

BOARD of SUPERVISORS



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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM:  Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: December 8, 2016

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 161283

Resolution extending interim zoning controls that require conditional use authorization for Medical Cannabis Dispensaries in the Irving, Judah, Noriega and Taraval Street Neighborhood Commercial Districts and impose additional conditional use authorization criteria; and making environmental findings, including findings of consistency with the eight priority policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

- No Comment
- Recommendation Attached

Chairperson, Small Business Commission

c: Menaka Mahajan, Small Business Commission

1 [Extending Interim Zoning Controls - Medical Cannabis Dispensaries in Irving, Judah, Noriega
2 and Taraval Street Neighborhood Commercial Districts]

3 **Resolution extending interim zoning controls that require conditional use authorization**
4 **for Medical Cannabis Dispensaries in the Irving, Judah, Noriega, and Taraval Street**
5 **Neighborhood Commercial Districts and impose additional conditional use**
6 **authorization criteria; and making environmental findings, including findings of**
7 **consistency with the eight priority policies of Planning Code, Section 101.1.**

8
9 WHEREAS, Planning Code, Section 306.7 provides for the imposition of interim zoning
10 controls to accomplish several objectives, including preservation of residential and mixed
11 residential and commercial areas in order to preserve the existing character of such
12 neighborhoods and areas; development and conservation of the commerce and industry of
13 the City in order to maintain the economic vitality of the City, to provide its citizens with
14 adequate jobs and business opportunities, and to maintain adequate services for its residents,
15 visitors, businesses and institutions; control of uses which have an adverse impact on open
16 space and other recreational areas and facilities; control of uses which generate an adverse
17 impact on pedestrian and vehicular traffic; and control of uses which generate an adverse
18 impact on public transit; and

19 WHEREAS, In 2012, the Board of Supervisors passed and the Mayor approved
20 Ordinance No. 175-12, creating the Irving, Judah, Noriega, and Taraval Street Neighborhood
21 Commercial Districts (NCDs) in the Outer Sunset neighborhood for non-residential properties
22 zoned NC-2, with the intent to enhance the character along those commercial corridors by
23 requiring active ground-floor uses as defined by Planning Code, Section 145.4; and

24 WHEREAS, At the time Ordinance No. 175-12 was approved, a Medical Cannabis
25 Dispensary (MCD) was not defined as an “active use” under Section 145.4 of the Planning

1 Code, and therefore, pursuant to the zoning controls contained in Ordinance No. 175-12, was
2 subject to conditional use authorization in the Irving, Judah, Noriega, and Taraval Street
3 NCDs; and

4 WHEREAS, In approving Ordinance No. 22-15 in February 2015, this Board defined an
5 MCD as an active use pursuant to Section 145.4 of the Planning Code; and

6 WHEREAS, Ordinance No. 22-15 had the inadvertent effect of eliminating the
7 conditional use authorization requirement for MCDs in the Irving, Judah, Noriega, and Taraval
8 Street NCDs; and

9 WHEREAS, The establishment of an MCD in the Irving, Judah, Noriega, or Taraval
10 Street NCD without conditional use authorization may impact the existing neighborhood
11 character, pedestrian and vehicular traffic, and open space and other recreational areas and
12 facilities in those NCDs, due to possible increases in vehicle and pedestrian traffic, litter,
13 noise, crime, and other activities related to the MCD; and

14 WHEREAS, Policy 2 of the eight priority policies of the City's General Plan and
15 Planning Code, Section 101.1 establishes a policy "That existing housing and neighborhood
16 character be conserved and protected in order to preserve the cultural and economic diversity
17 of our neighborhoods"; and

18 WHEREAS, Policy 4 of the eight priority policies of the City's General Plan and
19 Planning Code, Section 101.1 establishes a policy "That commuter traffic not impede Muni
20 transit service or overburden our streets or neighborhood parking"; and

21 WHEREAS, The 2012 conditional use authorization requirement for MCDs allows the
22 Planning Commission to consider proposed MCD projects and impose conditions necessary
23 to conserve and protect the neighborhood character of the Irving, Judah, Noriega, and Taraval
24 Street NCDs; and

1 WHEREAS, On May 5, 2015, the Board of Supervisors adopted Resolution No. 179-
2 15, which imposed interim controls requiring that proposed MCDs obtain conditional use
3 authorization pursuant to Planning Code, Section 303 and satisfy additional conditional use
4 criteria, for a period of eighteen months; and

5 WHEREAS, The interim controls adopted by this Board in Resolution No. 179-15 are
6 intended and designed to address and ameliorate the problems and conditions associated
7 with the inadvertent removal of the conditional use authorization requirement for MCDs in the
8 Irving, Judah, Noriega, and Taraval Street NCDs; and

9 WHEREAS, The circumstances that led to the adoption of Resolution No. 179-15 still
10 persist today; and

11 WHEREAS, The extension of these interim controls will allow this Board time to
12 consider how to regulate MCDs in the Irving, Judah, Noriega, and Taraval Street NCDs; and

13 WHEREAS, This Board has considered the impact on the public health, safety, peace,
14 and general welfare if the interim controls proposed herein were not extended; and

15 WHEREAS, This Board has determined that the public interest will be best served by
16 extension of these interim controls at this time, in order to ensure that the legislative scheme
17 that may be ultimately adopted is not undermined during the planning and legislative process
18 for permanent controls; and

19 WHEREAS, The Planning Department has determined that the actions contemplated in
20 this Resolution are in compliance with the California Environmental Quality Act (California
21 Public Resources Code, Section 21000 et. seq.). Said determination is on file with the Clerk
22 of the Board of Supervisors in File No. _____ and is hereby affirmed and incorporated by
23 reference as though fully set forth; now, therefore, be it

24 RESOLVED, Pursuant to Planning Code, Section 306.7, the Board of Supervisors, by
25 this Resolution, hereby requires that, as of the effective date of this Resolution, any proposed

1 MCD in the Irving, Judah, Noriega or Taraval Street NCD must obtain conditional use
2 authorization from the Planning Commission; and, be it

3 FURTHER RESOLVED, That in order to grant a conditional use authorization, the
4 Planning Commission must find that the facts presented establish that the proposed MCD
5 satisfies both the criteria set forth in Planning Code, Section 303 and the additional criteria set
6 forth below:

7 (1) the MCD will bring measurable community benefits and enhancements to the NCD;

8 (2) the MCD has prepared a parking and transportation management plan sufficient to
9 address the anticipated impact of patients visiting the MCD; and

10 (3) the MCD has demonstrated a commitment to maintaining public safety by actively
11 engaging with the community prior to applying for the conditional use, including adequate
12 security measures in its operation of the business, and designating a community liaison to
13 deal effectively with current and future neighborhood concerns; and be it

14 FURTHER RESOLVED, That these interim controls shall remain in effect for six
15 months from the expiration of the interim zoning controls established by Resolution No. 179-
16 15, or until the adoption of permanent legislation regulating MCDs in the Irving, Judah,
17 Noriega, and Taraval Street NCDs, whichever first occurs; and, be it

18 FURTHER RESOLVED, That these interim zoning controls advance and are consistent
19 with Policies 2 and 4 of the Priority Policies set forth in Planning Code, Section 101.1, in that
20 they require consideration of a proposed MCD's impacts on neighborhood character and
21 pedestrian and vehicular traffic in the Irving, Judah, Noriega, and Taraval Street NCDs, by
22 retaining the conditional use authorization requirement for MCDs that has been in effect since
23 2012 and imposing additional conditional use criteria specific to the potential impacts of
24 MCDs; with respect to Priority Policies 1, 3, 5, 6, 7, and 8, the Board finds that these interim
25

1 zoning controls do not, at this time, have an effect upon these policies, and thus, will not
2 conflict with said policies.

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4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: 
7 VICTORIA WONG
8 Deputy City Attorney

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