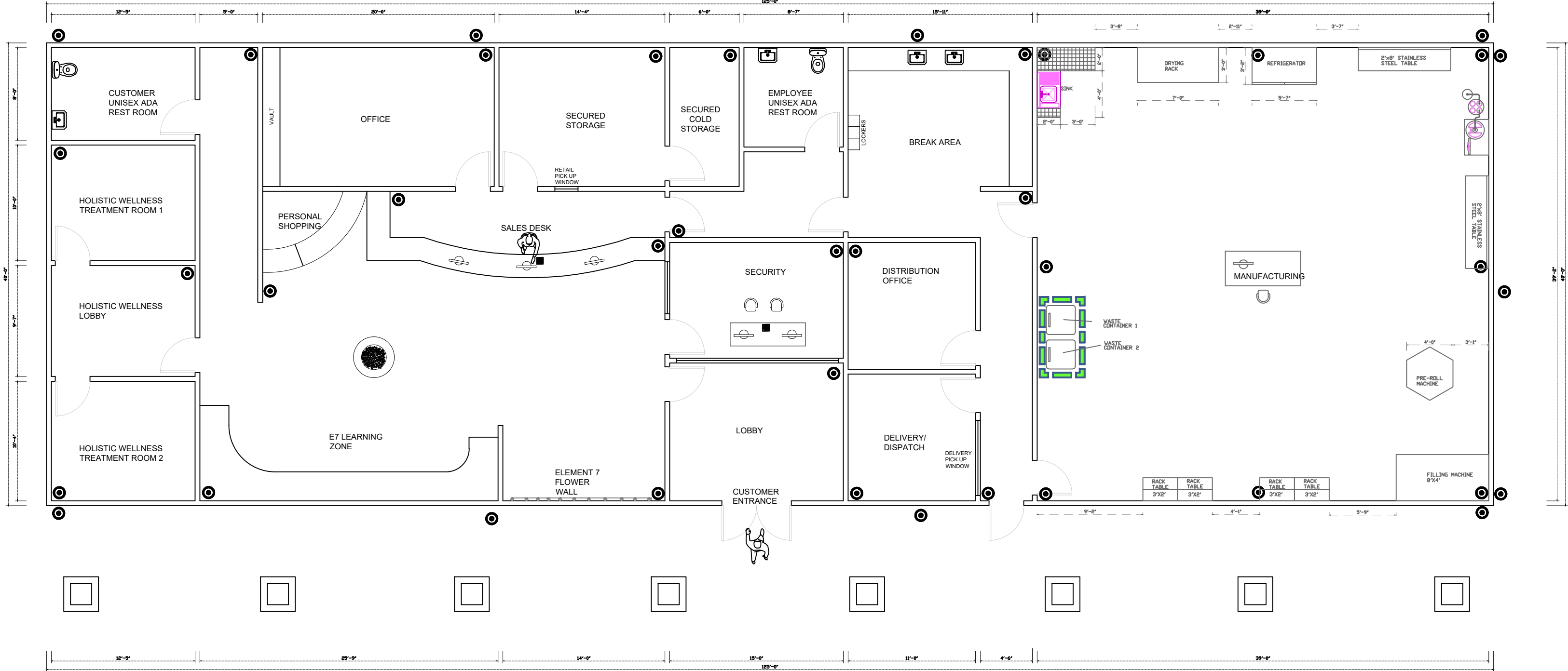
REVISION HISTORY

**PROPOSED
FLOOR PLAN**

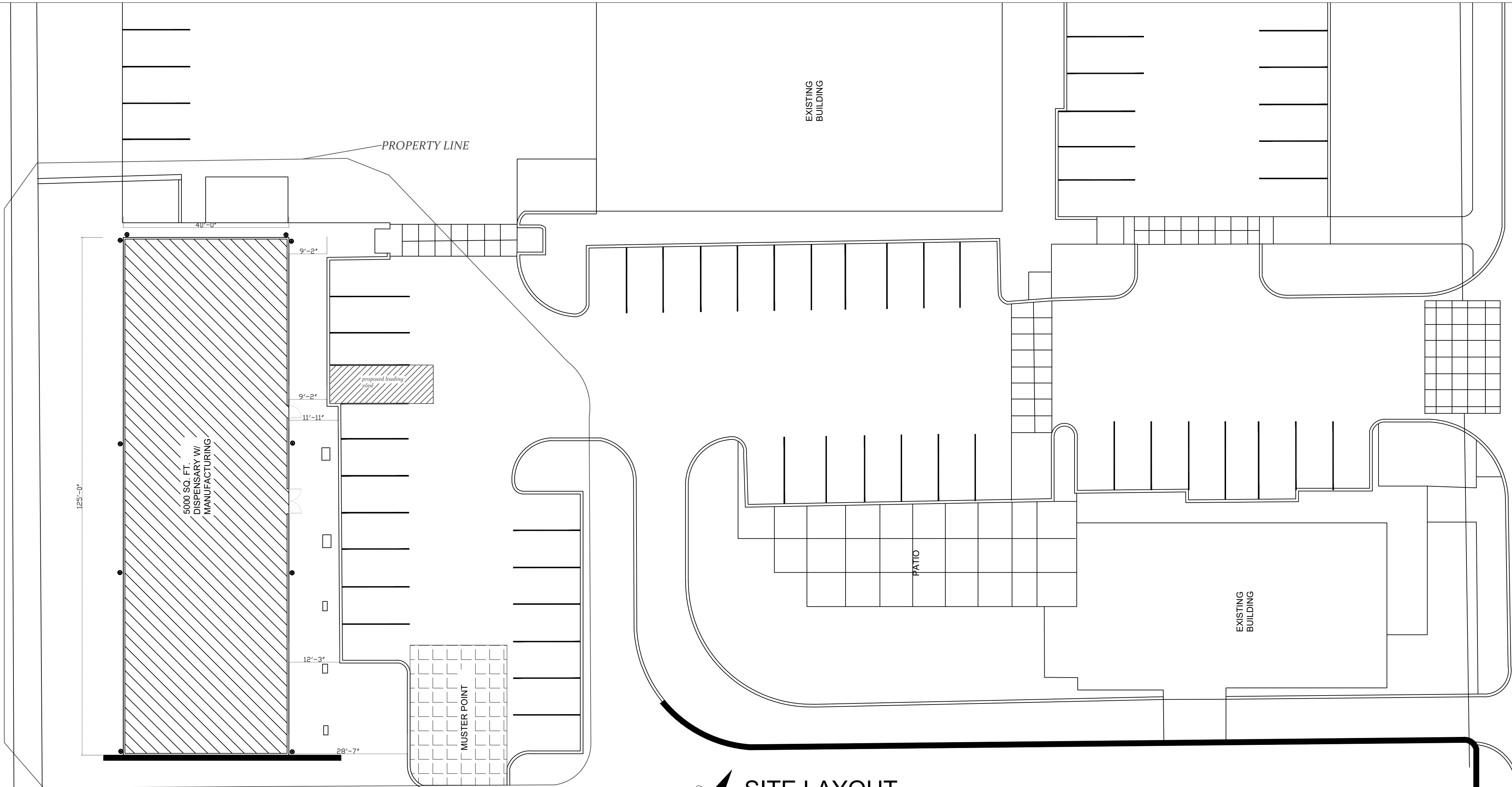
A-02

APPLICANT:
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FLOOR PLAN
1/8" = 1'-0"
360 DEGREES SECURITY CAMERA



SITE LAYOUT
1/16" = 1'-0"
360 DEGREES SECURITY CAMERA



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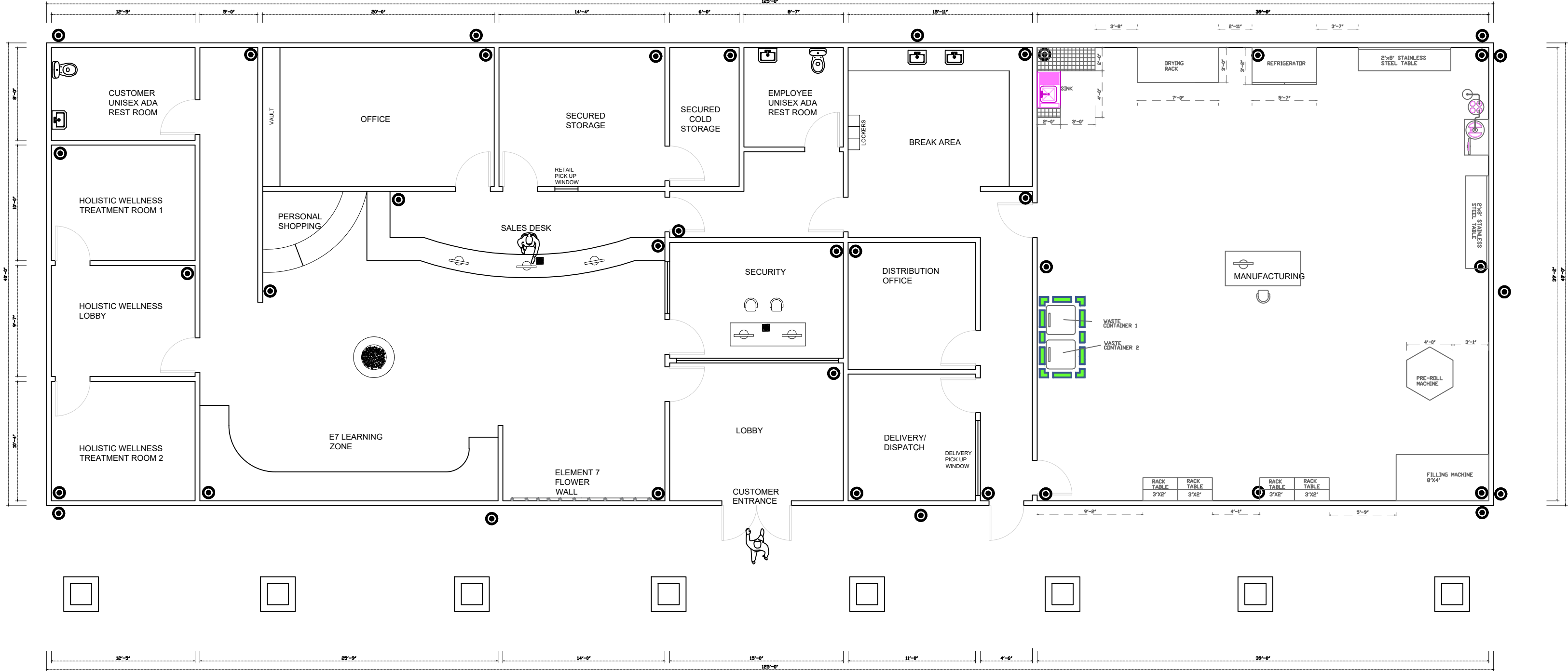
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PROJECT TITLE
**ELEMENT 7 MARINA
PROPOSED PROPERTY DEVELOPMENT
234 RESERVATION ROAD, MARINA CA 93933**

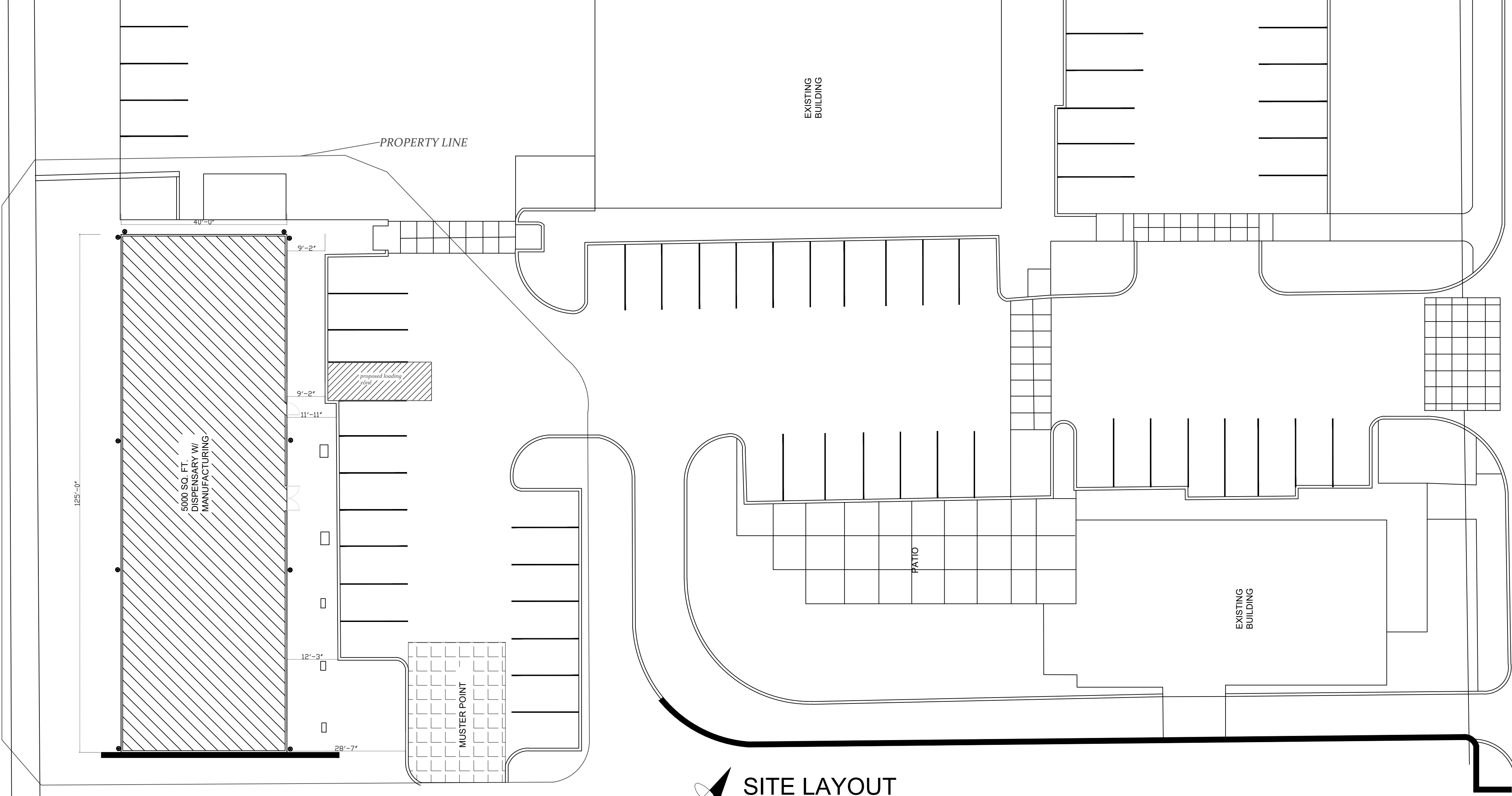
REVISION HISTORY

SECURITY
PLAN

A-03



FLOOR PLAN
1/8" = 1'-0"
NORTH
360 DEGREES SECURITY CAMERA



SITE LAYOUT
1/16" = 1'-0"
NORTH
360 DEGREES SECURITY CAMERA



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PROJECT TITLE
**ELEMENT 7 MARINA
PROPOSED PROPERTY DEVELOPMENT
234 RESERVATION ROAD, MARINA CA 93933**

REVISION HISTORY

PROPOSED FLOOR
PLAN AND SITE PLAN

A-04

APPLICANT:
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PROJECT TITLE

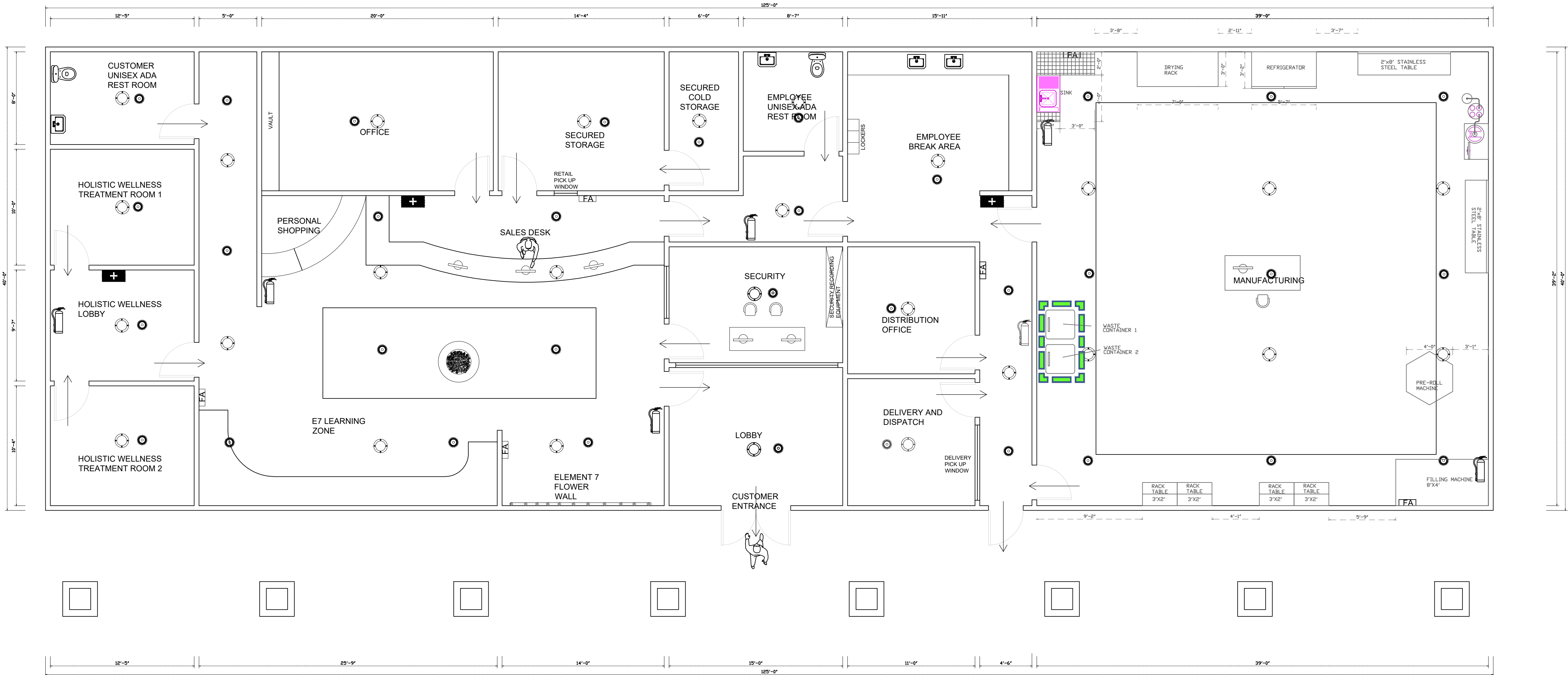
**ELEMENT 7 MARINA
PROPOSED PROPERTY DEVELOPMENT
234 RESERVATION ROAD, MARINA CA 93933**

REVISION HISTORY

**PROPOSED
SAFETY PLAN**

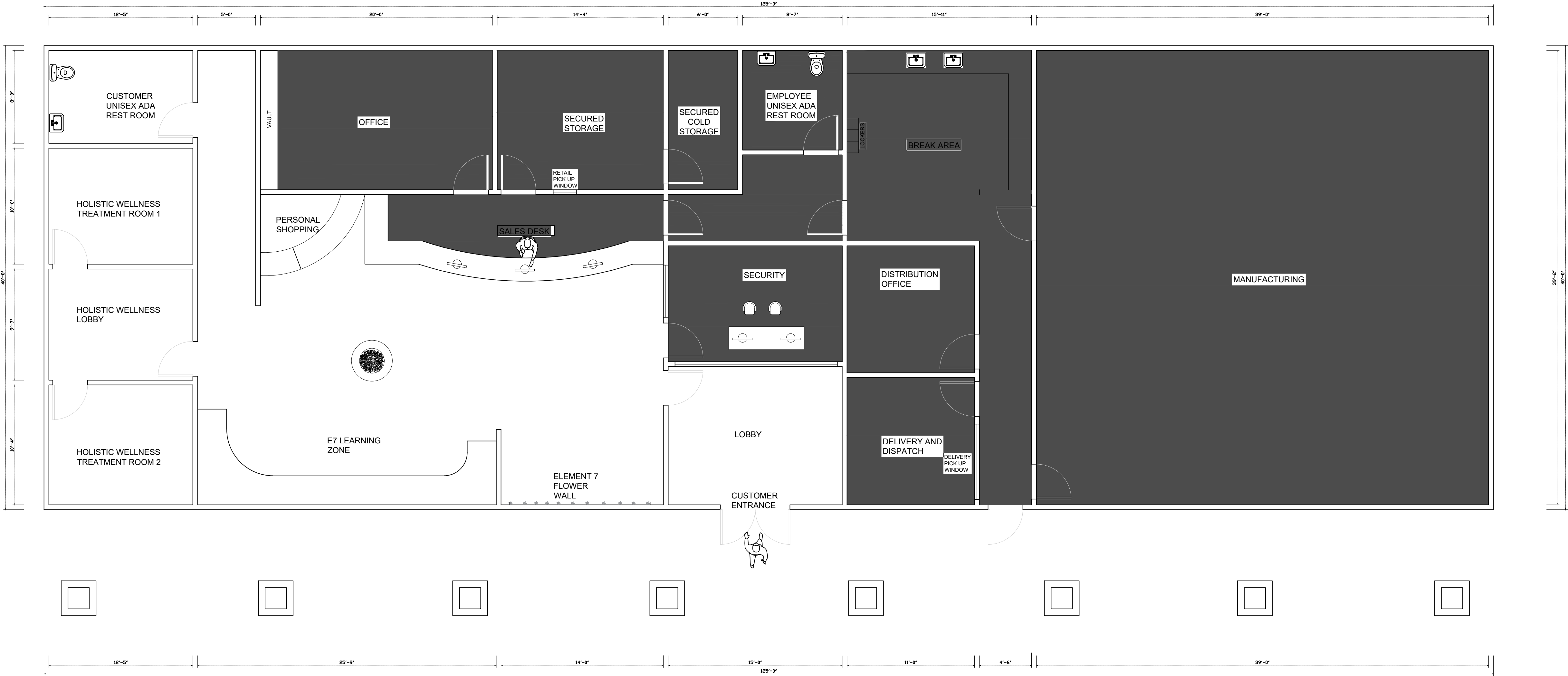
A-05

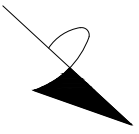
	FIRE EXTINGUISHER
	FIRST AID
	SMOKE DETECTOR
	FIRE SPRINKLER HEAD
	FIRE ALARM



PROPOSED SAFETY PLAN
3/16" = 1'-0"





 **RESTRICTED ACCESS PLAN**
3/16" = 1'-0"



APPLICANT:
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PROJECT TITLE
**ELEMENT 7 MARINA
PROPOSED PROPERTY DEVELOPMENT
234 RESERVATION ROAD, MARINA CA 93933**

REVISION HISTORY

**RESTRICTED
ACCESS PLAN**

A-06

RESOLUTION NO. 2020-64

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING A CANNABIS CONDITIONAL USE PERMIT TO ALLOW A
MEDICAL/ADULT USE CANNABIS DISPENSARY LOCATED AT 3170 DEL MONTE
BOULEVARD (APN 032-055-017) IN THE PC (PLANNED COMMERCIAL)
ZONING DISTRICT.

WHEREAS, Brian Mitchell of SGI Marina LLC submitted an application for a conditional use permit to operate a medical/adult-use cannabis dispensary; and

WHEREAS, the proposed project requires discretionary approval, and, per Marina Municipal Code Section 19.08.010, it is the responsibility of the Planning Commission to consider and weigh the merits of the application and public input in relation to the policies, standards, and intent of the Marina General Plan and Marina Municipal Code in making a recommendation on the proposed cannabis dispensary to the City Council; and,

WHEREAS, on May 14, 2020, the Marina Planning Commission considered oral comments and written information concerning the proposed cannabis dispensary at a regularly scheduled Planning Commission meeting and recommended City Council consideration of a Cannabis Conditional Use Permit for the business; and,

WHEREAS, at the regular meeting of on June 2, 2020, the City Council considered the application and all public comment and found that the application meets the requirements of the Marina Municipal Code for Cannabis Conditional Use Permits as reflected in the findings below; and,

WHEREAS, the project is categorically exempt from the California Environmental Quality Act per Section 15301, Existing Facilities, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures and facilities involving negligible or no expansion of existing or former use.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marina does hereby approve a Cannabis Conditional Use Permit for SGI Marina LLC at 3170 Del Monte Boulevard with the following findings and conditions:

Findings

That the project:

1. Will comply with all of the requirements of the state and city, and any additional conditions of license for the operation of a cannabis dispensary.
2. Will not result in significant unavoidable impacts on the environment as the use will be conducted in an entirely enclosed building and noise and odor mitigation is planned and will be integrated into the use. In addition, no hazardous materials or systems will be utilized.
3. Includes adequate quality control measures to ensure that the dispensary would operate in accordance with industry standards with regard to security, product testing, etc.
4. Includes adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the state and not distributed out of state.

5. Will obtain a valid and fully executed commercial cannabis use permit pursuant to Chapter 5.76 of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations; will additionally enter into an operating agreement with the City ensuring on-going neighborhood compatibility and compliance with City regulations, as they may amended over time.
6. Will renew the cannabis use permit annually and execute a renewed operating agreement annually.
7. Will operate in good standing with all permits and licenses required by state law.

Conditions of Approval

Initial Establishment of Commercial Cannabis Operations

1. Substantial Compliance – The project shall be constructed in substantial compliance with the plans attached hereto as “EXHIBIT A”, submitted to the Planning Office on January 29, 2020, except as conditioned herein.
2. Lighting – Exterior Lighting Plan – All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Prior to issuance of a building permit, the Owner/Applicant, shall submit three (3) copies of an exterior lighting plan (including a photometric analysis) which shall indicate the location, type, and wattage of all light fixtures and include catalog sheet for each fixture. The lighting shall comply with the requirement of the California Energy Code set forth in California Code of Regulation, Title 24, Part 6. The exterior lighting plan shall be subject to approval by the Director of Community Development-Planning.
3. Occupancy Permit – Prior to obtaining an occupancy permit and commencing commercial operations, the applicant shall schedule an inspection with Community Development Department staff to verify compliance with the conditional use permit conditions of approval. Inspections by additional City departments may be required.
4. Development/Operating Agreement – Per MMC Section 5.76.030, prior to commencing commercial operations, the permittee shall enter into a development/operating agreement with the City setting forth the terms and conditions under which the dispensary will operate, including, but not limited to, payment of fees and taxes as mutually agreed, and other such terms and conditions that will protect and promote public health, safety, and welfare.
5. Permit Modifications - The City may modify this permit at any time as needed to clarify or augment requirements of the permittee, so long as modifications do not conflict with the MMC or State laws, as they may be amended from time to time. Modifications resulting in a new permit must be executed by the City and the permittee. If the City has made modifications to the permit and requested permit execution by the permittee, the prior permit may be deemed null and void and the permittee shall cease commercial operations until completing execution of the new permit.

Public Improvements

6. Public Improvements – In accordance with Marina Municipal Code Chapter 15.36, public improvements shall be designed and installed by the applicant or property owner to the satisfaction of the City Engineer and may include, but are not limited to, curb, gutter, sidewalk, park strip, street trees and light poles. The installation of improvements may be deferred by the City Engineer until the City Council approval of the design for Del Monte Boulevard and then completed within a time to be determined in accordance with the design.

Standard Cannabis Dispensary Operating Conditions

7. Right to Operate – Except as modified by required conditions of approval, the permittee shall have the right to operate a medical/adult-use cannabis dispensary, including non-storefront retail (delivery) in accordance with the conditional use permit application submitted on January 29, 2020.

8. Substantial Action Time Limit - If the permittee does not commence commercial cannabis activity in accordance with the terms of this Permit within one year of its issue date, this permit shall be deemed revoked. The City Manager or their designee may grant a 90-day extension to this time limit if the permittee can demonstrate that the delay was due to situations beyond their control, that significant progress towards establishing the use has been made, and there is cause to believe that the permittee will be ready to commence operations in accordance with the terms of this Permit within the 90-day period.

9. Permit Expiration - This permit shall have a duration of one year. The one year period shall commence upon the date of occupancy. The Community Development Department may administratively renew the permit as long as the business is operating in compliance with the MCC and the permit's conditions of approval, has paid all taxes and fees in a timely manner, and has maintained possession of a current State license to operate the dispensary. The City may perform an annual inspection of the facility in conjunction with permit renewal to confirm ongoing compliance with conditions of approval.

10. Indemnification – The Owner/Applicant shall agree as a condition of approval of this project to defend, at its sole expense, indemnify and hold harmless from any liability, the City and reimburse the City for any expenses incurred resulting from, or in connection with, the approval of this project, including any appeal, claim, suit or legal proceeding. The City may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this condition.

11. State License – The permittee must provide a copy of a valid and current State license to operate a cannabis dispensary prior to initiating commercial business operations and must provide an updated copy whenever the license is renewed or amended. If at any time the State license expires or is revoked, the business must cease operations until a valid and current license is obtained.

12. Business License - The permittee shall obtain and maintain a City of Marina business license.

13. Posting of Permits and Licenses - The permittee shall conspicuously display, within the interior of the building near the entrance, a copy of the State License, the conditional use permit, the business license, and any other documentation required as proof of right to operate a cannabis dispensary on the premises.
14. Inspection Access - At any time and without prior notice, the business shall allow entry into the premises by the Marina Police Department, the Marina Fire Department, the Community Development Department, and any other staff, including Monterey County staff, charged with inspecting the business or enforcing the conditions of the conditional use permit. The business shall provide access to all portions of the premises as well as business records, if requested.
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17. Alcoholic Beverages and Tobacco – Alcoholic beverages shall not be sold, dispensed, or consumed on the premises. Sale or consumption of tobacco is prohibited on the premises.
18. Payment of Taxes and Fees – The permittee shall pay any applicable taxes and fees due to the City in a timely manner.
19. Transfer of Permit – This conditional use permit is granted only to the applicant identified in this resolution for the site defined herein. This permit shall not be transferable to any other site or to any other person without the consent of the City.
20. Hours of Operation – The business may be open for customer-serving commercial activities between the hours of 9:00 am and 11:59 pm.

Site Security and Neighborhood Compatibility Conditions

21. Site Maintenance – The permittee shall maintain the premises' parking areas, driveways, accessways and grounds, landscaped areas, and exterior building surfaces in accordance with applicable City standards in the MMC.
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24. Security Guards and Cameras – The permittee shall maintain 24-hour security camera coverage of the premises. The premises shall be staffed by security guards to an extent sufficient to ensure the site safety and deter crime. Security guards shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times. Security personnel may not be armed.

25. Marina Police Department Notification – The permittee shall notify the Marina Police Department within 24-hours after discovering any breach of security.

26. Delivery – Employees delivering cannabis shall carry a copy of the following documents when making deliveries: copy of the dispensary’s permits and licenses authorizing delivery service; the employee’s government-issued identification; a copy of the delivery request; and chain of custody records for good being delivered.

Enforcement

27. Permit Revocation – Per MMC Section 19.08.010, the City may revoke this conditional use permit at any time for failure to comply with any state or local requirements, including but not limited to, conditions of approval and requirements regarding timely payment of taxes and fees.

PASSED AND ADOPTED by the City Council of the City of Marina at an adjourned regular meeting duly held on the 10th day of June 2020, by the following vote:

AYES, COUNCIL MEMBERS: Berkley, Urrutia, Morton, Delgado

NOES, COUNCIL MEMBERS: O’Connell

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

RESOLUTION NO. 2020-65

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING A CANNABIS CONDITIONAL USE PERMIT TO ALLOW A
MEDICAL/ADULT USE CANNABIS DISPENSARY LOCATED AT 3100 DEL MONTE
BOULEVARD (APN 032-192-018) IN THE C-1 (RETAIL BUSINESS) ZONING DISTRICT.

WHEREAS, Aaron Herzberg of Pacific Roots Marina, LLC submitted an application for a conditional use permit to operate a medical/adult-use cannabis dispensary; and,

WHEREAS, the proposed project requires discretionary approval, and, per Marina Municipal Code Section 19.08.010, it is the responsibility of the Planning Commission to consider and weigh the merits of the application and public input in relation to the policies, standards, and intent of the Marina General Plan and Marina Municipal Code in making a recommendation on the proposed cannabis dispensary to the City Council; and,

WHEREAS, on May 14, 2020, the Marina Planning Commission considered oral comments and written information concerning the proposed cannabis dispensary at a regularly scheduled Planning Commission meeting and recommended City Council consideration of a Cannabis Conditional Use Permit for the business; and,

WHEREAS, at the regular meeting of on June 2, 2020, the City Council considered the application and all public comment and found that the application meets the requirements of the Marina Municipal Code for Cannabis Conditional Use Permits as reflected in the findings below; and,

WHEREAS, the project is categorically exempt from the California Environmental Quality Act per Section 15301, Existing Facilities, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures and facilities involving negligible or no expansion of existing or former use.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marina does hereby approve a Cannabis Conditional Use Permit for Pacific Roots Marina, LLC at 3100 Del Monte Boulevard with the following findings and conditions:

Findings

That the project:

1. Will comply with all of the requirements of the state and city, and any additional conditions of license for the operation of a cannabis dispensary.
2. Will not result in significant unavoidable impacts on the environment as the use will be conducted in an entirely enclosed building and noise and odor mitigation is planned and will be integrated into the use. In addition, no hazardous materials or systems will be utilized.
3. Includes adequate quality control measures to ensure that the dispensary would operate in accordance with industry standards with regard to security, product testing, etc.
4. Includes adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the state and not distributed out of state.

5. Will obtain a valid and fully executed commercial cannabis use permit pursuant to Chapter 5.76 of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations; will additionally enter into an operating agreement with the City ensuring on-going neighborhood compatibility and compliance with City regulations, as they may amended over time.
6. Will renew the cannabis use permit annually and execute a renewed operating agreement annually.
7. Will operate in good standing with all permits and licenses required by state law.

Conditions of Approval

Initial Establishment of Commercial Cannabis Operations

1. Substantial Compliance – The project shall be constructed in substantial compliance with the plans attached hereto as “**EXHIBIT A**”, submitted to the Planning Office on January 7, 2020, except as conditioned herein.
2. Lighting – Exterior Lighting Plan – All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Prior to issuance of a building permit, the Owner/Applicant, shall submit three (3) copies of an exterior lighting plan (including a photometric analysis) which shall indicate the location, type, and wattage of all light fixtures and include catalog sheet for each fixture. The lighting shall comply with the requirement of the California Energy Code set forth in California Code of Regulation, Title 24, Part 6. The exterior lighting plan shall be subject to approval by the Director of Community Development-Planning.
3. Occupancy Permit – Prior to obtaining an occupancy permit and commencing commercial operations, the applicant shall schedule an inspection with Community Development Department staff to verify compliance with the conditional use permit conditions of approval. Inspections by additional City departments may be required.
4. Development/Operating Agreement – Per MMC Section 5.76.030, prior to commencing commercial operations, the permittee shall enter into a development/operating agreement with the City setting forth the terms and conditions under which the dispensary will operate, including, but not limited to, payment of fees and taxes as mutually agreed, and other such terms and conditions that will protect and promote public health, safety, and welfare.
5. Permit Modifications – The City may modify this permit at any time as needed to clarify or augment requirements of the permittee, so long as modifications do not conflict with the MMC or State laws, as they may be amended from time to time. Modifications resulting in a new permit must be executed by the City and the permittee. If the City has made modifications to the permit and requested permit execution by the permittee, the prior permit may be deemed null and void and the permittee shall cease commercial operations until completing execution of the new permit.

Public Improvements

6. Public Improvements – In accordance with Marina Municipal Code Chapter 15.36, public improvements shall be designed and installed by the applicant or property owner to the satisfaction of the City Engineer and may include, but are not limited to, curb, gutter, sidewalk, park strip, street trees and light poles. The installation of improvements may be deferred by the City Engineer until the City Council approval of the design for Del Monte Boulevard and then completed within a time to be determined in accordance with the design.

7. Parking – Subject to approval by the Director of Community Development-Planning, final plans shall indicate either site modifications that allow for one parking space per 275 square feet of tenant floor space, or alternate means of compliance, such as an agreement with neighboring property owners.

Standard Cannabis Dispensary Operating Conditions

8. Right to Operate – Except as modified by required conditions of approval, the permittee shall have the right to operate a medical/adult-use cannabis dispensary, including non-storefront retail (delivery) in accordance with the conditional use permit application submitted on January 7, 2020.

9. Substantial Action Time Limit - If the permittee does not commence commercial cannabis activity in accordance with the terms of this Permit within one year of its issue date, this permit shall be deemed revoked. The City Manager or their designee may grant a 90-day extension to this time limit if the permittee can demonstrate that the delay was due to situations beyond their control, that significant progress towards establishing the use has been made, and there is cause to believe that the permittee will be ready to commence operations in accordance with the terms of this Permit within the 90-day period.

10. Permit Expiration - This permit shall have a duration of one year. The one year period shall commence upon the date of occupancy. The Community Development Department may administratively renew the permit as long as the business is operating in compliance with the MCC and the permit's conditions of approval, has paid all taxes and fees in a timely manner, and has maintained possession of a current State license to operate the dispensary. The City may perform an annual inspection of the facility in conjunction with permit renewal to confirm ongoing compliance with conditions of approval.

11. Indemnification – The Owner/Applicant shall agree as a condition of approval of this project to defend, at its sole expense, indemnify and hold harmless from any liability, the City and reimburse the City for any expenses incurred resulting from, or in connection with, the approval of this project, including any appeal, claim, suit or legal proceeding. The City may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this condition.

12. State License – The permittee must provide a copy of a valid and current State license to operate a cannabis dispensary prior to initiating commercial business operations and must provide an updated copy whenever the license is renewed or amended. If at any time the State license expires or is revoked, the business must cease operations until a valid and current license is obtained.
13. Business License - The permittee shall obtain and maintain a City of Marina business license.
14. Posting of Permits and Licenses - The permittee shall conspicuously display, within the interior of the building near the entrance, a copy of the State License, the conditional use permit, the business license, and any other documentation required as proof of right to operate a cannabis dispensary on the premises.
15. Inspection Access - At any time and without prior notice, the business shall allow entry into the premises by the Marina Police Department, the Marina Fire Department, the Community Development Department, and any other staff, including Monterey County staff, charged with inspecting the business or enforcing the conditions of the conditional use permit. The business shall provide access to all portions of the premises as well as business records, if requested.
16. Compliance with State and Local Requirements – The permittee shall comply with all state and local requirements for operation of a cannabis dispensary, including those not listed on the conditional use permit, and as they may be amended over time.
17. Cannabis Consumption Prohibited on Premises – Cannabis shall not be smoked, ingested, or otherwise consumed on the business premises.
18. Alcoholic Beverages and Tobacco – Alcoholic beverages shall not be sold, dispensed, or consumed on the premises. Sale or consumption of tobacco is prohibited on the premises.
19. Payment of Taxes and Fees – The permittee shall pay any applicable taxes and fees due to the City in a timely manner.
20. Transfer of Permit – This conditional use permit is granted only to the applicant identified in this resolution for the site defined herein. This permit shall not be transferable to any other site or to any other person without the consent of the City.
21. Hours of Operation – The business may be open for customer-serving commercial activities between the hours of 9:00 am and 11:59 pm.

Site Security and Neighborhood Compatibility Conditions

22. Site Maintenance – The permittee shall maintain the premises' parking areas, driveways, accessways and grounds, landscaped areas, and exterior building surfaces in accordance with applicable City standards in the MMC.
23. Signage – Signage with graphics depicting cannabis is prohibited. Signage is subject to a sign permit.

24. Odor – Cannabis odors shall not be detectable outside of the facility. Prior to opening for business, the permittee shall demonstrate to City staff that odor prevention equipment is in place.
25. Security Guards and Cameras – The permittee shall maintain 24-hour security camera coverage of the premises. The premises shall be staffed by security guards to an extent sufficient to ensure the site safety and deter crime. Security guards shall be licensed and possess a valid Department of Consumer Affairs “Security Guard Card” at all times. Security personnel may not be armed.
26. Marina Police Department Notification – The permittee shall notify the Marina Police Department within 24-hours after discovering any breach of security.
27. Delivery – Employees delivering cannabis shall carry a copy of the following documents when making deliveries: copy of the dispensary’s permits and licenses authorizing delivery service; the employee’s government-issued identification; a copy of the delivery request; and chain of custody records for good being delivered.

Enforcement

28. Permit Revocation – Per MMC Section 19.08.010, the City may revoke this conditional use permit at any time for failure to comply with any state and local requirements, including but not limited to, conditions of approval and requirements regarding timely payment of taxes and fees.

PASSED AND ADOPTED by the City Council of the City of Marina at an adjourned regular meeting duly held on the 10th day of June 2020, by the following vote:

AYES, COUNCIL MEMBERS: Berkley, Urrutia, Morton, Delgado

NOES, COUNCIL MEMBERS: O’Connell

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

May 27, 2020

Item No: **9d**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 2, 2020

CITY COUNCIL OPEN A PUBLIC HEARING, TAKE PUBLIC TESTIMONY, AND CONSIDER ADOPTING RESOLUTIONS APPROVING PLANNING COMMISSION RECOMMENDATION OF APPLICATIONS FOR CANNABIS CONDITIONAL USE PERMITS TO OPERATE COMBINED ADULT-USE AND MEDICAL COMMERCIAL CANNABIS DISPENSARIES AT 3016, 3100, 3112-3114, AND 3170 DEL MONTE BLVD. AND 234-242 RESERVATION ROAD

REQUEST:

It is requested that City Council consider:

1. Planning Commission Recommendation of Applications for Cannabis Conditional Use Permits to Operate Combined Adult-Use and Medical Commercial Cannabis Dispensaries at 3016, 3100, 3112-3114, and 3170 Del Monte Blvd. and 234-242 Reservation Road.

BACKGROUND:

On November 6, 2018, the citizens of the City of Marina passed an Ordinance allowing Cannabis Business Activity and Establishing Taxes and Fees for Such Businesses within the City of Marina, Amending Title and Chapter Establishing Cannabis Business Activities as a Use Allowed Subject to a Use Permit in Specified Zones and Establishing Uses to Protect Public Health, Safety and Welfare.

The voter initiative established Chapter 19 of the City of Marina Municipal Code (MMC), titled the City of Marina Commercial Cannabis Activities ordinance, and amended MMC Chapter 5 Business Taxes, Licenses and Registrations and Chapter 17 Zoning. Per the voter initiative, these municipal code additions and amendments took effect on April 1, 2019. As approved by the voters, the ordinance provides the regulatory framework for the Commercial Cannabis Activities program.

The ordinance allows for issuance of no more than three permits for the operation of medical cannabis dispensaries in the City at any one time, and no more than three permits for the operation of adult-use cannabis dispensaries in the City at any one time. Therefore, a maximum of six total dispensaries is allowed, or a maximum of three total dispensaries if each is permitted to operate collocated medical/adult-use dispensaries. Each application considered in this report is for a collocated medical/adult-use dispensary; therefore, a maximum of three businesses may receive permits.

Due to the limited number of dispensary permits that the City may award, a competitive review process was necessary. The first step in the process for applicants seeking a Cannabis Conditional use Permit was to apply for a Cannabis Business Permit. The City contracted with HdL Companies, a consulting firm specializing in cannabis regulations, to develop the application review process and then review and score the Cannabis Business Applications. The Cannabis Business Permit application process included:

- Applications were accepted between April 8, 2019 and June 7, 2019. A total of 12 applications were received at this stage in the process.
- HdL provided preliminary review and issued letters of incompleteness.
- Background checks and live scans were conducted
- HdL issued initial scores to the City and applicants. Applications were reviewed and scored MMC 19.08.10 in the categories of Business Plan, Local Enterprise and Community Benefits, Neighborhood Compatibility, and Safety and Security Plans.
- Per the Selection Criteria guidelines in MMC Section 19.08, applicants were then permitted to combine applications in order to optimize their scores.
- Following this “amend and combine” process, HdL submitted final scores to the City. Eight applicants resulted from the Amend and Combine phase of the review process.
- Based on the scoring by HdL and the requirements of the MMC, all eight applicants remaining were determined to be eligible to apply for Cannabis Conditional Use Permits.
- The top five scoring applications chose to enter the Cannabis Conditional Use Permit process. The scores of these applicants are summarized in Table 1 below. Detailed scoring per category is included in Attachment “A” Commercial Cannabis Business Application Scores.

This report summarizes the remaining five dispensary applications for the Planning Commission. Staff recommends that the Planning Commission forward all five applications to the City Council, where a final selection of three approved Cannabis Conditional Use Permits may occur.

The table below summarizes the five applications that are under consideration for Cannabis Conditional Use permits. The applications are discussed in detail in following sections. Draft resolutions with associated exhibits are included following this report for each Cannabis Conditional Use Permit application.

Table 1.

Business Name	HdL Final Scores	Applicant	Proposed Business Address
Element 7 Marina	100%	Robert DiVito	234-242 Reservation Rd.
Higher Level of Care Marina	100%	Salvatore Palma	3016 Del Monte Blvd.
Pacific Roots	100%	Aaron Herzberg	3100 Del Monte Blvd.
JC Marina Ventures LLC / Marina Trading Co.	100%	Blake Brown	3112-3114 Del Monte Blvd.
SGI Marina, LLC	94.74%	Brian Mitchell	3170 Del Monte Blvd.

General Information Regarding Permitting of Commercial Cannabis Dispensaries

The following information is applicable to each of the five subject dispensary applications, which are presented individually in subsequent sections. This information is not repeated in the individual project summaries, except where project-specific details are pertinent.

Permitting and Licensing

This report provides information to assist the City Council in determining which cannabis dispensary applications will be awarded with a Cannabis Conditional Use Permit. In addition to typical conditions of approval that may be required in order to ensure compliance with local regulations, each business would be required to enter into an operating agreement specific to cannabis dispensaries, to ensure safety, neighborhood compatibility, and compliance with industry-specific local and state regulations. Each business would be required to obtain and maintain a state license to operate a cannabis dispensary. State licenses for cannabis dispensaries are issued by the Bureau of Cannabis Control, which enforces strict regulations on the cannabis industry regarding matters such as security and product tracking. Each business would also be required to obtain a City-issued business license.

The information and recommendations in this report pertain only to dispensary applications. Applicants that are seeking additional commercial cannabis permits, such as manufacturing or cultivation permits, will be required to separately obtain those permits. Note that the MMC limits the number of dispensary permits available but does not limit the number of permits for other commercial cannabis business types.

Site Security

Site security requirements for dispensaries are outlined in Section 19.02.070 of the MMC and include the following: lighting of all parking lot areas; security guard service; 24-hour security camera operation; alarm system monitored by a security company; secured points of entry; and secure product storage. Applicants submitted security plans describing how their business would comply with MMC security requirements. Businesses would be required to share surveillance footage with the Marina police department, notify the police department of any security breaches, and comply with any other requirements requested by the police department.

Environmental and Neighborhood Compatibility Concerns: Odor, Noise, Water Use, Energy Use, and Hazardous Materials

Environmental concerns and nuisance concerns are less pertinent to dispensaries in comparison to other commercial cannabis uses, such as cultivation and manufacturing. A cannabis dispensary does not have particular needs related to water use, energy use, or hazardous materials that differ substantially from other retail business types. Odor concerns are minimal at a dispensary because products are typically moved to and from the premises in a packaged form; however, businesses would be required to maintain an odor prevention system, and per Section 19.02.100 of the MMC, no cannabis or cannabis odors shall be detectable by sight or smell outside of the facilities. Section 19.02.080 of the MMC requires that in addition to standard requirements for signage, dispensaries would be prohibited from posting exterior signage that includes graphics describing cannabis. Noise-related nuisances are not anticipated, as the businesses would operate indoors and would be staffed by a security guard during business hours.

Zoning and Sensitive Use Buffering

Section 19.01 of the MMC establishes “permit zones” for commercial cannabis uses; per the definition provided therein, cannabis dispensaries are permissible in the following zones: Airport District, Business Park, Business Park Small Lot Combining District, Transitional Zoning District, Retail Business District (C-1), General Commercial District (C-2), and Planned Commercial District (PC). The general plan does not address siting of commercial cannabis businesses.

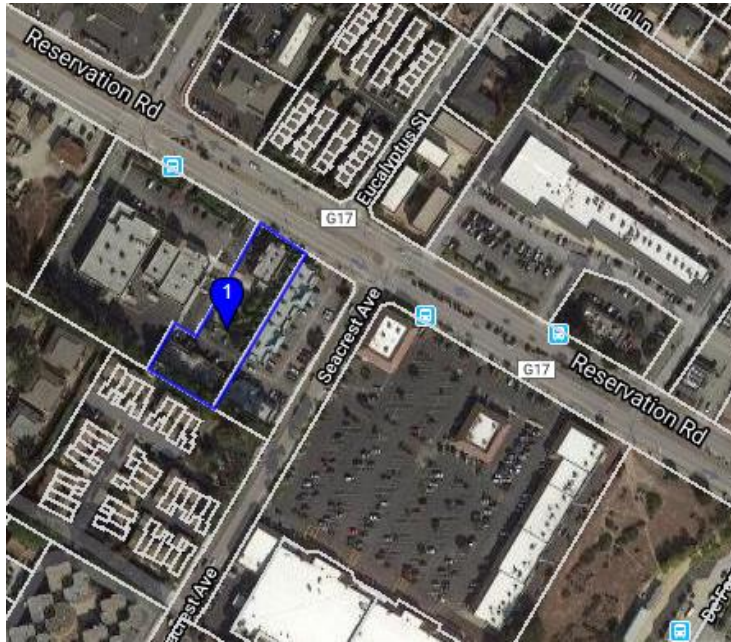
The subject applications would be located in the C-1, C-2, and PC districts (see map below). Therefore, each application is consistent with the underlying general plan and zoning designations. Section 19.02.010 prohibits cannabis dispensaries from being located within 600 feet of a school (K-12) or a youth center at the time the license is issued. The subject applications comply with this requirement.



Applicant 1: Robert DiVito - Element 7 Marina – 234-242 Reservation Road

On November 15, 2019 (resubmitted on January 13, 2020), Mr. Robert DiVito of Element 7 Marina, LLC submitted an application to the Marina Planning Division for a Conditional Use Permit to establish and operate a medical and adult-use cannabis dispensary at 234-242 Reservation Road in Marina (APN 032-181-018).

The subject property has a General Plan Land Use of Retail/Service and is zoned Retail Business District (C-1).



The land uses of the surrounding properties are as follows:

North – multi-family residential
West – retail business
South – special treatment (residential)
East – retail business

Analysis

Element 7 Marina, LLC is proposing to convert a 5,000 square foot building into a cannabis dispensary and manufacturing facility. The manufacturing permit would be applied for and approved separately. The facility would consist of a manufacturing area occupying approximately one third of the building, and the dispensary operation

occupying the remainder, including office space, storage space, a restroom, and “holistic wellness treatment rooms.” The business would be staffed by 10 to 15 employees and the hours of operation proposed are 10:00 am to 10:00 pm.

Marina Municipal Code and General Plan Compliance

The proposed project is consistent with the existing general plan and zoning designations. Cannabis dispensary use is allowed in the C-1 zoning district; cannabis manufacturing use, which would be permitted separately, is also allowed in this zone. The business would operate within an existing building and there would be no major exterior changes. Any site improvements or modifications to the building exterior, including lighting, will require Site and Architectural Design Review.

The project complies with all applicable development standards and guidelines including, but not limited to, lot dimension, building height, and setbacks, as the building was previously approved and permitted. Overall, the project is proposed for an area in which the proposed use would be compatible with the surrounding uses. There are no substantial concerns related to the siting of the project.

While the project meets all development standards and promotes the goals and objectives of the General Plan, staff is recommending conditions to be added to improve the project. These conditions will include requirements applicable to the operation of a commercial cannabis dispensary.

Planning Commission Recommendation

At the regular meeting of May 14, 2020, the Planning Commission (PC) forwarded the application to the City Council with the expectation that the proposed use meets the following findings for approval:

1. Will comply with all of the requirements of the state and city, and any additional conditions of license for the operation of a cannabis dispensary.
2. Will not result in significant unavoidable impacts on the environment as the use will be conducted in an entirely enclosed building and noise and odor mitigation is planned and will be integrated into the use. In addition, no hazardous materials or systems will be utilized.
3. Includes adequate quality control measures to ensure that the dispensary would operate in accordance with industry standards with regard to security, product testing, etc.
4. Includes adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the state and not distributed out of state.
5. Will obtain a valid and fully executed commercial cannabis use permit pursuant to Chapter 5.76 of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations; will additionally enter into an operating agreement with the City ensuring on-going neighborhood compatibility and compliance with City regulations, as they may amended over time.
6. Will renew the cannabis use permit annually and execute a renewed operating agreement annually.
7. Will operate in good standing with all permits and licenses required by state law.

Applicant 2: Higher Level of Care Marina, Inc. – Salvatore Palma – 3016 Del Monte Boulevard

On November 14, 2019 (resubmitted February 6, 2020), Mr. Salvatore Palma of Higher Level of Care, Marina, Inc. submitted an application to the Marina Planning Division for a Conditional Use Permit to establish and operate a medical and adult-use cannabis dispensary at 3016 Del Monte Boulevard in Marina (APN 032-421-011).

The subject property has a General Plan Land Use of Retail/Service and is zoned General Commercial District (C-2).



The land uses of the surrounding properties is as follows:

North – general commercial
West – multi-family residential
South – general commercial
East – general commercial

Analysis

Higher Level of Care Marina, Inc. is proposing to convert a 4,067 square-foot building into a cannabis dispensary. There are three existing buildings on the subject parcel, along with a gas pump canopy. The proposed dispensary would be established

in the northernmost building, which is currently used as a plumbing shop. The plumbing shop would relocate to the easternmost building. The southernmost building, a vehicle service shop, would remain unchanged. The project would remove the existing gas pump canopy, decommission the underground tanks, and add new parking in this portion of the property. The dispensary would employ approximately 20 individuals and the hours of operation would be 9:00 am to 10:00 pm. The facility would consist of a retail area and ancillary areas including storage space, office space, and a restroom. A portion of the facility is designated for future manufacturing and distribution use, which would be permitted separately.

Marina Municipal Code and General Plan Compliance

The proposed project is consistent with the existing general plan and zoning designations. Cannabis dispensary use is allowed in the C-2 zoning district. The business would operate within an existing building. Any site improvements, modifications to the building exterior, including lighting, will require Site and Architectural Design Review.

Due to the existing site conditions, staff recommends the requirement of public improvements in conjunction with approval of the conditional use permit application. Recommended public improvements include: extension of the existing sidewalk from the north of the site to the 24-foot driveway and continuing to the south boundary of the site; a landscape strip at the back of curb; clearly defining the separation of the sidewalk and the driveway; closure of the existing southern driveway; and removal of the existing gas pumps and canopy.

The project meets all development standards and promotes the goals and objectives of the General Plan. The proposed intensification of use at the subject property would not be detrimental to surrounding uses. However, due to existing site conditions, staff is recommending conditions to be added to improve the project, as described above and listed below in the resolution. The project would also be subject to conditions of approval specific to cannabis dispensaries.

Planning Commission Recommendation

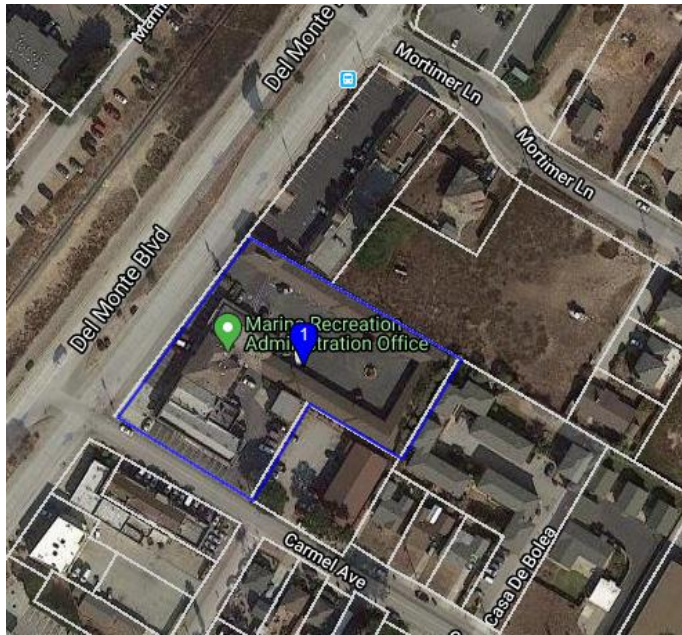
At the regular meeting of May 14, 2020, the Planning Commission (PC) forwarded the application to the City Council with the expectation that the proposed use meets the following findings for approval:

1. Will comply with all of the requirements of the state and city, and any additional conditions of license for the operation of a cannabis dispensary.
2. Will not result in significant unavoidable impacts on the environment as the use will be conducted in an entirely enclosed building and noise and odor mitigation is planned and will be integrated into the use. In addition, no hazardous materials or systems will be utilized.
3. Includes adequate quality control measures to ensure that the dispensary would operate in accordance with industry standards with regard to security, product testing, etc.
4. Includes adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the state and not distributed out of state.
5. Will obtain a valid and fully executed commercial cannabis use permit pursuant to Chapter 5.76 of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations; will additionally enter into an operating agreement with the City ensuring on-going neighborhood compatibility and compliance with City regulations, as they may amended over time.
6. Will renew the cannabis use permit annually and execute a renewed operating agreement annually.
7. Will operate in good standing with all permits and licenses required by state law.

Applicant 3: Pacific Roots - Aaron Herzberg – 3100 Del Monte Boulevard

On November 7, 2019 (resubmitted January 7, 2020), Mr. Aaron Herzberg of Pacific Roots Marina, LLC submitted an application to the Marina Planning Division for a Conditional Use Permit to establish and operate a medical and adult-use cannabis dispensary at 3100 Del Monte Boulevard in Marina (APN 032-192-018).

The subject property has a General Plan Land Use of Retail/Service and is zoned Retail Business District (C-1).



The land uses of the surrounding properties is as follows:

North – retail business
West – multi-family residential
South – retail business
East – single family residential and commercial/multi-family residential

Analysis

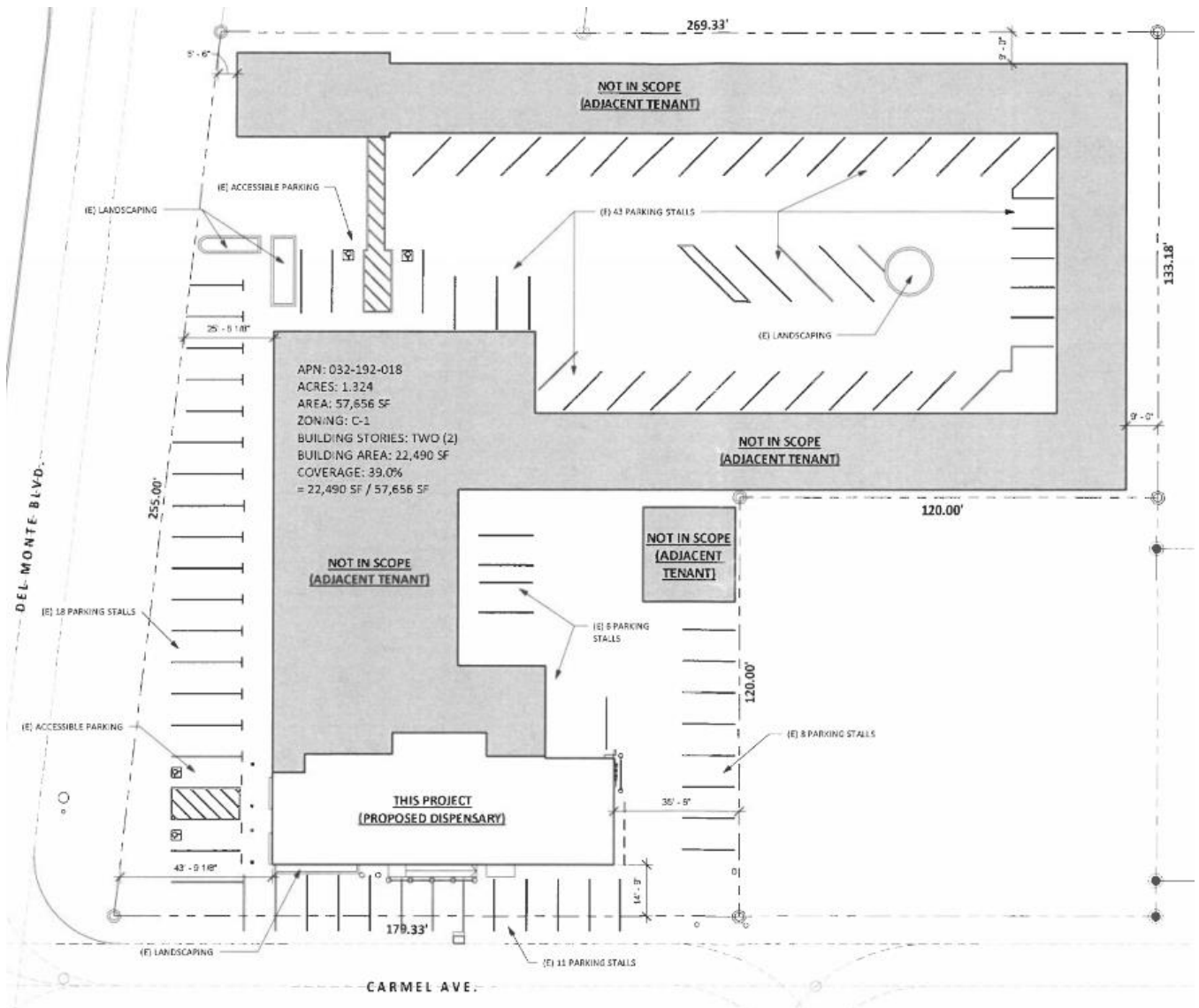
Pacific Roots is proposing to convert a 1,977 square foot tenant space in a 2,922 square foot building into a cannabis dispensary. The facility's retail area would be 714 square feet in size; the remainder of the facility would be utilized for ancillary purposes including storage space, office space, and two

restrooms. The business would employ between 11 and 23 individuals and would operate between 9 am and 10 pm.

Marina Municipal Code and General Plan Compliance

Due to the existing site conditions, staff recommends the requirement of public improvements in conjunction with approval of the conditional use permit application. Recommended public improvements include: curb, gutter, and sidewalks along the Del Monte Boulevard and Carmel Avenue frontages, per MMC Section 15.36; and a six-foot landscape strip at the back of curb along Del Monte Boulevard.

The existing parking spaces along Carmel Avenue are substandard due to insufficient space that does not allow for vehicles to enter and leave the parking area in a forward direction. These parking spaces would be further reduced in size after completion of required improvements; therefore, none of the parking spaces along Carmel Avenue may be included in the site's parking calculation. Required improvements along Del Monte Boulevard would also eliminate several parking spaces. Establishment of a dispensary at the site would result in an overall insufficient amount of parking spaces; therefore, the applicant would be required to submit revised plans indicating modifications that provide adequate parking, or to find alternate means of compliance, such as entering into a shared parking agreement with a neighboring property. The parking requirement for the dispensary would be one parking space per 275 square feet of the 1,977 square foot tenant space, totaling seven parking spaces. See below for a site plan depicting the project site and the existing parking along Carmel Avenue, Del Monte Boulevard, and the interior lots.



The project meets all development standards and promotes the goals and objectives of the General Plan. The proposed intensification of use at the subject property would not be detrimental to surrounding uses. However, due to existing site conditions, staff is recommending conditions to be added to improve the project, as described above and listed below in the resolution.

Planning Commission Recommendation

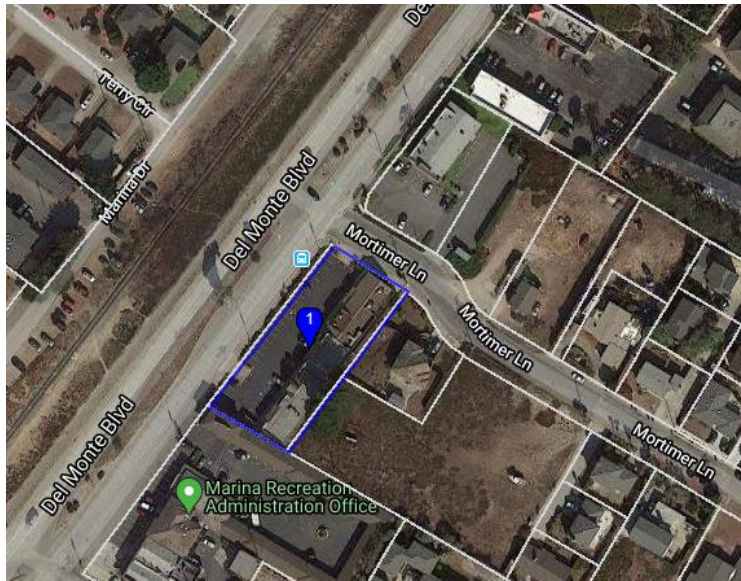
At the regular meeting of May 14, 2020, the Planning Commission (PC) forwarded the application to the City Council with the expectation that the proposed use meets the following findings for approval:

1. Will comply with all of the requirements of the state and city, and any additional conditions of license for the operation of a cannabis dispensary.
2. Will not result in significant unavoidable impacts on the environment as the use will be conducted in an entirely enclosed building and noise and odor mitigation is planned and will be integrated into the use. In addition, no hazardous materials or systems will be utilized.
3. Includes adequate quality control measures to ensure that the dispensary would operate in accordance with industry standards with regard to security, product testing, etc.
4. Includes adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the state and not distributed out of state.
5. Will obtain a valid and fully executed commercial cannabis use permit pursuant to Chapter 5.76 of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations; will additionally enter into an operating agreement with the City ensuring on-going neighborhood compatibility and compliance with City regulations, as they may amended over time.
6. Will renew the cannabis use permit annually and execute a renewed operating agreement annually.
7. Will operate in good standing with all permits and licenses required by state law.

Applicant 4: JC Marina Ventures LLC / Marina Trading Co. – Blake Brown – 3112-3114 Del Monte Boulevard

On November 15, 2019, Mr. Blake Brown of JC Marina Ventures, LLC/Marina Trading Co. submitted an application to the Marina Planning Division for a Conditional Use Permit to establish and operate a medical and adult-use cannabis dispensary at 3112-3114 Del Monte Boulevard in Marina (APN 321-920-019).

The subject property has a General Plan Land Use of Retail/Service and is zoned Retail Business District (C-1).



The land uses of the surrounding properties is as follows:

North – retail business
West – multi-family residential
South – retail business
East – single-family residential

Analysis

JC Marina Venture LLC / Marina Trading Co. is proposing to convert a 2,200 square foot building into a cannabis dispensary. The building is part of the Robert L. Mast Plaza, which includes a realty office, a

salon, and two restaurants. The retail area would be 722 square feet in size, with the remainder of the facility utilized for ancillary purposes such as storage space, office space, and a restroom. The business would employ an estimated minimum eight individuals and the proposed hours of operation are 9 am to 11:59 pm.

Marina Municipal Code and General Plan Compliance

The proposed project is consistent with the existing general plan and zoning designations. Cannabis dispensary use is allowed in the C-1 zoning district. The business would operate within an existing building and there would be no major exterior changes. Any site improvements, modifications to the building exterior, including lighting, will require Site and Architectural Design Review.

The project complies with all applicable development standards and guidelines including, but not limited to, lot dimension, building height, and setbacks, as the building was previously approved and permitted. Overall, the project is proposed for an area in which the proposed use would be compatible with the surrounding uses. There are no substantial concerns related to the siting of the project.

While the project meets all development standards and promotes the goals and objectives of the General Plan, staff is recommending conditions to be added to improve the project. These conditions will include requirements applicable to the operation of a commercial cannabis dispensary.

Planning Commission Recommendation

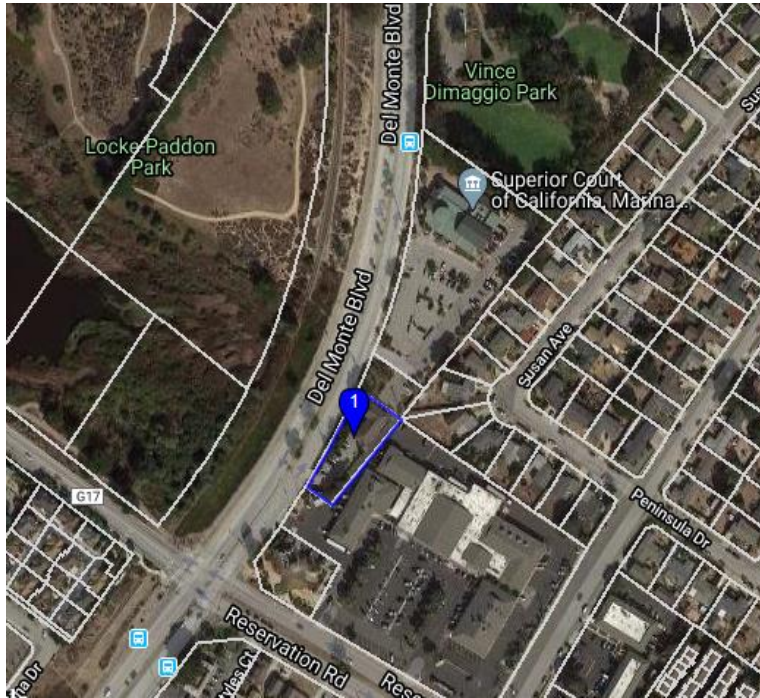
At the regular meeting of May 14, 2020, the Planning Commission (PC) forwarded the application to the City Council with the expectation that the proposed use meets the following findings for approval:

1. Will comply with all of the requirements of the state and city, and any additional conditions of license for the operation of a cannabis dispensary.
2. Will not result in significant unavoidable impacts on the environment as the use will be conducted in an entirely enclosed building and noise and odor mitigation is planned and will be integrated into the use. In addition, no hazardous materials or systems will be utilized.
3. Includes adequate quality control measures to ensure that the dispensary would operate in accordance with industry standards with regard to security, product testing, etc.
4. Includes adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the state and not distributed out of state.
5. Will obtain a valid and fully executed commercial cannabis use permit pursuant to Chapter 5.76 of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations; will additionally enter into an operating agreement with the City ensuring on-going neighborhood compatibility and compliance with City regulations, as they may amended over time.
6. Will renew the cannabis use permit annually and execute a renewed operating agreement annually.
7. Will operate in good standing with all permits and licenses required by state law.

Applicant 5: SGI Marina, LLC - Brian Mitchell – 3170 Del Monte Boulevard

On November 12, 2019 (resubmitted on January 29, 2020), Mr. Brian Mitchell of SGI, Marina, LLC (dBa StIIIzy) submitted an application to the Marina Planning Division for a Conditional Use Permit to establish and operate a medical and adult-use cannabis dispensary at 3016 Del Monte Boulevard in Marina (APN 032-055-017).

The subject property has a General Plan Land Use of Retail/Service and is zoned Planned Commercial District (PC).



The land uses of the surrounding properties is as follows:

North – retail-business
West – open space
South – retail-business
East – planned commercial

Analysis

SGI Marina, LLC is proposing to convert a 2,744 square foot building into a cannabis dispensary. The retail sales area would occupy 1,425 square feet and the remainder of the facility would be utilized for ancillary purposes such as storage space, office space, and a restroom. The business would employ an

estimated 12 individuals and the hours of operation would be 9 am to 10 pm.

Marina Municipal Code and General Plan Compliance

The proposed project is consistent with the existing general plan and zoning designations. Cannabis dispensary use is allowed in the PC zoning district. The business would operate within an existing building and there would be no major exterior changes. Any site improvements, modifications to the building exterior, including lighting, will require Site and Architectural Design Review.

Due to the existing site conditions, staff recommends the requirement of public improvements in conjunction with approval of the conditional use permit application. Recommended public improvements include: development of a sidewalk in place of the existing dirt pathway west of the site; and development of a landscape strip west of the new sidewalk.

The project meets all development standards and promotes the goals and objectives of the General Plan. The proposed intensification of use at the subject property would not be detrimental to surrounding uses. However, due to existing site conditions, staff is recommending conditions to be added to improve the project, as described above and listed below in the resolution. The project would also be subject to conditions of approval specific to cannabis dispensaries.

Planning Commission Recommendation

At the regular meeting of May 14, 2020, the Planning Commission (PC) forwarded the application to the City Council with the expectation that the proposed use meets the following findings for approval:

1. Will comply with all of the requirements of the state and city, and any additional conditions of license for the operation of a cannabis dispensary.
2. Will not result in significant unavoidable impacts on the environment as the use will be conducted in an entirely enclosed building and noise and odor mitigation is planned and will be integrated into the use. In addition, no hazardous materials or systems will be utilized.
3. Includes adequate quality control measures to ensure that the dispensary would operate in accordance with industry standards with regard to security, product testing, etc.
4. Includes adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the state and not distributed out of state.
5. Will obtain a valid and fully executed commercial cannabis use permit pursuant to Chapter 5.76 of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations; will additionally enter into an operating agreement with the City ensuring on-going neighborhood compatibility and compliance with City regulations, as they may amended over time.
6. Will renew the cannabis use permit annually and execute a renewed operating agreement annually.
7. Will operate in good standing with all permits and licenses required by state law.

ANALYSIS:

In considering the merits, qualifications, and benefits of each of the applications, the City Council can consider the Final Scores provided by HdL and contained in Attachment “A”; the information provided in the application packages detailing each of their operations and community benefit aspects; the suitability of each site proposed; the discussion and recommendations of the Planning Commission as provided in the May 14, 2020 Planning Commission Minutes included as **ATTACHMENT “B”**; and other relevant information the Council determines relevant to determining if an application could be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.

As provided in greater detail in **ATTACHMENT “A”**, HdL has provided a detailed review into the categories of Business Plan, Local Enterprise and Community Benefits, Neighborhood Compatibility, and Safety and Security Plans. In conformance with MMC 19.08.10, applications were evaluated on the following criteria:

- a. **Business Plan.** A business plan that demonstrates prior successful business operations (which need not be cannabis business related) at a similar scale of annual revenue for at least two years and/or capitalization sufficient to insure at least one year of operation will receive five points. A business plan without such demonstration will receive zero points.
- b. **Local Enterprise and Community Benefits.** Community benefits may include commitment to employ persons who are city of Marina residents. Other community benefits could include a commitment to working with Marina-located businesses (including capital), a commitment to sponsoring nonprofits and/or other similar specific commitments within the Marina community. A maximum of eight points will be awarded, with one point for every city of Marina resident that a business commits to employ, and one point for every specified annual substantial commitment to the applicant’s choice of nonprofit or business within the community.
- c. **Neighborhood Compatibility.** Applicants which demonstrate neighborhood support with a majority of property owners within two hundred fifty feet will receive five points. Applicants who do not demonstrate neighborhood support with a majority of property owners within two hundred fifty feet will receive zero points.
- d. **Safety and Security Plan.** The Marina police department will review the safety and security plan and classify the plan as inadequate, adequate or exemplary. Plans classified as “inadequate” will not be permitted to proceed. Plans classified as “adequate” will receive ten points. Plans classified as “exemplary” will receive twenty points.

Each application package has been posted on the City's Cannabis Business web page. Each package has been redacted to removed sensitive information. These application packages can be found at <https://cityofmarina.org/889/Commercial-Cannabis-Businesses> and at links in Table 2.

Table 2.

Business Name	Application Link
Element 7 Marina	https://www.cityofmarina.org/DocumentCenter/View/10768/Element-7-Marina-LLC-Cannabis-Application-234-Reservation-Road-2_Redacted
Higher Level of Care Marina	https://www.cityofmarina.org/DocumentCenter/View/10775/HLC-Marina_BP_Commercial-Cannabis-Business_Retail-application_Redacted
Pacific Roots	https://www.cityofmarina.org/DocumentCenter/View/10784/MERGED-PACIFIC-ROOTS-FINAL-APPLICATION-SUBMISSION_Redacted
JC Marina Ventures LLC / Marina Trading Co.	https://www.cityofmarina.org/DocumentCenter/View/10783/JC-Marina-Ventures--Marina-Trading-Company-Amend-and-Combine-Packet_v2_Redacted
SGI Marina, LLC	https://www.cityofmarina.org/DocumentCenter/View/10785/SGI-Marina--New-Combined-App-v2_Redacted

Provided for the Council's consideration in the is report is an analysis of each of the applicant sites and any improvements necessary for them to be in conformance with the development standards and General Plan goals and policies. Each site is unique with certain sites requiring on and off-site physical improvements while others only require tenant improvements.

At the May 14, 2020 Planning Commission Public Hearing the Commission took public comment and deliberated prior to recommending approval of the applications. The deliberations and public comments have been recorded in **ATTACHMENT "B"**.

The final consideration that the City Council can consider in reviewing the applications include facts that assist in determining if an application could be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city. The findings contained in the resolutions of approval in the staff report package include those listed in Title 19 for cannabis use permits. However, MMC 19.06.010 also provides for findings to be made that protect the health, welfare, and safety of the community. This is a standard consideration of any use permit issued by the City. Should the City Council wish to include a finding consistent with this language, staff will request that it be done as part of a motion.

FISCAL IMPACT:

None.

CEQA DETERMINATION

The proposed projects are exempt from the California Environmental Quality Act (CEQA) under Class 1, Section 15301 (Existing Facilities) of the State CEQA Guidelines. This section states that existing facilities shall be exempt from the provisions of CEQA, when it involves the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Staff has determined that the exemption applies in this case because the conditional use permits under consideration would merely permit operation of cannabis dispensaries in existing structures or facilities and would involve negligible or no expansion of use.

CONCLUSION:

This request is submitted to City Council for consideration and possible action.

Respectfully submitted,

Christy Hopper
Planning Service Manager
City of Marina

REVIEWED/CONCUR:

J. Fred Aegerter, AICP
Community Development Director
City of Marina

Layne P. Long
City Manager
City of Marina

CITY OF MARINA

COMMERCIAL CANNABIS BUSINESS APPLICATION SCORES

Amend and Combine
Retail Dispensaries

Company Name	Reg./ID Number	Business Name	Combined Businesses	Location	Business Type	Business Plan	Local Enterprise & Community Benefits	Neighborhood Compatibility	Safety & Security Plan	Points Awarded	Points Possible (38pts max)	Score
1. Element 7 Marina, LLC	06CA 2019-11	Element 7 Marina		234 Reservation Road	Retailer - A & M, Manufacturing - A & M, Distribution - A & M	5	8	5	20	38	38	100.00%
1. Higher Level of Care, LLC	06CA 2019-02	Higher Level of Care - Marina		3026 Del Monte Blvd	Retailer - A & M	5	8	5	20	38	38	100.00%
1. J.C. Marina Ventures, LLC	06CA 2019-23	Marina Trading Co.	J.C. Marina Ventures, Marina Trading Co	3112 Del Monte	Retailer - A & M	5	8	5	20	38	38	100.00%
1. Pacific Roots Marina, LLC	06CA 2019-15	Pacific Roots Marina	Pacific Roots Marina/NCC Operations	3100 Del Monte Blvd	Retailer - A & M	5	8	5	20	38	38	100.00%
2. 501 Marina LLC	06CA 2019-34	501Key	Shayne Group/Elemental Beachside	3170 Del Monte Blvd	Retailer - A & M	5	6	5	20	36	38	94.74%
3. A160C, LLC	06CA 2019-32	Green Cars Marina		3343 Paul Davis Drive	Retailer - A & M	5	3	0	10	18	38	47.37%
3. Marina Trading Company	06CA 2019-04	Marina Trading Co. (2)		245 Reservation Road Suite E	Retailer - A & M	3	8	3	0	18	38	47.37%
3. Marina GRE 007, LLC	06CA 2019-01	Herbs & Legends		3343 Paul Davis Drive	Retailer - A & M	0	8	0	10	18	38	47.37%
Shayne Marketing LLC	06CA 2019-09	Gold Pine Cannabis		234 Reservation Road Suite B	Retailer - A, Manufacturing - A, Distribution - A	-	-	-	-	-	-	-
Elemental Beachside Inc	06CA 2019-28	Elemental Wellness Center		2343 Paul Davis Drive	Retailer - A & M	-	-	-	-	-	-	-
J.C. Marina Ventures, LLC	06CA 2019-09	J.C. Marina Ventures		3112 Del Monte	Retailer - A & M, Distribution - A & M	-	-	-	-	-	-	-
Marina Trading Company	06CA 2019-04	Marina Trading Co.		3170 Del Monte	Retailer - A & M	-	-	-	-	-	-	-
NCC Operations	06CA 2019-06	NCC Operations		3343 Paul Davis Drive	Retailer - A & M	-	-	-	-	-	-	-
Pacific Roots Marina, LLC	06CA 2019-02	Pacific Roots Marina		3100 Del Monte Blvd	Retailer - A & M	-	-	-	-	-	-	-
Shayne Group, Inc.	06CA 2019-08	401key		3170 Del Monte Blvd	Retailer - A & M	-	-	-	-	-	-	-

CITY OF MARINA

COMMERCIAL CANNABIS BUSINESS APPLICATION SCORES

Amend and Combine
Non-Retail (Non-Dispensaries)

Company Name	Reg./ID Number	Business Name	Combined Businesses	Location	Business Type	Business Plan	Local Enterprise & Community Benefits	Neighborhood Compatibility	Safety & Security Plan	Points Awarded	Points Possible (38pts max)	Score
1. Element 7 Marina, LLC	06CA 2019-01	Element 7 Marina		3343 Paul Davis Drive	Cultivation	5	8	5	20	38	38	100.00%
2. J.C. Marina Ventures, LLC	06CA 2019-02	J.C. Marina Ventures		3343 Paul Davis Drive	Distribution - A & M	5	6	0	20	31	38	81.58%
3. Design Marketing, LLC	06CA 2019-03	Gold Pine Cannabis		234 Reservation Road Suite G	Manufacturing & Distribution - A	5	7	5	0	27	38	44.74%

City of Marina



City of Marina
211 HILLCREST AVENUE
MARINA, CA 93933
831- 884-1278; FAX 831- 384-9148
www.cityofmarina.org

Thursday, May 14, 2020

6:30 P.M.

**DRAFT MINUTES
REGULAR MEETING OF
PLANNING COMMISSION**

Marina City Council Chambers
211 Hillcrest Avenue
Marina, CA

1. CALL TO ORDER

Meeting was called to order at 6:30 PM. Due to technical difficulties, the meeting was placed on hold and resumed at 6:38 PM

2. ROLL CALL & ESTABLISHMENT OF QUORUM

Present: Chair David Burnett, Vice Chair Katherine Biala, Thomas Mann, Brian McCarthy, David Bielsker, Victor Jacobsen, Nancy Amadeo

3. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE

4. SPECIAL ANNOUNCEMENTS AND COMMUNICATIONS FROM THE FLOOR

Chair David Burnett opened the floor for special announcements and communications from the floor.

Mike Owen spoke to announce his attendance of the meeting, and that he would have comments for one of the items which was to be discussed later in the meeting.

Commissioner Nancy Amadeo provided information on COVID19 testing sites in the area which are open to the public and free of charge.

Chair Burnett thanked City Staff for their continued work during the COVID19 pandemic.

Seeing no others who wished to provide comment, the floor was closed.

5. CONSENT AGENDA

a. Minutes – March 26, 2020 Meeting

Commissioner Amadeo motioned to approve the minutes as presented and was seconded by Commissioner Brian McCarthy. The motion was then put to a vote:

Ayes (6): Burnett, Biala, Mann, McCarthy, Jacobsen, Amadeo

Noes: None

Absent: None

Abstain (1): Bielsker

6. PUBLIC HEARINGS

a. **Commercial Cannabis Dispensary Applications**

Consider Recommendation to City Council Applications for Conditional Use Permits to Operate Commercial Cannabis Dispensaries at 3016, 3100, 3112, and 3170 Del Monte Blvd. and a Cannabis Dispensary and Cannabis Manufacturing Facility at 234 Reservation Road (Exempt from CEQA per Section 15301)

Planning Manager Christy Hopper provided a brief breakdown of the application process and the criteria which the Commissioners would use to review the applications. She then gave a PowerPoint presentation with details regarding each of the five (5) applicants' proposed locations. Following the presentation of each location, applicants then addressed the Commission.

i. **Element7 – 236 Reservation Rd**

Following Ms. Hopper's presentation on Element7's application, she then addressed questions from the Commission.

Commissioner Amadeo asked whether the Taco Bell Restaurant, which is located directly across from the proposed dispensary location, was also included on the same lot. Ms. Hopper explained that a minor subdivision of the lot had been completed by the property owner, so the proposed location and the Taco Bell restaurant were in fact two separate parcels.

Commissioner Brian McCarthy asked whether it was inappropriate for the Commission to discuss the proposed manufacturing space at the location at this time. He also inquired if it was accurate to say any future manufacturing permits would never be presented to Planning Commission since they fall under administrative review. Ms. Hopper confirmed that it was not appropriate to discuss manufacturing because there were currently no manufacturing permit applications being presented to the Commission at that moment. She then proceeded to state that while it isn't accurate to say that a manufacturing permit would never be presented to Planning Commission, the only applications for dispensaries require a Public Hearing.

Commissioner McCarthy then asked about the store hours, which were listed as 10:00 AM – 10:00 PM, which he thought were more restrictive than what was outlined in the ordinance. Ms. Hopper explained that the applicants had suggested the hours, but had full ability to modify their hours according to what is permissible in the ordinance.

Vice Chair Biala inquired about whether back up/alternate use plans were required for the proposed manufacturing space should the applicants choose not to pursue manufacturing in the future, and whether this would have any impact on the Commission's decisions. Ms. Hopper explained that the permits do fall under administrative review because the ordinance did not restrict the number of manufacturing operations in the City and did not require a Public Hearing. Regarding the alternate use plans for manufacturing space, the applicants were not required to provide one, but should they choose to modify the proposed use for the space, it could be done through a Plan Check and Review.

Vice Chair Biala then asked if additional security would be required for the back side of the building. Police Chief Tina Nieto responded that no additional security was required.

Following the questions about the Staff Report, Chair Burnett then invited the applicant to address the Commission. Mr. Josh Black (Head of Operations at Element7) presented additional information about Element7 along with a PowerPoint presentation. He

provided a bit of background on the applicants, Mr. Robert DiVito and Mr. Tony Raffoul, who has been a Marina resident for over 10 years and is currently a local business owner. He also spoke about Element7's commitment to customer education as well as their endeavors to create positive impacts on the community through Element7 Cares. Mr. Black also talked about the company's desire to create careers for locals, and how the company encourages promotion from within and strives to help its employees grow.

He also addressed the proposed manufacturing. Per Mr. Black, the company was awarded a manufacturing permit in San Benito county, and intended that the manufacturing be performed there, while distribution and sales be performed at the proposed site in Marina.

Mr. Black then addressed questions from the Commission.

Vice Chair Biala inquired about the company's customer education program and whether it also included information on the effects of cannabis on children. Mr. Black then explained that in-store education is geared towards people 18 years and older, but they do currently work with California Youth Services in Southern California to provide drug & abuse education programs, and are looking to institute a similar program here in conjunction with the Police and other youth organizations. Vice Chair Biala expressed her relief and thanked the applicant for their response.

ii. Higher Level of Care Marina – 3016 Del Monte Blvd

Following Ms. Hopper's presentation on the location, she addressed questions from the dais.

Vice Commissioner Biala asked about the access driveways being directly located off the Del Monte Exit Ramp and whether any traffic or backup would be caused by cars trying turn into the parking lot. She also asked about any potential backup for cars coming from a southbound direction turning around onto Del Monte Blvd. to access the parking lot. Ms. Hopper explained that this application was heavily reviewed by both Planning and Engineering staff. She then further explained how the proposed improvements would help maintain the safe and steady flow of traffic, as well as increasing safety and security in case of an emergency, such as a robbery.

Vice Chair Biala then asked about the Downtown Vitalization Specific Plan (DVSP) and how it might impact any of the applications being reviewed. Ms. Hopper explained that City Staff did take into consideration the DVSP while reviewing the applications, and in turn used that to guide the recommended improvements for each of the sites. Vice Chair Biala then asked if the City would have the ability to ask for further improvements once the DVSP has been adopted. Ms. Hopper states that the City has some work to do in order to guide the applicant should their application be selected for their proposed sites. The City would need to provide a cross section for Del Monte Boulevard and adopt the DVSP.

Following questions for Staff, the applicant, Mr. Salvatore Palma presented information on his company. He provided a PowerPoint presentation outlining the layout and design renderings of the store, as well as access and security measures. He also discussed the community benefits of the store, which include:

- Local Enterprise – Mr. Salvatore lives locally and currently owns and operates a Higher Level store in Seaside. He also does preferential hiring of individuals from the city in which the store is located.

- Philanthropy – total of \$25,000 annually in donations to local organizations including Monterey Bay Aquarium, Marina PAL, Marina Youth Arts, Marina Foundation and Veterans Transition Center
- Green Practices – site specific proposals from Applied Solar energy
- Employee benefits – competitive wages, medical/dental insurance and vacation pay
- Customer Service

Mr. Palma addressed financial projections and key figures for the location, projecting that the store would produce \$3,110,856.00 in tax revenue over the course of five (5) years. Following the financial review, the applicant then proceeded to review the traffic flow, as well as site and parking lot plan previously outlined by Ms. Hopper in her presentation.

Next, Chair Burnett opened for questions from the Commission.

Commissioner Amadeo inquired about the parking breakdown & how much of it would be utilized by employees and if the remaining spots would be adequate to accommodate customers. The slide presented by Mr. Palma showed a total of 21 spaces available for the shop, which would have a total of 25 employees. Mr. Palma explained that he has been in contact with other property/business owners in the surrounding area and is looking to lease any excess parking spaces they may have in order for his employees to have parking available within walking distance.

Vice Chair Biala then touched on the outlined Philanthropy and whether any consideration had been given to supporting youth and teen education about cannabis use. Mr. Palma confirmed that he would be looking into participating in such programs. He is the President of the Greenfield Community Outreach Commission, which performs not only youth outreach, but community outreach and education as well.

Commissioner McCarthy inquired if Mr. Palma was a franchisee of an international brand. Mr. Palma explained that the store is not a part of a brand and that it is owned by him and is only located in Seaside, with some operations in Greenfield.

iii. Pacific Roots – 3100 Del Monte Blvd

Ms. Hopper provided a PowerPoint presentation with information regarding the site and land use, proposed improvements to parking and staff recommendations. Following the presentation, she answered Commissioner questions.

Vice Chair Biala inquired whether there are requirements for the applicant to make upgrades/improvements the façade or building since it is in a building which is attached to other establishments. Ms. Hopper explained that while there are no requirements, the applicant has provided preliminary renderings of proposed upgrades. Vice Chair Biala then asks if this would pose a challenge in that the building would then look different from the attached establishments and create a disjointed look. Ms. Hopper then stated that it would be depended on what the applicant ultimately decided to present.

Commissioner Amadeo asked about the parking and how the other businesses might be affected to modifications to the parking lot. Ms. Hopper then explained that the parking for the site is not divided amongst the businesses, but rather shared since they are all located on the same site. She also addressed potential improvements to the parking situation on the Carmel Ave. side of the building. Commissioner Amadeo then asked if the other businesses on the site were aware of the parking changes being proposed and

how it may affect them. Ms. Hopper was unable to answer as she was not sure if the property owner had communicated it.

Commissioner McCarthy then inquired about whether the lease would include the second story and basement. He also asked if the fire exit would remain or if it would be closed off. Ms. Hopper deferred to the applicant, who would be making their presentation following the Commissioners' questions.

Mr. Aaron Johnson, the applicant for Pacific Roots, then spoke on behalf of himself and his partners, who are all from the area. He presented a PowerPoint presentation outlining the company's history, its values, and commitment to the community through outreach, education and engagement. Mr. Johnson also discussed the company's philanthropic contributions to local organizations, and their commitment to providing neighborhood support and to contribute to revitalization throughout the community. Security measures were also briefly discussed.

Next, he addressed proposed upgrades to the exterior of the building, stating that the company's intent is to make changes to the façade and bring more of a modern coastal design. He also addressed other possible improvements to the building including increased lighting, the addition of a walkway in front of the building, as well as replacement and restriping of parking spaces and suggestions for improvements to Carmel Ave. Mr. Johnson also mentioned that the applicants' willingness to working with the City Staff's recommendations for any additional improvements that may be required.

Mr. Johnson then moved on to discuss the company's four (4) month opening plan should the facility be approved by the Council, security plan, day to day operations and floor plan. He then addressed Commissioner McCarthy's question regarding the second floor/basement space in the building. While the company would be able to use the second floor for ancillary storage, they have no plans to utilize the basement.

Following Mr. Jonson's presentation, Chair Burnett opened to questions from the Commission. Commissioner McCarthy inquired to Staff whether a final inspection by the Fire Department would be performed, which Ms. Hopper confirmed.

Vice Chair Biala then asked about signage and pictorial representation as utilized for Cannabis, and whether the green cross or stylized leaf are permissible. Ms. Hopper responded by stating that City Staff would work with the applicants as well as the City Attorney's office to make the final determinations.

iv. JC Marina Ventures LLC/Marina Trading Co. – 3112 Del Monte Blvd

Ms. Hopper presented a PowerPoint report with information regarding the proposed site and land use. Following the presentation, Chair Burnett opened the floor for questions from Commissioners.

Commissioner Amadeo inquired whether the proposed space was currently occupied by any businesses and if so, how many businesses would be impacted by the placement of the proposed dispensary. Ms. Hopper responded that the spaces are currently occupied, and two businesses would be affected.

Vice Char Biala then asked Ms. Hopper to speak to the property owner's ability to repurpose space or change tenants over objections from current lessees. Ms. Hopper explained that Marina is a free enterprise system and has no ability to regulate lease

rates or set regulations on property owners' ability to lease their space. She further stated that Staff's job is to ensure that any proposed uses are suitable for the space and are permissible within the zoning area. Attorney Bob Rathie then supported Ms. Hopper's statements and confirmed that the City has no ability to regulate who property owners lease to and at what rates.

Commissioner Amadeo asked if it would be possible for the Commission to recommend to City Council to look at applications that would "pose the least harm to local businesses" as they make their decisions. Attorney Rathie then responded that he did not believe the Commission could make such a recommendation.

Following questions, the applicant group then addressed the Commission. Mr. Nathan Wang, on behalf of all applicants, then made a presentation about Beyond/Hello (JC Marina Ventures/Marina Trading Company). He explained that they are part of a larger organization which is publicly traded and has locations across multiple states. Mr. Wang then went on to explain the company's "Community First" approach, as well as their mission to provide a service-focused environment and to provide premium quality products at a competitive price. He also outlined the company's "C4 Approach" – Community, Compliance, Compassion and Competency. He then introduced Mr. Wesley Clark, a founding member of Marina Trading Company, who provided more background on Marina Trading Company and its efforts to integrate itself with the Marina community. Ms. Audra Walton then spoke more on the C4 Approach.

Mr. Tyson Hunter and Mr. Blake Brower then spoke about the location and gave a project summary & floor plan details. Mr. Brower also addressed the build out timeline.

Mr. Shawn Wurtsmith then discussed the proposed security plan for the site. Next, Mr. Brower proceeded to talk about quality control and compliance standards. Finally, Mr. Clark spoke about the company's commitment to community involvement and highlighted some of the contributions the company has made to local organizations. He also mentioned the two businesses which currently occupy the proposed space. The record store had already planned to transition to an online only business, and the restaurant space did not renew their lease, which allowed for the applicants to lease both spaces.

Upon completion of the presentation, Chair Burnett opened the floor for Commissioner questions.

Commissioner Amadeo thanked Mr. Clark for addressing the concerns regarding the existing businesses.

v. SGI Marina, LLC – 3170 Del Monte Blvd

Ms. Hopper then presented a PowerPoint with information regarding SGI Marina, LLC. Following the presentation, Chair Burnett opened the floor for Commissioner questions.

Commissioner Amadeo inquired about circulation and access to the location, and whether any plans had been proposed to make access in both directions easier. Ms. Hopper stated that she was unaware of any plans currently, but that it was a good question for the City Engineer. Commissioner Amadeo then asked about parking and what the requirements would be in order to accommodate both customers and employees. Ms. Hopper explained that there would be no change to the current parking requirements, the only exception being the requirement to be ADA complaint. Commissioner Amadeo then inquired if the requirement to provide ADA parking would

in turn cause the decrease in available spaces. Ms. Hopper stated that it is possible for modifications be made in future and upon review of the Building officials.

Commissioner McCarthy then asked staff to provide more information regarding Ordinance language regarding dispensaries near parks, and how it may or may not affect the current application, as the proposed location is located within 600 feet of two (2) parks. Ms. Hopper deferred to Attorney Rathie. Due to an inconsistency in the ordinance as it was written when it was adopted, the park in question was not included in the buffers mentioned in the ordinance. Assistant City Manager Matt Mogensen then spoke further on the wording in the ordinance regarding buffers, noting that it covered schools providing instruction for any grades K-12, daycares or youth centers which exist at the time of permit issuance. Commissioner McCarthy then inquired about the finding for public convenience or necessity, which Ms. Hopper and Attorney Rathie confirmed is only applicable by the ABC to liquor and alcohol, and there are no such findings existing for Cannabis use.

Following questions, the applicant, Mr. Eric Lightman, made a presentation on Stiiizy Marina, which will be operated by Shryne Group and Elemental Beachside. He gave information on the Stiiizy's existing locations, it's performance in different cities across the state. He also spoke to the company's desire to be a leader in the community and its commitment to giving back. He then spoke to the company's partnership with contractors and what the timeline for the building of the space would be. He also addressed the company's compliance personnel and it's commitment to hiring locally.

Mr. Lightman then addressed the company's desire to provide required improvements and updates to the property, including circulation and parking lot improvements. He also mentioned that he would continue to look to City staff for guidance and welcomed recommendations for any improvements which would help the location.

Upon completion of the presentation, Chair Burnett opened for questions from Commissioners.

Commissioner Amadeo then asked about employee growth and how the applicant planned to accommodate parking for an increase employee pool. Mr. Lightman spoke about looking for alternatives such as leasing additional spaces from neighboring locations, as well as making adjustments to landscaping to accommodate additional parking. Commissioner Amadeo then asked if the elevation of the location in relation to the neighboring shopping center posed any issues with parking increase. Mr. Lightman did not see any issues with the elevation but would work with their builders and general contractor to find a solution to the grading differential as necessary.

Commissioner McCarthy then inquired about the colloquial meaning of "Stiiizy". M. Lightman stated that the three I's stand for Influence, Inspire, Innovate, and that "stizy" was used to describe something stylish. Commissioner McCarthy then explained that on Urban Dictionary it was defined as a west-coast term for being "high, stoned, blazed or lit" and asked if the applicant agreed that stizy also carried those meanings. Mr. Lightman stated he was not familiar with that definition, but more that it was used to describe a fashionable person's style or way they present themselves.

Following the questions from Commissioners, Chair Burnett then opened the floor for public comments or questions.

Mr. Anthony Lombardi spoke first, as a representative of the ownership group for 3100 Del Monte Blvd, the location proposed for Pacific Roots. He addressed a question posed by Commissioner McCarthy, noting that there were apartments on the second floor of

the building, but were not located above the space to be leased by Pacific Roots, and though the basement is included in the lease, did not believe the applicant had intention of using the space. He also spoke about the building's history, and the ownership's willingness to work with the City to make improvements as needed. He also noted that the current tenants have not been notified of potential loss of parking. The ownership sees the applicant as a great opportunity to help provide funding for upgrades to the building. Mr. Lombardi then notes that any loss of parking could be devastating to the businesses which have been in the location for decades.

Mr. Greg Simmons noted that two of the locations proposed are very close together and did not think it was a good idea to have locations concentrated in one area at the south entrance to the city.

Seeing no other persons wishing to speak, Planning Assistant Erin Fernando then read correspondence received by staff from community members who were unable to participate in the meeting.

Tina Zmak wrote that she is a 20+ year resident of Marina, and while not concerned with commercial cannabis or dispensaries, but was worried about existing businesses being evicted to "make room" for these businesses to come in. Her belief is that these businesses could find a home in one of the many vacant spaces around the city. Ms. Zmak has been a client at Diva's Salon & Spa (3170 Del Monte Blvd.) for over 15 years and does not want to see the business displaced for the sake of a dispensary.

Amy Walker wrote that she has been a client of Diva's for over 10 years and is angry the business could be closed and its employees displaced. She also does not feel that cannabis or dispensaries benefit the community to the same extent as the salon. Also expressed concern regarding safety and potential DUIs for those under the influence of cannabis.

Micah Stufflebeam wrote that he is against a dispensary at 3170 Del Monte Blvd. as the tattoo shop and salon owners "worked hard to get to where they are", and that he was disappointed in the City for holding meetings during the pandemic, which has already affected these businesses and their ability to operate.

Leisha Price wrote her opposition to the dispensary at 3170 Del Monte Blvd. as she is a client at Diva's Salon.

Leila Lyke wrote her opposition to the dispensary at 3170 Del Monte Blvd.

Shelby Martin wrote her opposition to the dispensary at 3170 Del Monte Blvd. as it is too close to other large buildings with limited parking.

Terra brown wrote her opposition to the dispensary at 3170 Del Monte Blvd.

Olys150@gmail.com wrote their opposition to the dispensary at 3170 Del Monte Blvd. Does not understand why the building is even being considered as a potential location as Diva's Salon and the tattoo shop would "be put out of business", meanwhile there are other vacant locations around the city.

Teri Vitigo wrote their opposition to a dispensary at 3170 Del Monte Blvd., and feels it shows small businesses that they can easily be replaced though they are vital members of the community.

Sheila Olson wrote, noting that she is the owner of Diva's Salon. She spoke about the business, its history, and its part in the community. She also feels "it is unfair of cannabis companies to come in and offer four times the rent to property owners" and that it will displace many businesses.

Chair Burnett then closed public comment and brought discussion back to the dais.

Vice Chair Biala then asked for further clarification for application #4, stating that the application noted 3112 Del Monte Blvd., but that it would also be taking the space of Michi Restaurant, whose address is 3114 Del Monte Blvd. Ms. Hopper confirmed, noting that the applicant would be occupying two spaces. Vice Chair Biala then went on to ask if the Planning Commission should be looking at location or whether there is currently a business in the space, etc. in making their decisions. Chair Burnett then stated that he believed the ordinance to have flaws and did not include proper direction which would allow for Planning Commission to reasonable and community-based responses. He then noted Staff's recommendation that Planning Commission pass all five (5) applications to City Council, but not with recommendation for approval of any.

Commissioner Mann expressed his belief that there were no discernable differences between the applications, but that if he were to recommend any of the applications, he would prefer applicants 1, 2 and 4. He believed these applications were the most dispersed geographically and provided the most easily accessible locations. However, he believed the Commission should approve and forward all five applications to City Council.

Commissioner Amadeo talked about a presentation made by HdL while she sat on City Council which noted the belief that the community could not support 3 dispensaries. She then asked if there were any way to make recommendations to City Council to utilize other factors while making the decision to approve any of these applications. Attorney Rathie then noted that what was before the Planning Commission was confined to the land use element, and whether the applications meet the criteria for potentially having a permit granted by the Council. Commissioner Amadeo then went on to ask about parking and circulation, asking Staff if these items were appropriately addressed. Ms. Hopper confirmed that they were appropriately addressed in the conditions of approval.

Commissioner McCarthy voiced his agreement that all applications should be forwarded to City Council. He also expressed his hope that the Council would hold a more robust conversation regarding the ordinance as it pertains to parks, as well as discussions regarding signage/the green cross and the word "stizy".

Chair Burnett then provided clarification that he recommends all five applications be forwarded to City Council with the recommendation they select only one and for only one year, so as to allow the City to see how the business performs and how the community responds. He reiterates his belief that the ordinance is flawed and wants to be respectful to the community as well as the applicants who took time to submit applications and have made significant financial commitments to their projects.

Vice Chair Biala then expresses her belief that the Planning Commission take do what Attorney Rathie said and look only at land use criteria. She fears that by discussing any items further or making any further recommendations could put the Commission at risk of unintentionally showing bias towards one or other of the applicants. Chair Burnett again explained his recommendation that all the applications be forwarded to City Council, but that Planning Commission recommend the approval of only one permit for one year.

City Manager Matt Mogensen then explained that all the applications would be seen by City Council regardless of whether the application is being recommended for approval or denial. Mr. Mogensen then notes that he believes it is fine for the Commission to recommend that Council review additional criteria before approving, but that Commissioners base their recommendations for approval or denial on land use only. City Council will have additional information and resources to review along the applications.

Commissioner Amadeo inquires if the initial HdL report from August 2018 would be available to the Council as they review the applications. Mr. Mogensen confirms that it would be available as it is a public document. She further inquired whether it would be appropriate for Commission to include this report in the information forwarded to Council. Attorney Rathie reiterated that the report is a public document and would be available to Council members if they requested it. Commissioner Amadeo then returned to her question regarding parking and circulation, and if the Commission could recommend the Council review these items. Attorney Rathie again stated that the applications currently meet the objective conditions for parking and advised against any commissioners getting to subjective on this item.

Vice Chair Biala agreed that the Commission should make their recommendations strictly on land use but requested that the Commissioner's discussion of all items be included in the information forwarded to City Council for them to review. Chair Burnett then asked Staff if it would be possible in the time before the next City Council meeting to create a subcommittee and draft a letter to Council to be included in the Staff Report. Ms. Hopper deferred to Mr. Mogensen and Attorney Rathie, who agreed it would be possible to do provided it occurred within the next two weeks. It was agreed on by Staff and Commission that in the interest of time, the minutes from the current meeting would be included in the Staff report for Council to review.

Following the discussion, Vice Chair Biala made a motion to recommend all 5 applications to City Council, with the addition of minutes from the current meeting and a summary of discussion for the Council to review. The motion was seconded by Commissioner Mann. Chair Burnett then opened the floor to the public for questions or comments regarding the motion. Seeing no persons who wished to comment, the floor was closed.

The motion was then put to vote:

Ayes (7): Burnett, Biala, Mann, McCarthy, Jacobsen, Mann, Amadeo

Noes: None

Absent: None

Abstain: None

The motion passed with a unanimous vote.

7. OTHER ACTION ITEMS

Action listed for each Agenda item is that which is brought forth for Planning Commission consideration and possible action. The Planning Commission may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.

8. DISCUSSION ITEMS

9. **COMMISSIONER COMMENTS AND STAFF INFORMATIONAL REPORTS**
10. **CORRESPONDENCE**
11. **ADJOURNMENT**

David Burnett, Chair

ATTEST:

Erin Fernando, Administrative Assistant

Date