

File No. 170917

Committee Item No. _____

Board Item No. 31

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: September 5, 2017

Cmte Board

- | | | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Click text of checked items for a direct link to the document)

- | | | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appeal Letter - August 14, 2017</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Commission Motion No. 19961 - July 13, 2017</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Commission Executive Summary - July 13, 2017</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Project Sponsor Letter - August 17, 2017</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Hearing Notice and Clerical Documents</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Prepared by: Brent Jalipa

Date: August 31, 2017

Prepared by: _____

Date: _____

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2017 AUG 14 PM 4: 29

BY _____



August 14, 2017

Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RE: Case No.: 201⁴~~8~~-003153CUA
Project Address: 2505 Noriega Street, San Francisco, CA
Block/Lot: 2069/012
Project Sponsor: Ryan Hudson
2029 Market Street, San Francisco, CA 94114
Staff Contact: Andrew Perry
Project Description: Application for a new MCD (d.b.a. The Apothecarium)

Appeal of the Planning Commission 5-1 Vote to accept the Project, which could be exempt from CEQA as a Class 1 exemption

Dear Ms. Calvillo:

As a resident of the City of San Francisco and a participant in the deliberative and public hearing process, I am respectfully submitting an appeal to the Board of Supervisors regarding the above referenced project. My request is supported by thousands of San Francisco residents (Supervisor Tang's office reports receipt of 5875 signatures and letters in opposition to the application as of June 8, 2017 including 3217 from residents from within District 4, to the application as of June 8, 2017), which include those that reside within a 300-foot radius of the subject property and the outer Sunset neighborhood. In addition, owners and parents of the Ark of Hope Preschool (two blocks away) and members of a church (one block away), and merchants within close proximity of the site join us in the request.

On July 13, 2017 the Planning Commission adopted the following staff recommendation (a minor amendment was included in the motion which requires the applicant to offer bilingual services and cultural outreach, which in our judgment will help the Applicant attract more clientele):

"Adopting findings relating to the approval of conditional use authorizations pursuant to planning code sections 303 and 739.84, and formerly established under resolutions 179-15 and 544.16, to establish a

medical cannabis dispensary (MCD) (D.B.A. "The Apothecarium") within the Noriega Street neighborhood commercial district and a 40-x height and bulk district." (See Planning Commission Draft Motion dated July 6, 2017 page 1)

As noted in the planning department summary, the subject property is located within the Noriega Street Commercial District (NCD) and a 40-X height and bulk district. The district is "intended to provide a selection of convenience goods and services for the residents of the Outer Sunset neighborhood, and the controls are designed to promote development that is consistent with existing land use patterns and support the District's vitality . . . The area surrounding this part of the Noriega Street NCD is almost exclusively zoned RH-1 (Residential House, One-Family."

The Planning Commission was originally scheduled to hear the application on June 8, 2017. The matter was continued without comment to the July 13, 2017 Planning Commission hearing. At the hearing the commissioners approved the application on a 5-1 vote.

The staff report states the "Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption." See Planning Department Executive Summary Conditional Use report dated July 6, 2017, page 3.

A Class 1 categorical exemption from CEQA as revised and adopted by the San Francisco Planning Commission is defined as follows:

"CLASS 1: EXISTING FACILITIES

Class 1 consists of 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. The types of existing facilities itemized below are not intended to be all-inclusive of the types of projects, which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use." (See page 2, Categorical Exemptions from CEQA, adopted August 17, 2000)

We respectfully submit the "Project" does not fall within a strict or broad interpretation of the definition of a CEQA Class 1 categorical exemption. The last sentence defining a Class 1 exemption provides guidance that must be taken into account in the decision making process during the time of analyzing and determining if the Project falls within the scope of a Class 1 exemption. The Project is a significant change of commercial use from that of a typical neighborhood pharmacy to a medical cannabis dispensary (MCD) and the change of use is not negligible as herein outlined. The former use served the needs of thousands of consumers in a much different manner. The neighborhood pharmacy required a larger space to display and sell a wide variety of medical

products than a MCD. A MCD does not serve the same and diverse population of a pharmacy. A MCD consumer narrowly focuses on specific medicinal needs, product type and availability. The MCD consumer will still need to purchase products sold by a pharmacy. A pharmacy does not rely on a MCD consumer and will sell products and supplies to a much wider population base and it does not require significant government and non-government oversight, which includes full-time security guards and interior and exterior security cameras.

The makeup and character of the neighborhood will change should the City decide to approve the Project application. The commercial district does not run for blocks in every direction. Noriega street is primarily a commercial district is commercial activity is largely restricted to that narrow commercial corridor. Housing runs for blocks that surround the corridor. Because residents live within walking distance of the proposed Project, the impact of safety and security should be of great concern to the City. The residents have clearly expressed concern about safety and security. Once again, installing security cameras does not limit or restrict the type of clientele to only use and stay at the Project site.

The applicant observes that the Sunset district voted by "66 and 58 percent, respectively, to legalize medicinal cannabis through Proposition 215 in 1996 and further open marijuana laws through Proposition 64 in 2016." We acknowledge the voting populous voted in favor of the ballot propositions. The residents and our City did not interpret the vote outcome to allow MCD's to not be devoid of significant regulation. We submit that while this is an interesting statistic, it is not relevant to the application before the City.

The outpouring of opposition should not go unnoticed. And we believe the City should require the applicant to undergo environmental review.

We would like to respond to the basis for the recommendation as noted in the staff report:

- "Potential users of a dispensary" are based on fiction and not fact. We cannot conclude that the location of potential customers will use one type of business over another without a well-structured independent survey.
- "The owners" and operators of the first non-franchised Apothecarium may operate, if the same owners over time, the business in a much different manner. The restrictions on use and consideration of type of clientele need additional analysis.
- "Donations to local non-profits" should not be dispositive of need, use, or reason to be included in the application.
- Hosting "weekly yoga, meditation" and similar programs to residents and non-residents will only help marketing the Apothecarium's business and incidentally help other business interests and residents. Other nearby locations are used for programs and use of this nature.

- The project “has hired a consultant to conduct a parking and traffic study for the proposed MCD . . .which found the proposed use would not be detrimental to parking and traffic in the vicinity . . .and trip generation for the proposed MCD are similar to, or less than trip generation estimates which would be caused by another retail or eating and drinking use. Analysis has not been provided to the public to review the analysis. We submit the public should be able to review the analysis as a factor in the decision making process. A statement made by the applicant of this nature illustrates an environmental impact on the neighborhood.
- The applicant “has agreed to certain transportation demand management measures”. This is another admission the Project has an environmental impact.
- The applicant has agreed to “security cameras and use of security guards”. We cannot think of another business, including a liquor store or financial institution that admits, agrees, offers, or provides this level of security as part of the application process.
- The applicant believes that the project is “desirable for, and compatible with the surrounding neighborhood.” We submit that this is not accurate. Why would thousands of residents in the Sunset and notably residents from the NCD neighborhood stand in strong opposition to the Project? One has to wonder if the project was a new pharmacy that replaced the old pharmacy would anyone stand in opposition to the application?

We have addressed the issues and claims of the applicant. We also wish to address additional environmental impacts that need analysis as a prerequisite to further analysis. By admission, the applicant does not dispute increased traffic, noise and air pollution.

By admission, the applicant acknowledges security issues, which will not be confined to the interior and immediate exterior of the property. And the applicant is not offering solutions about additional security matters to the immediate residents.

There is little question that the use is of significant concern to a place of worship, a preschool, and residents in a highly concentrated residential area located within close proximity to the Project. Some want to split hairs stating that a school does not fit nicely within the City’s definition of a school. Parents and children do not concur. Those parents and children do live close to the Project site. They do have a fine definition of community, diversity, and security. To toss these residents issues aside is truly unfortunate.

Thank you.

Sincerely,



Zhiming Bi
1842 32nd Ave.
San Francisco, CA 9412
Mobile: (415) 846.6534
Email: zhimingbi@comcast.net

Attachment: Personal check made payable to the San Francisco Planning
Department

Cc: Environmental Review Officer, 1660 Mission Street, Ground Floor,
San Francisco, CA

Andrew Perry, San Francisco Planning Department, staff contact

Katy Tang, Member of the San Francisco Board of Supervisors,
District 4



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CEQA Categorical Exemption Determination *BA*

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
2505 Noriega Street		2069/012	
Case No.	Permit No.	Plans Dated	
2014-003153CUA	2014.12.10.3440	5/8/17	
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRER if over 45 years old)	<input type="checkbox"/> New Construction	<input type="checkbox"/> Project Modification (GO TO STEP 7)
Project description for Planning Department approval. Change of use from retail pharmacy to Medical Cannabis Dispensary. Interior tenant improvements and repair/in-kind replacement of storefront material finishes only.			

STEP 1: EXEMPTION CLASS

TO BE COMPLETED BY PROJECT PLANNER

Note: If neither class applies, an Environmental Evaluation Application is required.

<input checked="" type="checkbox"/>	Class 1 – Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 – New Construction/ Conversion of Small Structures. Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office structures; utility extensions.; ; change of use under 10,000 sq. ft. if principally permitted or with a CU. Change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	Class _____

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an Environmental Evaluation Application is required.

<input type="checkbox"/>	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks)? <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Article 38 program and the project would not have the potential to emit substantial pollutant concentrations. (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollutant Exposure Zone)</i>
<input type="checkbox"/>	Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? If yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the</i>

	<i>Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).</i>
<input type="checkbox"/>	Transportation: Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)
<input type="checkbox"/>	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)
<input type="checkbox"/>	Slope = or > 20%: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required.
If no boxes are checked above, GO TO STEP 3. <u>If one or more boxes are checked above, an Environmental Evaluation Application is required, unless reviewed by an Environmental Planner.</u>	
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.
Comments and Planner Signature (optional):	

**STEP 3: PROPERTY STATUS – HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER**

PROPERTY IS ONE OF THE FOLLOWING: (refer to Parcel Information Map)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input checked="" type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input checked="" type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input checked="" type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input checked="" type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .
<input type="checkbox"/>	8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):

<input type="checkbox"/>	<p>9. Other work that would not materially impair a historic district (specify or add comments):</p> <p><i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i></p>
<input type="checkbox"/>	<p>10. Reclassification of property status. <i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i></p> <p><input type="checkbox"/> Reclassify to Category A <input type="checkbox"/> Reclassify to Category C</p> <p>a. Per HRER dated: _____ <i>(attach HRER)</i></p> <p>b. Other <i>(specify)</i>: _____</p>
<p>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.</p>	
<input type="checkbox"/>	<p>Further environmental review required. Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. GO TO STEP 6.</p>
<input checked="" type="checkbox"/>	<p>Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.</p>
<p>Comments <i>(optional)</i>: _____</p>	
<p>Preservation Planner Signature: Elizabeth Gordon Jonckheer</p> <p style="font-size: small; text-align: right;">Digitally signed by Elizabeth Gordon Jonckheer DN: cn=Elizabeth Gordon Jonckheer, ou=Current Planning, o=SFGov, email=Elizabeth.Gordon.Jonckheer@sfgov.org Date: 2017.06.27 13:02:00 -07'00'</p>	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER**

<input type="checkbox"/>	<p>Further environmental review required. Proposed project does not meet scopes of work in either <i>(check all that apply)</i>:</p> <p><input type="checkbox"/> Step 2 – CEQA Impacts</p> <p><input type="checkbox"/> Step 5 – Advanced Historical Review</p> <p>STOP! Must file an <i>Environmental Evaluation Application</i>.</p>	
<input checked="" type="checkbox"/>	<p>No further environmental review is required. The project is categorically exempt under CEQA.</p>	
	<p>Planner Name: Andrew Perry</p> <hr/> <p>Project Approval Action:</p> <p>Planning Commission Hearing</p> <p>If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</p>	<p>Signature:</p> <p style="font-size: 2em; font-weight: bold;">Andrew W. Perry</p> <p style="font-size: small;">Digitally signed by Andrew W. Perry DN: dc=org, dc=sfgov, dc=cityplanning, ou=CityPlanning, ou=Current Planning, cn=Andrew W. Perry, email=Andrew.Perry@sfgov.org Date: 2017.07.02 20:00:30 -07'00'</p>
<p>Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.</p> <p>In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.</p>		

**STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT
TO BE COMPLETED BY PROJECT PLANNER**

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address (If different than front page)		Block/Lot(s) (If different than front page)
Case No.	Previous Building Permit No.	New Building Permit No.
Plans Dated	Previous Approval Action	New Approval Action
Modified Project Description:		

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:	
<input type="checkbox"/>	Result in expansion of the building envelope, as defined in the Planning Code;
<input type="checkbox"/>	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;
<input type="checkbox"/>	Result in demolition as defined under Planning Code Section 317 or 19005(f)?
<input type="checkbox"/>	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?
If at least one of the above boxes is checked, further environmental review is required. ATEX FORM	

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

<input type="checkbox"/>	The proposed modification would not result in any of the above changes.
If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice.	
Planner Name:	Signature or Stamp:

AYES: Richards, Johnson, Koppel, Melgar, Moore

ABSENT: Hillis, Fong

DRA No: 0544

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2017 AUG 14 PM 4:32

BY 

H. 2:30 p.m.

Items listed here may not be considered prior to the time indicated above. It is provided as a courtesy to limit unnecessary wait times. Generally, the Commission adheres to the order of the Agenda. Therefore, the following item(s) will be considered at or after the time indicated.

15. 2014-003153CUA
9017)

(A. PERRY: (415) 575-

2505 NORIEGA STREET - southwest corner of Noriega Street and 32nd Avenue, Lot 012 in Assessor's Block 2069 (District 4) - Request for **Conditional Use Authorization** pursuant to Planning Code Sections 303 and 739.84, and formerly pursuant to Planning Code Section 306.7 and interim zoning controls established under Resolutions 179-15 and 544-16, proposing to establish a new Medical Cannabis Dispensary (MCD) (d.b.a. The Apothecarium) in a currently vacant commercial space at the ground floor of the subject property. last occupied by Ace Pharmacy. The MCD would not allow for on-site medication of medical cannabis (e.g. smoking, vaporizing, and consumption of medical cannabis edibles), nor would the MCD permit on-site cultivation of plants for harvesting medical product. The MCD would permit on-site sales of medical cannabis only and also proposes to provide delivery services. The project is located within the Noriega Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).

Preliminary Recommendation: Approve with Conditions

SPEAKERS: = Andrew Perry – Staff Report

+ Ryan Hudson – Project presentation

+ Floyd Huyen – Project presentation

- Katie, Sunset Golden Club – Organized opposition

- Sheri Lau – Sunset Friends – Organized opposition

- Speaker – Sunset Motherhood Association – Organized opposition

- Speaker – Sunset Approaches to Marijuana – Organized opposition

- Speaker – SAM – Organized opposition
- Wendy – Sunset District Volunteers Association – Organized opposition
- Speaker – Noriega Street Merchants Association – Organized opposition
- Speaker – Sunset Parents Club – Organized opposition
- Speaker – Noriega Street Employees – Organized opposition
- Theresa – SFCEC – Organized opposition
- Ellen – SFCEC – Organized opposition
- Ray Hacke – Ark of Hope Preschool – Organized opposition
- Frank Lee – OJE – Organized opposition
- Jenny – No MCD
- Bernie Chung – SF Chinese Baptist Church – Organized opposition
- Walter Hoyer - SF Chinese Baptist Church – Organized opposition
- Wayne – American Family Association – Organized opposition
- Speaker - SF Chinese Baptist Church – Organized opposition
- Speaker – Protect the children
- Dr. Lynn Fox – CALM – Organized opposition
- Speaker – Protect my kids
- Dr. Patricia Tsang – Herald Concern Care – Organized opposition
- + Carol Crooks – Support
- + Jill Wince – Marijuana research, impact on children
- + Josphe Ewold – Counter to opioid addiction
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Hellen Lam – No MCD

- Vicky – Opposition
- Susanna Chiu – Opposition
- Speaker – No MCD
- Speaker – No MCD
- Speaker – Opposition concern for children
- Jamie – Opposition
- Speaker – Opposition
- Speaker – No MCD
- Alice – No MCD
- Speaker – No MCD
- Terry – No MCD, crime
- Speaker – No MCD
- Speaker – Not appropriate location
- Ana – No MCD
- Virginia Lee – Opposition
- Speaker – No MCD
- Cindy Ming – No MCD
- Betsy – Protect our kids, protect our neighborhood
- Theresa – Fresh air
- Speaker – No MCD
- Speaker - Outreach
- Speaker – Opposition, impact on children
- Lai Wong – No MCD
- Speaker – No MCD
- Speaker – Schools and childcare in the Sunset
- Speaker – Revenue from cannabis does not justify its legalization, prevention first
- Speaker – No MCD
- Speaker – Negative impact to kids
- Paul Tsu – No MCD in my community
- + Speaker – I need the medicine

- Florence Wong – No marijuana in Sunset District
- John Lee – Opposition
- + Beth Gray Silver – Support
- Speaker – Spare the neighborhood
- Speaker – Protect the children, No MCD
- Speaker – Protect the children, No MCD
- Rita Lee – Higher crime rates, DUI, youth access
- Speaker – No MCD in my neighborhood
- + Michelle – Support
- + Linda – Support
- + Henry Sanchez – Patients access to medication
- Speaker – No MCD
- Speaker – Marijuana makes them crazy
- + Michael Cohen – Support
- + David Goldman – Support
- + Speaker – Support
- + Michelle Aldridge – It will improve the neighborhood
- Cecilia – No MCD
- + Sharon – Support
- + Susan Pfeifer – Support
- + Johnny DeLaplain – No lethal dose of marijuana
- + Speaker – Support
- + Joel Dee – Pre-school vs K-12
- + Sean Smith – Petitions
- + Tally Tobin – Support
- + Barbara Kearny – Support
- + Dr. Debra Durnell – Lutheran Church statement
- + Nick Lau – Support
- Speaker – No MCD
- + Richard DeNola – Grant addition to the neighborhood
- + David Ambruster – Support

- + Jonathan Fabian – Support
- + Daniel Wax – Support
- + Jeremy Cohen – Support
- + Kevin Clarke – Support
- + Tamara Ritz – Support research data
- Speaker – Sunset residents against MCD
- + David Hua – Untruths
- + Aaron Ashe – Support
- + Speaker – Support
- Speakers – No MCD
- Speakers – Grandchildren will be forced to walk by every day
- Speaker – Clean air, No MCD
- + Speaker – Regulated market
- + Speaker – Safe access to medicine
- + Speaker – L. Chow letter
- Speaker – No MCD
- Speaker – No MCD
- + Marcus Voldarama – Support
- + Tiara Metro – Support
- + Brian Support
- Anthony Tang – Opposed
- Steven Chu – No MCD
- Alfonso Chen – Negative impact
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Jennifer Yang – Not just drugs, it can damage your nervous system
- Joanna – No MCD

- Karen Ling – No MCD
- Susan Lee – No MCD
- Lisa Yang – No MCD
- Speaker – No MCD
- Renee – Impacts on children
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Speaker – Stone drivers
- Speaker – No MCD
- Jessica Yu – No MCD
- Randy Louie – Opposed
- + Allysa Hambrikt – Support
- + Theodore Douglass – Support
- + Edmund – Medical benefits
- + Candace Lee - Support
- George Yun – Opposition
- Vicent Chan – Opposition
- Speaker – No happy ending
- Lilly Chu – Opposition
- + Navas Albaka - Support
- + Brian – Set the standard
- Sherman Lau – Opposition
- Gloria – No MCD
- Speaker – No MCD
- Speaker – No MCD
- Lisa – Opposition
- Speaker – Cannabis marketing, negative impacts
- - Sammy Chu – No MCD

- Pauline Chung – No MCD

+ Lisa Wetch – Support, bi-lingual services

- Chris Eng – Negative impacts, community safety

ACTION: Approved with Conditions as amended to include bi-lingual, cultural and educational services

AYES: Hillis, Johnson, Koppel, Melgar, Moore

NAYES: Richards

ABSENT: Fong

MOTION 19961

I. PUBLIC COMMENT

At this time, members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items. With respect to agenda items, your opportunity to address the Commission will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Commission has closed the public hearing, your opportunity to address the Commission must be exercised during the Public Comment portion of the Calendar. Each member of the public may address the Commission for up to three minutes.

The Brown Act forbids a commission from taking action or discussing any item not appearing on the posted agenda, including those items raised at public comment. In response to public comment, the commission is limited to:

- (1) responding to statements made or questions posed by members of the public; or
- (2) requesting staff to report back on a matter at a subsequent meeting; or
- (3) directing staff to place the item on a future agenda. (Government Code Section 54954.2(a))

ADJOURNMENT - 11:41 P.M.

ADOPTED: JULY 27, 2017

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BOARD OF SUPERVISORS
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2017 AUG 14 PM 4:29


BY BJ


MICHAEL CHAN
1808 17TH AVE
SAN FRANCISCO, CA 94122

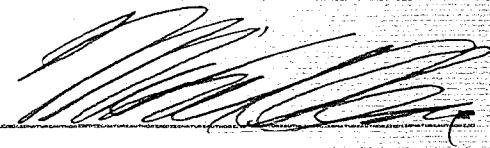
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Date 8/14/2017

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Harland Clarke



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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Planning
Information:
415.558.6377

Planning Commission Motion No. 19961

HEARING DATE: JULY 13, 2017

Case No.: 2014-003153CUA
 Project Address: 2505 NORIEGA STREET
 Zoning: Noriega Street Neighborhood Commercial District
 40-X Height and Bulk District
 Block/Lot: 2069/012
 Project Sponsor: Ryan Hudson
 2029 Market Street
 San Francisco, CA 94114
 Staff Contact: Andrew Perry – (415) 575-9017
andrew.perry@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 739.84, AND FORMERLY PURSUANT TO PLANNING CODE SECTION 306.7 AND INTERIM ZONING CONTROLS ESTABLISHED UNDER RESOLUTIONS 179-15 AND 544-16, TO ESTABLISH A MEDICAL CANNABIS DISPENSARY (MCD) (D.B.A. "THE APOTHECARIUM") WITHIN THE NORIEGA STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On December 10, 2014, Vincent Gonzaga, on behalf of Ryan Hudson (hereinafter "Project Sponsor"), filed Building Permit Application Number 2014.12.10.3440 with the Department of Building Inspection to authorize a change of use and establish a Medical Cannabis Dispensary (MCD) within an existing, vacant ground floor retail space at 2505 Noriega Street, located within the Noriega Street Neighborhood Commercial District and a 40-X Height and Bulk District. On January 21, 2015, Application No. 2014-003153DRM to operate an MCD (d.b.a. "The Apothecarium") was then filed with the Planning Department (hereinafter "Department") by the Project Sponsor.

On May 5, 2015, the Board of Supervisors passed legislation under Resolution No. 179-15 to impose interim zoning controls for an 18-month period for parcels within the Irving, Judah, Noriega, and Taraval Street Neighborhood Commercial Districts, requiring Conditional Use Authorization, and imposing additional conditional use authorization criteria for Medical Cannabis Dispensaries. On December 13,

2016, the Board of Supervisors passed legislation under Resolution No. 544-16 extending these interim controls for an additional six month period.

On May 21, 2015, the Project Sponsor filed Application No. 2014-003153CUA (hereinafter "Application") with the Department seeking Conditional Use Authorization pursuant to Planning Code Sections 303, 306.7, and interim zoning controls established under No. Resolution 179-15, to establish an MCD in the previously referenced location. Planning staff then analyzed whether a Conditional Use Authorization should be granted for this project pursuant to those interim controls.

The project was duly noticed and scheduled to be heard by the Planning Commission at the June 8, 2017 hearing. However, the interim zoning controls established under Resolutions Nos. 179-15 and 544-16 expired on May 5, 2017. Since the interim controls had expired by the hearing date, the Planning Commission could not hear the request for Conditional Use Authorization at that hearing, as there was no corresponding Conditional Use Authorization requirement in place under the Code. Meanwhile, the Board of Supervisors was in the process of enacting permanent controls to require Conditional Use Authorization for MCDs in the subject zoning district. Given that the project would need to comply with the permanent controls in order to obtain an MCD permit under Article 33 of the Health Code, the project and request for Conditional Use Authorization were continued without comment to the July 13, 2017 hearing, when the requirement for Conditional Use Authorization as set forth in the permanent controls would be in effect. These permanent controls, enacted through Ordinance No. 100-17, were signed by the Mayor on May 19, 2017 and thus took effect on June 19, 2017.

On June 8, 2017, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2014-003153CUA, and voted to continue the hearing on the project to July 13, 2017, at which point the permanent controls required Conditional Use Authorization would be in effect.

The project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption under CEQA.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2014-003153CUA, pursuant to Planning Code Sections 303 and 739.84, and formerly pursuant to Planning Code Section 306.7 and interim controls established under Resolution Nos. 179-15 and 544-16, to establish a Medical Cannabis Dispensary (MCD) (d.b.a. "The Apothecarium"), subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.

2. **Site Description and Present Use.** The project is located at the southwest corner of Noriega Street and 32nd Avenue, Block 2069, Lot 012. The subject property is located within the Noriega Street Neighborhood Commercial District ("NCD") and a 40-X Height and Bulk District. The property is developed with a one-story commercial building constructed circa 1942, and has two retail tenant spaces. The proposed MCD will occupy the corner retail location; the adjacent commercial space is currently occupied by a Limited Restaurant (d.b.a. Quon Ngon Vietnamese Noodle House). The subject property measures approximately 50 feet by 73 feet, with 3,675 square feet of lot area, and full lot coverage.
3. **Surrounding Properties and Neighborhood.** The subject property is located within the Noriega Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District. The Noriega Street NCD is located in the Outer Sunset neighborhood and stretches along Noriega Street from 19th to 27th Avenues, and resumes again between 30th and 33rd Avenues. The District is intended to provide a selection of convenience goods and services for the residents of the Outer Sunset neighborhood, and the controls are designed to promote development that is consistent with existing land use patterns and support the District's vitality. The District currently has a high concentration of restaurants, as well as a number of professional, realty, and business offices, financial institutions, and medical service uses. The area surrounding this part of the Noriega Street NCD is almost exclusively zoned RH-1 (Residential House, One-Family).

The subject location along Noriega Street is served by the 7, 7R, and 7X Muni Bus lines, and is also in proximity to commonly used bicycle routes along Ortega and Kirkham Streets, and along 34th Avenue. The immediate area is not identified as part of the Vision Zero High Injury Network for pedestrians and cyclists, and there are existing traffic calming islands located immediately adjacent to the subject property at 32nd Avenue and at 33rd Avenue.

There are no other Medical Cannabis Dispensaries currently located in proximity to the subject property; the nearest MCDs are located more than 2 miles away at 4811 Geary Boulevard within the Inner Richmond neighborhood, and 1944 Ocean Avenue near the Ingleside Terraces neighborhood.

4. **Project Description.** The project sponsor proposes to establish a new Medical Cannabis Dispensary (MCD) (d.b.a. The Apothecarium) at 2505 Noriega Street, within a currently vacant ground floor retail commercial space last occupied by Ace Pharmacy. The proposal would allow for the on-site sale of medical cannabis – including concentrates, edibles, and tinctures – and also proposes to provide delivery services to patients of medical cannabis. The MCD would not allow for on-site medication (e.g. smoking, vaporizing, or consumption of edibles), nor on-site cultivation for harvesting of medical product. The proposed hours of operation are 9 a.m. to 9 p.m., seven days a week.

The proposal would make tenant improvements to the approximately 2,780 square foot corner retail space with approximately 103.5 linear feet of frontage along Noriega Street and 32nd Avenue at the ground floor of the building. No physical expansion of the building is proposed, and exterior work is limited to repair of the existing storefront only. No parking would be required for the change of use. The project sponsor will maintain a full-time security guard at the

storefront, and will install security cameras to cover each room, point of sale, entry, exit, and adjacent sidewalks.

The project sponsor's goal is to provide medical cannabis to registered patients within the Sunset and other nearby neighborhoods, as there are currently no MCDs in the surrounding area. The MCD would operate as the region's first bilingual (Cantonese) and bicultural dispensary, serving the neighborhood community in a manner that collaborates with traditional Asian medical practices. The project sponsor currently operates an MCD at 2029 Market Street in San Francisco and notes that there are more than 3,900 existing Apothecarium patients that reside within the zip codes of the Sunset neighborhood, and who thus stand to benefit from an MCD closer to their place of residence.

5. **Public Comment/Community Outreach.** The project sponsor has made extensive community outreach efforts, led in part by former Oakland Mayor Jean Quan and her husband, Floyd Huen, M.D., who has been at the forefront of prescribing medical cannabis to patients. A more detailed summary of outreach efforts can be found as an attachment to the project sponsor's application submittal. The project sponsor's efforts to date include: meetings with a variety of active Sunset neighborhood organizations and merchants along Noriega Street; tours of the Apothecarium's existing MCD facility on Market Street in the Castro neighborhood; interviews and information provided to multiple media outlets including Chinese-language media; door-to-door outreach to neighbors in the vicinity accompanied by Cantonese and Mandarin interpreters; and public meetings held at the Ortega Branch Library, including a patient education class entitled "Cancer and Cannabis: The Non-Euphorics". The project sponsor notes that in addition to the hundreds of letters of support received on the project, that there is general broad support among Sunset residents for medical cannabis, having voted by 66 and 58 percent, respectively, to legalize medical cannabis through Proposition 215 in 1996 and further open marijuana laws through Proposition 64 in 2016.

To date, the Department has directly received approximately 1,000 emails or letters in support of the proposal, many of which are from residents of the Sunset neighborhood who would utilize the proposed MCD. Many of the communications received contain similar language and format; therefore, while all letters are available as part of the case record, the printed case report only contains a representative example of the letters that were received.

The project sponsor notes in their submittal, which appears as an attachment to this case report, that they have collected 1,457 letters of support from San Francisco residents, 633 of which are from Sunset residents. The project sponsor also notes that 111 are from residents within 1,000 feet of the project site, and that 189 letters are from parents.

To date, the Department has also received approximately 767 emails or letters in opposition to the proposal, many of which are also from residents of the Sunset neighborhood. Many of these communications contained similar language and format; therefore, while all letters are available as part of the case record, the printed case report only contains a representative example of the letters that were received.

In addition to the individual letters and emails that were submitted, the Department has also received hundreds of pages of petition signatures from San Francisco and non-San Francisco residents alike. In total, it is estimated that upwards of 5,000 signatures have been obtained in this manner; an exact number is difficult to obtain due to the sheer volume of signatures received, as well as due to uncertainties around the possibility of repeated signatures since these pages were submitted by a few organizations over the course of the Department's review, with a large batch initially submitted in 2015 and then again in 2017.

In addition to the opposition documented above, the staff report contains letters submitted on behalf of a collection of residents and merchants along Noriega Street, the Ark of Hope Preschool located two blocks away at Noriega and 34th Avenue (and represented by the Pacific Justice Institute), and the Lutheran Church of the Holy Spirit located one block away at Noriega and 31st Avenue.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

A. **Medical Cannabis Dispensary Use Criteria.** Planning Code Section 790.141 sets forth six criteria that must be met by all MCDs and considered by the Planning Commission in evaluating the proposed use.

1. That the proposed site is located not less than 1,000 feet from a parcel containing the grounds of an elementary or secondary school, public or private, nor less than 1,000 feet from a community facility and/or recreation center that primarily serves persons under 18 years of age.

Project Meets Criteria

The parcel containing the proposed MCD is not located within 1,000 feet of a primary or secondary school, public or private, nor a community facility and/or recreation center that primarily serves persons under 18 years of age.

2. That the parcel containing the MCD cannot be located on the same parcel as a facility providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health.

Project Meets Criteria

The subject parcel does not contain a facility providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health.

3. No alcohol is sold or distributed on the premises for on or off site consumption.

Project Meets Criteria

No alcohol is sold or distributed on the premises for on- or off-site consumption.

4. If Medical Cannabis is smoked on the premises the dispensary shall provide adequate ventilation within the structure such that doors and/or windows are not left open for such purposes resulting in odor emission from the premises.

Criteria not Applicable

The Project Sponsor does not propose to allow any on-site smoking or consumption of medical cannabis on the premises.

5. The Medical Cannabis Dispensary has applied for a permit from the Department of Public Health pursuant to Section 3304 of the San Francisco Health Code.

Project Meets Criteria

The applicant has applied for a permit from the Department of Public Health.

6. A notice shall be sent out to all properties within 300-feet of the subject lot and individuals or groups that have made a written request for notice or regarding specific properties, areas or Medical Cannabis Dispensaries. Such notice shall be held for 30 days.

Project Meets Criteria

A 30-day notice was sent to owners and occupants within 300-feet of the subject parcel identifying that an MCD is proposed at the subject property and that the proposed use is subject to Conditional Use Authorization at a Planning Commission hearing.

- B. **Use Size.** Planning Code Section 739.21 states that a Conditional Use Authorization is required for uses that are 4,000 square feet in size or larger.

The proposed MCD would be located in an existing retail space with approximately 2,780 square feet and does not propose any expansion; therefore, the proposed use size is principally permitted within the District.

- C. **Hours of Operation.** Planning Code Section 739.27 states that a Conditional Use Authorization is required for maintaining hours of operation between 2 a.m. and 6 a.m.

The proposed MCD would operate between the hours of 9 a.m. and 9 p.m., and therefore the proposed hours are principally permitted within the District. The proposed hours of operation also comply with Section 3308 of the San Francisco Health Code, which states that it is unlawful for a dispensary to remain open between the hours of 10 p.m. and 8 a.m. the next day.

- D. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that must be fenestrated with transparent windows and doorways for no less than 60 percent of

the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

The proposed MCD would provide for active uses on the ground floor within the first 25 feet of building depth and does not propose any parking. The existing subject storefront space has approximately 30.5 feet of linear frontage along Noriega Street and 73 feet of linear frontage along 32nd Avenue, of which, only approximately 47.5 feet of frontage is devoted to active uses. The existing building contains approximately 29.5 feet of fenestration along Noriega Street and 28 feet of fenestration along 32nd Avenue within the active use portion of the building. In total then, approximately 73.7% of the existing building's frontages with active uses are fenestrated with transparent windows and doorways. The existing building's floor-to-ceiling height of approximately 11'-10" also complies with the minimum height of 10' as required in this District. No changes are proposed to the existing fenestration, nor alteration to the physical nature of the structure.

- E. **Required Ground Floor Commercial Use.** Planning Code Section 739.13 states that within the Noriega Street NCD, active uses (as defined under Section 145.4(c)) are required at the ground floor, unless exempted by Conditional Use Authorization.

Planning Code Section 145.4(c) lists uses which shall be included within the definition of "active commercial uses", and specifically includes Medical Cannabis Dispensary within this list. Therefore, the proposed MCD complies with the requirement for ground floor active commercial uses under this Section.

- F. **Off-Street Parking.** Planning Code Section 151 requires off-street parking for retail uses at the rate of 1 space for each 500 square feet of occupied floor area, where it exceeds 5,000 square feet.

The proposed MCD would be located in an existing retail space with approximately 2,780 square feet and does not propose any expansion; therefore, the proposed MCD would not require any off-street parking.

- G. **Off-Street Loading.** Planning Code Section 152 requires off-street loading spaces for retail uses where the gross floor area of the use exceeds 10,000 square feet.

The proposed MCD would be located in an existing retail space with approximately 2,780 square feet and does not propose any expansion; therefore, the proposed MCD would not require any off-street loading.

- H. **Bicycle Parking.** Planning Code Section 155.2 requires bicycle parking where a change of occupancy or increase in intensity of use would increase the number of total required bicycle parking spaces (inclusive of Class 1 and 2 spaces in aggregate) by 15 percent.

The proposed change of use to an MCD would not increase the number of total required bicycle parking spaces by 15 percent or more; therefore no bicycle parking is required. As a voluntary measure, the project sponsor has proposed to provide one (1) Class 1 bicycle parking space available for use by employees, and six (6) Class 2 bicycle parking spaces along the sidewalk, as part of the project sponsor's efforts to encourage travel to the site by alternative means of transportation.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The size of the proposed use is in keeping with other storefronts on the block face, and is a principally permitted use size within the District. No expansion of the existing storefront is proposed, nor merger with the adjacent storefront on the same lot. The proposed Medical Cannabis Dispensary (MCD) will add a unique business type and would provide goods and services that are not otherwise available within the District, nor beyond the immediate District and within the surrounding, broader Sunset neighborhood. The nearest MCDs to the project site are more than 2 miles away (or 3 miles when considering travel over the actual City street network), located along Geary Street in the Inner Richmond neighborhood and along Ocean Avenue near the Ingleside neighborhood. The proposed MCD also intends to operate as the region's first bilingual (Cantonese) and bicultural dispensary, and provide support to programs that focus on senior access to health care, both of which reflect the demographics of the District with higher percentages of both Asians and individuals over the age of 60¹.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The proposed MCD will be located within an existing building that was once a pharmacy, and which has been vacant for several years. No new construction, additions, or expansion of the building envelope or storefront are proposed.

¹ "Invest in Neighborhoods: Noriega Street Neighborhood Profile." p. 7. [<http://investsf.org/wordpress/wp-content/uploads/2014/03/Neighborhood-Profile-NORIEGA-STREET-SUNSET.pdf>]

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The Planning Code does not require parking or loading for a 2,780 square-foot MCD. In terms of trip generation, traffic and parking, the proposed MCD use would be similar to that of the previous pharmacy use, as well as another retail or restaurant use, which are common throughout the District, and would likely locate within the space if the request for Conditional Use Authorization is denied. The proposed dispensary will comply with current accessibility requirements. The project sponsor hired the consultant Fehr & Peers to conduct a transportation and parking study for the proposed project, as part of the findings under the interim zoning controls. The conclusions of this study found that there is adequate parking in the vicinity of the proposed project to meet the anticipated demand and trip generation for the MCD, that this trip generation and demand for parking would be similar to, if not less than, the demand generated by retail or restaurant uses, and that since delivery of medical cannabis is currently prohibited by commercial vehicles, the project does not therefore generate any demand for a commercial loading space. Deliveries must be made by private automobile or another alternate means of transportation, which was included and analyzed with the project's overall trip generation and parking demand calculations.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed MCD would not permit any cultivation or processing of medical cannabis on site, nor would the proposed MCD permit any smoking, vaporization, or other means of consumption of medical cannabis on site. The MCD will employ a security guard on site to monitor the storefront entrance, and who can help to ensure that patients are not medicating once immediately exiting the premises. The proposed MCD will have a mechanical system designed to keep any potential odors from passing into pedestrian space, and as such, should not generate any noxious or offensive emissions such as noise, glare, dust and odor.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

The proposed MCD does not require any treatment with regard to landscaping, screening, open spaces, parking and loading areas, or service areas. The Department shall review all lighting and signs proposed for the new business in accordance with Article 6 and Section 790.141(e) of the Planning Code. The existing storefront will be replaced and upgraded with high-quality materials, and should serve to enhance the District.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The proposed project is consistent with the stated purposes of the Noriega Neighborhood Commercial District in that the intended use is located at the ground floor, will provide compatible convenience goods and services for the residents of the Outer Sunset District during daytime hours, and will encourage the street's active retail frontage. The District controls acknowledge that there are a high concentration of restaurants in the District, drawing customers from throughout the City and region. The proposed MCD, while primarily intended to serve those residents of the Outer Sunset neighborhood, does have some potential to draw patients from around the City and region; however, these trips are likely to be limited due to the availability of MCDs in other neighborhoods throughout the City and due to the proposed location's site away from highways.

8. **Additional Findings Associated With Interim Zoning Controls.** The interim zoning controls enacted through Resolution Nos. 179-15 and 544-16 required the Planning Commission to find that a proposed MCD satisfies the additional Conditional Use criteria set forth below. However, the interim controls have now expired, and the permanent controls enacted through Ordinance No. 100-17 do not contain any such requirement for additional findings. Thus, the additional criteria set forth below need not be satisfied in order to grant the Conditional Use Authorization. However, the project does meet those criteria, as described below.

- A. The MCD will bring measurable community benefits and enhancements to the NCD;

The proposed MCD will bring measurable benefits to those patients that reside within the Sunset neighborhood, and more broadly within the western side of the City. The proposed MCD currently operates another location within the City on Market Street, and notes that more than 3,900 of their registered patients reside within the Sunset neighborhood; in addition, there are likely many other patients within the Sunset that are not registered with the Apothecarium, but who would stand to benefit from having access to medical cannabis closer to their place of residence.

The proposed operator of the MCD has earned a positive reputation within the City over the last six years, while operating at the Market Street location. The Apothecarium has been recognized for their fine service to patients, for the approximately \$335,000 in monetary contributions that have been made by the Apothecarium to community groups since 2011, and for helping to clean up the Market Street corner where they are located. The proposed MCD anticipates being an active member within the Sunset community, and expects to similarly direct monetary contributions to Sunset community organizations, non-profits, and events for the betterment of the neighborhood and NCD.

In addition to offering medical cannabis to patients in a location closer to their place of residence, the MCD will also host free weekly programs available to the neighborhood, which may include yoga, meditation, anxiety and depression programs, and veteran support groups. In response to the unique demographic characteristics of the Noriega Street NCD neighborhood, the MCD will operate as a bilingual (Cantonese) establishment, and will serve the neighborhood patient community in a manner that collaborates with traditional Asian medical practices. Dr. Floyd Huen, one of the co-owners of the MCD, has been at the forefront of prescribing medical cannabis to patients, and will help to ensure

that the MCD will be staffed with educated professionals that provide in-depth consultations and product information to patients.

- B. The MCD has prepared a parking and transportation management plan sufficient to address the anticipated impact of patients visiting the MCD;

The project sponsor commissioned Fehr & Peers to perform a parking and traffic study for the proposed MCD. The submitted analysis calculates an estimated trip generation rate for the proposed MCD, documents existing traffic, parking and loading conditions in proximity to the subject property, and compares the anticipated impacts of the MCD on the parking and transportation network with those impacts that may be expected from other likely land uses, should the MCD application be denied. The analysis looked at weekdays both during the midday and evening periods, and weekends during the midday period.

The results of this study indicate that parking occupancy within 1,000 feet of the proposed project is at its highest during the weekend midday period, however, is generally similar to parking occupancy rates in other parts of the City. Most importantly, the study demonstrates that the anticipated trip generation from the MCD would be less than the average number of parking spaces available within 1,000 feet of the proposed project. In this regard, the surrounding neighborhood should already have the capacity to absorb the anticipated parking and traffic impacts from the proposed project. Furthermore, should a different retail business or restaurant be located in the subject vacant storefront instead, the study finds that the proposed MCD would have a similar impact, if not lesser, than these other likely replacement uses.

The study also considers potential loading impacts from the MCD. In short, medical cannabis is not currently permitted to be delivered by commercial vehicles; therefore, the proposed project would not generate any demand for commercial loading spaces. All deliveries must instead be made by private vehicle, and has been factored into the trip generation and parking analysis above. Deliveries to the MCD are anticipated to occur twice per day on weekdays, when parking availability in the vicinity is greater; no deliveries to the MCD would occur on weekends. The MCD also proposes to provide delivery services to patients. For these deliveries, the proposed MCD anticipates making one single vehicle trip per day, delivering to multiple locations during the course of the trip. For deliveries within a 10-block radius of the project site, these would be made by bicycle or walking.

- C. The MCD has demonstrated a commitment to maintaining public safety by actively engaging with the community prior to applying for the conditional use, including adequate security measures in its operation of the business, and designating a community liaison to deal effectively with current and future neighborhood concerns.

The project sponsor has made extensive community outreach efforts, led in part by former Oakland Mayor Jean Quan and her husband, Floyd Huen, M.D., who has been prescribing medical cannabis to patients for more than 20 years. A more detailed summary of outreach efforts can be found as an attachment to the project sponsor's application submittal. The project sponsor's efforts to date include: meetings with a variety of active Sunset neighborhood organizations and merchants along Noriega Street; tours of the Apothecarium's existing MCD facility on Market Street in the Castro neighborhood; interviews and information provided to multiple media outlets including Chinese-

language media; door-to-door outreach to neighbors in the vicinity accompanied by Cantonese and Mandarin interpreters; and public meetings held at the Ortega Branch Library, including a patient education class entitled "Cancer and Cannabis: The Non-Euphorics".

The operators of the proposed MCD are committed to making themselves available to answer all questions from neighbors, and making themselves a known entity and good neighbor in the community. The operators have years of valuable experience running an MCD, have been commended for their business and security practices, and will employ similar security operations in the proposed location.

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed MCD project will provide desirable goods and services to the neighborhood and will provide employment opportunities to those in the community. The proposed MCD would meet all the performance standards and requirements identified in Planning Code Section 790.141. The project site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan. There are no other MCDs in the vicinity, nor within 2 miles of the project site, which should minimize any potential negative impacts associated with the clustering of MCDs. The MCD will utilize a mechanical system designed to keep any potential odors from passing into pedestrian space, and will employ a security guard to monitor the front entrance and help mitigate any undesirable activities.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Project will allow a locally-owned and established business to expand to a new location within the City, thus providing new job opportunities for local residents. The proposed MCD will also help to diversify the business activity of the immediate Noriega Street NCD and the broader west side of the City, as there are currently no MCDs in the vicinity.

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

Policy 6.2:

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

Policy 6.9:

Regulate uses so that traffic impacts and parking problems are minimized.

The proposed MCD would be located within an existing, vacant storefront, and would thus help to activate this portion of the NCD. The last use within the space was a small, locally-owned pharmacy, and thus a proposed MCD is an appropriate replacement use to serve the changing medical needs of patients in the City. As there are no other MCDs within 2 miles of the proposed location, the proposed MCD would function primarily as a neighborhood-serving use for those patients within the broader Sunset neighborhood. A parking, traffic and transportation study has been prepared for the proposed use and does not find that it would have any detrimental impact on parking and traffic in the vicinity. The proposed MCD is a locally-owned and developed business that has several years of direct experience working within the medical cannabis industry within San Francisco. The MCD would operate between the hours of 9 a.m. and 9 p.m. and would thus not have detrimental impacts on residents due to late-night activity.

TRANSPORTATION

Objectives and Policies

OBJECTIVE 1:

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.3:

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

The project sponsor has indicated that they will voluntarily provide a host of measures designed to encourage travel to the site by alternative means of transportation, other than by private automobile. These include provision of bicycle parking spaces, on-site bicycle repair and maintenance tools, 100% subsidized transit passes for employees, information on their website to assist those in traveling to the project site by bicycle, foot, or transit, and delivery of medical cannabis by bicycle or foot within a 10-block radius.

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The proposal would enhance the district by providing a unique use in an area that does not have another MCD within 2 miles. The business would be locally owned and it creates 12-17 more employment opportunities for the community. The MCD would be located within an existing, vacant storefront, thus helping to activate this portion of the NCD.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The existing units in the surrounding neighborhood would not be adversely affected. The proposed MCD would operate between the hours of 9 a.m. and 9 p.m., and would thus have minimal detrimental effects due to late-night activity on nearby residences. The project will comply with all signage, lighting, and transparency requirements, in order to help maintain neighborhood character and activate the commercial district.

- C. That the City's supply of affordable housing be preserved and enhanced,

The proposed project would have no effect on the City's supply of affordable housing.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The project site is located along Noriega Street and is served by the 7, 7R, and 7X Muni Bus lines, and is also in proximity to commonly used bicycle routes along Ortega and Kirkham Streets, and along 34th Avenue. A parking and traffic study conducted by Fehr & Peers found that there is adequate parking in the vicinity to accommodate the activity generated by the MCD, and that it would not have detrimental effects on street traffic or neighborhood parking.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The subject tenant space is vacant and will not displace any industrial or service sector establishments.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The MCD will follow standard earthquake preparedness procedures and all construction will comply with current building and seismic safety codes.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site, and the proposed rehabilitation work to the storefront is in keeping with the Secretary of the Interior's Standards.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The project will have no negative effect on existing parks and open spaces, as it is a change of use with no proposed expansion of the building envelope.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

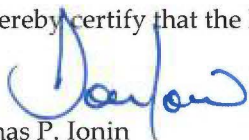
That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2014-003153CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated May 8, 2017, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 19961. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on July 13, 2017.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Johnson, Koppel, Melgar, Moore

NAYS: Richards

ABSENT: Fong

ADOPTED: July 13, 2017

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to establish a Medical Cannabis Dispensary (MCD) (d.b.a. "The Apothecarium") located at 2505 Noriega Street, Lot 012 in Assessor's Block 2069, pursuant to Planning Code Section(s) 303 and 739.84, and formerly pursuant to Planning Code Section 306.7 and interim zoning controls established under Resolutions 179-15 and 544-16, within the Noriega Street Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans, dated May 8, 2017, and stamped "EXHIBIT B" included in the docket for Case No. 2014-003153CUA and subject to conditions of approval reviewed and approved by the Commission on July 13, 2017 under Motion No 19961. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on July 13, 2017 under Motion No 19961.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19961 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

3. **Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

6. **Garbage, Composting and Recycling Storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

7. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

8. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING

9. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

10. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

11. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a bilingual (Mandarin and Cantonese) community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
12. **Cultural and Educational Services.** The Project Sponsor and proposed MCD shall offer bilingual (Mandarin and Cantonese) cultural and educational services as it relates to medical cannabis and its applied usage within health care.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
13. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>
14. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>
15. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.
For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: JULY 13, 2017

CONTINUED FROM JUNE 8, 2017

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: July 6, 2017
Case No.: 2014-003153CUA
Project Address: 2505 NORIEGA STREET
Zoning: Noriega Street Neighborhood Commercial District
 40-X Height and Bulk District
Block/Lot: 2069/012
Project Sponsor: Ryan Hudson
 2029 Market Street
 San Francisco, CA 94114
Staff Contact: Andrew Perry – (415) 575-9017
andrew.perry@sfgov.org
Recommendation: **Approval with Conditions**

PROJECT DESCRIPTION

The project sponsor proposes to establish a new Medical Cannabis Dispensary (MCD) (d.b.a. The Apothecarium) at 2505 Noriega Street, within a currently vacant ground floor retail commercial space last occupied by Ace Pharmacy. The proposal would allow for the on-site sale of medical cannabis – including concentrates, edibles, and tinctures – and also proposes to provide delivery services to patients of medical cannabis. The MCD would not allow for on-site medication (e.g. smoking, vaporizing, or consumption of edibles), nor on-site cultivation for harvesting of medical product. The proposed hours of operation are 9 a.m. to 9 p.m., seven days a week.

The proposal would make tenant improvements to the approximately 2,780 square foot corner retail space with approximately 103.5 linear feet of frontage along Noriega Street and 32nd Avenue at the ground floor of the building. No physical expansion of the building is proposed, and exterior work is limited to repair of the existing storefront only. No parking would be required for the change of use. The project sponsor will maintain a full-time security guard at the storefront, and will install security cameras to cover each room, point of sale, entry, exit, and adjacent sidewalks.

The project sponsor’s goal is to provide medical cannabis to registered patients within the Sunset and other nearby neighborhoods, as there are currently no MCDs in the surrounding area. The MCD would operate as the region’s first bilingual (Cantonese) and bicultural dispensary, serving the neighborhood community in a manner that collaborates with traditional Asian medical practices. The project sponsor currently operates an MCD at 2029 Market Street in San Francisco and notes that there are more than 3,900 existing Apothecarium patients that reside within the zip codes of the Sunset neighborhood, and who thus stand to benefit from an MCD closer to their place of residence.

On May 5, 2015, the Board of Supervisors passed legislation under Resolution No. 179-15 to impose interim zoning controls for an 18-month period for parcels within the Irving, Judah, Noriega, and Taraval Street Neighborhood Commercial Districts, requiring Conditional Use Authorization, and imposing additional conditional use authorization criteria for Medical Cannabis Dispensaries. On December 13, 2016, the Board of Supervisors passed legislation under Resolution No. 544-16 extending these interim controls for an additional six month period. The project sponsor originally filed their application prior to the passage of the interim controls, and subsequently filed a Conditional Use Authorization application when the requirement changed.

The project was first scheduled to appear before the Planning Commission at the June 8, 2017 hearing. However, due to the fact that the interim zoning controls expired on May 5, 2017, staff was informed that the Planning Commission could not hear the request for Conditional Use Authorization on that day, as there was no corresponding Conditional Use Authorization requirement in place. Meanwhile, the Board of Supervisors was in the process of enacting permanent controls to require Conditional Use Authorization for MCDs in the subject zoning district. These controls, enacted through Ordinance No. 100-17, were signed by the Mayor on May 19, 2017 and thus took effect on June 19, 2017. Given that the project would need to comply with the permanent controls in order to obtain an MCD permit under Article 33 of the Health Code, the project and request for Conditional Use Authorization were continued without comment to the July 13, 2017 hearing, when the requirement for Conditional Use Authorization as set forth in the permanent controls would be in effect.

SITE DESCRIPTION AND PRESENT USE

The project is located at the southwest corner of Noriega Street and 32nd Avenue, Block 2069, Lot 012. The subject property is located within the Noriega Street Neighborhood Commercial District ("NCD") and a 40-X Height and Bulk District. The property is developed with a one-story commercial building constructed circa 1942, and has two retail tenant spaces. The proposed MCD will occupy the corner retail location; the adjacent commercial space is currently occupied by a Limited Restaurant (d.b.a. Quon Ngon Vietnamese Noodle House). The subject property measures approximately 50 feet by 73 feet, with 3,675 square feet of lot area, and full lot coverage.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The subject property is located within the Noriega Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District. The Noriega Street NCD is located in the Outer Sunset neighborhood and stretches along Noriega Street from 19th to 27th Avenues, and resumes again between 30th and 33rd Avenues. The District is intended to provide a selection of convenience goods and services for the residents of the Outer Sunset neighborhood, and the controls are designed to promote development that is consistent with existing land use patterns and support the District's vitality. The District currently has a high concentration of restaurants, as well as a number of professional, realty, and business offices, financial institutions, and medical service uses. The area surrounding this part of the Noriega Street NCD is almost exclusively zoned RH-1 (Residential House, One-Family).

The subject location along Noriega Street is served by the 7, 7R, and 7X Muni Bus lines, and is also in proximity to commonly used bicycle routes along Ortega and Kirkham Streets, and along 34th Avenue. The immediate area is not identified as part of the Vision Zero High Injury Network for pedestrians and

cyclists, and there are existing traffic calming islands located immediately adjacent to the subject property at 32nd Avenue and at 33rd Avenue.

There are no other Medical Cannabis Dispensaries currently located in proximity to the subject property; the nearest MCDs are located more than 2 miles away at 4811 Geary Boulevard within the Inner Richmond neighborhood, and 1944 Ocean Avenue near the Ingleside Terraces neighborhood.

ENVIRONMENTAL REVIEW

The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 categorical exemption.

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	May 19, 2017	May 17, 2017	22 days
Posted Notice	30 days	May 9, 2017	May 5, 2017	34 days
Mailed Notice	30 days	May 9, 2017	May 8, 2017	31 days

The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the conditional use authorization process. The hearing notice was mailed to owners and occupants within a 300-foot radius of the subject property, as required per Planning Code Section 790.141(c).

As the proposal was continued at the duly-noticed Planning Commission hearing on June 8, 2017, no additional notification is required under the Planning Code for the date of continuance.

PUBLIC COMMENT/COMMUNITY OUTREACH

- The project sponsor has made extensive community outreach efforts, led in part by former Oakland Mayor Jean Quan and her husband, Floyd Huen, M.D., who has been at the forefront of prescribing medical cannabis to patients. A more detailed summary of outreach efforts can be found as an attachment to the project sponsor’s application submittal. The project sponsor’s efforts to date include: meetings with a variety of active Sunset neighborhood organizations and merchants along Noriega Street; tours of the Apothecarium’s existing MCD facility on Market Street in the Castro neighborhood; interviews and information provided to multiple media outlets including Chinese-language media; door-to-door outreach to neighbors in the vicinity accompanied by Cantonese and Mandarin interpreters; and public meetings held at the Ortega Branch Library, including a patient education class entitled “Cancer and Cannabis: The Non-Euphorics”. The project sponsor notes that in addition to the hundreds of letters of support received on the project, that there is general broad support among Sunset residents for medical cannabis, having voted by 66 and 58 percent, respectively, to legalize medical cannabis through Proposition 215 in 1996 and further open marijuana laws through Proposition 64 in 2016.

- To date, the Department has directly received approximately 1,000 emails or letters in support of the proposal, many of which are from residents of the Sunset neighborhood who would utilize the proposed MCD. Many of the communications received contain similar language and format; therefore, while all letters are available as part of the case record, the printed case report only contains a representative example of the letters that were received.

The project sponsor notes in their submittal, which appears as an attachment to this case report, that they have collected 1,457 letters of support from San Francisco residents, 633 of which are from Sunset residents. The project sponsor also notes that 111 are from residents within 1,000 feet of the project site, and that 189 letters are from parents.

- To date, the Department has also received approximately 767 emails or letters in opposition to the proposal, many of which are also from residents of the Sunset neighborhood. Many of these communications contained similar language and format; therefore, while all letters are available as part of the case record, the printed case report only contains a representative example of the letters that were received.

In addition to the individual letters and emails that were submitted, the Department has also received hundreds of pages of petition signatures from San Francisco and non-San Francisco residents alike. In total, it is estimated that upwards of 5,000 signatures have been obtained in this manner; an exact number is difficult to obtain due to the sheer volume of signatures received, as well as due to uncertainties around the possibility of repeated signatures since these pages were submitted by a few organizations over the course of the Department's review, with a large batch initially submitted in 2015 and then again in 2017.

In addition to the opposition documented above, the staff report contains letters submitted on behalf of a collection of residents and merchants along Noriega Street, the Ark of Hope Preschool located two blocks away at Noriega and 34th Avenue (and represented by the Pacific Justice Institute), and the Lutheran Church of the Holy Spirit located one block away at Noriega and 31st Avenue.

- On June 8, 2017, Supervisor Tang's (District 4) office reported to Department staff the following comment totals that their office received through that date:
 - 926 signatures and letters of support, with 171 from residents of District 4 and 755 from other residents of San Francisco
 - 5,875 signatures and letters of opposition, with 3,217 from residents of District 4, 2,009 from other residents of San Francisco, and 647 from non-San Francisco residents

ISSUES AND OTHER CONSIDERATIONS

- **Medical Cannabis Dispensary (MCD).** Planning Code Section 790.141 states that all MCDs are required to be heard by the Planning Commission, which will consider whether or not to exercise

its discretionary review powers over the building permit application. The Conditional Use Authorization hearing satisfies this Code requirement.

San Francisco Health Code, Article 33, Medical Cannabis Act 3308:

(e) It is unlawful for any person or association operating a medical cannabis dispensary under the provisions of this Article to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct, or otherwise, or to permit such dispensary to remain open, or patrons to remain upon the premises, between the hours of 10 p.m. and 8 a.m. the next day. However, the Department shall issue permits to two medical cannabis dispensaries permitting them to remain open 24 hours per day. These medical cannabis dispensaries shall be located in order to provide services to the population most in need of 24 hour access to medical cannabis. These medical cannabis dispensaries shall be located at least one mile from each other and shall be accessible by late night public transportation services. However, in no event shall a medical cannabis dispensary located in a Small-Scale Neighborhood Commercial District, a Moderate Scale Neighborhood Commercial District, or a Neighborhood Commercial Shopping Center District as defined in Sections 711, 712 and 713 of the Planning Code, be one of the two medical cannabis dispensaries permitted to remain open 24 hours per day.

The 2505 Noriega Street MCD project will afford the project sponsor the opportunity to comply with the SF Health Code and operate legally and under SFDPH supervision. The applicant will still be required to obtain a permit from SFDPH and will be subject to their regulations including tax compliance, non-profit operation, background checks and annual compliance inspections. This proposal would convert a vacant ground floor retail space to a medical cannabis dispensary use.

- **Planning Code Compliance.** The proposed MCD complies with all relevant Planning Code requirements. Most notably, the subject property was not found to fall within 1,000 feet of any public or private elementary or secondary school, or community facility or recreation center primarily serving persons younger than 18 years of age. A map has been included as an attachment to this report, which demonstrates Planning Code compliance. The map does identify one Early-Age Child Care facility (d.b.a. Ark of Hope Preschool) within 1,000 feet of the subject property; however, this facility only serves children up to the age of 6 years old and as such does not meet the Planning Code definition of a school, and would therefore not automatically prohibit the location of an MCD at the subject property.
- **Clustering and Neighborhood Impact.** In the subject District, the Planning Code does not prohibit the clustering of MCDs, nor does the San Francisco Health Code. As of February 2017, there are thirty-six (36) permitted MCDs¹ with the Department of Public Health (DPH); additionally, the Planning Commission has recently approved eight (8) more MCDs, which have not yet completed the permitting process through DPH. Of the 44 MCDs that are either permitted by DPH or have received Planning Commission approval, there are none that are located within 2 miles of the subject property. A map has been included as an attachment to this report, which

¹ 7 of the 36 permitted MCDs in the DPH database are operating out of a shared office (delivery-only) space at 214 California Street. Therefore there are only 30 distinct locations with permitted MCDs in the City, with recent Planning Commission approval for 8 additional locations.

shows the concentration of MCDs in the immediate vicinity and City as a whole. As there are no other MCDs in the immediate vicinity of the subject property, there should not be any substantial negative impacts that may arise due to clustering of this land use type.

- **Proposition 64/Adult Use of Marijuana Act.** Although approved by the voters in November 2016, the Adult Use of Marijuana Act does not authorize any existing or future MCD to distribute nonmedical (aka “adult use”) cannabis without (1) a state license and (2) compliance with San Francisco’s local laws. While Proposition 64 requires the State to begin issuing licenses by January 2018, the Planning Department, along with other City agencies, is crafting local land use and other regulatory controls to address the production, processing, and sale of adult use cannabis. Per Mayor Lee’s Executive Directive 16-05, these regulations are to be introduced by September 2017 so that they can be effective prior to the onset of the State licensing system. The Department maintains a very high level of confidence that San Francisco will embrace the opportunity to establish local land use regulations for adult use cannabis businesses, and in particular that these controls will articulate a discretionary process through which existing MCDs can apply to convert in whole or part to adult use cannabis dispensaries. It is unlikely in the extreme that existing MCDs will be allowed to dispense adult use cannabis on a ministerial (or “automatic”) basis. As with any change to the Planning Code, these controls will be presented to the Planning Commission for review and discussion prior to consideration by the Board of Supervisors and Mayor.

- **Additional Findings for MCDs subject to Interim Zoning Controls.** Resolution Nos. 179-15 and 544-16, which created and extended interim zoning controls requiring Conditional Use Authorization for MCDs in the four Sunset NCDs, set forth additional criteria CU criteria that must be satisfied by a proposed MCD, specifically that: the MCD will bring measureable community benefits and enhancements to the NCD; the MCD has prepared a parking and transportation management plan sufficient to address the anticipated impact of patients visiting the MCD; and the MCD has demonstrated a commitment to maintaining public safety by actively engaging with the community prior to applying for the conditional use, including adequate security measures in its operation of the business, and designating a community liaison to deal effectively with current and future neighborhood concerns.

Based on the subject application submittal, the Department does find that the additional criteria have been met, as further detailed in the attached Draft Motion.

The additional findings required by Resolution Nos. 179-15 and 544-16 were not included in the most recent legislation for permanent zoning controls under Ordinance No. 100-17. Therefore, there is no longer a requirement that such findings must be made prior to granting Conditional Use Authorization. However, the Draft Motion (No. 8 in the Findings section) discusses how the project meets these additional criteria in order to provide the Commission with additional information in their consideration of the Conditional Use Authorization request.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use Authorization to allow the establishment of a new Medical Cannabis Dispensary (d.b.a. The Apothecarium) within the Noriega Street Neighborhood Commercial District, pursuant to Planning Code Sections 303 and 739.84, and formerly pursuant to Planning Code Section 306.7 and interim zoning controls established under Resolution Nos. 179-15 and 544-16.

BASIS FOR RECOMMENDATION

- The project allows for the establishment of a business with a known registry of some 3,900 existing patients which live within the broader Sunset neighborhood, and which stand to benefit from a Medical Cannabis Dispensary located closer to their residence. There are no MCDs that currently exist within the Sunset neighborhood, and none within 2 miles of the proposed location.
- The proposed operators and owners of the business have extensive experience and expertise on the subjects of medical marijuana regulation, prescription of medical marijuana to patients, and on the operation of an MCD itself. The Apothecarium is a locally-cultivated MCD, which has operated a location in the Castro neighborhood for approximately 6 years, and has grown to be an exemplary model for the operation of MCDs within the City, demonstrating how MCDs can collaborate with and blend into the community, and how an MCD can help to clean up the area in which they operate.
- Similar to the Apothecarium's Castro location, which has since its inception donated more than \$335,000 to neighborhood and other local non-profits and charitable organizations, the owners of the proposed MCD anticipate making similar contributions to the Sunset neighborhood.
- Similar to the Apothecarium's Castro location, the proposed MCD will host free weekly programs that will be available to residents of the neighborhood, including yoga, meditation, anxiety and depression programs, and veteran support groups. The MCD also expects to offer, or support other organizations which offer programming which explores connections between medical cannabis and traditional Chinese medicine, and educational programming around senior access to health care and youth education around medical cannabis.
- The project sponsor has hired a consultant to conduct a parking and traffic study for the proposed MCD, which found that the proposed use would not be detrimental to parking and traffic in the vicinity, as there is a sufficient supply of parking within 1,000 feet of the proposed project to accommodate the anticipated number of vehicle trips during the peak hour. Additionally, trip generation estimates for the proposed MCD are similar to, or less than the trip generation estimates which would be caused by another retail or eating and drinking use, as would likely be located within the District.
- The project site is directly accessible by transit along Noriega Street, and the project sponsor has agreed to voluntarily provide certain Transportation Demand Management measures, which should help to further reduce the number of vehicle trips to the MCD.
- The proposed MCD would not allow for any cultivation, processing, smoking, vaporizing, or other means of medication on site.
- The proposed MCD has conducted extensive community outreach and has committed to continue building relationships with Sunset residents, so that any concerns may be addressed quickly. The proposed MCD operator has direct experience in the industry, and plans to employ

industry-standard best practices with regards to safety and security, including use of a surveillance system and employment of an on-site security guard at the entrance to the business.

- The project promotes the continued operation of an established, locally-owned business and contributes to the viability of the overall Noriega Street NCD, as it will occupy a vacant storefront and add to the diversity of goods and services provided within the District.
- The project meets all applicable requirements of the Planning Code.
- The project is desirable for, and compatible with the surrounding neighborhood.
- The business is not a Formula Retail use and would serve the immediate neighborhood.

RECOMMENDATION: Approval with Conditions
--

Attachments:

Parcel Map
Sanborn Map
Zoning Map
Aerial Photographs
Context Photographs
1,000' Radius Map – Schools and Child Care Facilities
MCD Concentration/Proximity Map
MCD Combined CUA/312 Notice
California Environmental Quality Act (“CEQA”) Categorical Exemption
Resolutions 179-15 and 544-16 – Interim Zoning Controls
Project Sponsor Submittals
 Hearing Brief and Exhibits (dated 6/29/2017)
 Letter to Department (dated 6/20/2017)
 MCD/CUA Application Submittal
 Fehr & Peers Consultant-Prepared Transportation and Parking Study
Project Communications in Support:
 Common Example Letter in Support
 Other Letters in Support
 Letter from Castro Merchants Association
Project Communications in Opposition:
 Common Example Letter in Opposition
 Other Letters in Opposition
 Example Opposition Petition Signature Page
 Letter from Ark of Hope Preschool (3/25/2017)
 Letter from Pacific Justice Institute – Representing Ark of Hope Preschool (3/30/2017)
 Letter from Lutheran Church of the Holy Spirit
 Letter from Pacific Justice Institute – Representing the Lutheran Church of the Holy Spirit (9/17/2015)
 Letter from Noriega merchants (9/4/2015), updated submittal (6/30/2017)
Reduced Architectural Plans

Attachment Checklist

- Executive Summary
- Draft Motion
- Environmental Determination
- Zoning District Map
- Height & Bulk Map
- Parcel Map
- Sanborn Map
- Aerial Photo
- Context Photos
- Site Photos

- Project sponsor submittal
- Drawings: Existing Conditions
- Check for legibility
- Drawings: Proposed Project
- Check for legibility
- 3-D Renderings (new construction or significant addition)
- Check for legibility
- Wireless Telecommunications Materials
- Health Dept. review of RF levels
- RF Report
- Community Meeting Notice
- Housing Documents
- Inclusionary Affordable Housing Program: Affidavit for Compliance

Exhibits above marked with an "X" are included in this packet

_____AWP_____

Planner's Initials

AWP: G:\Documents\CU\2014-003153CUA - 2505 Noriega\Case Report\ExecutiveSummary_2505 Noriega.doc

This page intentionally left blank.

Jalipa, Brent (BOS)

From: BOS Legislation, (BOS)
Sent: Monday, August 21, 2017 5:00 PM
To: rhacke@pji.org; wilsonchu98@yahoo.com; ryan@apothecarium.com; eliot@apothecarium.com; BGladstone@hansonbridgett.com
Cc: Givner, Jon (CAT); Stacy, Kate (CAT); Byrne, Marlena (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Starr, Aaron (CPC); Rodgers, AnMarie (CPC); Perry, Andrew (CPC); Ionin, Jonas (CPC); Range, Jessica (CPC); Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS-Supervisors; BOS-Legislative Aides; BOS Legislation, (BOS)
Subject: PROJECT SPONSOR LETTER: Categorical Exemption Determination Appeal and Conditional Use Authorization Appeal - Proposed Project at 2505 Noriega Street - Appeal Hearing on September 5, 2017
Categories: 170917, 170898

Good afternoon,

Please find linked below the letter received by the Office of the Clerk of the Board from Brett Gladstone of Hanson Bridgett, representing the Project Sponsor, concerning the continuance of the Categorical Exemption Determination Appeal and the Conditional Use Authorization Appeal for the proposed project at 2505 Noriega Street.

[Hanson Bridgett Letter - August 17, 2017](#)

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on September 5, 2017. NOTE: A motion may be entertained to continue this Hearing to the Board of Supervisors' meeting of October 3, 2017.


I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170898](#)

[Board of Supervisors File No. 170917](#)

Regards,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

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BRETT GLADSTONE
PARTNER
DIRECT DIAL (415) 995-5065
DIRECT FAX (415) 995-3517
E-MAIL BGladstone@hansonbridgett.com

August 17, 2017

VIA MESSENGER AND ELECTRONIC MAIL: katy.tang@sfgov.org

Supervisor Katy Tang
District 4 County Supervisor
City Hall
One Dr. Carlton B. Goodlett Place, Room 244
San Francisco CA 94102-4689

Re: Our File No. 33465.1

Dear Supervisor Tang:

As you may know, I represent PNB Noreiga, the permit holder for the conditional use permit issued for the Apothecarium's new Sunset location. We recently learned that you had made a request to continue the appeal for 2505 Noriega, which was originally scheduled to be heard on September 5th. We would appreciate direct communication from you on a matter as important as a continuance request.

We think that it is important to avoid inconveniencing the public who may be supporting the permit holder, as well as those who do not. They may attend the noticed hearing of September 5, not knowing whether there is a continuance or not. My client requests that there be mutual agreement on a date for the continuance, and also on the approximate time for the hearing to begin. It turns out that my client will be able to be present on October 3, 2017 as long as it is not before 4:30 pm. Given that these appeals hearings usually occur after 3 pm, we think that speakers from the public on both sides would appreciate a hearing that does not require them to take time off work. As a result, we request that your office agree to the date of October 3 no earlier than 4:30 pm, and that your office communicate this in writing to the Clerk of the Board with a copy to me. Please let me know if this will be done and then I will notify the Clerk of my client's agreement.

Your letter to the Commission the night before the hearing raised several concerns and my clients wish they could have provided you information before by being contacted. My client would like to reiterate that they are always available to engage in any discussions about your concerns.

In your letter to the Commission, you recommended that the community liaison be bilingual and focus on education and outreach regarding the medicinal use of cannabis, to help dispel the stereotypes and factual inaccuracies you indicate you have witnessed throughout the process leading up to this hearing. My client has witnessed the same, and since the hearing Dr. Floyd Huen (who is bilingual) has already held several meetings with health providers and residents in the Sunset regarding the benefit of medicinal use and will continue that educational activity on an ongoing basis into the future.

Supervisor Katy Tang
August 17, 2017
Page 2

Dr. Huen has also been interviewed extensively on Chinese language radio and television, as well as in the Chinese language press, where he has spoken about the project and his work on reducing opiate addiction in the community.

In your letter to the Commission you ask the Commission to instruct MTA to install stop signs at the intersection. The Commission did not act on that. Please let me know how my client can help your office make that happen.

Very truly yours,



Brett Gladstone

Enclosure

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following appeal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Tuesday, September 5, 2017

Time: 3:00 p.m.

Location: Legislative Chamber, City Hall, Room 250
1 Dr. Carlton B. Goodlett, Place, San Francisco, CA

NOTE: A motion may be entertained to continue this Hearing to the Board of Supervisors' meeting of October 3, 2017.

Subject: **File No. 170917.** Hearing of persons interested in or objecting to the determination of exemption from environmental review under the California Environmental Quality Act issued as a Categorical Exemption by the Planning Department on July 2, 2017, for the proposed project at 2505 Noriega Street, to change the use from retail pharmacy to a Medical Cannabis Dispensary, interior tenant improvements, and repair/in-kind replacement of storefront material finishes. (District 4) (Appellant: Wilson Chu, on behalf of Zhiming Bi) (Filed August 14, 2017)

File No. 170898. Hearing of persons interested in or objecting to the certification of a Conditional Use Authorization pursuant to Planning Code, Sections 303, 739.84, and formerly pursuant to Planning Code, Section 306.7 and interim zoning controls established under Resolution Nos. 179-15 and 544-16, for a proposed project located at 2505 Noriega Street, Assessor's Parcel Block No. 2069, Lot No. 012, identified in Case No. 2014-003153CUA, issued by the Planning Commission by Motion No. 19961, dated July 13, 2017, to establish a medical cannabis dispensary (MCD) (dba "The Apothecarium") within the Noriega Street Neighborhood Commercial District and a 40-X height and bulk district; and adopting findings under the California Environmental Quality Act. (District 4) (Appellant: Ray Hacke of Pacific Justice Institute, on behalf of Ark of Hope Preschool) (Filed July 27, 2017)

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Friday, September 1, 2017.


Angela Calvillo
Clerk of the Board

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

PROOF OF MAILING

Legislative File Nos. 170917 and 170898

Description of Items: Public Hearing Notices - Hearing - Appeal of Determination of Exemption From Environmental Review and Appeal of Conditional Use Authorization - 2505 Noriega Street - 448 Notices Mailed

I, Lisa Lew, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: August 22, 2017

Time: 12:11 p.m.

USPS Location: Repro Pick-up Box in the Clerk of the Board's Office (Rm 244)

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature: 

Instructions: Upon completion, original must be filed in the above referenced file.

Jalipa, Brent (BOS)

From: BOS Legislation, (BOS)
Sent: Tuesday, August 22, 2017 1:56 PM
To: rhacke@pji.org; wilsonchu98@yahoo.com; ryan@apothecarium.com; eliot@apothecarium.com; BGLadstone@hansonbridgett.com
Cc: Givner, Jon (CAT); Stacy, Kate (CAT); Byrne, Marlena (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Starr, Aaron (CPC); Rodgers, AnMarie (CPC); Perry, Andrew (CPC); Ionin, Jonas (CPC); Range, Jessica (CPC); Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS-Supervisors; BOS-Legislative Aides; BOS Legislation, (BOS)
Subject: HEARING NOTICE: Categorical Exemption Determination Appeal and Conditional Use Authorization Appeal - Proposed Project at 2505 Noriega Street - Appeal Hearing on September 5, 2017
Categories: 170898, 170917

Greetings,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **September 5, 2017, at 3:00 p.m.**, to hear an appeal regarding the categorical exemption determination and conditional use authorization for the proposed project at 2505 Noriega Street.

Please find the following link to the hearing notice for the matter:

[Notice of Public Hearing Notice - September 5, 2017](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the links below:

[Board of Supervisors File No. 170917](#)

[Board of Supervisors File No. 170898](#)

NOTE: A motion may be entertained to continue this Hearing to the Board of Supervisors' meeting of October 3, 2017.

Thank you,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

August 18, 2017

File Nos. 170917-170920

Planning Case No. 2014-003153CUA

Received from the Board of Supervisors Clerk's Office one check, in the amount of Five Hundred Seventy Eight Dollars (\$578) representing the filing fee paid by Michael Chan for the appeal of the California Environmental Quality Act (CEQA) Determination of Exemption from Environmental Review for the proposed project at 2505 Noriega Street.

Planning Department

By:

Tony
Print Name

[Signature] 8/21/17
Signature and Date

Jalipa, Brent (BOS)

From: BOS Legislation, (BOS)
Sent: Tuesday, August 15, 2017 3:18 PM
To: Rahaim, John (CPC)
Cc: Givner, Jon (CAT); Stacy, Kate (CAT); Byrne, Marlena (CAT); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Range, Jessica (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Perry, Andrew (CPC); Ionin, Jonas (CPC); Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS-Supervisors; BOS-Legislative Aides; BOS Legislation, (BOS)
Subject: Appeal of CEQA Exemption Determination - 2505 Noriega Street - Timeliness Determination Request
Attachments: Appeal Ltr 081417.pdf; COB Ltr 081517.pdf
Categories: 170917

Good afternoon, Director Rahaim:

The Office of the Clerk of the Board is in receipt of an appeal of the CEQA Exemption Determination for the proposed project at 2505 Noriega Street. The appeal was filed by Wilson Chu, on behalf of Zhiming Bi on August 14, 2017.

Please find the attached letter of appeal and timely filing determination request letter from the Clerk of the Board.

Kindly review for timely filing determination.

Regards,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



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BOARD of SUPERVISORS



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1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

August 15, 2017

To: John Rahaim
Planning Director

From:  Angela Calvillo
Clerk of the Board of Supervisors

Subject: Appeal of California Environmental Quality Act (CEQA) Determination of Exemption from Environmental Review - 2505 Noriega Street

An appeal of the CEQA Determination of Exemption from Environmental Review for the proposed project at 2505 Noriega Street was filed with the Office of the Clerk of the Board on August 14, 2017, by Wilson Chu and Calvin Louie, on behalf of Michael Chan.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalipa at (415) 554-7712, or Lisa Lew at (415) 554-7718.

c: Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
Jessica Range, Acting Environmental Review Officer, Planning Department
AnMarie Rodgers, Senior Policy Advisor, Planning Department
Aaron Starr, Manager of Legislative Affairs, Planning Department
Andrew Perry, Staff Contact, Planning Department
Jonas Ionin, Planning Commission Secretary, Planning Department

Jalipa, Brent (BOS)

From: BOS Legislation, (BOS)
Sent: Friday, August 18, 2017 1:50 PM
To: wilsonchu98@yahoo.com; ryan@apothecarium.com; eliot@apothecarium.com; BGladstone@hansonbridgett.com
Cc: Givner, Jon (CAT); Stacy, Kate (CAT); Byrne, Marlina (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Lynch, Laura (CPC); Navarrete, Joy (CPC); Starr, Aaron (CPC); Rodgers, AnMarie (CPC); Perry, Andrew (CPC); Ionin, Jonas (CPC); Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS-Supervisors; BOS-Legislative Aides; BOS Legislation, (BOS)
Subject: Appeal of CEQA Exemption Determination - Proposed Project at 2505 Noriega Street - Appeal Hearing on September 5, 2017
Categories: 170917

Greetings,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **September 5, 2017, at 3:00 p.m.** Please find linked below a letter of appeal filed for the proposed project at 2505 Noriega Street, as well as direct links to the Planning Department's timely filing determination, and an informational letter from the Clerk of the Board.

[Exemption Determination Appeal Letter - August 14, 2017](#)

[Planning Department Memo - August 17, 2017](#)

[Clerk of the Board Letter - August 18, 2017](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:


[Board of Supervisors File No. 170917](#)

We are requesting a list of addresses you may have of interested parties for the hearing notice in Excel.xls format. Due to the truncated scheduling of the hearing we are required to distribute and publish the notice by August 22, so we ask that the list be provided by end of business day Monday, August 21.

NOTE: A motion may be entertained to continue this Hearing to the Board of Supervisors' meeting of October 3, 2017.

Regards,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

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Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.



August 18, 2017

Wilson Chu
950 Grant Avenue, 2nd Floor
San Francisco, CA 94108

Subject: File No. 170917 - Appeal of CEQA Exemption Determination - Proposed Project at 2505 Noriega Street

Dear Mr. Chu:

The Office of the Clerk of the Board is in receipt of a memorandum dated August 17, 2017, from the Planning Department regarding their determination on the timely filing of appeal of the CEQA Exemption Determination for the proposed project at 2505 Noriega Street.

The Planning Department has determined that the appeal was filed in a timely manner.

Pursuant to Administrative Code, Section 31.16, a hearing date has been scheduled for Tuesday, September 5, 2017, at 3:00 p.m., at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

PLEASE NOTE: A motion may be entertained to continue this Hearing to the Board of Supervisors' meeting of October 3, 2017.

Please provide to the Clerk's Office by noon:

- | | |
|---|---|
| 20 days prior to the September 5, 2017, hearing: | names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and |
| 11 days prior to the September 5, 2017, hearing: | any documentation which you may want available to the Board members prior to the hearing. |


For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and two copies of the documentation for distribution.

Continues on next page

If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalipa at (415) 554-7712, or Lisa Lew at (415) 554-7718.

Very truly yours,



for Angela Calvillo
Clerk of the Board

c: Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
John Rahaim, Planning Director
Scott Sanchez, Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
Laura Lynch, Environmental Planning, Planning Department
Joy Navarrete, Environmental Planning, Planning Department
Aaron Starr, Manager of Legislative Affairs, Planning Department
AnMarie Rodgers, Senior Policy Advisor, Planning Department
Andrew Perry, Staff Contact, Planning Department
Jonas Ionin, Planning Commission Secretary, Planning Department

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Clerk of the Board

Subject:

Hearing - Appeal of Determination of Exemption From Environmental Review - 2505 Noriega Street

The text is listed:

Hearing of persons interested in or objecting to the determination of exemption from environmental review under the California Environmental Quality Act issued as a Categorical Exemption by the Planning Department on July 2, 2017, for the proposed project at 2505 Noriega Street, approved on July 13, 2017, to change the use from retail pharmacy to Medical Cannabis Dispensary, interior tenant improvements, and repair/in-kind replacement of storefront material finishes. (District 4) (Appellant: Wilson Chu, on behalf of Zhiming Bi) (Filed August 14, 2017)

Signature of Sponsoring Supervisor: *Allia Romero*

For Clerk's Use Only