



SAN FRANCISCO PLANNING DEPARTMENT

June 27, 2018

Ms. Angela Calvillo, Clerk
Honorable Supervisor Peskin
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
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**Re: Transmittal of Planning Department Case Number 2018-006286PCA:
Prohibiting Cannabis Retail and MCDs in Chinatown MUDs
Board File No. 180319
Planning Commission Recommendation: Disapproval**

Dear Ms. Calvillo and Supervisor Peskin,

On June 14, 2018, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance, introduced by Supervisor Peskin that would amend the Planning Code to prohibit Cannabis Retail and Medical Cannabis Dispensaries in the Chinatown Mixed Use Districts. At the hearing the Planning Commission voted to disapprove the ordinance.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr".

Aaron D. Starr
Manager of Legislative Affairs

cc:

Peter R. Miljanich, Deputy City Attorney
Lee Hepner, Aide to Supervisor Peskin
Erica Major, Office of the Clerk of the Board
Alisa Somera, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 20208 HEARING DATE JUNE 14, 2018

Project Name: Prohibiting Cannabis Retail and MCDs in Chinatown MUDs
Case Number: 2018-006286PCA [Board File No. 180319]
Initiated by: Supervisor Peskin / Introduced April 3, 2018
Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RESOLUTION DISAPPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PROHIBIT CANNABIS RETAIL AND MEDICAL CANNABIS DISPENSARIES IN THE CHINATOWN MIXED USE DISTRICTS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on April 3, 2018 Supervisors Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180319, which would amend the Planning Code to prohibit Cannabis Retail and Medical Cannabis Dispensaries in the Chinatown Mixed Use Districts;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 14, 2018; and,

WHEREAS, the proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment; and

WHEREAS, the Planning 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 Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **disapproves** the proposed ordinance.

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. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare do not require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby DISAPPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 14, 2018.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Fong, Johnson, Koppel, Melgar

NOES: Moore, Richards

ABSENT: None

ADOPTED: June 14, 2018



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JUNE 14, 2018
90-DAY DEADLINE: JULY 10, 2018

Project Name: **Prohibiting Cannabis Retail and MCDs in Chinatown MUDs**
Case Number: **2018-006286PCA** [Board File No. 180319]
Initiated by: Supervisor Peskin / Introduced April 3, 2018
Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to prohibit Cannabis Retail and Medical Cannabis Dispensaries in the Chinatown Mixed Use Districts.

The Way It Is Now:

1. Cannabis Retail requires Conditional Use authorization within the three Chinatown Mixed Use Districts (MUDs).
2. Medical Cannabis Dispensaries (MCDs) require Mandatory Discretionary Review within the three Chinatown MUDs.

The Way It Would Be:

1. Cannabis Retail would be prohibited within the three Chinatown MUDs.
2. MCDs would be prohibited within the three Chinatown MUDs.

BACKGROUND

On November 9, 2016, the Mayor issued Executive Directive 16-05, "Implementing Prop 64: Adult Use of Marijuana Act," directing the Department of Public Health and the Planning Department, in consultation with other departments, to move forward with legislation for the Board of Supervisors' consideration that would address land use, licensing, safety, and youth access issues related to adult use cannabis under Proposition 64. Pursuant to that Executive Directive, the City spent over a year developed comprehensive legislation that established a complete regulatory framework for a broad range of cannabis businesses, and that identified where, and under what conditions, they may operate.

During the legislative process, several Supervisors sought special carve-outs for their respective districts and commercial corridors, including Chinatown, several NC District in Supervisorial District 2, a cap on MCDs and Cannabis Retail in Supervisorial District 11, and limits in Supervisorial District 7 and 4. In the end, the Board agreed to remove all of these carve-outs from ordinance so that the legislation could move forward with each neighborhood treated equitably. The standard that the ordinance set requires Conditional Use authorization for any Cannabis Retail and a Mandatory DR for MCDs within Neighborhood Commercial Districts and Chinatown. It also set a standard 600' buffer around existing

cannabis retail, MCDs and schools citywide. These controls are intended to ensure that no one neighborhood becomes over concentrated with cannabis sales, that cannabis is kept away from underage children, and that the affected community has an opportunity to provide feedback and comment before the Commission on all cannabis retail applications.

The Board passed the cannabis regulations ordinance on a 10-1 vote, which Supervisor Safai voting against. The Mayor signed the ordinance on December 6, 2017 and it became effective on January 6 of this year.

ISSUES AND CONSIDERATIONS

Cannabis Applications

The Office of Cannabis just released applications for equity applicants and will soon be releasing applications for existing MCDs to convert to Cannabis Retail. As such, it's too soon in the process to determine how effective the new regulations are at mitigating over concentration and nuisance concerns. So far, around 36 equity applicants have submitted applications to the Office of Cannabis (See Exhibit C), and none of them are located within Chinatown. There are also no existing MCDs within Chinatown. Of the equity applications, several are proposed in neighborhoods that have not seen cannabis applications in the past. These include North Beach, the Haight, the Castro proper, and the Tenderloin. Nine are proposed in SoMa/Mission areas where there is already a significant concentration.

Community Concerns

During the hearings, there was a significant amount of opposition to the proposed regulations from San Francisco's Chinese community. Speakers were generally concerned about exposure to children, proximity to schools, and neighborhood character. They also felt that not enough outreach was done to the community in developing the legislation. As such, many of the speakers advocated for an even larger radius from schools (1500-2000 feet), including childcare centers and playgrounds in the list of sensitive uses, and prohibitions on cannabis sales in neighborhoods like the Outer Sunset and Chinatown.

A letter submitted by the Community Tenants Association (CTA) (see Exhibit B), which is associated with the Board File for this ordinance outlines several concerns about allowing cannabis in Chinatown. In summary, the letter states that due to the lack of community outreach to the Chinese Community, CTA is requesting that cannabis sales be prohibited in all Chinatown MUDs. It goes on to say that Chinatown is facing extreme gentrification and displacement pressures. The new cannabis industry will only exacerbate these pressures through higher rents, which will push out existing small businesses. The letter asserts that the fragile commercial corridors in Chinatown will not survive the pressure caused by this new industry. This letter was also used as a basis for finding in the proposed ordinance.

Chinatown MUDs

There are three Chinatown MUDs. They include the Chinatown Community Business District, the Chinatown Visitor Retail District, and the Chinatown Residential Neighborhood Commercial District. For reference and background, the following is a description of each district:

Chinatown Community Business District: The Chinatown Community Business District, located in the northeast quadrant of San Francisco, extends along Broadway from the eastern portal of the Broadway Tunnel to Columbus Avenue and along Kearny Street from Columbus to Sacramento Street. This district

also includes portions of Commercial Street between Montgomery Street and Grant Avenue and portions of Grant Avenue between Bush and California Streets. It is part of the larger core area of Chinatown.

The portions of Broadway, Kearny and Commercial Streets and Grant Avenue in this district are transitional edges or entries to Chinatown. North and east of the two blocks of Broadway contained in this district are North Beach and the Broadway Entertainment Districts. Kearny and Columbus Streets are close to intensive office development in the Downtown Financial District. Both Grant Avenue and Commercial Street provide important pedestrian entries to Chinatown. Generally, this district has more potential for added retail and commercial development than other parts of Chinatown.

This zoning district is intended to protect existing housing, encourage new housing and to accommodate modest expansion of Chinatown business activities as well as street-level retail uses. The size of individual professional or business office use is limited in order to prevent these areas from being used to accommodate larger office uses spilling over from the financial district.

Housing development in new buildings is encouraged at upper stories. Existing housing is protected by limitations on demolitions and upper-story conversions. Accessory dwelling units are permitted within the district pursuant to Subsection [207\(c\)\(4\)](#) of this Code.

Chinatown Visitor Retail District: The Chinatown Visitor Retail Neighborhood Commercial District extends along Grant Avenue between California and Jackson Streets. This district contains a concentration of shopping bazaars, art goods stores and restaurants which attract visitors and shoppers and contribute to the City's visual and economic diversity. Grant Avenue provides an important link between Downtown retail shopping and the Broadway, North Beach and Fisherman's Wharf areas.

This district is intended to preserve the street's present character and scale and to accommodate uses primarily appealing to visitors (e.g. tourist gifts shops, jewelry stores, art goods, large restaurants. In order to promote continuous retail frontage, entertainment, financial services, medical service, automotive and drive-up uses are restricted. Most commercial uses, except financial services are permitted on the first two stories. Administrative services, (those not serving the public) are prohibited in order to prevent encroachment from downtown office uses. There are also special controls on fast-food restaurants and tourist hotels. Building standards protect and complement the existing small-scale development and the historic character of the area.

The height limit applicable to the district will accommodate two floors of housing or institutional use above two floors of retail use. Existing residential units are protected by prohibition of upper-story conversions and limitation on demolition. Accessory dwelling units are permitted within the district pursuant to Subsection [207\(c\)\(4\)](#) of this Code.

Chinatown Residential Neighborhood Commercial District: The Chinatown Residential Neighborhood Commercial District extends along Stockton Street between Sacramento and Broadway and along Powell Street between Washington Street and Broadway. It is generally west and uphill from Grant Avenue and is close to the relatively intensely developed residential areas of lower Nob and Russian Hills. Stockton Street is a major transit corridor which serves as "Main Street" for the Chinatown neighborhood. Both Stockton and Powell Streets contain a significant amount of housing as well as major community institutions supportive to Chinatown and the larger Chinese community. This daytime-oriented district provides local and regional specialty food shopping for fresh vegetables, poultry, fish and meat. Weekends are this area's busiest shopping days.

Because Stockton Street is intended to remain principally in its present character, the Stockton Street controls are designed to preserve neighborhood-serving uses and protect the residential livability of the

area. The controls promote new residential development compatible with existing small-scale mixed-use character of the area. Consistent with the residential character of the area, commercial development is directed to the ground story. Daytime-oriented use is protected and tourist-related uses, fast-food restaurants and financial services are limited.

Housing development in new and existing buildings is encouraged above the ground floor. Institutional uses are also encouraged. Existing residential units are protected by limits on demolition and conversion. Accessory dwelling units are permitted within the district pursuant to Subsection [207\(c\)\(4\)](#) of this Code.

General Plan Compliance

The proposed ordinance complies with the following Objective and policies in the General Plan:

OBJECTIVE 1

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

POLICY 2.1

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

The proposed ordinance is seeking to retain existing commercial activity in Chinatown. If amended as proposed by the Department, it will also allow a new commercial activity, cannabis retail, to establish once we know more about how the newly emerging industry is affecting commercial rents.

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.

The proposed ordinance seeks to ensure that existing businesses are not displaced by the emerging cannabis industry, encouraging the retention of existing neighborhood serving businesses.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Modify the Ordinance so that the new prohibition on MCDs and Cannabis Retail last only two years.

BASIS FOR RECOMMENDATION

The Department supports the proposed ordinance because it acknowledges that the City did not adequately reach out to the Chinatown community during the formulation of the cannabis controls. This particular community came out very strongly in opposition to the proposed controls during the legislative process, making clear that they did not want cannabis sold in their community; however, the Department is concerned that this ordinance will set a precedent, and that other neighborhoods will also want a prohibition. Particularly, the Department is concerned that other districts, which also sought carve-outs, will now seek legislative changes to do so.

The controls in place now were carefully crafted to provide equitable distribution throughout the City, while also considering concerns of over-concentration and access to youth. The City's cannabis controls are too new to determine if they are working, but past experience has shown that cannabis uses will only congregate in smaller areas of the City if the regulations are too restrictive. Further, permanently prohibiting cannabis sales in this community would significantly diminish the opportunity for its members to benefit economically from this new industry.

Recommendation 1: Modify the Ordinance so that the new prohibition on MCDs and Cannabis Retail last only two years.

Putting a time limit on this prohibition would ensure that this issue could be reconsidered once the new laws have had an opportunity to take effect. It would also provide the City and the Chinatown community time to engage in a dialog about community concerns and address some of the misconceptions about cannabis. Further, it would address the Department's concern that this ordinance is setting a prescient for other the neighborhoods in the City.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance. A letter from the Community Tenants Association was sent to the Board of Supervisors

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Letters from the Community Tenants Association
- Exhibit C: List and Map of Cannabis Equity Applicants
- Exhibit D: Board of Supervisors File No. 180319