

File No. 170917

Committee Item No. _____

Board Item No. 16

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: October 3, 2017

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

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

- Appeal Letter - August 14, 2017
- Planning Commission Motion No. 19961 - July 13, 2017
- Planning Commission Executive Summary - July 13, 2017
- Planning Letter - September 25, 2017
- Project Sponsor Letter - September 25, 2017
- Project Sponsor Letter - August 17, 2017
- Hearing Notice and Clerical Documents

Prepared by: Lisa Lew

Date: September 28, 2017

Prepared by: _____

Date: _____

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2017 AUG 14 PM 4: 29

BY BJ

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.: 2017-003153CUA
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. If one or more boxes are checked above, an <u>Environmental Evaluation Application</u> is required, unless reviewed by an Environmental Planner.	
<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><small>Digitally signed by Elizabeth Gordon Jonckheer DN: cn=Elizabeth Gordon Jonckheer, ou=Current Planning, ou=City Planning, dc=sfgov, dc=org Date: 2017.06.27 13:02:00 -07'00'</small></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>	<p>Signature:</p>
	<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>Andrew W. Perry</p> <p><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'</small></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 – 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
SAN FRANCISCO

2017 AUG 14 PM 4:29


BY BJ


MICHAEL CHAN
1808 17TH AVE
SAN FRANCISCO, CA 94122

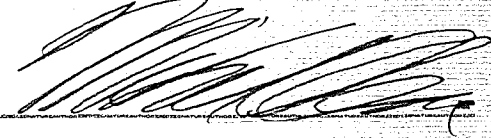
469
11-8104/3210

Date 8/14/2017

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For 2014-003/53CWA CEQA 

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

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

Reception:
415.558.6378

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415.558.6409

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

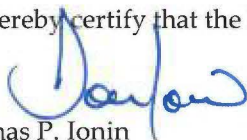
That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application 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

- | | |
|---|--|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input checked="" type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input checked="" type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | 3-D Renderings (new construction or significant addition) |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Wireless Telecommunications Materials |
| <input checked="" type="checkbox"/> Context Photos | <input type="checkbox"/> Health Dept. review of RF levels |
| <input type="checkbox"/> Site Photos | <input type="checkbox"/> RF Report |
| | <input type="checkbox"/> Community Meeting Notice |
| | <input type="checkbox"/> Housing Documents |
| | <input type="checkbox"/> 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

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From: [Jalipa, Brent \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Subject: FW: APPEAL RESPONSE: CEQA Categorical Exemption Appeal - Proposed Project at 2505 Noriega Street - Appeal Hearing on October 3, 2017
Date: Monday, September 25, 2017 11:12:41 AM
Attachments: [image001.png](#)

From: BOS Legislation, (BOS)
Sent: Monday, September 25, 2017 11:10 AM
To: 'wilsonchu98@yahoo.com' <wilsonchu98@yahoo.com>; ryan@apothecarium.com; eliot@apothecarium.com; BGLadstone@hansonbridgett.com
Cc: Givner, Jon (CAT) <jon.givner@sfgov.org>; Stacy, Kate (CAT) <kate.stacy@sfgov.org>; Jensen, Kristen (CAT) <kristen.jensen@sfgov.org>; Rahaim, John (CPC) <john.rahaim@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; Rodgers, AnMarie (CPC) <anmarie.rodgers@sfgov.org>; Perry, Andrew (CPC) <andrew.perry@sfgov.org>; Wietgreffe, Wade (CPC) <wade.wietgreffe@sfgov.org>; Ionin, Jonas (CPC) <jonas.ionin@sfgov.org>; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>
Subject: APPEAL RESPONSE: CEQA Categorical Exemption Appeal - Proposed Project at 2505 Noriega Street - Appeal Hearing on October 3, 2017

Good morning

Please find linked below the letter received by the Office of the Clerk of the Board from the Planning Department, concerning the CEQA Categorical Exemption Appeal for the proposed project at 2505 Noriega Street.

[Planning Appeal Response Letter - September 25, 2017](#)

The appeal hearing for this matter is scheduled for a 4:30 p.m. special order before the Board on 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. 170917](#)

Regards,

Brent Jalipa

Legislative Clerk

Board of Supervisors - Clerk's Office

1 Dr. Carlton B. Goodlett Place, Room 244

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

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Categorical Exemption Appeal

2505 Noriega Street – Medical Cannabis Dispensary

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Planning
Information:
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DATE: September 25, 2017
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Lisa Gibson, Environmental Review Officer – (415) 575-9032
 Wade Wietgreffe – (415) 575-9050
 Andrew Perry – (415) 575-9017
RE: Planning Case No. 2014-003153APL-02
 Appeal of Categorical Exemption for 2505 Noriega Street – Change of Use to
 Medical Cannabis Dispensary
HEARING DATE: October 3, 2017
ATTACHMENT: A – FEHR AND PEERS TRANSPORTATION AND PARKING STUDY

PROJECT SPONSOR: Ryan Hudson, 2029 Market Street, San Francisco, CA 94114
APPELLANT: Wilson Chu, on behalf of Zhiming Bi, (415) 846-6534

INTRODUCTION

This memorandum and the attached documents respond to the letter of appeal (“Appeal Letter”) to the Board of Supervisors (“Board”) regarding the Planning Department’s (“Department”) issuance of a Categorical Exemption under the California Environmental Quality Act (“CEQA Determination”) for the proposed change of use to a Medical Cannabis Dispensary at 2505 Noriega Street (“Project”).

The Department issued a Categorical Exemption CEQA Determination for the Project on July 2, 2017, finding that the Project is exempt from further environmental review under the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, as a Class 1 Categorical Exemption (14 Cal. Code Reg. §§ 15301).

This response addresses the Appeal Letter filed with the Board of Supervisors (“Board”) on August 14, 2017 by Wilson Chu, on behalf of Zhiming Bi (“Appellant”). The Appeal Letter referenced the CEQA Determination for the Project associated with Planning Case No. 2014-003153CUA.

The decision before the Board is whether to uphold the Department’s decision to issue a Categorical Exemption and deny the appeal, or to overturn the Department’s decision to issue a Categorical Exemption and return the project to the Department for additional environmental review.

PROJECT DESCRIPTION

The Project Sponsor proposes to establish a new Medical Cannabis Dispensary (“MCD”) (d.b.a. “Apothecarium”) at 2505 Noriega Street, within a currently vacant ground floor retail commercial space last occupied by Ace Pharmacy in April 2014. 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), or 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 on-site vehicular parking is proposed. The Project Sponsor would maintain a full-time security guard at the storefront, and would install security cameras to cover each room, point of sale, entry, exit, and adjacent sidewalks.

BACKGROUND

On December 10, 2014, Vincent Gonzaga, on behalf of Ryan Hudson (“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 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, the Project Sponsor then filed Application No. 2014-003153DRM with the Department to operate the MCD.

On May 21, 2015, the Project Sponsor filed Application No. 2014-003153CUA (“Application”) with the Department seeking Conditional Use Authorization to establish an MCD in the previously referenced location.

The Project was duly noticed and scheduled to be heard by the Commission at the June 8, 2017 hearing. However, the Project and request for Conditional Use Authorization were continued without comment to the July 13, 2017 hearing.

On July 2, 2017, the Department determined that the Project was categorically exempt under CEQA Class 1 – Existing Facilities, and that no further environmental review was required.

On July 13, 2017, at a regularly scheduled and duly noticed public hearing, the Commission heard the request for Conditional Use Authorization as part of Application 2014-003153CUA, and voted 5-1 to approve the request to establish an MCD at 2505 Noriega Street. A large amount of public testimony was heard on this item, both in support and in opposition to the proposal.

On August 14, 2017, Wilson Chu, on behalf of Zhiming Bi, filed an appeal of the Categorical Exemption CEQA Determination was filed.

On August 17, 2017, in a letter to the Clerk of the Board, the Environmental Review Officer determined that the appeal of the CEQA Determination was timely, because an Approval Action (San Francisco Planning Commission Motion No. 19961) had been taken for the Project.

CEQA GUIDELINES

Section 21084 of the California Public Resources Code requires that the CEQA Guidelines identify a list of classes of projects that have been determined not to have a significant effect on the environment and are exempt from further environmental review.

In response to that mandate, the State Secretary of Resources found that certain classes of projects, which are listed in CEQA Guidelines Sections 15301 through 15333, do not have a significant impact on the environment, and therefore are categorically exempt from further environmental review.

CEQA Guidelines Section 15301, or Class 1, provides an exemption from environmental review for minor alterations to existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This includes interior and exterior alterations associated with a change of tenant, provided the project involves negligible or no expansion of an existing use. CEQA requires that local agencies adopt a list of categorical exemptions from CEQA. Such list must show those specific activities at the local level that fall within each of the classes of set forth in the CEQA Guidelines. The Planning Commission adopted such list on August 17, 2000 as part of Resolution No. 14952.¹ Changes of use are specifically included as an example in the Planning Commission list for Class 1 exemptions.

APPELLANT CONCERNS AND PLANNING DEPARTMENT RESPONSES

The concerns raised in the appellant's August 14, 2017 Appeal Letter are cited below and are followed by the Department's responses.

Concern 1: The Appellant asserts that the Project does not fall within a strict or broad interpretation of the definition of a CEQA Class 1 categorical exemption.

Response 1: The Project approved by the Planning Commission does fall within the definition of a CEQA Class 1 categorical exemption and no exceptions apply.

The Appellant claims that the Project is a significant change of commercial use from that of a typical neighborhood pharmacy to a MCD, and that as such the change of use is not negligible. The Appellant continues, noting that the former pharmacy use served the needs of thousands of consumers in a much different manner, requiring a large display space in order to sell a wide variety of goods. This is in contrast to an MCD, they argue, which narrowly focuses on specific medicinal needs, and thus does not serve the same, or as diverse a population as the pharmacy.

¹ The list is available online here: <http://208.121.200.84/ftp/files/Commission/policies/14952.pdf>.

Although the Project involves a change of use under Planning Code definitions, from a retail pharmacy to an MCD, under CEQA this change of use would qualify as a Class 1 Categorical Exemption. For Class 1 exemptions, “the key consideration is whether the Project involves negligible or no expansion of an existing use,” and generally consists of the operation, repair, maintenance, permitting, or minor alteration of existing public or private structures. Planning Commission Resolution No. 14952 identifies within Class 1: “Changes of use are included if the new use, as compared with the former use, would first be permitted as a principal or conditional use in any equally restrictive or more restrictive zoning district.” The proposed change of use complies with this requirement as both MCDs and general retail, such as the former pharmacy, are permitted in the same classes of commercial districts, and not in residential districts.

CEQA also identifies certain exceptions that preclude a categorical exemption from being issued for a project. These exceptions apply when there is a cumulative impact from successive projects of the same type and in the same place, and which over time are significant; or when there are unusual circumstances present at the project site that result in a reasonable possibility that the proposed activity will have a significant effect; or when there is potential damage to scenic resources within a designated scenic highway; or when a project is located on a hazardous waste site; or when there is a possibility that the project may cause a substantial adverse change to the significance of a historical resource. This Project presents neither cumulative impacts from successive projects, nor unusual circumstances attributed to the project site. The Project is not located within a scenic highway or on a hazardous waste site, nor is there any potential adverse change to a historical resource.

Because the Project includes only interior tenant improvements and minor exterior alterations to the storefront, without any physical expansion or intensification of use on the site, and no exceptions to the Categorical Exemption apply, the Project is thus eligible to receive a Class 1 Categorical Exemption, which the Department appropriately issued in this case.

For informational purposes, the Project Sponsor commissioned Fehr and Peers to prepare the Transportation and Parking Study (the “Study”) in response to the interim zoning controls that were in place during the time the Department was considering the Project Sponsor’s Conditional Use application (Attachment A). The consultant prepared Study and the Appellant’s own comments in the Appeal Letter establish that the MCD use would not be more intensive than other typical types of retail use. In the Appeal Letter, the Appellant acknowledged that the proposed MCD would sell a more limited variety of products to a narrower population base, as compared to the previous pharmacy. Similarly, the Study found that other retail or restaurant uses, which would be the most common use type to occupy the subject storefront absent the proposed MCD, would result in similar, if not larger, trip generation than the MCD.

Concern 2: The Appellant claims that preparation of a parking and transportation study, as well as the applicant's agreement to provide certain transportation demand management measures, are admissions that the Project will have an environmental impact on the neighborhood.

Response 2: The Project was not required to prepare any additional transportation analysis under CEQA, nor is the Project subject to the requirements of the Transportation Demand Management (TDM) Program.

The Appellant claims that the preparation of a parking and transportation study for the Project is sufficient to demonstrate that the Project will have an environmental impact on the surrounding neighborhood. Similarly, the Appellant claims that the voluntary provision of certain measures intended to reduce the number of single-occupancy vehicle trips to and from the property is also an acknowledgement that the Project will result in environmental impacts, and should warrant further environmental review. The Appellant's argument and conclusions, however, fail to differentiate between analysis that may be prepared in order to inform the Department's environmental review under CEQA and what is separately required under the Planning Code.

Under CEQA, no additional transportation studies or analysis were required to be performed prior to issuance of the Categorical Exemption. The proposed change from a retail pharmacy to an MCD does not create any new housing units or parking spaces, nor would it include other features that could potentially result in significant adverse impacts to transit, pedestrian, or bicycle safety. In addition, as stated above in Response 1, the Project would not result in any unusual circumstances. For informational purposes, the Project Sponsor commissioned Fehr and Peers to prepare the Study in response to the interim zoning controls that were in place during the time the Department was considering the Project Sponsor's Conditional Use application. Specifically, under the interim controls, the Planning Commission was required to consider whether "the MCD has prepared a parking and transportation management plan sufficient to address the anticipated impact of patients visiting the MCD" in deciding whether to grant Conditional Use Authorization. This was not a requirement under CEQA.

The Study calculated an estimated trip generation rate for the proposed MCD, documented existing traffic, parking, and loading conditions in the vicinity of the site, and analyzed how the Project's anticipated trip generation would impact those existing conditions. The Study found that the existing parking and loading conditions in the vicinity are generally similar to conditions in other parts of the City, and that the existing parking availability in the neighborhood should be sufficient to absorb any demand for parking generated by the Project.² The Study was included as an attachment to the staff report for the Conditional Use Authorization hearing, and is included as an attachment to this response.

With regard to TDM measures, the Project is not required to comply with Planning Code Section 169 or the TDM Program, as the Project would not result in ten or more dwelling units or bedrooms of group housing, nor 10,000 occupied square feet of new non-residential construction, nor a change of use of 25,000 occupied square feet. Similarly, under CEQA, the Project would not result in any unusual

² CEQA section 21099 prohibits the Department from considering parking as a significant impact on the environment for projects that meet certain characteristics, like this Project.

circumstances or significant impacts that the Department must address through mitigation measures. The Project Sponsor's inclusion of voluntary TDM measures is instead a response to the concerns of the neighborhood about the Project's potential impacts to parking and transportation in the vicinity, and is intended to encourage trips to the site by means other than single-occupancy vehicles. This is not an admission that the Project would have significant environmental impacts, but rather an effort to address neighborhood concerns regarding the Project.

CONCLUSION

Appellant has presented no substantial evidence supporting a fair argument that the Project will cause a significant environmental effect due to unusual circumstances. As a consequence, no further environmental review is required. The Project is consistent with CEQA's Class 1 exemption.

For the reasons stated above and in the July 2, 2017 CEQA Categorical Exemption Determination, the CEQA Determination complies with the requirements of CEQA and the Project is exempt from further environmental review. The Department therefore recommends that the board uphold the CEQA Categorical Exemption Determination and deny the appeal of the CEQA Determination.

MEMORANDUM

Date: May 10, 2017
To: Ryan Hudson, The Apothecarium
From: Eleanor Leshner & Eric Womeldorff, Fehr & Peers
Subject: 2505 Noriega Street Transportation and Parking Study

SF17-0921

This focused transportation and parking study assesses the local traffic, parking¹, and loading conditions near the proposed Medical Cannabis Dispensary (MCD) at 2505 Noriega Street (the "Proposed Project") in the Sunset District of San Francisco. The study also estimates trip generation, parking and loading demand, and presents a Transportation Demand Management (TDM) plan for the Proposed Project. This study was requested by the project sponsor, The Apothecarium, in order to address the Findings of the Planning Code and help guide decision makers as to whether to approve the proposed use. To develop this study, Fehr & Peers has used several standard methodologies used for projects subject to CEQA by the San Francisco Planning Department and its transportation guidelines, although the Proposed Project is not subject to CEQA analysis.

The results of this study reveal that there is adequate parking in the vicinity of the Proposed Project to meet the anticipated demand and trip generation for the MCD. In addition, other retail or restaurant uses would result in similar, if not larger, trip generation and demand for parking. Retail and restaurant establishments are used as a comparison since they are two of the most common uses in the Noriega Street Neighborhood Commercial District, where the Proposed Project is located.

In addition, since medical cannabis and cannabis-related products are not currently allowed to be delivered by commercial vehicles, the Proposed Project would not generate demand for commercial loading vehicles. All deliveries to the MCD will be made by private passenger vehicles that park in

¹Parking is included as a topic of this study although typically it is included for informational purposes as part of project-specific environmental review conducted for CEQA



regular parking spaces. Delivery activity both to and from the Proposed Project is accounted for in the trip generation estimates that is compared to the existing parking supply.

Finally, while the Proposed Project is not subject to the City of San Francisco's Transportation Demand Management Program, due to its small size and other factors, the Project Sponsor has voluntarily agreed to implement several TDM measures to encourage travel by sustainable modes of transportation (e.g. walking, bicycling, and transit) and further reduce single occupancy vehicle (SOV) trips to/from the Proposed Project.

PROJECT DESCRIPTION

As shown in **Figure 1**, the Proposed Project is located at 2505 Noriega Street on the southwest corner of Noriega Street and 32nd Street in the Noriega Street Neighborhood Commercial District. The Proposed Project would inhabit the existing building at the address, which has one floor and includes 2,721 gross square feet (gsf) of MCD use. The Proposed Project does not propose any accessory parking spaces.

EXISTING CONDITIONS

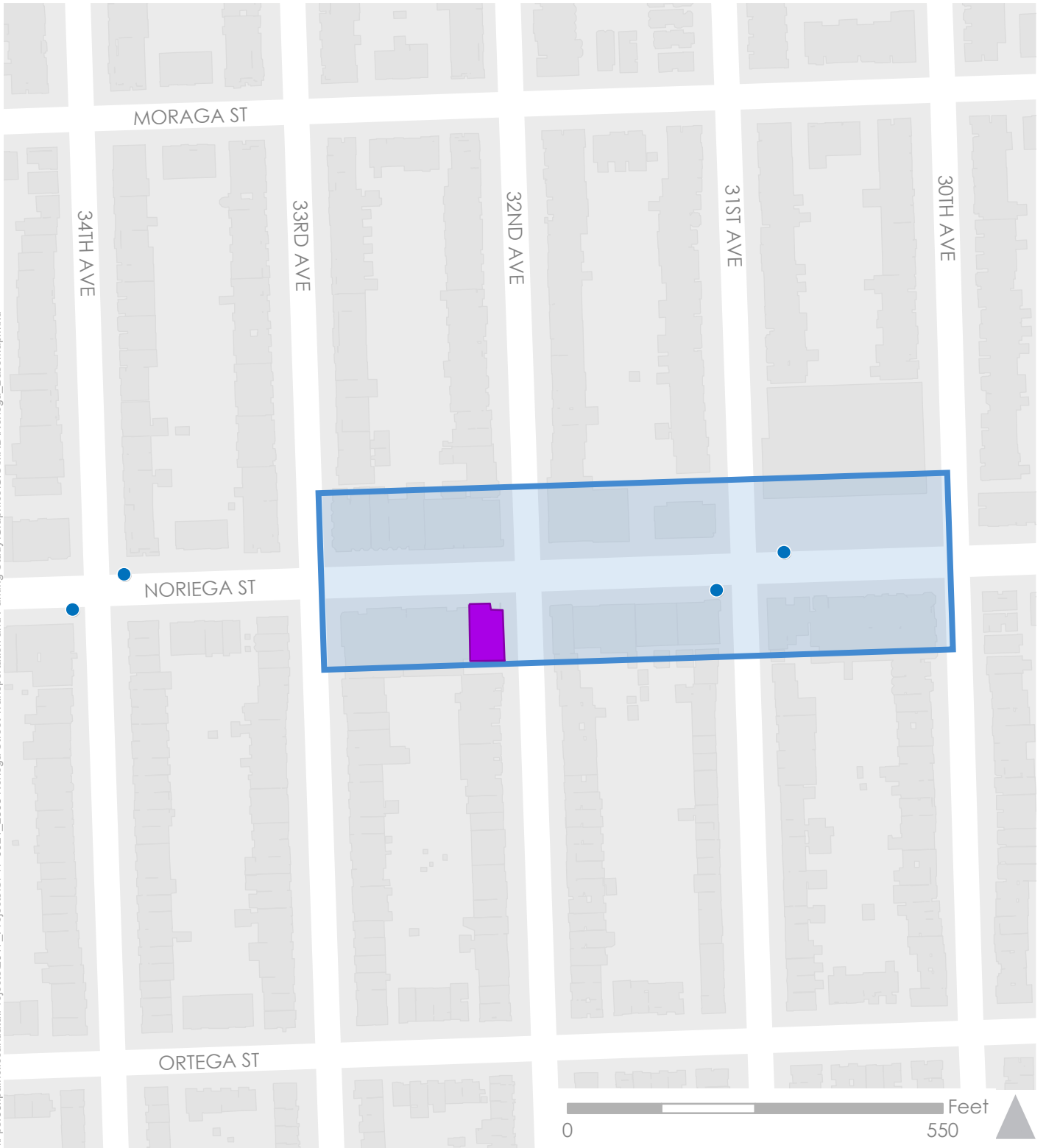
To assess existing conditions in the vicinity of the Proposed Project, Fehr & Peers collected information regarding the traffic, parking, and loading conditions near the Proposed Project. To better understand the area, Fehr & Peers also conducted a site visit on Tuesday, February 28, 2017.

Traffic Conditions: Fehr & Peers conducted 24-hour vehicle volume counts at two blocks adjacent to the Proposed Project site on Wednesday, February 22, 2017. Approximately, 7,000 vehicles travel on Noriega Street per day, with even vehicle volumes traveling in each direction.



Inset Figure 1. Existing Storefront at 2505 Noriega

\\fpts03.fpa-inc.local\data\Projects\2017_P\Projects\SF17-0921_2505 Noriega Street Transportation and Parking Study\Graphics\GIS\MXD\Noriega_Basemap.mxd






-  Project Site
-  Noriega Street Neighborhood Commercial District
-  Muni Stop (7 & 7X)



Figure 1
Project Location



Parking Conditions: Fehr & Peers conducted parking and loading surveys on Saturday, February 18, 2017 (a typical weekend day) between 11am and 2pm, and on Wednesday, February 22, 2017 (a typical weekday) from 11am to 2pm, and from 5pm to 8pm. Approximately 1,300 parking spaces are supplied within an approximately 1,000 feet radius of the Proposed Project site. **Table 1** summarizes the average parking occupancy observed by time period and **Table 2** presents the average parking availability by time period. **Figure 2A** and **2B** present average parking occupancy by time period and by block.

TABLE 1: AVERAGE PARKING OCCUPANCY BY TIME PERIOD		
Day	Midday (11am-2pm)	Evening (5pm-8pm)
Weekday	70%	77%
Weekend	87%	n/a

Source: Fehr & Peers, 2017.

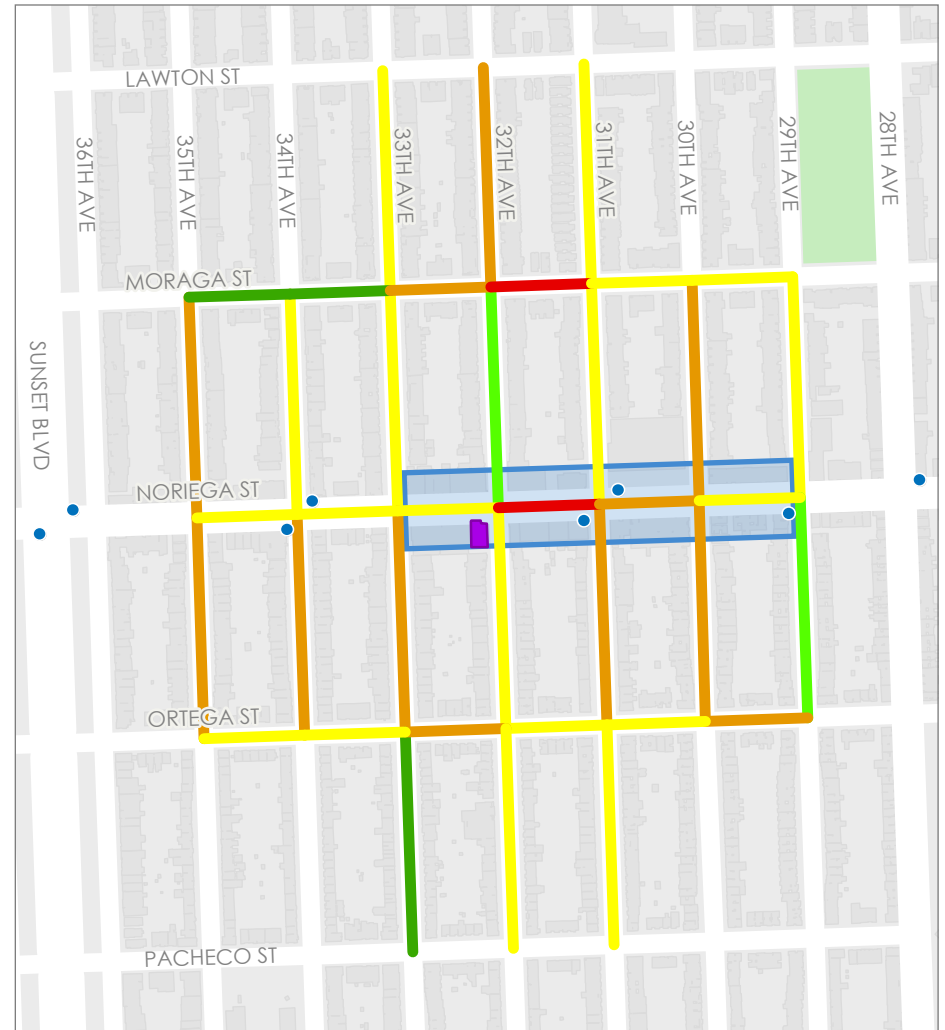
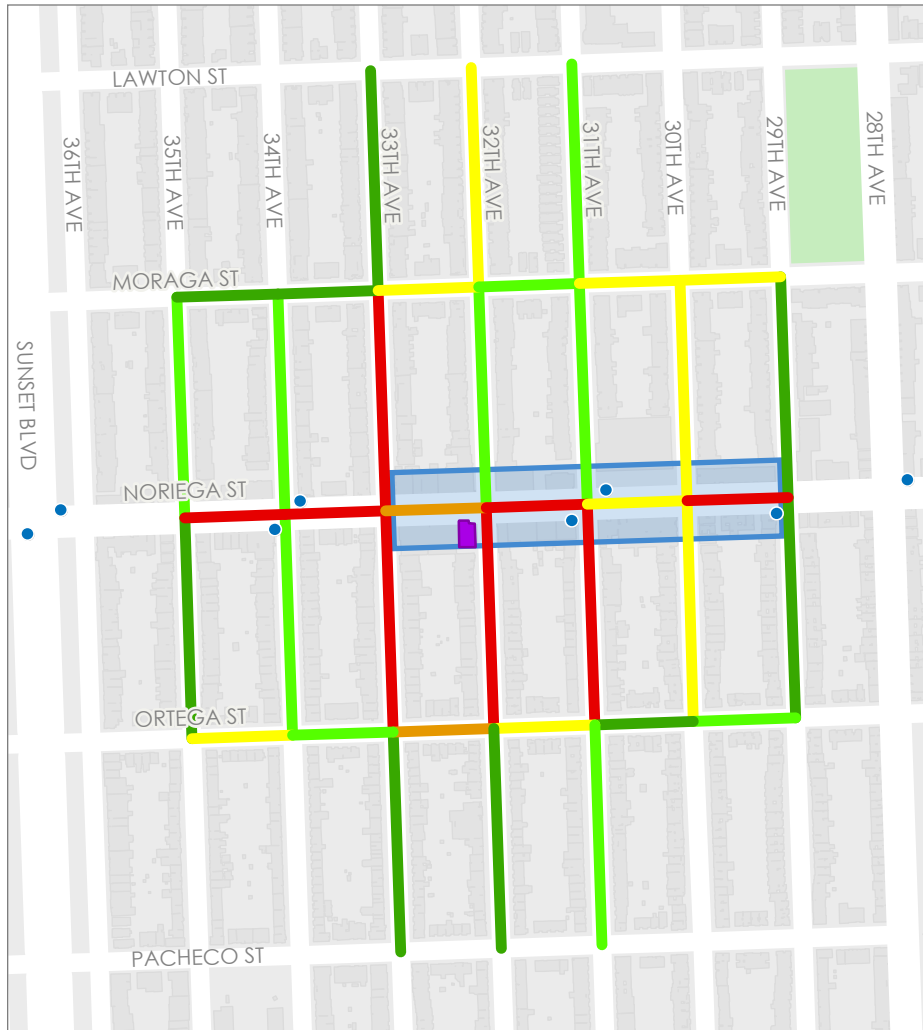
Note: study area includes on-street parking and loading spaces within 1,000 feet of the Proposed Project site.

During the weekday midday period (11am-2pm), on-street parking is generally 70 percent occupied and, therefore, approximately 390 spaces are available within 1000 feet of the Proposed Project. During this time period, parking on Noriega Street and 31st, 32nd, and 33rd avenues one block south of Noriega Street is generally more occupied than other blocks observed, as presented in **Figure 2A**. On-street parking during the weekday evening period (5pm-8pm) is typically 77 percent occupied and, therefore, approximately 300 spaces are available within 1000 feet of the Proposed Project.

During this time period, parking occupancy is highest on Noriega Street between 31st and 32nd avenues but generally more evenly distributed across all blocks in the study area, compared to the midday time period. During the weekend midday (11am-2pm), on-street parking spaces are generally more occupied (87 percent) compared to the weekday time periods and approximately 175 spaces are available within 1000 feet of the Proposed Project. Generally, the blocks on and closest to Noriega Street are most occupied during the weekend midday time period, as presented in **Figure 2B**.

Weekday Midday (11am - 2pm)

Weekday Evening (5pm - 8pm)



On-Street Parking Occupancy

- █ 0% - 59% Occupied
- █ 60% - 69% Occupied
- █ 70% - 79% Occupied
- █ 80% - 89% Occupied
- █ 90% - 100% Occupied

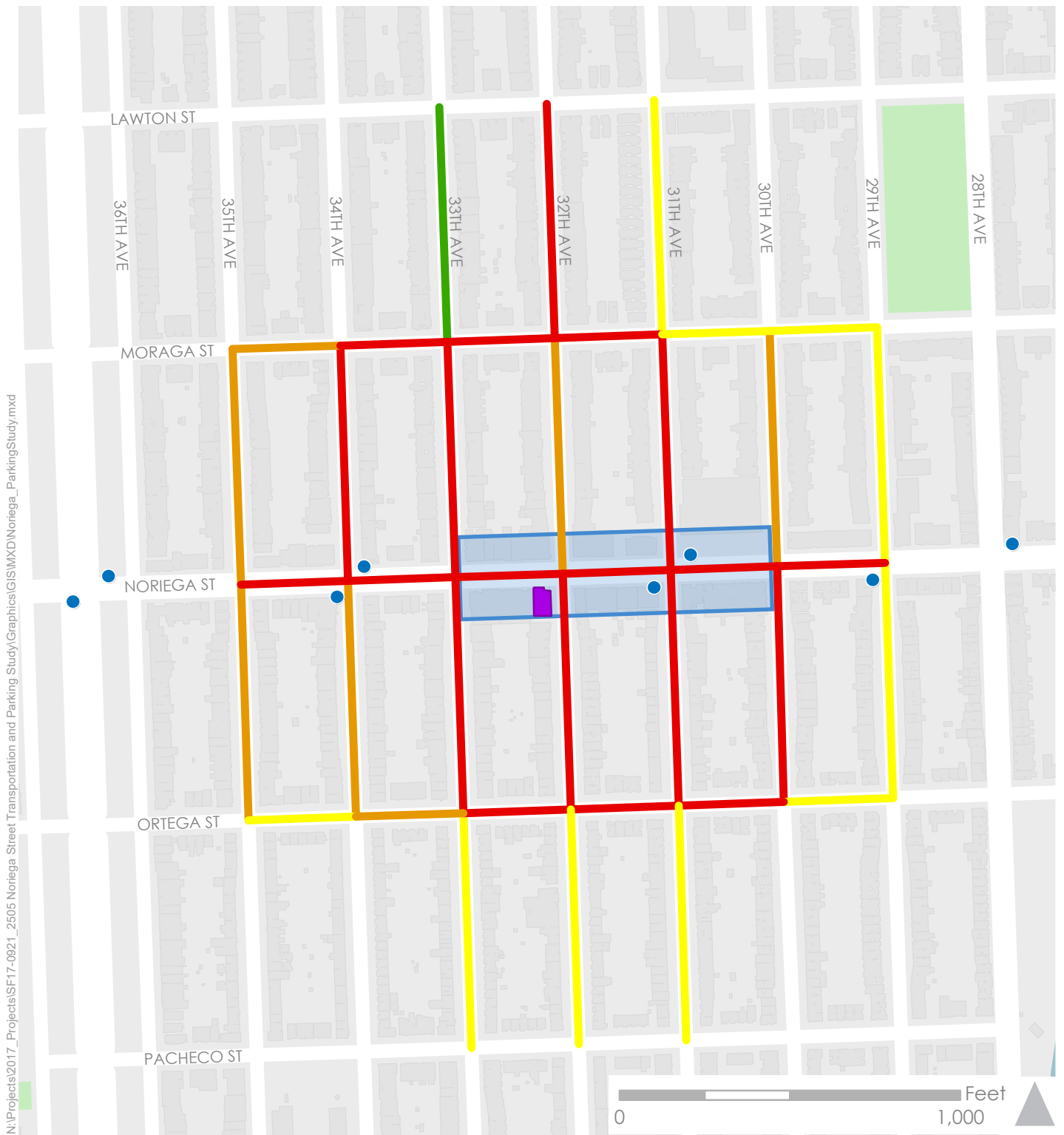
- █ Project Site
- █ Noriega Street Neighborhood Commercial District
- Muni Stop (7 & 7X)



Figure 2A

On-Street Parking Occupancy, Existing Conditions

Weekend Midday (11am - 2pm)



N:\Projects\2017_Projects\SF17-0921_2505 Noriega Street Transportation and Parking Study\Graphics\GIS\MXD\Noriega_ParkingStudy.mxd

On-Street Parking Occupancy

- █ 0% - 59% Occupied
- █ 60% - 69% Occupied
- █ 70% - 79% Occupied
- █ 80% - 89% Occupied
- █ 90% - 100% Occupied

- █ Project Site
- █ Noriega Street Neighborhood Commercial District
- Muni Stop (7 & 7X)



Figure 2B
On-Street Parking Occupancy, Existing Conditions



TABLE 2: AVERAGE PARKING AVAILABILITY BY TIME PERIOD

Day	Midday (11am-2pm)	Evening (5pm-8pm)
Weekday	390 spaces	300 spaces
Weekend	170 spaces	n/a

Source: Fehr & Peers, 2017.

Note: study area includes on-street parking and loading spaces within 1,000 feet of the Proposed Project site.

Parking occupancy in the vicinity of the Proposed Project is similar to other locations in the City. For context, the City’s SFpark program has identified 60-80 percent as its target parking occupancy range.² This target occupancy rate aims to ensure that on-street parking is readily available and accommodates as many customers as possible for adjacent businesses. In addition, according to a study by the San Francisco County Transportation Authority, which documented parking conditions in residential and commercial areas in Bernal Heights, Cow Hollow, Hayes Valley and West Portal in 2009, parking occupancy ranged between 63 – 96 percent, 71 – 97 percent, and 80 – 99 percent during the weekday midday, weekday evening and weekend midday periods, respectively.³ The parking occupancy observed in the vicinity of the Proposed Project falls within these ranges for all time periods observed.

Loading Conditions: A total of seven commercial loading spaces are supplied within two blocks of the Proposed Project site. **Table 3** summarizes loading zone occupancy observed by time period. During weekday midday hours, loading spaces are generally 45 percent occupied. Loading occupancy during the weekday evening period is typically 82 percent full. Loading spaces are generally more occupied during the weekend midday time period (94 percent), when four loading spaces were observed as occupied during the entire time period. Generally, each loading space accommodates 2-6 unique loading vehicles during the time periods observed. Turnover rates by time period for the weekday midday, weekday evening, and weekend midday periods average 2.6, 2.7, and 4.3 vehicles, respectively.

² SFMTA (2014). SFpark: Pilot Project Evaluation. Accessed at <http://sfpark.org/about-the-project/pilot-evaluation/>

³ San Francisco County Transportation Authority (2009). the “On-Street Parking Management and Pricing Study.” Retrieved from <http://www.sfcta.org/transportation-planning-and-studies/current-research-and-other-projectsstudies/street-parking-management-and-pricing-study>.



TABLE 3: LOADING OCCUPANCY BY TIME PERIOD		
Day	Midday (11am-2pm)	Evening (5pm-8pm)
Weekday	45%	82%
Weekend	94%	n/a

Source: Fehr & Peers, 2017.

Note: study area includes on-street loading spaces within two blocks of the Proposed Project site.

TRIP GENERATION

Since City or industry-standard trip generation information is not available for MCD land uses, Fehr & Peers collected data at the Project Sponsor’s existing MCD on Market Street in San Francisco to better understand trip generation patterns at this land use and determine its empirical trip generation rate. Trip generation for the Proposed Project was then estimated using the empirical trip generation rate associated with the existing MCD, and finally compared to trip generation for a retail or restaurant use as presented in the SF Guidelines, which provide guidance on calculating trip generation and performing travel demand forecasts for projects in San Francisco.

Entry/exit counts were conducted at the Project Sponsor’s existing MCD location, located at 2029 Market Street, on Thursday, February 23, 2017 (a typical weekday) and Saturday, February 25 (a typical weekend day) during hours of operation, between 9am and 9pm. On a typical weekday, entry/exits at the existing location are evenly spaced throughout the day, in general, with the largest number of people entering/exiting the location between 2:45pm and 3:45pm and the least amount of activity occurring between 9am and 11am. On a typical weekend day, the entry/exits are more concentrated in the afternoon, with the largest number of entries/exits occurring between 3pm and 4pm, and least amount of activity occurring between 9am and 11am, and between 8pm and 9pm. According to the Project Sponsor, the typical length of stay for each visitor is approximately 15 minutes.

Table 4 compares the daily and PM peak hour trip generation rates per 1,000 gsf based on the observations conducted at the existing MCD to the trip generation rates for retail and restaurant uses presented in SF Guidelines. Retail and restaurant uses were selected for comparison as two of the most common uses in the Noriega Street Neighborhood Commercial District. For example, although the Proposed Project’s storefront is currently vacant, it was previously a pharmacy, which is a kind of retail use.



TABLE 4: PERSON TRIP GENERATION RATES PER 1,000 GSF

Reference	Day ¹	Use ²	Daily	PM Peak Hour (4-6pm)
SF Guidelines	Weekday	Retail	150	14
	Weekday	Restaurant	200	27
Observations at Market Street MCD	Weekday	MCD	98	10
	Weekend	MCD	136	17

Source: Fehr & Peers, 2017; SF Guidelines, 2002.

Note:

1. SF Guidelines provides guidance for estimating weekday trips only; observations at the existing MCD on Market Street were taken on both a weekday and weekend day.
2. SF Guidelines were referenced to determine trip rates for both Retail and Restaurant uses, which are two of the most common uses in the Noriega Street Neighborhood Commercial District, for comparison purposes.

The general characteristics of the Proposed Project will be similar to the Project Sponsor’s Market Street location. However, **Table 5** summarizes the ways in which the Proposed Project will differ from the existing MCD on Market Street. In general, the ways in which the Proposed Project would differ from the existing MCD on Market Street would likely result in less trip generation at the Noriega Street location. For example, the catchment area (i.e. the area from which people would be drawn from) for the existing location at Market Street (given its location at an important public transit node, walkability, and sole location in the City) represents the entire City of San Francisco whereas the Proposed Project expects to pull from a smaller catchment area, only the Western Neighborhoods (i.e. Richmond, Sunset, West of Twin Peaks, Ocean View, Merced Heights, Ingleside and Lake Merced districts). This is partially due to the fact that there is only one public transit line near the Noriega Street location, which is in the western portion of the City. Also, considering the prevalence of single family homes in the Sunset District, the development density near the Noriega Street site is lower than the Market Street location where buildings of more than two stories predominate.

The Project Sponsor expects delivery sales at the Proposed Project to work similarly to the existing delivery services provided at the Market Street location. Approximately one delivery trip will be made per day from the MCD and will go to up to 10 different locations within San Francisco’s city limits. Twenty-five percent of deliveries will be made by foot or by bicycle, within 10 blocks of the Project, and 75 percent of deliveries will be made by private passenger vehicle, for destinations



further than 10 blocks or when the weather is poor. Since each delivery would go to up to 10 different locations, increased delivery sales (+5 percent) at the Proposed Project would likely result in less vehicle trip generation compared to the Market Street location. In addition, the entry/exit counts performed at the Market Street location, which inform the trip generation rates presented in **Table 4**, captured all deliveries, both to and from the MCD, since the main entrance on Market Street is the MCD’s only entry/exit point. As another example, the Project Sponsor indicated that approximately 10 people on weekdays and 50 people on weekends enter the existing MCD on Market Street who are merely “curious passers-by”; these individuals are typically pedestrians walking by who are “curious” about what the store is but do not have the intention of becoming a member or making a purchase. It is anticipated that due to the lower pedestrian volumes on Noriega Street compared to Market Street, the Proposed Project would generate fewer entry/exits by “curious passers-by.” Therefore, it is expected that the Proposed Project would generate less trips than the Market Street location based on the difference in their catchment areas, the number of “curious passers-by,” and the other characteristics presented in **Table 5**.

TABLE 5: EXISTING VS. PROPOSED MCD COMPARISON				
Characteristic	Estimates			Effect on Trip Generation
	Market Street (Existing)	Noriega Street (Proposed)	Difference/ Ratio	
Size (gsf)	5,200	2,721	0.52	-
Employees	25-30	12-16	13-14	(neutral)
Curious passers-by	20 (weekday) 50 (weekend day)	5 (weekday) 10 (weekend day)	-15 (weekday) -40 (weekend day)	-
Delivery Sales	15%	20%	+5%	-
Catchment Area	Entire City of San Francisco	Western Neighborhoods	Smaller catchment area	-
Pedestrian Activity	High	Moderate	Less pedestrian activity	-
Visitor Length of Stay	15 minutes	15 minutes	n/a	(neutral)

Source: The Apothecarium & Fehr & Peers, 2017.

To estimate trip generation for the Proposed Project, Fehr & Peers applied the rates presented in **Table 4** to the size of the Proposed Project. The results of this exercise are presented in **Table 6**.



Based on this analysis, the estimated number of daily person and vehicle trips based on the Market Street observations, for both weekdays and weekends, are less than those estimated according to SF Guidelines for weekday retail and restaurant uses.

During the PM peak hour, the trip generation estimate based on weekday observations at the existing MCD on Market Street are also less than those estimated using SF Guidelines. However, the trip generation estimate for the PM peak hour trips based on weekend observations on Market Street is greater than SF Guideline’s weekday estimate for retail uses but less than SF Guideline’s estimate for restaurant uses. This finding reflects that shopping and dining-related trips tend to occur more on weekends compared to weekdays.

TABLE 6: TRIP GENERATION ESTIMATES						
Reference	Day ¹	Use ²	Daily		PM Peak (4-6pm)	
			Person Trips ³	Vehicle Trips ⁴	Person Trips ³	Vehicle Trips ⁴
SF Guidelines	Weekday	Retail	408	306	37	28
	Weekday	Restaurant	544	407	73	55
Observations at Market Street MCD	Weekday	MCD	266	199	27	20
	Weekend	MCD	369	277	46	34

Source: Fehr & Peers, 2017.

Note:

1. SF Guidelines provides guidance for estimating weekday trips only; observations at the existing MCD on Market Street were taken on both a weekday and weekend day.
2. SF Guidelines were referenced to determine trip rates for both Retail and Restaurant uses, which are two of the most common uses in the Noriega Street Neighborhood Commercial District, for comparison purposes.
3. Person trips refers to trips taken by all modes.
4. Mode split for all trip generation estimates is based on SF Guidelines Table E-16: Visitor Trips to SD-4: Retail.

In addition, the trip generation estimates presented in **Table 6** reflect only the change in size between the existing and proposed MCD locations. The information presented in **Table 5** suggests that trip generation at the proposed location on Noriega Street would likely be less than the estimates presented in **Table 6** since the estimates presented in **Table 6** do not account for the smaller catchment area, lower pedestrian volumes and lower number of “curious passers-by” associated with the Noriega Street location. In general, this analysis reveals that estimated trip



generation for the Proposed Project would likely be less than trip generation related to a retail or restaurant use, which are two of the most common uses in the Noriega Street Neighborhood Commercial District.

Parking Demand

The peak hour vehicle trip generation estimates presented in **Table 6** are less than the average number of parking spaces available within 1000 feet of the Proposed Project, which are presented in **Table 2**. Further, vehicle trip generation estimates include both people who park their vehicle to access the store and those who are dropped off by a vehicle (e.g. private vehicles, taxis, Uber/Lyft vehicles). Therefore, not all vehicle trips generate demand for a parking space.

Loading Demand

Since medical cannabis and cannabis-related products are not currently allowed to be delivered by commercial vehicles, the existing MCD on Market Street does not and the Proposed Project would not generate demand for commercial loading vehicles.⁴ All deliveries to the MCD will be made by private passenger vehicles that park in regular parking spaces.

The Project Sponsor expects that two deliveries will be made to the MCD per day on weekdays. No deliveries to the MCD will occur on weekend days. Deliveries to the MCD are carried by hand to the MCD from private passenger vehicles. As described above, one delivery trip will be made per day from the MCD and will go to up to 10 different locations within San Francisco's city limits. If one of the two short-term metered parking spaces adjacent to the Proposed Project on 32nd Avenue are available, private passenger vehicles making deliveries to/from the site could use those spaces, as any other private passenger vehicle, and make a short walk to the front or rear door of the Proposed Project.

The entry/exit counts performed at the Market Street location, which inform the trip generation rates presented in **Table 4**, captured all deliveries, both to and from the MCD, since the main entrance on Market Street is the facility's only entry/exit point. Therefore, delivery activity both to and from the Proposed Project is accounted for in the peak hour vehicle trip generation estimates

⁴ If the law changes such that it would allow delivery by commercial vehicles, the Project Sponsor would comply with the law and may or may not change its delivery model, depending on the conditions after a change in the law.



presented in **Table 6** and compared to the average number of parking spaces available within 1000 feet of the Proposed Project (see **Table 2**) in the *Parking Demand* sub-section.

For comparison purposes, **Table 7** presents the truck trip generation rates as well as the daily and peak hour truck trip generation estimates for retail and restaurant uses, as presented in SF Guidelines. The estimates are based on a land use of the same size as the Proposed Project. For a comparable retail or restaurant use of the same size as the Proposed Project, peak hour loading demand would likely fall in the range of 0 - 1 truck trip per peak hour.

TABLE 7: TRUCK TRIP GENERATION RATES AND ESTIMATES			
Use	Rate¹	Estimate	
		Daily	Peak Hour
Retail²	0.22	0.60	0.03
Restaurant²	3.60	9.80	0.57

Source: Fehr & Peers, 2017; SF Guidelines, 2002

Note:

1. Daily rate per 1,000 gsf.
2. Referred to as Retail (composite) and Restaurant/bar in SF Guidelines, Appendix H.

Based on the observations presented in the Existing Conditions section of this memorandum, a peak hour loading demand of up to one vehicle could likely be accommodated by the existing commercial loading supply within two blocks of the Proposed Project. The supply of commercial loading spaces is most occupied during the weekend midday. If the Proposed Project were to generate demand for commercial loading spaces in the future, the Project Sponsor could limit commercial loading activities during the weekend midday to avoid increasing demand for commercial loading spaces during that time period.

TDM PLAN

The Project Sponsor will implement a Transportation Demand Management (TDM) program as part of the Proposed Project. The TDM program will encourage travel via sustainable modes of transportation (e.g. walking, bicycling, and transit) and further reduce single occupancy vehicle (SOV) trips to the Proposed Project. SF Planning’s Transportation Demand Management Program,



which was approved in February 2017 under Planning Code Section 169, provides a menu of potential TDM measures.⁵ While the Proposed Project is not subject to Section 169, the Project Sponsor has agreed to implement the following TDM measures from the Standards for the Transportation Demand Management Program that would reduce SOV trips to and from the Project Site.⁶

1. Provide a minimum of 1 on-site Class I and 6 Class II bicycle parking spaces to encourage bicycling by employees and visitors;
2. Provide bicycle maintenance tools and supplies within the store on a permanent basis and in good condition to encourage bicycling by employees and visitors;
3. Provide delivery services by bicycle, on foot, or in a vehicle that makes multiple stops, when possible, to reduce Vehicle Miles Traveled from single-stop motorized deliveries;
4. Provide 100% subsidized monthly transit passes to employees, as requested, to encourage employee transit use;
5. Produce tailored marketing and communication campaigns and distribute information via the Project Sponsor's website and/or member on-boarding forms to encourage visitor use via bicycle, on foot, or transit.

If the Proposed Project were subject to SF Planning's TDM Program, the sum of these TDM measures – and including the fact that the Proposed Project would not provide parking – would result in 23 points according to the program's web-based tool.⁷ For comparison purposes, a retail use that is subject to SF Planning's TDM Program that provides 0-4 parking spaces would be required to attain 13 points.

⁵ SF Planning (2017). "SHIFT: Transportation Demand Management (TDM)." Accessed at <http://sf-planning.org/shift-transportation-demand-management-tdm>

⁶ SF Planning (2017). "Standards for the Transportation Demand Management Program." Accessed at http://default.sfplanning.org/plans-and-programs/emerging_issues/tsp/TDM_Program_Standards_02-17-2017.pdf

⁷ SF Planning (2017). SF TDM Tool. Accessed at <http://www.sftdmttool.org/>

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Subject: APPEAL BRIEF: Categorical Exemption Determination Appeal and Conditional Use Authorization Appeal - Proposed Project at 2505 Noriega Street - Appeal Hearings on October 3, 2017
Date: Monday, September 25, 2017 4:39:52 PM
Attachments: [image001.png](#)

Good afternoon,

Please find linked below an appeal brief received by the Office of the Clerk of the Board from Brett Gladstone of Hanson Bridgett, LLP, representing the Project Sponsors, regarding both the CEQA Categorical Exemption and Conditional Use Appeal for the proposed project at 2505 Noriega Street.

[Project Sponsor Appeal Brief - September 25, 2017](#)

The appeal hearing for this matter is scheduled for a 4:30 p.m. special order before the Board on October 3, 2017.

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

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

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

Regards,

Brent Jalipa

Legislative Clerk

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2017 SEP 25 PM 3:40

September 25, 2017

VIA HAND DELIVERY

London Breed, President
San Francisco Board of Supervisors
One Dr. Carlton Goodlett Place,
City Hall, Second Floor
San Francisco, CA 94102

Re: **The Apothecarium Sunset at 2505 Noriega Street MCD; October 3, 2017; Hearing on Appeal of (1) Environmental Review and (2) Conditional Use Permit.**

Dear President Breed and Members of the Board:

We represent PNB Noriega, LLC whose main principals are former Oakland Mayor Jean Quan, her husband Dr. Floyd Huen, Ryan Hudson and Michael Thomsen. Their proposed new Sunset business will operate under the name "The Apothecarium." Mr. Hudson and Mr. Thomsen already run a Medical Cannabis Dispensary called The Apothecarium at 2029 Market Street near Dolores Street, and another at 2414 Lombard Street in the Marina. Dr. Huen, a Board Certified Internist, has treated patients with cannabis products for many years and currently serves as the medical adviser for the Market and Lombard Street stores.

The Castro store was recently named the #1 designed dispensary in the country by *Architectural Digest*, (Exhibit A).¹ In a Report to the Planning Commission dated March 20, 2014, the Planning Department praised The Apothecarium for its "community centered approach" and for showing how a dispensary "can successfully blend into the community." (Exhibit E). The Board of Supervisors has issued a Proclamation honoring the Castro store for helping to clean up the corner where they operate (Exhibit F).

The new location in a single story building at 2505 Noriega St. will be on the southwest corner of Noriega and 32nd Ave. The commercial space that The Apothecarium will occupy is approximately 2,700 square feet and formerly housed Ace Pharmacy, owned by pharmacist Jerry Davalos. He ran the store for about forty years; it has been out of business and vacant for over three years now.

The proposed site will have: (a) no smoking, (b) no substance abuse services, (c) no alcohol for sale, (d) no food preparation or consumption, and (e) no growing of the product.

¹ Attached is the proposed floor plan (Exhibit B), along with a drawing of the proposed dispensary's façade (Exhibit C). Photos from The Castro Apothecarium show typical quality of the design and materials (Exhibit D).

I. IMPORTANCE OF DISPERSION OF MCD LOCATIONS AND DIVERSITY OF MCD OWNERSHIP

(a) Diversity of Locations. There are no MCDs in the Sunset or anywhere in the City west of 14th Avenue, a fact that is contrary to the City's policy of dispersion of this use. Exhibit U shows the number of MCD's in each district.

Starting at the end of 2013, the Board of Supervisors responded to citizens' complaints that new MCDs were beginning to cluster together in certain neighborhoods such as the Mission and in SOMA. See Planning staff report named "Evaluating Code's Medical Cannabis Dispensaries Locational Requirements" - Case No. 2013.1255U (Exhibit G). The closest MCD (on Geary Blvd near 12th Ave) is a *three-mile trip through streets from the proposed site*, requiring two bus trips in each direction. *That is not adequate for the 3,900 existing Apothecarium patients who live in the Sunset (many with serious medical issues)*. Presumably there are also many additional cannabis cardholders (who are members of dispensaries other than The Apothecarium) who live in the above mentioned Sunset zip codes and would become Apothecarium Sunset members. The proposed site would reduce use of overcrowded MUNI services and cars to cross town to Geary and 12th Ave.

That City report concluded that the City's Medical Cannabis Act would need amendment if the City is to address MCD concentration. *However, the Board has the power to create diversity on a case by case basis, which is what the Planning Commission did in the case before you when it approved the conditional use permit now under appeal to you.*

(b) Diversity of Ownership. *We believe this project will be the first dispensary owned by Chinese Americans in the City, bringing an important marker of diversity to an industry that has been criticized for a lack of diversity.* By the same token, today there is no dispensary in the Bay Area that adequately serves the needs of monolingual Chinese speaking patients.

The dispensary will provide bicultural, bilingual (Cantonese) patient services. Patient Consultants will be trained to work in tandem with traditional Asian medicine, under the leadership of Dr. Floyd Huen² who treats many elderly and Asian patients. Every effort will be made to partner with the community of health care providers on Noriega Street where there is an existing collection of optometrists, herb shops and acupuncturists, within several blocks of the proposed site. See map in Exhibit H.

II. SUNSET VOTERS SUPPORT THE ESTABLISHMENT OF MCDS -- NOTWITHSTANDING A VOCAL MINORITY LED BY APPELLANT, THE PACIFIC JUSTICE INSTITUTE (PJI), A SACRAMENTO BASED HATE GROUP

Sunset voters approved Proposition 215 (legalizing medical marijuana) with 66 percent support (13,992 votes, per the City's Department of Elections) -- suggesting widespread support for medical marijuana in the immediate community. *This past November, Sunset voters approved increasing access to marijuana by supporting Proposition 64 with 58 percent support (compared to just 37 percent opposed). That's 20,014 Sunset voters who supported greater access to marijuana just last November.*

² Dr. Huen will not see patients at this facility or issue recommendations for medical marijuana at this or any other Apothecarium dispensary.

**III. PLANNING COMMISSION WAS CORRECT IN DECIDING THAT THE CRITERIA FOR
CONDITIONAL USE PERMIT ISSUANCE WERE MET**

The two most recent Sunset District Supervisors, including the current Supervisor Katy Tang, have created approval criteria for medical dispensaries in the Planning Code that are unique to District 4 and are more difficult to meet than in other districts. Despite this, the Planning Commission recently approved a conditional use permit (now under appeal to you) by a vote of 5-1 (with Commissioner Richards dissenting on grounds unrelated to the proposed Noriega Site or the applicant). *The next few paragraphs discuss these more challenging criteria and how they have been met.*

(a) Additional Criteria: FINDING 1. Measurable Community Benefits

This new Sunset location will not only benefit the 3,900 Apothecarium patients currently living in the Sunset, but will also benefit Sunset residents at large, due to several proposed community benefit programs:

1. Replication of the program of community engagement and philanthropy the organization has employed successfully at the Castro Apothecarium since 2011. A Philanthropic Advisory Board led by neighborhood leaders will direct donations to community-minded groups and nonprofit organizations in the Sunset whose missions directly benefit the neighborhood. The Apothecarium's same Advisory Board in the Castro has donated more than \$350,000 to over 40 beneficiaries.³

2. Offering Sunset residents free access to programs that promote the overall health and wellness of the community, similar to programs offered by the Castro Apothecarium but tailored by co-owner Dr. Floyd Huen to the needs of those who live in the Sunset, whether patients or not. The programs will be oriented to reinforce healthy lifestyles and creation of community.⁴

(b) Additional Criteria: FINDING 2. Satisfactory Parking/Transportation Management Plan.

The Apothecarium has engaged one of the City's most respected transportation consultants, Fehr and Peers (a group that the Planning Department hires for its own purposes from time to time). Its report is too long to attach here, but we have quoted from some of its findings in Exhibit I.

As you know, a pharmacy existed at this location for over 45 years and has been vacant for 3 years. While open, it attracted a number of visitors traveling by car, by foot and by Muni. *Fehr*

³ They include: Maitri Residential Care, Breast Cancer Emergency Fund, Rocket Dog Rescue, Rooms that Rock 4 Chemo, Castro/Upper Market Community Benefit District, Pets are Wonderful Support, Harvey Milk Civil Rights Academy Public School and many others.

⁴ Current programs offered in the Castro include: U.S. Veterans' support group; Simple Yoga for Busy Times; Women's Support Group; HIV Support Group; The Sacred Art of Self Care.

London Breed, President
September 25, 2017

and Peers transportation consultants found that any parking needs triggered by the MCD use are expected to be fewer than that of the average retailer along Noriega Street (including a new drugstore at this same location).⁵

The transportation study (accepted as thorough by the Planning Department) demonstrates that the estimated number of vehicle trips during the peak hour could be accommodated by the existing available parking supply within 1,000 feet of the Proposed Project.

In addition, while the Planning Department has advised us that the Proposed Project is not subject to the City of San Francisco's official Transportation Demand Management Program (due to its small size and other factors), the Project Sponsor has voluntarily agreed to implement several Transportation Demand Management (TDM) measures (Exhibit J) to encourage travel to the new site by sustainable modes of transportation.^{6 7}

Additional Criteria: FINDING 3. Assuring Public Safety .

The Apothecarium will operate under the same strict security protocols that have made the Castro dispensary free of crimes or police reports since it opened six years ago, including: full-time security (indoor and outdoor video cameras), unarmed, pedestrian-friendly security staff (inside and outside). Given the nature of the Market St location (MUNI underground station, streetcars and multiple-bus lines; dense development and a serious homelessness problem), the chances of a criminal incident are inherently lower on the less busy Noriega commercial street than in the Castro.

IV. OTHER REASONS FOR APPROVAL OF THE PROJECT.

(a) The Project has Substantial Community Support

Sunset citizens voted for medical cannabis with 66 percent support (13,992 votes). This past November, the Sunset voted for Proposition 64 (Recreational Use) with 58 percent support (compared to just 37 percent opposed).

As a result, it is not surprising that it has been easy for The Apothecarium to collect 1,515 letters of support. They are on file at the Planning Department and show:

- 660 letters of support from Sunset residents
- 855 additional SF letters, including many who work or shop in the Sunset

⁵ Unfortunately, almost all independent drugstores have disappeared in the last twenty years. Retail and restaurant establishments were used by the transportation consultants as a comparison since they are two of the most common uses in the Noriega Street Neighborhood Commercial District.

⁶ If the proposed project were subject to SF Planning's TDM Program, the sum of these TDM measures - including the fact that the Proposed Project would not provide parking - would result in 23 points according to the program's web-based tool. *For comparison purposes, a retail use that is subject to SF Planning's TDM Program would be required to attain 13 points, only half as much as this proposal's sustainable TDM measures.*

⁷ Driving to the site and double parking will be discouraged in the Member Code of Conduct that all new members will be required to sign. Employees will receive a monthly subsidy for use on public transit.

Of these:

- 111 gave a home address within 1,000 feet of the site
- 189 said they are parents
- 118 are individually written or are form letters with personal notes added (Exhibit K)

The Planning Department has looked at the opposition's petition showing a great deal more people in opposition and told the Commission that there are many duplications, many addresses outside the City, and many statements that mischaracterize the nature of the business.

None of that is surprising given the Pacific Justice Institute's misstatements as to crime outside MCD's, as to indoctrination of young persons and the like used by PJI to generate those petitions.

(b) The Apothecarium Has Demonstrated It Is A Good Neighbor

The potential effect of a proposed store on a particular street is best judged by the existing operations of such a business elsewhere in the City today. In that regard, please note the following:

1. The Castro Apothecarium has over a dozen residential condominiums above its ground floor commercial space. Some have children, yet no parents have expressed any concerns.

2. In fact, in the six years in the Castro, there have been no complaints from merchants or residential neighbors or parents of children living or being schooled very nearby.

3. There have been no police incidents related to the presence of the Apothecarium since it opened in 2011. In its 2014 MCD Report to its Commission, the Planning Department wrote that its research staff indicated that crime may actually go down in areas surrounding MCD's: "Based on the information available to the Department, it does not appear that MCD's have a negative impact on crime or community safety, and they may actually improve safety in certain neighborhoods as they provide additional eyes on the street." (Exhibit E)⁸

(c) The Site Has Been Carefully Chosen With City-Wide MCD Dispersion In Mind

The location is eligible for an MCD location due to distance from all uses deemed sensitive by the law. Contrary to statements of opponents, the Planning Department (consulting with the City Attorney) has ruled that distance from a child-care facility is not a factor as child-care facilities are not listed as a sensitive use (such as schools are). The reason given again and again is that unlike grade-schoolers, preschoolers are always supervised when they arrive and depart. (Exhibit L).

The Apothecarium was drawn to this site for several other reasons:

1. The Apothecarium has more than 3,900 existing member-patients who live in

⁸ Neighborhood compatibility is further assured due to the following: (1) the more than 15 requirements of the DPH's MCD Regulations that must be followed. (2) The more than 12 restrictions found in the Planning Code that must be followed.

Sunset District zip codes 94122 and 94116, making this proposal neighborhood serving.

2. The site has been a drug store for forty years. The former pharmacist said he always thought he should have been able to provide medical marijuana because, in his words, it would have been “the safest medicine behind the counter.”

3. There is already what we informally call a “medical mile” concentration of health and wellness services nearby on Noriega Street, giving The Apothecarium an opportunity to establish some informal business synchronicities. Existing health services within 1-2 blocks include physicians’ offices, dentists, acupuncturists, optometrists and practitioners of Traditional Chinese Medicine. This will allow The Apothecarium to “leverage” its services to the benefit of their shared clients. A map of more than a dozen nearby Noriega St. health and wellness stores and services nearby (listing their names) is attached as Exhibit H.

4. The site is located at the nexus of significant public transit routes, including MUNI bus lines that run on Noriega Street (7, 7X) and on those that run on nearby Quintara Street (48, 66) and Sunset Blvd (29). Muni Metro Lines N and L are also within walking distance.⁹

Given the extremely limited number of “Green Zone” parcels in the City’s West Side there are very few alternative sites that could serve Sunset patients.

The City has turned down all prior attempts to open an MCD in the Sunset. On July 13th of this year, the Planning Commission decided that Sunset patients deserve access in their own neighborhood and that The Apothecarium meets all criteria.

(d) False Fears About Children Raised by The Pacific Justice Institute (PJI)

Some of our opponents incite false fears that a dispensary will cause harm to children. These false fears do not reflect San Francisco’s 25+ years of experience with dispensaries. *The Apothecarium has excellent relationships with child-serving businesses near their Market Street location – including a great relationship with a Lutheran Church that hosts programs for children, located a block away from the Castro dispensary.* The Church also runs a nearby childcare center. See Exhibit M for a statement of support from that Church; Exhibit N for a statement from a Martial Arts Studio only a few hundred feet away that also serves children.

Our opponent, the Lutheran Church of the Holy Spirit, is located immediately next door to a liquor store (“Pints & Quarts”). See Exhibit O. Liquor stores are frequently associated with quality-of-life issues and crime. Dispensaries are not. Pints & Quarts allows children inside and sells products that are potentially lethal. Neither is true of The Apothecarium. There is also a massage parlor -- widely reputed to be a house of prostitution – near to The Ark of Hope preschool.

There is nothing in The Apothecarium’s exemplary record (including operating below condominiums on Market Street where children reside) to suggest their operations would create even the slightest problem for the Church, Ark of Hope or their patrons.

⁹ In addition, Apothecarium Sunset co-owners Dr. Floyd Huen and recent Oakland Mayor Jean Quan have longstanding family ties to the Sunset and thus a deep commitment to the success of the neighborhood.

The group that has disseminated these false fears, the Pacific Justice Institute, is a Sacramento-based organization that has been labeled an anti-LGBT hate group by the Southern Poverty Law Center. For years PJI has spread the falsehood that LGBT people are a danger to children; now they are turning the same argument against cannabis patients and dispensaries, with a particular effort to spread these falsehoods among the Asian Pacific American community. **Additional information about the false statements of PJI can be found on Exhibit P attached.**

In response to these falsehoods, several Asian Pacific American elected officials wrote a letter denouncing PJI (See Page 1 of Exhibit Q), including California State Controller Betty Yee (who grew up in the Sunset) and Board of Equalization Member Fiona Ma (who previously represented the Sunset on the SF Board of Supervisors). The City's two primary LGBTQ political groups – The Alice B. Toklas and Harvey Milk Democratic Clubs -- issued a rare joint proclamation criticizing PJI in very strong terms (See Page 2 of Exhibit Q).

At a March 2017 Sunset-Parkside community meeting PJI and its allies shouted down co-owner Dr. Floyd Huen. Many of these protesters were brought in from outside the district by PJI and their allies. Another neighborhood meeting was recently scheduled at a nearby Public Library, but the Library then cancelled the meeting for fear of further disruption from PJI and its allies. At a recent press conference, PJI and its allies spread falsehoods (such as death by marijuana overdose -- See Pages 3-7 of Exhibit Q -- which is medically impossible). These parties even suggested The Apothecarium might bring gun violence to the Sunset, despite all evidence to the contrary.

(e) Claim that Delivery of Medical Cannabis Is Sufficient for Neighborhood Residents. We Believe Delivery Alone is Insufficient for Many Reasons:

1. Clients of the Apothecarium often come in during a very difficult and traumatic period in their life. Many have just received a diagnosis, begun chemotherapy, or are dealing with the effects of other serious maladies. In-person attention at these times is of the utmost importance - especially to those with limited English.

2. Telephone and app-based delivery services do not meet the needs of elderly patients and/or those who do not speak English -- a common population in the Sunset.

3. *The breadth of medications offered by this MCD is extremely wide (as evidenced by a patient menu with approximately 400 items for sale). Without professional help, patients will likely choose ineffective options and potentially engage in unpleasant (although not dangerous) overdosing. Patients need ongoing help in selecting medication and determining dosage. This MCDs professional patient consultants help people through the maze of options to find the right medicine for that particular person.*

4. People living in certain communal housing situations may not be able to utilize a delivery service without compromising their privacy.

5. The city does not require residents to rely on delivery for other prescription medications, given the complex interaction of drugs and people's bodies, and it should be no different with MCDs.

(f) The Sponsors Have a Track Record of Successful MCD Operations

London Breed, President
September 25, 2017

During six years of operations, The Castro Apothecarium has received acclaim from neighbors, community leaders and elected officials (Exhibit R). And there has never been a police incident at the Castro dispensary. Two of these support letters are from residential neighborhood associations nearest to our client's first MCD.

(g) Outreach to the Community Has Been Quite Extensive.

Bilingual outreach began in earnest in October of 2016 and has included the following efforts:

- Dr. Huen and/or Mayor Quan personally visited *each* business and residence within a 300-foot radius of the project site;
- Dr. Huen and/or Mayor Quan or volunteers have knocked on every door within a 1,000-foot radius of the project site;
- Dozens of hours of in-person outreach to passersby outside the project site; and
- Door-to-door outreach to medical providers in the Noriega area.

See also Exhibit S.

(h) Responding to Concerns of Supervisor Tang

Supervisor Tang expressed only two exact concerns in her letter to the Planning Commission, in a letter delivered to the Commission the night before the Commission's hearing on the MCD project: (1) ensuring that the neighborhood liaison is bilingual and (2) pedestrian safety at the intersection where the Apothecarium was seeking approval. *In my reply to Supervisor Tang dated August 17, 2017, I wrote the following:*

"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. Dr. Huen has created a Task Force which has already met several times, and it will continue in the future. Its membership is shown on Exhibit T."
(Emphasis Added).

I also wrote the following:

"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."

CONCLUSION

Exhibit U shows the number of MCDs in each district. This will be the first MCD serving Sunset patients in their own neighborhood. For dispersion reasons alone, we ask you to deny this appeal.

An amendment to the MCD legislation to increase the number of green zones would not be necessary if decision makers such as yourselves give weight to City-wide dispersion policies and reject these appeals. There are 3900 Apothecarium patients currently living in the Sunset who travel across the City to reach a dispensary. Helping reduce use of private vehicles and

London Breed, President
September 25, 2017

crowded buses to access other dispensaries is yet one more reason for approving the proposed Noriega Street dispensary. The closest MCD to 2505 Noriega is a three-mile journey through city streets.

Ultimately, the best way to judge a person or business is their track record. Unlike many MCD's that come to you, this one has a long track record of successful operations in San Francisco, one that prominent members of the community and neighborhood associations have attested to. There have been no police complaints in six years of operation. We respectfully request your approval.

Very truly yours,



Brett Gladstone

Attachments

- cc: Jean Quan
Dr. Floyd Huen
Ryan Hudson
Michael Thomsen
Members, Board of Supervisors
Clerk, Board of Supervisors
John Rahaim, Planning Department
Dan Sider, Planning Department
Aaron Starr, Planning Department

Index of Exhibits - Apothecarium at 2505 Noriega St.

- A. #1 Designed Dispensary – *Architectural Digest*
- B. Floor Plan of Proposed Project
- C. Rendering of Exterior of Proposed Project
- D. Photos of Interior of The Apothecarium at 2029 Market St (Castro)
- E. 2014 Planning Department Commission Report on MCDs
- F. Proclamation from SF Board of Supervisors: “Apothecarium Day”
- G. Planning Staff Report “Evaluating Code’s Medical Cannabis Dispensaries Locational Requirements”
- H. Maps: Noriega “Medical Mile” & Commercial Zoning Map
- I. Transportation and Parking Study Quotes
- J. Transportation and Demand Management Measures
- K. Support Letters and Nextdoor.com Comments
- L. Understanding Whether the Planning Code Prohibits an MCD Within 1,000 Feet of a Child Care Center
- M. Letter from St. Francis Lutheran Church
- N. Letter from Maru Dojo
- O. Photo of Lutheran Church next-door to “Pints & Quarts” Liquor Store
- P. False Claims Made By Opponents
 - 1. Proximity of Dispensaries to Child-Serving Businesses
 - 2. “After States Legalized Medical Marijuana, Traffic Deaths Fell”
- Q. The Pacific Justice Institute
- R. Letters of Support from Community Leaders
- S. Community Outreach Efforts
- T. Sunset Advisory Committee
- U. Chart of MCDs In Each SF District

Exhibit A



AD

ARCHITECTURAL DIGEST

ARCHITECTURE

7 of the Best-Designed Marijuana Shops Across America

TEXT BY NICK MAFI
Posted April 18, 2017



#1/7

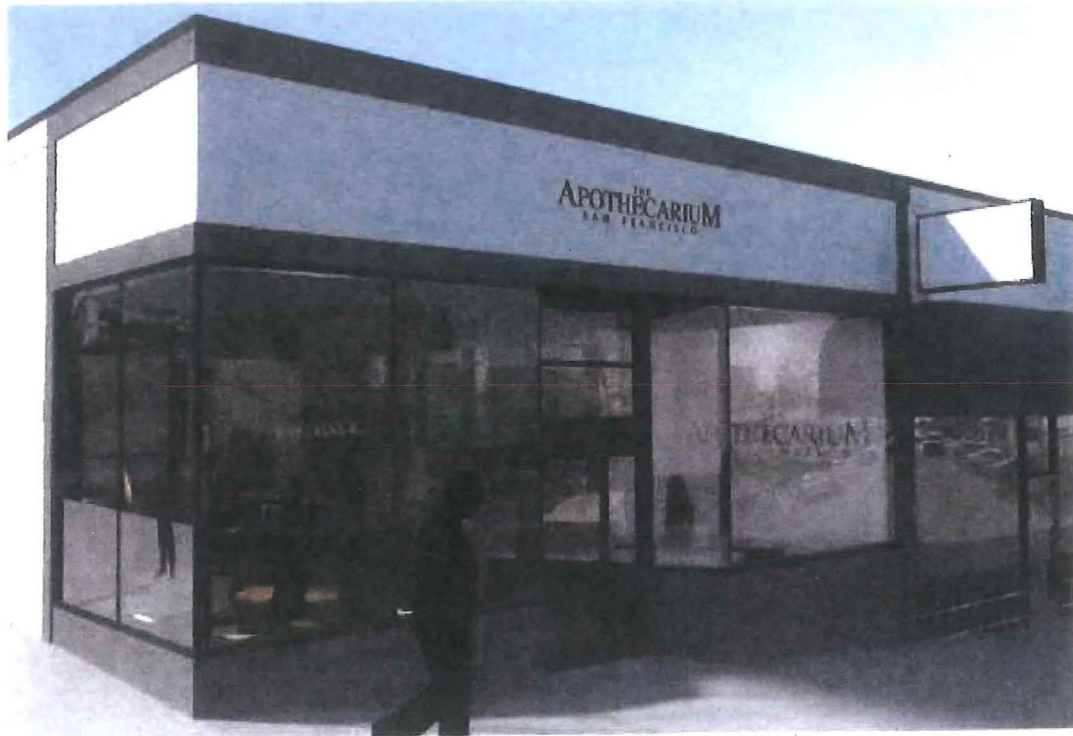
THE APOTHECARIUM

Located two miles southwest of San Francisco's financial district, The Apothecarium was designed by the California-based firm Urban Chalet along with architect, Vincent Gonzaga. "We wanted to ensure that the space was accessible and comfortable for anyone who might experience the space," says Michelle Granelli, principal at Urban Chalet. To that end, they blended modern and traditional tones throughout the space, allowing for easy flow around the store as well as maximum privacy, an element Granelli says is very important to consider when designing a marijuana dispensary.

apothecarium.com/

Exhibit B

Exhibit C



Proposed Exterior of The Apothecarium at 2505 Noriega.

Exhibit D



Interior of The Apothecarium at 2029 Market St.



Interior of The Apothecarium at 2029 Market St.

Exhibit E



**SAN FRANCISCO
PLANNING DEPARTMENT**

Draft Planning Commission Report

HEARING DATE: MARCH 20, 2014

Report Name: **Evaluating the Planning Code’s Medical Cannabis Dispensaries
Locational Requirements**

Case No.: 2013.1255U

Initiated by: Supervisor John Avalos [Board File 130734]

Staff Contact: Aaron Starr, Legislative Planner
(415) 558-6362 aaron.starr@sfgov.org

Reviewed by: AnMarie Rodgers, Manager, Legislative Affairs
AnMarie.Rodgers@sfgov.org

Recommendation: **Adopt Report and Forward to the Board of Supervisors**

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STATEMENT OF PURPOSE

This report was prepared in response to an Ordinance (BF 130734), introduced by Supervisor Avalos on July 16, 2013 and passed into law on November 27, 2013, which directs the Planning Commission to prepare and submit a report to the Board of Supervisors evaluating the provisions of the Planning Code related to the location of medical cannabis dispensaries (hereinafter MCDs). This is a draft report prepared for the Planning Commission which, if approved, will be transmitted to the Board of Supervisors.

This report will provide a summary of the medical cannabis¹ laws in San Francisco as well as at the state and at the federal level, it will summarize existing controls for MCDs, and recommend changes to existing regulations. It will also address the specific questions posed in the Ordinance, which include:

1. The extent to which MCDs are concentrated in particular communities within San Francisco;
2. The nature and extent of effects of the location requirements for MCDs on medical cannabis patients’ access to medical cannabis;
3. The nature and extent of effects of the location requirements for MCDs on the public health, safety and welfare in the communities in which MCDs are located;
4. Whether increased community input into the approval process to establish an MCD would benefit the public health, safety and welfare, and, if so, what procedures would be most effective in increasing such community input;
5. Projected impacts on the public health, safety and welfare of expanding the areas in which MCDs can be located; and

¹ For consistency, the term cannabis is used instead of “marijuana” or “pot” throughout this report, except when referring to specific laws or titles.

6. Best operational practices that should be employed by MCDs to ensure the public health, safety and welfare, including but not limited to minimum levels of security measures, hours of operation, and location.

In preparing this report, the Department staff consulted with representatives of the medical cannabis community, including dispensary owners, advocates and patients; staff at the Department of Public Health (hereinafter, "DPH"), Police Department (hereinafter, "SFPD"), the San Francisco Unified School District (hereinafter: SFUSD) and City Attorney's Office; and neighbors of MCDs. In addition to attending an Axis of Love working group meeting on December 15, 2013 where several MCD owners and members of the MCD community provided input on the content of this report (see Exhibit D), the following individuals were also consulted:

City Staff. Ryan Clausnitzer, *Department of Public Health, MCD Division*; Sgt. Ely Turner, *SFPD Permit Officer, Ingleside Station*; Vicky Wong, *Deputy City Attorney*; Captain Hector Sainez, *SFPD*; Chris Armentrout, *SFUSD*; Valley Brown, *former neighborhood advocate (current Board Aide)*;

MCD Community. David Owen, *MCD Advocate*; Stephanie Tucker, *MCD Advocate*; Kevin Reed, *Owner, The Green Cross*; Ryan Hudson, *Owner, The Apothecarium*; Patrick Goggin, *Attorney At Law, Mediator*; Shone Gochenaur, *Executive Director, Axis of Love SF*

Neighbors. Pat Tura, *Duboce Triangle Neighborhood Association*; Terry Bennett, *President, Merchants of Upper Market and Castro*; Joelle Kenealey, *President, Outer Mission Merchants and Residents Association*; Barbara Fugate, *Cayuga Improvement Association*; Linda D'Avirro, *Excelsior Neighborhood Association*; Laurie Heath, *Neighbor of an MCD*; Dan Weaver, *Executive Director, Ocean Avenue Association*

BACKGROUND

Medical Cannabis in California

Proposition 215. In 1996, California voters passed Proposition 215, known as the Compassionate Use Act, by a 56% majority making California the first state in the union to allow for the medical use of cannabis. In San Francisco, Proposition 215 passed by a 78% majority. Prop 215 established the right of seriously ill Californians² to obtain and use cannabis for medical purposes when recommended by a physician.

Prop 215 removed state-level criminal penalties on the use, possession and cultivation of cannabis by patients who possess a written or oral recommendation from their physician that he or she would benefit from medical cannabis. Patients diagnosed with any debilitating illness where the medical use of cannabis has been deemed appropriate and has been recommended by a physician are afforded legal protection under this act. The bill did not set limits on the amount of medical cannabis a patient could possess at any one time; it was silent on medical cannabis

² Conditions typically covered by the law include, but are not limited to, arthritis; cachexia; cancer; chronic pain; HIV or AIDS; epilepsy; migraine; and multiple sclerosis.

Exhibit F



Scott Wiener



Honoring the @ApothecariumSF, terrific #medicalcannabisdispensary in the #Castro. #cannabis #SanFrancisco



6 12



The City and County of San Francisco

PROCLAMATION

THE APOTHECARIUM DAY

OCTOBER 1, 2015

WHEREAS, The Apothecarium, a premium medical cannabis dispensary, began serving patients in June 2011 at Market & Church; and

WHEREAS, During that period it has served over 30,000 patients, helping them deal with conditions like seizures, HIV/AIDS, cancer, diabetes, insomnia, pain and other disorders; and

WHEREAS, The Apothecarium has become a vital part of the Castro/Upper Market/Duboce Triangle neighborhood, including donating over \$300,000 to local community groups through their Philanthropic Advisory Board; and

WHEREAS, Local merchant groups and the police have commended it for cleaning up the corner at Market & Church and invigorating the local business community; and

WHEREAS, The Apothecarium hosts a Women's Support Group, Veteran's Support Group, Simple Yoga for Busy Times, Meditation Group, and an Anxiety and Depression Support program; now, therefore be it

RESOLVED, That the City & County of San Francisco honors The Apothecarium on its four year anniversary; and, be it

FURTHER RESOLVED, That the City & County of San Francisco commends The Apothecarium for investing \$300,000 in local charities and non-profits in order to improve access to goods and services in local neighborhoods; and, be it

FURTHER RESOLVED, That the Board of Supervisors hereby proclaims October 1st, 2015 to be The Apothecarium Day in the City and County of San Francisco.

Scott Wiener

Scott Wiener
Member, Board of Supervisors
October 1, 2015

Exhibit G

Evaluating the Planning Code's Medical Cannabis Dispensaries Locational Requirements
Planning Commission Report – Hearing Date: March 20, 2014, excerpt p. 12-13

The largest area of the Green Zone is located in the downtown core, but there are parts of Green Zone in most areas of the City. As shown in Exhibit F, of the 29 permitted and operational MCDs in San Francisco, 21 or 72% are located in the north eastern part of the City (Divisadero to the west and Caesar Chávez to the south), and the majority of those, 17 of the 21 or 81%, are located South of Market Street. The north eastern part of the City has the greatest population density and contains the largest area of the green zone, so it isn't surprising that most of the MCDs would be located in these areas. However, that doesn't explain the complete lack of MCDs in other areas, which presumably have medical cannabis patients and contain portions of the Green Zone. Notably, there are no MCDs located in the Inner or Outer Sunset Districts, Outer Richmond, Park Side, West Portal, Haight Ashbury, Laurel Heights, the Marina, or North Beach; and there is only 1 MCD in the Outer Richmond.

Some of this could be inertia; MCDs, like other businesses, may gravitate towards one another to attract customers and provide choice. Some of it might be because MCDs want to open in areas with the least amount of neighborhood opposition; MCDs that are located downtown or in SOMA probably don't face as much neighborhood opposition as MCDs that try to locate within neighborhood commercial districts. Whatever the specific reason, it is hard to deny that MCDs are clustering in certain neighborhoods. This is at least partly because of the land use restrictions enacted in the 2005 MCA that limits the areas where they can locate, but because the Green Zone is dispersed throughout the City it can also be attributed to outside forces that discourage MCD in certain neighborhoods.

The nature and extent of effects of the location requirements for MCDs on medical cannabis patients' access to medical cannabis.

Patients and patient advocates assert that the City's location requirements are having a significantly negative effect to their access. As mentioned above, there are numerous neighborhoods in the City that do not have any MCDs. This unequal distribution requires some patients to travel long distances to obtain their medicine and for patients who require a large amount of medicine and have to visit MCDs several times a week, this can be quite a burden. Based on a survey conducted by American's For Safe Access (See Exhibit E) 48.49% of SF Residents travel an average distance of three or more miles to their MCD of choice. Further, at least 56.8% of San Francisco respondents do not live within walking distance of an MCD and 61.74% of made a trip to an MCD every other day. Journeys to MCDs by public transit from underserved neighborhoods can take up to an hour each way, which is a long time for anyone but especially for patients that have illnesses or disabilities that impair their mobility.



















Several MCDs offer deliver service, and three locations in the City only operate as delivery service. This is a great solution for some patients who don't live near an MCD or who can't leave home because of their illness. However, according to advocates, there are patients that cannot use delivery services or prefer to go to the MCD for a variety of reasons. Patients may not feel comfortable having medical cannabis delivered to their home; some MCD patients live in government assisted housing or SROs where anti-drug policies are strictly enforced. Some patients prefer to discuss their medication options with the person behind the counter; different strains of cannabis have different affects, and the person behind the counter has the expertise to help patients find the right strain of cannabis to address their particular needs. And finally, MCDs provide patients a way to socially interact with other patients helping to foster community, which also aids in improving health and wellness.

Exhibit H

Noriega Street "Medical Mile"



Names of markers

- | | |
|--|--|
|  Zoe Zhi Qing Zhang, Lac |  Noriega Acupuncture CentER |
|  Dr. Deng's Clinic |  Facial Plus-Noriega |
|  Hong Kun Chinese Herb |  Nutrilite supplements & Artistry skin care |
|  Dental Health of San Francisco |  Gallagher William L DDS |
|  Jt Dental: Tin Harry DDS |  Sunset Premier Dental Group |
|  Dr. Julieta J. Carlos, DMD |  Hong Stanley DDS |
|  Sunset Health Services |  Jeong Sandra H OD |
|  Family Vision Care: Simsarian Richard Z OD |  Lee Salena OD |
|  Golden Gate Pharmacy |  Judah Street Clinic |

Sunset Commercial Zoning Map

41ST AVE	2077	2009	190
ORTEGA ST	2076	2010	19C
ORTEGA ST	2075	2011	19I
38TH AVE	2074	2012	19J
37TH AVE	2073	2013	19K
2099	2072	2014	19L
2100	2071	2015	19M
2101	2070	2016	19N
2102	2069	2017	19O
2103	2068	2018	19P
2104	2067	2019	19Q
30TH AVE	2105	2020	19R
2106	2065	2021	19S
2064	2022	19T	
2063	2023	19U	
25TH AVE	2062	2024	19V

Exhibit I

Transportation and Parking Study -- Quotes

The numbered items below are excerpts from a Transportation and Parking Study prepared by one of the best known traffic and parking consultants in the City, Fehr and Peers. That group has been hired from time to time by the City of SF itself for transportation studies.

1. "The analysis further demonstrates that the estimated peak hour vehicle trip generation could be accommodated by the existing parking availability within 1,000 feet of the Proposed Project."
2. "On-street parking during the weekday evening period (5pm-8pm) is typically 77 percent occupied and, therefore, approximately 300 spaces are available within 1,000 feet of the Proposed Project. Parking occupancy in the vicinity of the Proposed Project is similar to other locations in the City. For context, the City's SFpark program has identified 60-80 percent as its target parking occupancy range. This target occupancy rate aims to ensure that on-street parking is readily available and accommodates as many customers as possible for adjacent businesses."
3. "The peak hour vehicle trip generation estimates [for the proposed project] presented in Table 6 are less than the average number of parking spaces available within 1,000 feet of the Proposed Project, which are presented in Table 2."
4. "The results of this analysis reveal that the estimated number of Proposed Project-generated trips would likely be less than the number expected to be generated by a retail or restaurant use in the same space. Retail and restaurant establishments are used as a comparison since they are two of the most common uses in the Noriega Street Neighborhood Commercial District, where the Project is located. The analysis further demonstrates that the estimated number of vehicle trips during the peak hour could be accommodated by the existing available parking supply within 1,000 feet of the Proposed Project."
5. "In addition, while the Proposed Project is not subject to the City of San Francisco's Transportation Demand Management Program, due to its small size and other factors, the Project Sponsor has voluntarily agreed to implement several Transportation Demand Management (TDM) measures to encourage travel by sustainable modes of transportation (e.g. walking, bicycling, and transit) and further reduce single occupancy vehicle (SOV) trips to the Proposed Project. If the Proposed Project were subject to SF Planning's TDM Program, the sum of these TDM measures – and including the fact that the Proposed Project would not provide parking – would result in 23 points according to the program's web-based tool. For comparison purposes, a retail use that is subject to SF Planning's TDM Program that provides 0-4 parking spaces would be required to attain 13 points."

Exhibit J

Transportation and Demand Management Measures

ATTACHMENT B

Proposed TDM Menu Items

While the Proposed Project is not subject to Section 169, the Project Sponsor has voluntarily agreed to implement the following TDM measures from the Standards for the Transportation Demand Management Program that would reduce SOV trips to and from the Project Site.

1. Provide a minimum of 1 on-site Class I and 6 Class II bicycle parking spaces to encourage bicycling by employees and visitors;
2. Provide bicycle maintenance tools and supplies within the store on a permanent basis and in good condition to encourage bicycling by employees and visitors;
3. Provide delivery services by bicycle, on foot, or in a vehicle that makes multiple stops, when possible, to reduce Vehicle Miles Traveled from single-stop motorized deliveries;
4. Provide 100% subsidized monthly transit passes to employees, as requested, to encourage employee transit use;
5. Produce tailored marketing and communication campaigns and distribute information via the Project Sponsor's website and/or member on-boarding forms to encourage visitor use via bicycle, on foot, or transit.

If the Proposed Project were subject to SF Planning's TDM Program, the sum of these TDM measures – and including the fact that the Proposed Project would not provide parking – would result in 23 points according to the program's web-based tool.

Exhibit K

Dear Supervisor Tang and Mr. Perry,

I'm writing to voice my support for the Apothecarium's proposed medical cannabis dispensary at 2505 Noriega St. Just some quick personal background, so you know where I'm coming from. I'm a 25-year-old, Chinese American, Sunset District native and current resident. As a proud product of SFUSD (Jefferson Elementary, Hoover MS, and Lowell HS), I went on to study sociology and public health at UC Merced. I'm particularly interested in drug use and drug policy. Since obtaining my bachelor's degree in 2013, I've been working as a research assistant with the Center for Substance Abuse Studies at the Institute for Scientific Analysis here in the city. I work on several National Institute on Drug Abuse (NIDA)-funded studies, including a qualitative study of Baby Boomer marijuana users in the SF Bay Area. I've gained insights from interviews with over a hundred study participants, medical and recreational cannabis users in my own family, and my own life experiences, so I want to share some perspective on this complex issue.

Establishing a dispensary in the Sunset would be an asset to our community. With at least 20 dispensaries in other parts of the city, Sunset residents have very limited options for safe local access to their medicine. They are forced to travel across town, putting an extra burden on patients, especially those with limited mobility. Some rely on delivery services, but these often lack the personalized, face-to-face consultations that many patients need when searching for the right products. Other residents skip the dispensaries altogether and continue to get their cannabis from illicit sources. They face increased risks of getting a contaminated product, cheated, robbed, and arrested in an unregulated market. Californians and an increasingly majority of Americans have already voted in favor of legalizing cannabis for medical and recreational purposes. Activists around the world have fought long and hard for cannabis policy reforms because this plant is at the intersection of so many other issues: civil rights, social justice, environmental sustainability, public health and safety, just to name a few. Punitive drug control measures marginalize members of our community, while threatening the environment, public health and safety because prohibition sustains the underground economy. I think you're aware of the consequences and failures of the war on drugs. It's clear that taxation and regulation is a more humane, effective strategy at minimizing the risks and maximizing the benefits associated with cannabis cultivation, distribution, and use. We won't benefit from these policy reforms if we continue to ban legal businesses in our neighborhood. Dispensaries also offer services beyond cannabis products, such as referrals to substance abuse treatment programs and social services, social support groups, art and entertainment programs, educational programs, and they act as a host for community events. The Apothecarium's "CONNECT! Community Services" currently offers yoga classes, women's and veterans' support groups, a meditation group, and other self-help classes

through a partnership with a local church. The Apothecarium has already donated over \$250,000 to nonprofits and schools, contributing to development in other neighborhoods. Why should we miss out on these opportunities for building a healthier, thriving community? When there was conflict over a proposed dispensary on Taraval St., I went to City Hall to share my opinion and listen to my neighbors' testimonies. I understand the concerns of the opposition, but I support evidence-based arguments. I want to touch upon a few points of contention here, because I cannot respect the arguments based on fear, prejudice, and lack of knowledge.

Some perceive medical cannabis to be a hoax, and regard any drug use to be immoral. Others consider cannabis users to be dangerous criminals or unproductive members of society. If we want to develop into a more compassionate, inclusive society, we must overcome the prejudicial remnants of "Reefer Madness" propaganda and "Just Say No" rhetoric, cultural taboos, and the criminalization of otherwise law-abiding citizens. While the federal government continues to maintain that cannabis is as dangerous as heroin, accumulating evidence¹ supports something our ancestors have said for thousands of years: cannabis is a safe and effective treatment for a variety of medical conditions. An important emerging trend is the use of cannabis as a substitute for other drugs, particularly pharmaceuticals², which has significant public health implications:

"Prescription drug overdose is now the leading cause of accidental death in the United States. Many of these overdoses are related to the increasing number of people taking opiate-based medications for pain related conditions. Marijuana has been shown as an effective treatment for pain, and has a better safety profile than opiates with less risk for dependence and no risk of fatal overdose. States that have passed medical marijuana laws have seen a decrease in opiate related mortality, and medical marijuana patients are claiming that the use of marijuana as a substitute for opiates is resulting in relief without the worries about dependence."³

¹ The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research. (<http://nationalacademies.org/hmd/reports/2017/health-effects-of-cannabis-and-cannabinoids.aspx>)

² Lau, N., Sales, P., Averill, S., Murphy, F., Sato, S.-O., & Murphy, S. (2015). A safer alternative: Cannabis substitution as harm reduction. *Drug and Alcohol Review*, 34(6), 654–659.

Lucas, P., Walsh, Z., Crosby, K., Callaway, R., Belle-Isle, L., Kay, R., ... Holtzman, S. (2016). Substituting cannabis for prescription drugs, alcohol and other substances among medical cannabis patients: The impact of contextual factors. *Drug and Alcohol Review*, 35(3), 326–333.

³ Marijuana and Opiates. (<http://www.drugpolicy.org/resource/marijuana-and-opiates>)

Unfortunately, many patients- especially elderly Chinese folks- don't understand or can't accept that...yet. When they begin to get it, the results can be life-changing. My 79-year-old grandmother's experience is a prime example (she's also a Sunset resident). She is prescribed opiates for chronic pain, but pharmaceuticals have had limited efficacy and negative side-effects such as constipation, loss of appetite, moodiness, and increased risk of developing an ulcer. My aunt, cousins, and I had to push my father, who oversees my grandma's healthcare, to advocate for medical cannabis with her doctor. The doctor finally suggested cannabis when all other options had been exhausted. My grandma recently started using it to replace her opiates, with positive results. Although my grandfather creates a hostile environment with his disapproving attitudes, I'm happy to see my grandma relieved of some suffering. I only wish we were able to quell misperceptions and convince them to try it sooner. Cannabis is improving my grandma's quality of life, but the reluctance and cultural divide were a serious hurdle.

One major issue in our medical cannabis system is the lack of integration with healthcare and service providers. Doctors can recommend cannabis for therapeutic use, but they lack the formal education required to discuss the specifics of treatment options. Patients are left to develop a regimen on their own. Dispensaries act as a bridge between these formal and informal sectors of healthcare to help patients determine which strains, doses, or routes of administration to choose. I came across a study which indicated that places with a higher number of dispensaries were associated with more marijuana-related hospitalizations.⁴ This may be due to the fact that some people, particularly novice users, are unequipped with knowledge. Harm reduction information is especially important for the minimizing risks associated with using new and unfamiliar delivery systems, such as concentrates or edibles.⁵ I anticipate that the study's findings could be used as a rationale for banning dispensaries altogether. However, it actually highlights the need for more education at the point of access. This is further complicated by language-barriers, an issue that the proposed dispensary seeks to address. They plan to hire bilingual staff, which will be monumental for increasing equal access to healthcare services in San Francisco. They also seek to collaborate with acupuncturists and herbalists to provide an integrative, holistic approach more in line with traditional Chinese medicine. The dispensary will serve as a vital resource, especially for Chinese-speaking patients. I believe the dispensary would

⁴ Mair, C., Freisthler, B., Ponicki, W.R., Gaidus, A. (2015). The impacts of marijuana dispensary and neighborhood ecology on marijuana abuse and dependence. *Drug and Alcohol Dependence*, 154, 111-116.

⁵ Murphy, F., Sales, P., Murphy, S., Averill, S., Lau, N., & Sato, S.-O. (2015). Baby Boomers and Cannabis Delivery Systems. *Journal of Drug Issues*, 45(3), 293-313.

also have significant symbolic value, working to eliminate stigma and increase recognition of cannabis as medicine in our community.

There are concerns about increased crime and youth use, but these are speculative fears. For example, a study found no association between crime rates and the density of dispensaries, concluding that “measures dispensaries take to reduce crime (i.e., doormen, video cameras) may deter possible motivated offenders.”⁶ Cannabis prohibition is supported in the name of protecting the youth, but teens actually find it easier to buy marijuana than beer because drug dealers don’t ask for ID. These illicit transactions are the real “gateway” to other drugs, when kids are seeking marijuana but are offered other substances. Dealers get free reign in areas without dispensaries. Dispensaries provide a legal option for adults to purchase their cannabis, which separates drug markets and drives out illicit competition. I know some are worried about being confronted with a public storefront, and perceive it to be encouraging use. It’s difficult for some parents to talk about cannabis and other drug use with their children, but this is a larger sociocultural issue and not a basis to ban a dispensary. A dispensary in our community could actually eliminate some barriers to harm reduction drug education, because it represents a realistic approach to drugs that youth can respect. It’s the “safety first” approach.⁷ Regulating cannabis provides safer access, drives out illicit competition, and demonstrates to non-users that cannabis users are normal people too. They’re co-workers, church congregation members, neighbors, family, and so on. While motivations for cannabis use can range from recreational, to medical and spiritual (these aren’t mutually-exclusive categories), adults typically use it in a controlled, responsible manner.⁸

Dispensaries are key to the implementation of sensible drug control policies that prioritize public health and safety. Failure to uphold the right to establish a dispensary in my community will impede the progress of drug policy reforms, limit access to medical cannabis in District 4, deny the expressed desires of the majority of voters, and contradict the city and county’s directive to support policies to tax and regulate marijuana for adults.⁹

⁶ Kepple, N.J. & Freisthler, B. (2012). Exploring the ecological association between crime and medical marijuana dispensaries. *Journal of Studies on Alcohol and Drugs*, 73, 523-530.

⁷ Safety First: A Reality-Based Approach to Teens and Drugs
(www.drugpolicy.org/sites/default/files/DPA_SafetyFirst_2014_0.pdf)

⁸ Lau, N., Sales, P., Averill, S., Murphy, F., Sato, S.-O., & Murphy, S. (2015). Responsible and controlled use: Older cannabis users and harm reduction. *International Journal of Drug Policy*, 26(8), 709–718.

⁹ SEC. 12X.7. MARIJUANA POLICY REFORM: (a) It shall be the policy of the City and County of San Francisco to support policies to tax and regulate marijuana for adults.

Thank you for taking the time to consider my viewpoint. Please contact me with any questions. I would gladly speak more on this issue, as it hits very close to home.

Sincerely,

Nicholas Lau



San Francisco, CA 94122

Hello, my name is Michael Yen.

I am a Chinese-American resident of San Francisco and I write to state my strong support for a new Apothecarium dispensary in the Sunset district.

As a result of a work-related injury, I suffer from recurring and at times debilitating back pain. After trying many pharmaceutical pain medicines and also alternative treatments including acupuncture, I obtained a license and tried medical marijuana. A combination of that and Chinese herbal medicine finally alleviated my pain.

I was reluctant to share my story with friends due to the cultural prejudice against cannabis, especially in the Chinese community due to its conflation with opium. However, when one of my best friends had post-op pain due to a severe fall, I urged him to try it after he found no relief from the medicines prescribed to him. It was the only thing that worked for him.

I later learned that many people I knew were using medical marijuana without talking about it for fear of stigma. Even my very straight laced brother-in-law told me it was the only thing that worked for his chronic insomnia. But, the fact that even recreational marijuana is now legal in California has not removed the bias against medical marijuana.

As an employee and later the manager of a bookstore on Valencia street I observed that well managed dispensaries, especially the higher end ones like the Apothecarium, had a positive effect on businesses in their area.

I often shop on Noriega Street and I am certain the restaurants and shops in the neighborhood will benefit from a responsibly run dispensary that will bring new shoppers to the area. I am also sure that the folks at the Apothecarium will help enforce the no smoking in public clause of the law. Cannabis has a long history in Chinese medicine and it is unfortunate that some people in my community forget that and fixate on a "Reefer Madness" propaganda attitude against it.

I would attend the Planning Commission Hearing in person to state my case, but as the main caregiver to my elderly and disabled mother, I probably cannot. I therefore request that this letter be read at the Hearing in support of what I know will be a beneficial addition to the social fabric of the neighborhood.

Thank you for your attention.

Michael Yen

[REDACTED]
San Francisco, CA.



Ynez Carrasco <ynez@apothecarium.com>

my support for Apothecarium

Cindy Lutz [REDACTED]

Sat, May 6, 2017 at 10:32 AM

To: [REDACTED]
Cc: [REDACTED]

Dear Ms. Tang and Mr. Perry,

I would like to share with you why I support Apothecarium coming into my neighborhood. I think you will find that my story is not unusual, and could happen to anyone. I would like to preface that I do not use marijuana either medically or recreationally (but I would medically if a health issue arose).

Last July, doctors discovered cancer around my best friend's heart. O. had not been a smoker, a drinker or a marijuana user. He was straight laced to almost a fault. Since the cancer had progressed to fluid build up in the lungs and the prognosis was poor, O. and his support team of doctors, friends and family chose a path of quality over quantity. My boyfriend and I, having known him for thirteen years, became his main caregivers.

From July until October, managing the symptoms worked. He had to have fluid drained from his lungs a couple of times, and we took life a little slower. Hikes in Fairfax turned into walks up to Safeway on Noriega. We cooked with less salt. We watched more Netflix. We had that period of time where we thought maybe it wasn't real, that maybe we could manage it like a chronic condition. Magical thinking.

In October, my partner and I flew to Hawaii to visit our new granddaughter and O. enthusiastically went to spend the week with a mutual friend. When we returned, our friend warned us that O.'s cough had gotten pretty bad. We took him to urgent care the next day. The good doctors were able to temporarily clear up his lungs so he could breathe for the time being. He was put on a strong medicine that would also help keep his lungs from filling with fluid, but not without some unpleasant (but manageable) side effects.

Through October and November, O. had mostly good days. We could no longer take our walks up to Safeway, so we would walk to the free library a block away on 35th. The cough was constantly present. There were occasional seizures as well. One of O.'s doctors added a Chinese medicine formula to the regime of his daily medicines, which I purchased each week at the shop just across the street from the proposed dispensary. His breathing was noticeably easier, and his jolly spirit came back. His pain remained manageable, but the slow suffocation we'd been warned about was clearly becoming apparent.

In December, my partner and I managed our work schedules the best that we could so that O. would not have to be alone for long periods of time, and others visited him as they were able. He still did not complain about pain, but the coughing fits were clearly stressful and the fluid draining was becoming a more frequent event. And all through this, O. remained the most cheerful and fun-loving guy you could ever meet. On Christmas Eve, we opened gifts together. O. doing his traditional clowning around of throwing wrapping paper around. On Christmas morning, he seemed too frail to join the family gathering which he'd attended the last twelve years, so my partner and O. had a quiet dinner together.

In January, the doctors said we should start considering our hospice plan. O., possibly because he didn't do the chemo route, had not lost his appetite or his sense of humor, so it was hard to fathom the reality of this. She suggested that we consider using a CBD in conjunction with his other medicines, because the anxiety he was having over the possibility of passing out during a coughing fit (it had happened a couple of times now), could actually make it even harder to breathe. My partner has a medical card, so he began visiting Sparc (another reputable dispensary) and worked with someone there to fine tune what would be best for O.

We anticipated the usual resistance from O., but after the first "homeopathic" small dose, he had almost no anxiety and wanted to take a walk outside. CBD strains contain almost no THC, which means there is no psychoactive effects on the patient. He would just take a small piece of a jelly-like candy, and in a half hour, he would take a big smiling sigh and ask for something to eat. For the next three weeks, he never increased his dose. He managed it like the other meds (still the Western, the Chinese, and now the CBD), he did quite well as far as living a relatively normal life. We took some small walks, and even one day he wanted to go to Ocean Beach. He didn't need a hospital bed. He struggled to breathe, but the pain was minimal and the CBD tamed the anxiety of trying to catch his breath almost completely.

Late in January, he died. It was raining that night, but the day had been sunny and warm. O. and my boyfriend had chatted about life in the backyard. O. didn't need to go into hospice or spend weeks in a hospital. He was lucid and jolly until about a half hour before he passed, in fact he even wanted something to eat. He slipped into sleep while my partner

hugged him. He "snored" and then he passed away. If there is such a thing, it was a beautiful death.

When we think now about how O. chose a quality over quantity (little joys over more days), as caregivers, one of the best decisions was having the option of using the CBD. The other medicines managed the cancer's physical symptoms, and the CBD probably kept the pain away, but definitely kept him eating and kept him from becoming depressed and anxious. My partner was traveling across town between working and caregiving to pick up the medications. Having to leave a fragile person alone is very stressful. For anyone who has been a caregiver, the difference between leaving someone alone for more than an hour or being able to go down the block and be gone ten minutes is enormous. What an extra miracle it would have been to have a place like Apothecarium, two blocks away during this time! Every neighborhood deserves a compassionate dispensary because these kinds of situations are very real in all families.

Most patients and caregivers who visit the new Apothecarium won't be handling an end of life scenario, but they will be facing worries and anxieties over treating illness and injuries. When I was young and invincible, I could not imagine the weight of this. I'm 48, my boyfriend is 62, and my aging parents are facing new health challenges all of the time. As we navigate a healthcare system where the only affordable healthcare might come from alternative medicine like Chinese and medical marijuana, each neighborhood needs upstanding dispensaries such as this one. There are definitely sketchy "pot clubs" around the Bay Area, but Apothecarium is on par with an Apple Store by comparison. As a neighborhood that will eventually have a dispensary in it, shouldn't we set the bar high now?

Please, consider this dispensary to be the very needed and compassionate addition to our neighborhood. So many people lives could actually become better by it's arrival. They legitimately care about patients; test their products for safety; and have a proven record for community outreach, the chances of bringing down the neighborhood are null.

Thank you for taking the time to listen to my story. Supporters of this project are not "stoners", we are people who care about the well being of others and recognize that this is an opportunity for exactly that. I would not be so quick to advocate for any and every dispensary, but Apothecarium could have a really special place in our community.

I appreciate that you took the time to read my story and reasons for supporting this community endeavor (which is really what it is.)

Sincerely,
Cindy Lutz

 22

Andrew Perry | SF Planning Department | 1650 Mission St., #400 | SF, Ca. 94103-4279
(415) 575-9197 | andrew.perry@sfgov.org

Dear Mr. Perry,

I'm writing to support The Apothecarium's proposed medical marijuana dispensary at 2505 Noriega Street. I believe patients on San Francisco's West Side need access to their medicine in their own neighborhood.

The Apothecarium would be a positive addition to the neighborhood. They are a community-minded nonprofit that has donated \$335,000+ to community groups and has never had a single police incident since they began operations in 2011.

The President of the Castro Merchants' Association says:

"Everyone in the neighborhood loves The Apothecarium: their security improves safety; their foot traffic increases business; their philanthropy helps our community; and their upscale space sets a high standard. We've had no trouble from them — in truth, we need more businesses like The Apothecarium."

Patients on San Francisco's West Side deserve the opportunity to purchase their medicine in a safe, responsible dispensary run by a company with a strong track record of being a positive force in the community.

Please check all that apply:

- I live in the Sunset
- I live within two blocks of 32nd Ave & Noriega
- I expect to use the proposed location
- I am a parent

Sincerely,

Name (First & Last) Kristen Carrutho Wilson

Full Address (Letters without addresses will be [redacted] Noriega St.

Signature 

Date 05/4/17

Additional Notes or Comments:

I live down the street, and work in the mission. And I hate that I have to travel all the way to Western Addition or the Mission to get my medicine, its not fair. I would love to have a dispensary in my neighborhood.

Andrew Perry | SF Planning Department | 1650 Mission St., #400 | SF, Ca. 94103-4279
(415) 575-9197 | andrew.perry@sfgov.org

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- I live within two blocks of 32nd Ave & Noriega
- I expect to use the proposed location
- I am a parent

Sincerely,

Name (First & Last)

Samuel Dennis Conrad Pundak

Full Address (Letters without addresses will be ignored)

[Redacted] 32nd Ave

Signature

Samuel Pundak

Date

9/28/17

Additional Notes or Comments:

I live a couple houses down & have been waiting a long time for Apothecarium to open for the convenience of having a club that I don't have to drive to.

Learn [redacted] from Central Sunset 13 Feb

Wai Chan, there are delivery services but the selection is often lacking. It's not as simple as having someone deliver you a joint or a brownie. There are numerous strains with different properties and many ways to ingest the product.

Being able to go to a dispensary with a variety of products and knowledgeable staff is important. I occasionally use medical MJ for PTSD. I prefer to take a very small amount of a very specific compound. I also don't smoke, so prefer edibles. The service that we sometimes use for delivery was out of my preferred product for several months.

If I take the wrong thing, like something with too much THC and not enough CBD, it can cause my PTSD to be triggered. The staff at Apothecarium were invaluable in my hunt for the right product. A delivery website and driver are not going to provide that patience and knowledge.

Thank

Allen, Dana, Ryan, and 4 others thanked Learn

David [redacted] from Outer Sunset 13 Feb

I think it would be grand. I am forced to travel great distances in the city because the sunset has no dispensary. I would love not having to go so far for my medication.

Thank

Simon, Ryan, Greg, and 6 others thanked David-John

Jer [redacted] from Central Sunset 13 Mar

Wai, homeless and kids aren't hanging around in front of the other dispensaries in town. Security and legitimacy of their clientele is a must for dispensaries. They can get closed down in the blink of an eye if they are allowing people to hang out in front waiting for a hand out or if their clients are handing it out to people outside.

These are businesses who have to look out after interests. Their top two interests are both security and legitimacy of their customers.

There are a lot of people in the Sunset that will benefit by having a dispensary close by. Many of them are elderly or sick and don't have vehicles.

Thank

Allen, Lash, Ryan, and 4 others thanked Jer

Jim [REDACTED] from Central Parkside · 13 Mar

Hmmm. Since legal pot growers won't be planting illegally and fouling ground water and streams with nitrogen fertilizers, rat poison or trespassing on watershed land, and it will be 100% legal to use it, within the guidelines of the law, and data shows that use among teenagers actually went down in Washington and Colorado, where it is already legal, and smugglers, cartels and street dealers will not profit like they have since prohibition, and no one, not one person has ever died from an overdose not to mention all the Other Legal drugs, especially Tobacco and Alcohol that have Huge death tolls and societal costs that are not a problem with cannabis.. I say to those opposed, 'why are you not complaining about tobacco sales, and the corner liquor stores, grocery stores and bars that sell alcoholic beverages?' Just wondering.

Ref: <https://goo.gl/IKLm5k>

<https://goo.gl/fxV92E>

Edited on 13 Mar

Thank

John, Allen, Susan, and 14 others thanked Jim.

Rob [REDACTED] from Central Summit · 13 Mar

It is distressing how many NIMBYs have no concept of how benign a cannabis dispensary is compared to a liquor store or c-store selling cigarettes. I am not a user, but I have a B.S. in Molecular Biology. I have done a significant amount of reading and research on the topic of cannabis as an ameliorative for depression, anxiety, pain, mood swings, insomnia, nausea and much more. There is no question it is an effective treatment in many cases. The "LD 50" (the dosage at which 50% of recipients are fatally overdosed) are at a level similar to caffeine. THC is not physically addictive - in fact not nearly as much as reruns of Friends are to some people. It has been proven not to be a 'gateway drug' to meth... heroin etc. I've had several friends with sports injuries, chronic pain and chemotherapy treatments whose pain and discomfort have been alleviated by medicinal cannabis. If you are opposed to neighborhood dispensaries, please take some time to look into the matter and educate yourself. You may be surprised at how beneficial these prescribed substances are to our neighbors and other members of our community.

Thank

John, Allen, Susan, and 14 others thanked Rob.

Exhibit L

Understanding Whether the Planning Code Prohibits an MCD Within 1,000 Feet of a Child Care Center

Is Child Care a use that triggers the 1,000 foot distance rule?

No, Child Care is not listed as a "sensitive site" in the City's MDC legislation, and the 1,000 foot rule is not triggered. If the City wanted to include Child Care in the sensitive site list, it could amend the Code to include it.

Is Child Care listed as one example of some sub-category of sensitive uses (such as "Community Facility"), and thus indirectly made into a sensitive use?

No, see the definition of Community Facility, which is a "sensitive site" in the MCD legislation.

Community Facility. An Institutional Community Use that includes community clubhouses, neighborhood centers, community cultural centers, or other community facilities not publicly owned, but open for public use in which the chief activity is not carried on as a gainful business and whose chief function is the gathering of persons from the immediate neighborhood in a structure for the purposes of recreation, culture, social interaction, health care, or education other than Institutional Uses as defined in this Section.

First Conclusion:

Child Care is not a community clubhouse, neighborhood center, or cultural center. But does it fall under "other community facilities not publicly owned but open for public use"?

To be in the residual category, the business must:

- (1) be a non-profit (few childcare businesses are) AND
- (2) must have as its chief function:
 - (a) the gathering of persons (that means adults and children and not solely children) and
 - (b) those persons must be from the immediate neighborhood (not a requirement of those run child cares).

Second Conclusion:

Child Care is not in the residual category of "other community facilities not publicly owned but open for public use."

Exhibit M



Evangelical Lutheran Church in America
God's work. Our hands.

St. Francis Lutheran Church

A Reconciling in Christ Congregation,
where *all* are welcome.



June 10, 2016

Dear San Francisco Board of Appeals,

I write to share my church's experience as a neighbor of The Apothecarium. St. Francis Lutheran Church is about 500 feet away, more-or-less across the street.

We have never received a complaint from a congregant about The Apothecarium or their patients.

St. Francis is a meeting place for a variety of 12-step programs for people recovering from drug and alcohol abuse. Alateen, a group that helps young people deal with addiction in their family, also meet at St. Francis. These are vulnerable, at-risk populations. We have never heard of any issue with The Apothecarium. None of these groups has moved away due to the presence of the dispensary -- or even expressed a concern.

Patients of The Apothecarium are not simply our close neighbors. The Apothecarium's various patient support groups meet inside our church during the week. They are in and out of our church building. We have never had any problem with The Apothecarium's patients being on the property, crossing paths with our congregants or the attendees at the other support groups.

St. Francis Lutheran Church is located on a block that has a lot of pedestrian traffic, including people walking between MUNI lines or walking to and from neighborhoods north and south of the church. Our block also has a number of small businesses. St. Francis has never been contacted by any individual or business on this block with concerns about Apothecarium's patients coming to or meeting at the church. I am hard pressed to think of a single negative impact from The Apothecarium - or another neighbor that has had a more positive impact.

Sincerely,

Dave Walda
Senior Parish Administrator

Exhibit N

13 June 2016

To Whom It May Concern,


I am the owner of Maru Dojo -- a martial arts studio for children and adults located 390 feet away from The Apothecarium.

I have never had any trouble from The Apothecarium or their patients.

None of my students or their parents has every complained to me about anything to do with The Apothecarium.

I know The Apothecarium simply as a quiet neighbor down the street

Sincerely,


Ray Feliciano

Owner, Maru Dojo
736 14th Street, San Francisco, CA 94114

Exhibit O

Nextdoor Neighbors:

Liquor Store

Lutheran Church & Ark of Hope Daycare

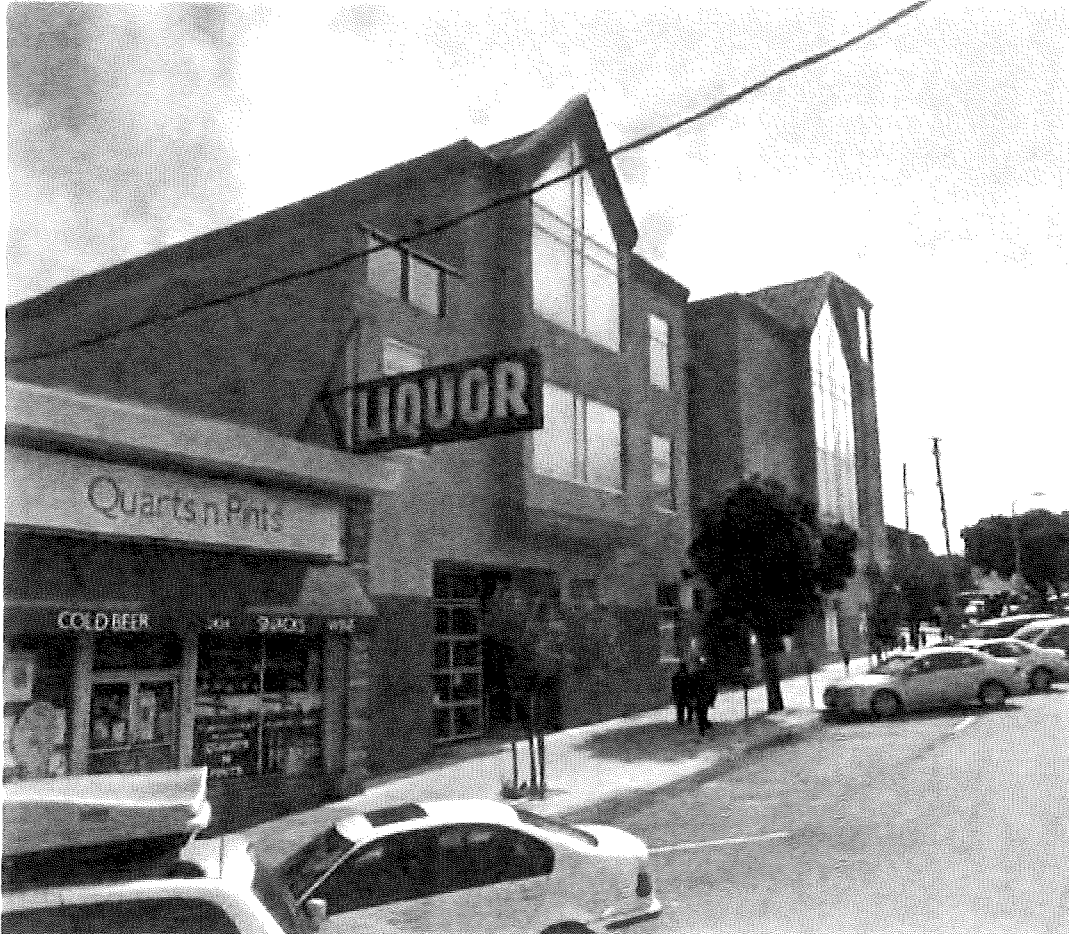


Exhibit P

Exhibit P - False Claims Made By Opponents

A. Danger to Children. San Francisco's first legal dispensaries opened in the early 1990's. After more than 25 years of experience with children and dispensaries, we are unaware of any issues related to children and dispensaries here in our city. See Attachment 1 for examples of child-serving businesses coexisting in close proximity to MCD's, including the Academy of Ballet children's ballet school, and the martial arts studio 688 feet away from the Market Street Apothecarium, a business that serves children and whose owner has written a letter of support. The Apothecarium Market Street lies within an apartment building whose dwellings are inhabited by parents and their children, and *no parent has ever reported any problem.*

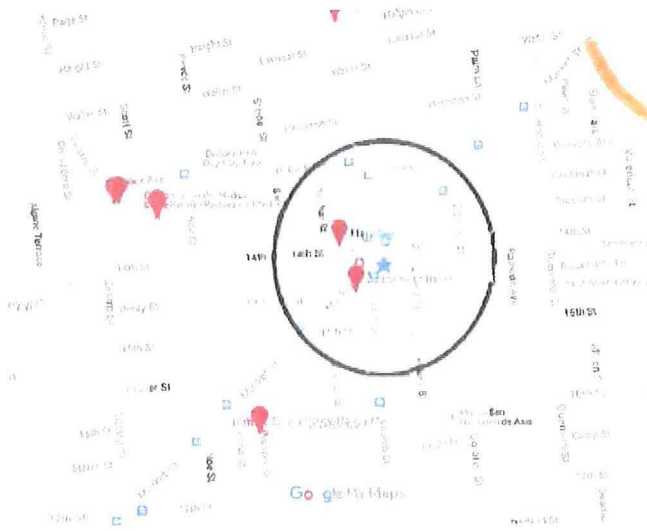
B. Teen Use. Research from Colorado suggests that marijuana use by teens has stayed flat or gone down since legalization of marijuana in that state. See Attachment 2.

C. Traffic Deaths. After analyzing 1.2 million traffic fatalities nationwide from 1985 through 2014" (the American Journal of Public Health). Researchers reported that: "Deaths dropped 11 percent on average in states that legalized medical marijuana." See Attachment 2. Studies suggesting otherwise have been discredited or use cherry-picked data.

D. Claim that an MCD may not be so close to a preschool: As stated in our brief, there is no current law that prevents an MCD from being located close to a preschool or a church that offers programs to children.

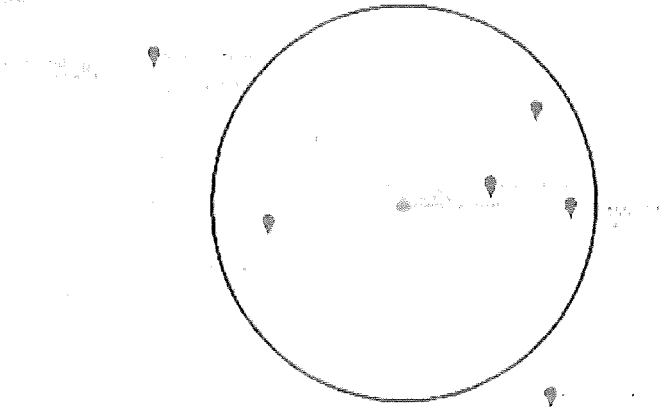
ATTACHMENT 1

Apothecarium Castro



- Academy of Ballet - 728 ft
- Maru Dojo 665 ft

Waterfall Wellness Health Center



- Korean Martial Arts Center - 408 ft
- Little Sunshine Childcare - 628 ft
- The Three Bears Childcare - 728 ft
- Ingleside Branch Library - 767 ft

Tutoring Facilities

Bernal Heights Collective	Kumon Math and Reading	630 ft
Good Fellows Cannabis	San Francisco Elite Tutors	102 ft
Greenway	Tenderloin Neighborhood Dev...	900 ft

Daycare Facilities

1944 Ocean Cooperative	Nelly Hudman's Daycare	161 ft
	Little Angels Day Care	899 ft
	Little Sunshine Childcare	1000 ft
Waterfall Wellness Health Center	Little Sunshine Childcare	628 ft
	The Three Bears Childcare	728 ft

Driving Schools

Valencia Street Caregivers	Rivadavia Driving School	493 ft
	Guerrero Driving School	616 ft
Med Thrive Co-op	J.R. Driving School	337 ft
70 Second Street	Hearst Parking Center	921 ft

Pediatric Facilities

Mission Herbal Care	David Tejeda, MD	530 ft
Cookies415	David Tejeda, MD	520 ft
Grass Roots	Melissa Congdon, MD	972 ft
2ONE2 California Street	Fernando Miranda, MD	594 ft

Libraries

Waterfall Wellness Health Center	Ingleside Branch Library	767 ft
Shambhala Medical Cannabis Collective	Ourshelves	789 ft
Purple Star	Ourshelves	683 ft
Green Evaluations	Park Branch Library	701 ft
Compassionate Health Options	Prelinger Library	811 ft
SPARC	San Francisco Main Library	985 ft
70 Second Street	Mechanics' Institute Library	787 ft
Harvest Shop	Richmond Branch Library	900 ft

Dance Studios

Valencia Street Caregivers	Mission Cultural Center	727 ft
Purple Star	Zumba with Adriana	466 ft
	Mission City Swing	570 ft
Shambhala Medical Cannabis Collective	Zumba with Adriana	959 ft
The Apothecarium	Academy of Ballet	728 ft
SF Foundation on Going Green	City Dance Studios	941 ft
Urban Pharm	Aerial Artique	546 ft
San Francisco Med Canna...	Aerial Artique	286 ft
SPARC	Aerial Artique	411 ft
Compassionate Health O...	Aerial Artique	704 ft
Greenway	Alonzo King...	853 ft
	Virginia Iglesias...	888 ft
Harvest Shop	Geary Dance Center	795 ft

ATTACHMENT 2

After states legalized medical marijuana, traffic deaths fell
Reuters - Ronnie Cohen
28 Dec 2016

Legalization of medical marijuana is not linked with increased traffic fatalities, a new study finds. In some states, in fact, the number of people killed in traffic accidents dropped after medical marijuana laws were enacted.

"Instead of seeing an increase in fatalities, we saw a reduction, which was totally unexpected," said Julian Santaella-Tenorio, the study's lead author and a doctoral student at Columbia University's Mailman School of Public Health in New York City.

Since 1996, 28 states have legalized marijuana for medical use.

Deaths dropped 11 percent on average in states that legalized medical marijuana, researchers discovered after analyzing 1.2 million traffic fatalities nationwide from 1985 through 2014.

The decrease in traffic fatalities was particularly striking - 12 percent - in 25- to 44-year-olds, an age group with a large percentage of registered medical marijuana users, the authors report in the American Journal of Public Health.

Though Santaella-Tenorio was surprised by the drop in traffic deaths, the results mirror the findings of another study of data from 19 states published in 2013 in The Journal of Law and Economics. It showed an 8 to 11 percent decrease in traffic fatalities during the first full year after legalization of medical marijuana.

"Public safety doesn't decrease with increased access to marijuana, rather it improves," Benjamin Hansen, one of the authors of the previous study, said in an email. Hansen, an economics professor at the University of Oregon in Eugene, was not involved in the current study.

He cautioned that both marijuana and alcohol are drugs that can impair driving.

It's not clear why traffic deaths might drop when medical marijuana becomes legal, and the study can only show an association; it can't prove cause and effect.

The authors of both studies suggest that marijuana users might be more aware of their impairment as a result of the drug than drinkers. It's also possible, they say, that patients with access to medical marijuana have substituted weed at home for booze in bars and have stayed off the roads.

Or, they suggest, the drop in traffic fatalities could stem from other factors, such as an increased police presence following enactment of medical marijuana laws.

Law-enforcement authorities have yet to devise a way to test drivers for marijuana intoxication, and have raised concerns about drivers high on cannabis.

Though traffic deaths dropped following legalization of medical marijuana laws in seven states, fatality rates rose in Rhode Island and Connecticut, the study found.

California immediately cut traffic deaths by 16 percent following medical marijuana legalization and then saw a gradual increase, the study found. Researchers saw a similar trend in New Mexico, with an immediate reduction of more than 17 percent followed by an increase.

The findings highlight differences in various states' medical marijuana laws and indicate the need for research on the particularities of how localities have implemented them, Santaella-Tenorio said.

Voters in Denver, Colorado approved a November ballot measure to allow public consumption of marijuana, Hansen noted. But, he said, "We don't know the public health consequences of those types of policy changes yet."

After legalization, teen marijuana use drops sharply in Colorado

Washington Post, December 21, 2016 By [Christopher Ingraham](#)

Teen marijuana use fell sharply in Colorado in the years 2014 and 2015, after the opening of that state's recreational marijuana market, [new federal survey data show](#).

The state-level data from the National Survey on Drug Use and Health showed that 18.35 percent of Coloradans ages 12 to 17 had used marijuana in the past year in 2014 or 2015, down sharply from 20.81 percent in 2013/2014. (In this survey, years are paired for state-level data to provide larger sample sizes). That works out to roughly a 12 percent drop in marijuana use, year-over-year.

Year-over-year teen marijuana use fell in most states during that time period, including in Washington, the other state to open recreational marijuana markets in 2014. But that drop wasn't statistically significant.

Conversely, adult marijuana use rose significantly in Colorado over the same time period. Among Coloradans ages 26 and older, past-year marijuana use rose from 16.80 percent in 2013/2014 to 19.91 percent in 2014/2015. Annual adult marijuana use was up in most states during the same time frame. The legal marijuana markets in Colorado, Washington and elsewhere feature [strict age and purchasing limits](#).

This federal data released this week is the first clear evidence of a drop in teen marijuana use in Colorado following legalization. Legalization supporters [have long argued that the best way](#) to prevent underage marijuana use is to legalize and regulate the drug.

Marijuana use is generally a riskier endeavor for adolescents and young adults, whose brains are still developing. Studies show people who start using marijuana in their teens [are at a greater risk than adults of becoming dependent on the drug or suffering from mental health issues](#) related to it.

The federal data doesn't speak to what, exactly, is behind the decrease in teen marijuana use in Colorado. Broadly speaking, adolescent substance use has [declined across the board](#) in recent years.

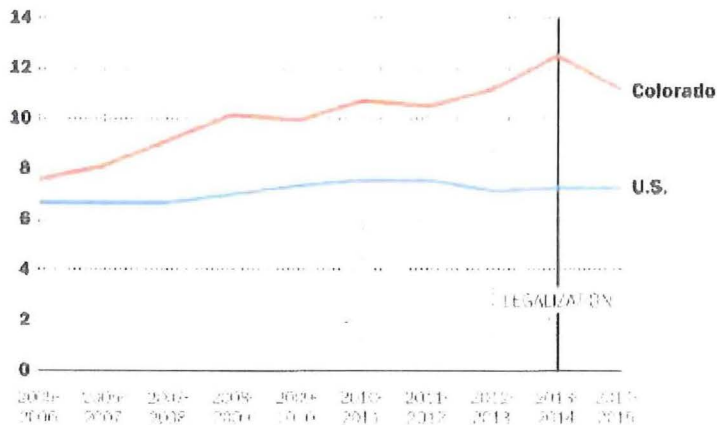
In Colorado, the drop in teen marijuana use could reflect changes related to legalization, [such as a diminution of the black market](#). Or it could be a reflection of broader cultural trends, such as [increasing disapproval of teen drug use](#) or [better substance abuse prevention](#) programs for kids. It's likely that a number of factors are at play.

Some experts [had expected more permissive attitudes toward pot to lead to increased teen use](#) and have subsequently [been surprised](#) to find that teen marijuana use has held steady or even fallen nationwide over the past few years.

The federal survey data do show that the overall rate of teen marijuana use remains higher in Colorado than it is in any other state. But that trend began well before legalization, as the chart below of monthly marijuana use in Colorado and the United States shows.

Teen pot use drops sharply in Colorado

% of 12-to-17 year olds using marijuana in the past month



WORKBLOG

Other data sources, [including the Colorado Department of Health's own numbers](#), show that Colorado is essentially middle-of-the-pack among the states on adolescent marijuana use.

In either case, the overall trend — flat or falling teen use — appears to support legalization supporters' arguments that liberalizing marijuana policies will not pose a serious public health threat to adolescents.

Colorado's Teen Marijuana Usage Dips after Legalization

Government study puts the state's high school cannabis use below the national average
Reuters - Scientific American, June 21, 2016, by Steve Gorman and Diane Craft

Marijuana consumption by Colorado high school students has dipped slightly since the state first permitted recreational cannabis use by adults, a new survey showed on Monday, contrary to concerns that legalization would increase pot use by teens.

The biannual poll by the Colorado Department of Public Health and Environment also showed the percentage of high school students indulging in marijuana in Colorado was smaller than the national average among teens.

According to the department, 21.2 percent of Colorado high school students surveyed in 2015 had used marijuana during the preceding 30 days, down from 22 percent in 2011, the year before voters statewide approved recreational cannabis use by adults 21 and older. The first state-licensed retail outlets for legalized pot actually opened in 2014.

Nationwide, the rate of pot use by teens is slightly higher at 21.7 percent, the study found.

"The survey shows marijuana use has not increased since legalization, with four of five high school students continuing to say they don't use marijuana, even occasionally," the department said in a statement.

The department conducts the voluntary survey every two years in conjunction with the University of Colorado and a citizens advisory committee. About 17,000 students responded to the poll.

Voters in Colorado and three other states - Washington, Oregon and Alaska - have approved recreational pot sales to adults in recent years, and Colorado was the first state to open retail marijuana shops in 2014. Six other states are considering

similar proposals.

A pro-legalization advocacy group said the findings show fears of widespread pot use by minors in states with legalized cannabis are unfounded.

"These statistics clearly debunk the theory that making marijuana legal for adults will result in more teen use," said Mason Tvert, spokesman for the Marijuana Policy Project.

But Diane Carlson, of SMART Colorado, an organization that pushes for tighter regulations to keep cannabis away from children, said data from a 2015 survey by the federal Department of Health and Human Services showed that Colorado ranks first in the nation for marijuana use by youth between the ages of 12 and 17.

Carlson said it was "deeply concerning" that the Colorado survey showed that just 48 percent of the students polled viewed regular marijuana use as a risky behavior.

"Youth marijuana use can have lifelong implications. The risks, which include psychosis, suicide, drug addiction and lower IQs, have been reported based on research on much lower THC potencies than are typically sold on Colorado's commercial market," she said.

(Editing by Steve Gorman and Diane Craft)

Exhibit Q

Wednesday, March 15, 2017

Fellow Californians,

A right-wing hate group called the Pacific Justice Institute (PJI) is gaining a foothold in California among the Asian Pacific American community. PJI is using our community's concern for our families and our religious beliefs to advance their own hateful agenda.

PJI is known for their anti-LGBT views and for being part of the extreme religious right. This includes support for the discredited practice of "reparative therapy" that seeks to change a person's sexual orientation or gender identity. The PJI also opposes civil unions, marriage equality and allowing transgender students access to the bathroom of their choice. They use hatred and fear to demonize the LGBT community. They have been designated an anti-LGBT hate group by the Southern Poverty Law Center.

Today this group is spreading lies and fear in our community about medical cannabis dispensaries. They are suggesting these facilities bring crime to our neighborhoods and danger to our children. The PJI's lies and distortions about cannabis and youth have been repeatedly disproven. Legal, regulated dispensaries have kept drugs off of our streets and out of the hands of children. Crime statistics show a *drop in crime* when dispensaries are opened, as drug money and related crime is eliminated from neighborhoods.

In the early days of the HIV/AIDS epidemic, the cannabis community stepped up to provide medication that improved the quality of life of those suffering from the disease. In many cases, cannabis kept people alive long enough so that they could begin regimens of life-saving drugs.

As community leaders, we reject the misinformation and fear campaigns by the Pacific Justice Institute regarding both LGBT equality and medical cannabis. No one should use lies and fear to manipulate and divide our community.

We encourage everyone in the Asian Pacific American community to reject this hateful organization and their campaign of misinformation, prejudice and divisiveness.

Sincerely,

Rob Bonta
California State Assembly Member

Benny Lee
City of San Leandro Council Member

Fiona Ma
Board Member, California Board of Equalization

Eric Mar
Former San Francisco Supervisor

Jean Quan
Former Oakland Mayor

Gabriel Quinto
City of El Cerrito Council Member

Betty T. Yee
California State Controller

Joint Resolution condemning the Pacific Justice Institute (PJI) and their campaign of fear-based tactics against the LGBTQ and Medical Cannabis communities

WHEREAS, the Pacific Justice Institute (PJI) is a Sacramento based organization that has been declared a hate group by the Southern Poverty Law Center; and

WHEREAS, PJI has fought for years to oppose domestic partnerships, civil unions, marriage equality and access to restrooms by transgender citizens and have been one of the most active anti-LGBTQ groups in the country; and

WHEREAS, PJI has a long history of promoting "gay conversion therapy"; and

WHEREAS, PJI fabricated a story about a transgender teenager harassing other students and launched website called GenderInsanity.com, which fights transgender protections in schools and gay inclusion in the Boy Scouts; and

WHEREAS, PJI Executive Director Brad Dacus says a law designed to protect transgender students will turn CA schools "into a horror film" and compared stopping marriage equality to stopping the Nazis; and

WHEREAS, PJI is now attacking the Castro-based business The Apothecarium and other legally permitted medical cannabis dispensaries and other legal medical cannabis dispensary applicants such as Connect SF, using the same fear tactics that they used against the LGBT community, citing a "danger to our kids" and shutting down a meeting about the medical efficacy of cannabis for people with potentially life-threatening illnesses; and

WHEREAS, there is a deep connection between the LGBTQ community and the cannabis community, dating back to the 1990's when Dennis Peron and Brownie Mary provided safe havens like the S.F. Cannabis Buyers Club for patients with HIV/AIDS to obtain their medicine; and

WHEREAS, medical cannabis was and is used for people with HIV/AIDS and cancer to treat pain, nausea, appetite loss and cachexia; and

WHEREAS, our community cannot stand idly by while these fear-based tactics deny people both their civil rights and their access to medical care; and

WHEREAS the Pacific Justice Institute has now opened up a Bay Area office in Oakland with the intent of organizing and fomenting anti-LGBTQ and anti-medical cannabis activity within the Asian-American community; and

NOW, THEREFORE, BE IT RESOLVED that the Harvey Milk Democratic Club and the Alice B. Toklas Democratic Club jointly condemn the actions of the Pacific Justice Institute and their fear-based tactics claiming that the LGBTQ community and the medical cannabis community are "threats to our children"; and

BE IT FURTHER RESOLVED, that we jointly call on our appointed and elected officials to condemn these fear-based activities against both the LGBTQ community and the medical cannabis community; and

BE IT FURTHER RESOLVED that this resolution be sent to the San Francisco Planning Commission, San Francisco Board of Supervisors and the Office of Mayor Edwin Lee.

Sunset cannabis fight heats up

Bay Area Reporter, May 18, 2017 by Sari Staver

Opponents of a medical cannabis dispensary in the Sunset are apparently making unsubstantiated claims about marijuana in an effort to scuttle the project.

At a news conference organized by the anti-LGBT hate group Pacific Justice Institute earlier this month, pastor Chris Ng of the Lutheran Church of the Holy Spirit announced that there have been several marijuana overdose deaths among relatives of his parishioners.

"I don't know anything more, that was what I was told," Ng said when pressed for more details.

San Francisco officials sharply disputed Ng's claim.

"Oh, come on," said Supervisor Jeff Sheehy, a gay HIV-positive man who is also a medical marijuana patient, when told about purported overdoses.

"It is widely known that nobody has died from an overdose," Sheehy said in a phone interview with the Bay Area Reporter. "Just the opposite. It helps people deal with diseases and provides relief for many conditions."

Sheehy likened PJI's tactics to those of President Donald Trump, who has been criticized for numerous false and misleading statements.

"It's sad to see the type of tactics used by President Trump here in San Francisco," Sheehy said. "Using blatantly false statements to manipulate voters, in coordination with an anti-LGBT hate group, is so unfortunate and very divisive."

At issue is a proposal by the Apothecarium, a Castro-based medical cannabis dispensary, to open a facility in the Sunset. Dr. Floyd Huen, an internist and medical adviser to the Apothecarium, was shouted down at a recent community meeting in the neighborhood.

At that same March 15 news conference, held at the San Francisco Community Empowerment Center, Frank Lee, a community activist and local spokesman for PJI, urged San Franciscans to "come together" to oppose medical marijuana dispensaries trying to locate near facilities where children congregate.

"We at PJI are here to weigh in on behalf of every community group and religious institution to be sure rights of children are respected," said Lee.

According to the Southern Poverty Law Center, PJI has been listed as an "anti-LGBT hate group" for several years, following repeated incidents where members of the group publicly demonized the LGBT community.

Agreeing with Lee were two longtime neighborhood activists, both former Democratic candidates for the San Francisco Board of Supervisors, Marlene Tran and Teresa Duque.

Tran, spokeswoman for the Visitacion Valley Asian Alliance, said in a follow-up interview with the B.A.R. that dispensaries are likely to "bring additional crime to a neighborhood."

When asked about evidence, Tran pointed to a recent attempted kidnapping of a child in Bernal Heights. "The news story said the kidnapper was high on alcohol and marijuana," she said.

In addition, Tran said she is acquainted with police officers who are opposed to new dispensaries. "If dispensaries were safe, why would police be opposed?" she asked.

Tran said she became acquainted with Lee when they jointly opposed an open-air urinal at Mission Dolores Park. PJI was unsuccessful in its lawsuit to remove it.

When asked if she was aware of PJI's long-standing opposition to many LGBT issues, Tran said, "I don't agree with them on everything."

Supervisor's nuanced stance:

Other politicians have taken a more nuanced approach to proposals to open dispensaries in their districts.

District 4 Supervisor Katy Tang, who represents the Sunset where the Apothecarium is trying to open a dispensary at 2505 Noriega Street, has gone on record as believing that her constituents are "strongly opposed" to the new business.

In an interview with the B.A.R. last week, Tang emphasized that she has personally not taken a position on the issue, because if she did she would have to recuse herself if it came before the Board of Supervisors.

Tang insisted that her office's relationship with PJI has been "mischaracterized," pointing out that nobody from her office attended its March 15 news conference, where representatives announced marijuana overdose deaths and claimed that dispensaries were a danger to children.

But when pressed, Tang acknowledged that she had met with PJI's Lee, although she said the meeting was arranged by other neighborhood activists and that she was not told that Lee would be attending.

Tang said that the calls and letters to her office are running "seven to one" in opposition to the dispensary, although she said they are not keeping count on how many total communications have been received. Those that are in favor of the dispensary "all sound alike," she said, "leading me to believe they may be based on a form letter."

The Apothecarium's community outreach director, Eliot Dobris, a gay man, noted that the dispensary has over 700 letters of support from members, half of whom live in District 4. Dobris also questioned Tang's math.

"If they're not counting the number of calls and letters coming in, how do they know it is seven to one against?" he asked.

When told that some 3,500 residents of her district were members of the Apothecarium in the Castro, Tang said she was unaware of that. Her legislative aide, Ray Law, who joined the interview, said he had learned that fact at a meeting just the night before and had not had a chance to share that information with the supervisor. Tang said she "of course would take that information into consideration" in deciding how a dispensary might affect her constituents.

Other facts seem to illustrate support for medical cannabis among Sunset residents, said Dobris. He pointed out that the majority of voters in the Sunset supported both Proposition 215 in 1996, legalizing medical marijuana, as well as last year's Proposition 64, legalizing adult recreational use.

"Those are two separate issues," said Tang. "People may be in favor of cannabis but not want it sold in their neighborhood."

Daniel Bergerac, a gay man who's president of the Castro Merchants, wrote in an email to the B.A.R., "Katy Tang should be very concerned about being manipulated by this anti-LGBT hate group. The Pacific Justice Institute is telling lies to her constituents and those lies are getting repeated back to her."

"It's hard to overstate the positive impact the Apothecarium has had on the Castro neighborhood," Bergerac added. "They have improved the quality of life on their block and have never had a single police incident. They've also given more than \$300,000 in donations, primarily to neighborhood nonprofits. I have never heard a single complaint about the Apothecarium. I would welcome more businesses like them."

The Apothecarium's executive director and co-founder, Ryan Hudson, said they will fight for the project.

In an email to the B.A.R., Hudson wrote, "We're disappointed to see the same old false fears about medical cannabis dispensaries being used today in the Sunset. The Apothecarium has never had problems in the Castro – so there's no reason to think we would in the Sunset."

Hudson said the dispensary has had to reduce its charitable giving due to the costs of fighting "this outside hate group."

"We're looking forward to getting past this fight and resuming our regular, quarterly donations to nonprofits in the Castro. We also hope to begin a similar program of giving in the Sunset," he wrote.

With the passage of Prop 64 in November, it's likely that dozens more dispensaries will be selling to adults over the counter beginning in January. Additional controversies with neighborhood activists and medical marijuana dispensaries are likely, officials said.

Dennis Richards, a gay man who's a member of the San Francisco Planning Commission, which approves dispensary applications, put the situation in perspective. In a phone interview with the B.A.R., Richards said, it is common for "busloads" of several hundred people to testify against dispensaries at Planning Commission hearings, leading to a "lot of theatrics."

With the legalization of recreational adult use of cannabis coming in January, Richards pointed out that there will likely be a "tidal wave" of new dispensaries applying to open their doors.

When that happens, the lengthy debates that are taking place now "will look like mouse nuts in comparison to what we're going to be dealing with beginning next year," he said.

Anti-LGBT group opposes medical cannabis dispensary

Bay area Reporter, March 16, 2017 by Sari Staver

A longtime anti-LGBT hate group has taken on another cause: opposing new medical marijuana dispensaries.

The Pacific Justice Institute, which has a long record of opposition to a wide variety of LGBT-related issues, claims that new dispensaries located near facilities used by children are a danger to the neighborhood.

"We're concerned about the children," said Frank Lee, a vocal supporter of PJI, citing a refrain often used by so-called pro-family organizations, in a telephone interview with the Bay Area Reporter.

PJI announced a news conference for Wednesday, March 15 to detail its opposition to the dispensary.

The PJI's concerns about medical marijuana dispensaries came to a head at a raucous community meeting of the People of Parkside Sunset, held at the Taraval Police Station in early March. At the meeting, members of PJI, a Sacramento-based nonprofit with offices throughout the state, shouted down a representative from the Castro medical marijuana dispensary, the Apothecarium, who was invited to speak about the proposal to open a medical marijuana dispensary in the neighborhood.

Dr. Floyd Huen, an internist and medical adviser to the Apothecarium, began to introduce himself to the some 100 neighborhood residents crowded into a small conference room, he said in an interview with the B.A.R. But before he could finish his first sentence, a number of people in the audience shouted him down, chanting "no cannabis."

"Physically, it was very intimidating," said Huen.

Huen and his wife, former Oakland mayor Jean Quam, are hoping to open a dispensary at 2505 Noriega Street in partnership with the current owners of the Apothecarium, he told the B.A.R. in an interview.

Huen, a soft-spoken man who has prescribed medical cannabis for the past decade, said he "decided it would be best to leave." The former medical director of the Alameda County Medical Center and director of a pioneering Berkeley community health clinic for seniors, Huen now has a part-time private practice and consults for the state on the medical evaluation of injured workers.

Huen told the B.A.R. that there is a "great need" for a dispensary in the Sunset, where some 3,500 residents travel to the Castro dispensary.

"Our main interest is to introduce the product to that community," he said.

Huen said that the incident at the community meeting "makes me very sad."

Convinced of cannabis' effectiveness

Huen said that 20 years ago, he became convinced of the effectiveness of cannabis in treating pain in elderly patients, many of whom had been prescribed opiates.

"This is an important health care issue. The notion that dispensaries lead to crime is just not supported by any of the data," he said.

"I've been a community organizer for over 40 years," he said. "Here in San Francisco, and in this country, free speech is a sacred right and the basis for democracy."

Huen believes the community supports cannabis, citing statistics that the majority of voters in the Sunset supported Proposition 215 in 1996 that allowed the use of cannabis for medical purposes and another measure last November, Proposition 64, which legalized adult use of cannabis throughout the state.

PJI's Lee told the B.A.R. in a phone interview that he represents "the neighborhood" as well as the institute. PJI's founder and president, Brad Dacus, said that Lee is not an official spokesman or employee but "understands our goals."

"I'm not familiar with the particulars of this case," said Dacus, "but I'm confident that whatever Frank Lee says is accurate. He knows the neighborhood and the issues."

According to the Southern Poverty Law Center, PJI has been listed as an "anti-LGBT hate group" for several years, following repeated incidents where members of the group publicly demonized the LGBT community.

According to Heidi Beirich, director of SPLC's Intelligence Project, Dacus "has a horrible track record" regarding LGBTs, including defending a pastor who wanted to stone gay people to death and saying that homosexuality was "more dangerous" than cigarette smoking.

In an announcement written by Lee, the purpose of Wednesday's news conference is to announce PJI's "serious protest" to the Noriega Street dispensary and other proposed dispensaries at 2442 Bayshore Boulevard and 3150 San Bruno Avenue.

In order to gain the city's permission to open, medical marijuana dispensaries must go through a lengthy and expensive application process, which typically sparks controversy from neighbors, who, for a variety of reasons, object to the establishment of medical marijuana dispensaries. Most dispensaries try to meet with community groups during the application process, as the Apothecarium did with the Sunset residents.

According to Lee, the Noriega facility is in violation of city regulations prohibiting a medical marijuana dispensary within 1,000 feet of "registered children's facilities." Lee also said he believes dispensaries bring more crime to a neighborhood.

A query to the office of District 4 Supervisor Katy Tang was unanswered at press time.

Elliot Dobris, head of community outreach for the Apothecarium, said the dispensary "is totally confident" that its application to open a dispensary at Noriega and 32nd streets does not violate city regulations.

Dobris pointed out that while the city does prohibit dispensaries from opening near a private or public school or a city-run children's program, the regulations do not cover privately owned businesses that cater to children.

"If that was the rule," said Dobris, "we wouldn't have any dispensaries in San Francisco." Dobris noted that there is a children's ballet school near the Apothecarium on Market Street and a martial arts studio near the company's proposed location on Lombard Street.

The PJI representatives "are deliberately misreading the law," said Dobris.

According to Dobris, the city will hold a hearing about the Apothecarium's proposed location on Noriega, likely in late spring, with hopes that it might open in 2018. The Apothecarium is also building a dispensary in the Marina, scheduled to open in late spring and is planning to open a location in Berkeley in the latter half of 2017.

Terrance Alan, the chairman of San Francisco's Cannabis State Legalization Task Force, said that when it comes to cannabis, "a big part of the problem is that the cannabis story has been narrated for 50 years by untrue, fear-based proclamations from parts of our government."

"It has been a masterful hoax, which played on people's most devote values of family, children, public safety and community," said Alan.

"Today, right here in San Francisco, we have evidence those fear-based claims about cannabis are just not true," Alan added. "We need a new story about the role of cannabis in our lives written by experience and facts. I urge people on both sides of this issue to look at the realities of the other's position and help write this new story where the patients don't get forgotten."

Exhibit R

Exhibit R - Community Support

We are proud to have the support of the following community leaders:

- Eric Mar, Former SF Supervisor
- Ophelia Chong, Founder of Asian Americans for Cannabis Education
- Alex Feng, founder of Taoist Center, licensed acupuncturist and Traditional Chinese Medicine physician
- David Hua, CEO, Meadow
- Bevan Dufty, Former SF Supervisor
- Tom Temprano, City College of San Francisco Trustee (met to discuss CCSF's plans for cannabis education programs)
- Rafael Mandelman, City College of San Francisco Trustee
- Susan Pfeifer, founder of Outer Sunset Parkside Residents Association (OSPRA does not take positions; Susan is an individual supporter)
- Lori Jones, Licensed acupuncturist (met to plan for upcoming continuing education programs related to medical marijuana and acupuncture, for local acupuncturists)
- Jamie Goodman, Acupuncturist and leader of Cannabis for Acupuncturists and TCM practitioners

On the next few pages, we provide you some letters of support from several community leaders who have come to know the Apothecarium well over the past six years:

- I. Daniel Bergerac, President, Castro Merchants Association.

“Everyone in the neighborhood loves The Apothecarium: their security improves safety; their foot traffic increases business; their philanthropy helps our community; and their upscale space sets a high standard. We’ve had no trouble from them — in truth, we need more businesses like The Apothecarium.”

- II. David Troup, Past President, Duboce Triangle Neighborhood Association whose letter of support to your Commission states (in part):

“...in the case of The Apothecarium, everything they promised to do for the neighborhood actually came to pass. Ryan Hudson, Michael Thomsen and their management team are very ethical people, and they live up to the commitments they make. They told us how their business would operate; how they would benefit our neighborhood and then they made it all happen. They operate a clean, quiet, honest business that has improved the neighborhood significantly. If that weren't enough, they have also donated \$300,000 -- and counting -- to community nonprofit groups.”

- III. Bevan Dufty, Former San Francisco Supervisor.

May 18, 2017

Rich Hillis
President
San Francisco Planning Commission
1660 Mission Street
San Francisco, CA 94103

Dear President Hillis and Commissioners:

I am writing to support the Apothecarium's application for Noriega and 32nd Avenue.

Apothecarium has been my long-time neighbor as I've lived in the Lower Haight for 10 years and its location is within 3-4 blocks of me.

Ryan Hudson has run a top-notch business that has been an asset to our community in every respect. People with medical needs should have safe access to medical cannabis. Apothecarium has been an anchor on a stretch of Market Street that can be challenging. Their facilities are always clean, well maintained and visually interesting.

Apothecarium has also supported a wide range of neighborhood and community nonprofits. I know they will do the same in the Sunset.

As the parent of a 10-year old, we walk by their beautiful Market Street location and I've talked with Sid about medical cannabis, pending legalization and that this is an example of the future of MCDs. This has never felt unsafe or dangerous.

I hope that unwarranted fear will not stand in the way of the values and leadership San Francisco has provided to make medical cannabis accessible to people of all backgrounds.

Sincerely,

BEVAN DUFTY

Duboce Triangle Neighborhood Association

1230 Market Street, San Francisco, CA 94103

(415) 295-1530 / www.dtna.org

October 6, 2015

Rodney Fong
Commission President
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear President Fong and Commissioners:

More than four years ago, the owners of The Apothecarium approached the Duboce Triangle Neighborhood Association and asked for our support for the medical marijuana dispensary they hoped to open in the Castro. After careful consideration of their plans, we voted to give them our support. We have never regretted it. Indeed, in their four years operating in the Castro, The Apothecarium has become a true pillar of the community and one of the most respected and popular businesses in our neighborhood.

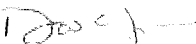
DTNA's board is often skeptical of the many businesses that come before us, seeking support. We hear lots of talk about plans for improving the neighborhood, making donations and operating to a high standard. Sadly, many of these claims turn out not to be true.

However, in the case of The Apothecarium, everything they promised to do for the neighborhood actually came to pass. Ryan Hudson, Michael Thomsen and their management team are very ethical people, and they live up to the commitments they make. They told us how their business would operate; how they would benefit our neighborhood and then they made it all happen. They operate a clean, quiet, honest business that has improved the neighborhood significantly. If that weren't enough, they have also donated \$300,000 -- and counting -- to community nonprofit groups.

I would recommend that any neighborhood in San Francisco welcome The Apothecarium. I cannot think of another business in our community that has been as generous with their time and money to the causes that matter to the neighborhood. My sense is that their generosity is not a tactic, but instead is a way to do tangible good in the communities they serve, an expression of gratitude for their success. Although we have not received a single complaint about The Apothecarium, I know that if something did come up, I could reach out to them and that they would listen and quickly address any issue.

One more thing: one of the reasons The Apothecarium is so popular in the Castro is that so many of their employees live in the neighborhood. Many of their employees are LGBT -- so they truly represent the community they serve. Knowing how they operate, I am confident they would use similar employment practices in their new location to reflect the Marina community.

Best regards,



David Troup
President, Duboce Triangle Neighborhood Association



584 Castro Street #333
San Francisco CA 94114-2512

formerly "Merchants of Upper Market & Castro - MUMC"

415/431-2359

Info@CastroMerchants.com

www.CastroMerchants.com

April 21, 2015

By Email and USPS hardcopy

Sarah Velve, Staff Planner
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco CA 94103-2479

Re: Case No. 2015-002683DRM, for 2414 Lombard Street, San Francisco
Conditional Use Authorizations & etc. for Medical Cannabis Dispensary (MCD)

Dear Ms. Velve,

CASTRO MERCHANTS hereby expresses its support for the proposed Medical Cannabis Dispensary (MCD) Application from our Member, The Apothecarium, proposed for 2414 Lombard Street, in San Francisco. The Apothecarium has operated a similar MCD in our service area, at 2095 Market Street for almost four years.

CASTRO MERCHANTS is the merchants' organization serving San Francisco's Castro-Upper Market area, generally along Upper Market Street from Octavia Blvd. to Castro Street; Castro from Market to 19th Street; and cross streets throughout that area. This area is one of the most historic and vibrant retail corridors in the City. Preserving that character and economic vibrancy (here and elsewhere in the City's neighborhood business areas) is an important goal of **CASTRO MERCHANTS**. **CASTRO MERCHANTS** has over 300 currently-paid Members. The Apothecarium's current MCD at 2095 Market Street is within our organization's primary service area, and we write this letter based on observations and experience with that location.

When The Apothecarium first applied for an MCD permit in our neighborhood, it prompted a spirited debate about the appropriateness of the business. Our community raised numerous issues and concerns during the process, all of which were addressed by the applicant. But the real proof has been in how the Apothecarium actually has operated since they moved into our neighborhood. They have been a model business, with a well-run MCD that has never had a police incident in its three years of operation. The storefront is beautifully designed, spotlessly clean and staffed at the front door during operating hours to prevent loitering, double-parking or other nuisances.

The Apothecarium has been a benefit to the surrounding neighborhood businesses. San Francisco's Planning Staff even referenced them as a dispensary that successfully blends into the community, in its 2014 Report to the Board of Supervisors.

... continued

CASTRO MERCHANTS

San Francisco Planning Department

April 21, 2015

Re: The Apothecarium; Case No. 2015-002683DRM, for 2414 Lombard Street, San Francisco

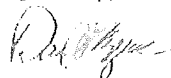
The Apothecarium also gives back generously to the community in which they operate. Their Philanthropic Advisory Board directs funds back into the community, making it a stronger place through their generosity. They have supported over 30 neighborhood groups in the area, including Canine Companions for Independence, Muttville Senior Dog Rescue, Lyon-Martin Health Services, Dolores Street Community Services, Maitri, SF AIDS Foundation, and Rooms that Rock 4 Chemo. They also provide a Veteran Support Group and Patient Wellness Program through their dispensary.

We urge your favorable consideration of The Apothecarium's current application. We believe that the Marina District community will be well served by having The Apothecarium join your retail family and neighborhoods. It is a model business that actually invests in the neighborhood where it operates with the goal of making it a better place for everyone to live.

In addition to today's email to you and to the individuals cc'd below, a hardcopy of this letter is being mailed to you today.

Please let us know if you have any questions regarding CASTRO MERCHANTS' SUPPORT for this Application. Please include this letter in the matter's permanent file with your Department, and assure that it is provided to all of your Department's Staff and Commissioners and to any other hearing panels at the time that this matter is considered by them. Thank you for considering our comments.

Respectfully,



Daniel Bergerac, President

Email and hardcopy cc: Ryan Hudson, The Apothecarium
email cc: Supervisor Mark Farrell
Capt. Greg McEachern, SFPD Northern Station

LtrPlanningApothecariumMarina041715.doc



CASTRO/EUREKA VALLEY NEIGHBORHOOD ASSOCIATION

The neighborhood association for the Castro, Upper Market and all of Eureka Valley since 1878

EVNA
PO Box 14137
San Francisco, CA
94114
www.evna.org
Board@EVNA.org

August 20, 2013

Re: Recommendation for Ryan Hudson and Michael Thomsen, proprietors of The Apothecarium, AKA RHMT, LLC.

To whom it concerns:

It is an honor for me, as President of Castro/Eureka Valley Neighborhood Association (EVNA) to write this letter of recommendation for Ryan Hudson and Michael Thomsen of RHMT, LLC.

EVNA is the oldest continuously operating Neighborhood Association in San Francisco established as Eureka Valley Promotion Association in 1878. For 135 years, our members have been working to make this neighborhood a great place to live, work and play. Today, we strive to preserve the unique character of our diverse neighborhood while maintaining a balance between prospering businesses and residential livability.

Over the past several years, EVNA has heard numerous presentations for proposed Medical Cannabis Dispensaries (MCD) in the Upper Market/Castro neighborhood. While EVNA did not, and does not have a blanket position on MCDs, prior to The Apothecarium we had opposed each proposed project primarily due to a lack of clear focus on business and community priorities, project plans that did not demonstrate an integration and improvement to the neighborhood esthetics and character, and a lack of a clear plan to alleviate nuisance and crime that an MCD might draw.


When we heard Ryan Hudson and Michael Thomsen's plans for The Apothecarium, the board of EVNA was thoroughly impressed with their presentation. They had developed a clear and thoughtful approach to operating the business in a way that would add value to our community, and alleviate potential crime and other neighborhood nuisances that one imagines being associated with an MCD. Their project design was of a high-caliber "Parisian Café" that not only added esthetically to a corner in need of it, but also provided the many HIV+ people in our community with a comfortable, stylish and safe place to secure medically necessary relief. In fact, crime and nuisance activities in the vicinity of the Apothecarium has actually decreased over the past 30 months since their opening.

Moreover, Ryan and Michael demonstrated a clear commitment to giving back to the community. While they did not have a plan in place, they immediately seized the opportunity to better understand how they could effectively create a community philanthropy program. The results have been most impressive! In just over 24 months, Michael and Ryan have lived up to their commitment contributing over \$140,000 to over 25 local charities. Their activities not only include writing a check, but they host neighborhood events, clothing drives and community activities to encourage us all to give back.

EVNA, and I personally, believe that the addition of The Apothecarium to the Castro/Upper Market neighborhood added significantly to its unique character and vibrancy. Furthermore, the owners, Ryan Hudson and Michael Thomsen have demonstrated time and again their commitment to our neighborhood, our residents, and those in need. Their commitment to community far outshines and even sets a standard for others business and community leaders to follow.

Should you have any questions, please feel free to call me at 415/244.5152 or email me at Alan.Beach@EVNA.org.

Sincerely,


Alan R. Beach-Nelson
President

EXECUTIVE COMMITTEE

Alan Beach-Nelson
President
Castro Street

Rob Cox
Secretary
Hartford Street

Gary Weiss
Treasurer
IXIA

DIRECTORS:

Patrick Crogan
Market Street

Tim Eicher
Q Bar

Mary Edna Herrell
Castro Street

Judith Hoyem
17th Street

Mark McHaie
Hearth Real Estate

Aaron Seivertson
Hartford Street

EX OFFICIO DIRECTORS:

Steve Clark Hall
19th Street

James Kelm
Castro Village Wine Co.

Orie Zaklad
Collingwood Street



July 1, 2015

Sara Vellve
SF Planning Department
1650 Mission St., #400
SF, CA. 94103-4279
(415) 575-9197
sara.vellve@sfgov.org

Dear Ms. Vellve,

As Executive Director of one of San Francisco's oldest community-based cancer and HIV nonprofits, the Shanti Project, I'm writing to offer my strong support of The Apothecarium's proposed medical marijuana dispensary at 2414 Lombard Street.

I'm proud to support The Apothecarium's commitment to community. As you may know, since opening in Duboce Triangle in 2011, The Apothecarium has:

- Donated \$250,000+ to community groups, including Shanti Project and other nonprofits, schools and community benefit districts
- Never had a single police incident
- And has received praise from Dan Bergerac, President of the Castro Merchants' Association, who said:

"Everyone in the neighborhood loves the Apothecarium: their security improves safety; their foot traffic increases business; their philanthropy helps our community; and their upscale space sets a high standard. We've had no trouble from them — in truth, we need more businesses like the Apothecarium."

I agree and I hope you will support The Apothecarium's new dispensary. Patients in San Francisco's Marina District deserve the opportunity to purchase their medicine in a safe, responsible dispensary run by a company with a strong track record of being a positive force in the community.

Sincerely,

Kaushik Roy
Executive Director
The Shanti Project
730 Polk Street, 3rd Floor, San Francisco, CA 94109
kroy@shanti.org / (415) 674-4722

P.S. As someone who works at an agency that annually serves over 2,000 clients facing terminal and life-threatening illnesses, the topic of medicinal marijuana is very important to us, as we know how invaluable medicinal marijuana is to clients as they strive to maintain the highest quality of life possible.

730 Polk Street, San Francisco, CA 94109 • Tel: 415.674.4700 • Fax: 415.674.0313 • www.shanti.org

Exhibit S

Community Outreach Efforts

The Apothecarium Sunset has made extensive community outreach efforts, led by former Oakland Mayor Jean Quan and her husband, Dr. Floyd Huen.

We held many informational meetings in the community, including:

- Kaiser Oncology Palliative Care Team at Kaiser SF
- Outer Sunset Parkside Residents Association (OSPRA)
- Chinese American Democratic Club
- Outer Sunset Merchant Professional Association
- Neighborhood Watch meeting, April 21. Meeting in the home of the leader of a neighborhood watch group within two blocks of 2505 Noriega St.
- Invited 75 health care professionals from Noriega Street's "Medical Mile" to attend a dinner in the Sunset
- Anni Chung, CEO, Self-Help for Elderly
- Ray Law, aide to Supervisor Katy Tang
- Walking the neighborhood to speak with neighbors and business owners
- Outreach to passersby at 2505 Noriega
- Professor Zou, Dean of Academy of Traditional Chinese Medicine
- Earth Day Beach Clean Up & Block Party (Noriega between 45th & 46th); spoke to 75+ residents
- Jaynry Mak, former Board of Supervisors aide
- Bill Lee, former City Administrator
- Francis Tsang, Aide to Mayor Ed Lee
- Lutheran Church of the Holy Spirit, Noriega Street
- Taraval Police Station, Officer Dan McLaughlin
- Leon Chow, Health Care Advocate
- Supervisor Sandra Lee Fewer
- Cindy Wu, Former SF Planning Commissioner
- Ted Fang, former Asian Week publisher
- Sue Lee, Chinese Historical Society
- Frances Fu and Nick Lau, young community leaders
- Distributed information on medical cannabis to 50+ acupuncturists at an October 2016 conference
- Door-to-door outreach to medical providers in the Noriega area
- Hosted three events where existing patients were invited to attend along with family, friends and neighbors to learn more about plans for The Apothecarium Sunset

We also gave tours of The Apothecarium Castro to:

- Supervisor Katy Tang
- California Assembly member Phil Ting
- California Controller Betty Yee
- Kaiser Oncology Palliative Care Team (discussed needs of Chinese-speaking patients)
- UCSF Pharmacy Residents Tour

- Ed Chow, President, SF Health Commission
- Mel Lee, The Avenue Assisted Living & Board of Trustee, Chinese Hospital
- Sunset Action Day Event for Existing Patients in the Sunset
- James Chang, Political activist; Degree in Political Economics & Chinese language
- Aneeka Chaundry, Aide to Mayor Ed Lee
- Jacalyn Mah, Sunset resident and former signer of opposition petition who changed to support after discussion
- "Cancer and Cannabis: The Non-Euphorics" -- patient education class, May 8, Ortega
- Branch Library, open to the public.
- Knocked on doors of all residences and businesses within 300' of property to answer questions, accompanied by a Cantonese and Mandarin interpreter.
- Bilingual displays in the windows of 2505
- Members of Neighborhood Watch group within two blocks of project site
- Tim Murphy, President La Playa Park Neighborhood Association

Bilingual Media Outreach

- San Francisco Chronicle interview with Dr. Huen about seniors and medical cannabis (front-page article)
- Sing Tao Daily (a Chinese language newspaper) ran an article similar to the one in the Chronicle.
- KTSF-26 (a Cantonese language TV station) invited Dr. Huen to appear on AnniChung's public affairs program
- Sing Tao Daily ran a photo of Mayor Quan and Dr. Huen with a girl scout, selling Girl Scout Cookies outside The Apothecarium Castro
- Multiple additional interviews with Dr. Huen about The Apothecarium Sunset have run in English and Chinese language media outlets including: Sing Tao Daily, World Journal, SFGate, The SF Chronicle, SF Weekly, Bay City News, KTVU, KTSF, NBC3, SFSU Student newspaper and many others.

Other Groups We Have Invited to Meet | Tour (Offers Pending or Declined):

- Greater West Portal Neighborhood Assn.
- Wild Equity Institute
- Mid-Sunset Neighborhood Association
- SPEAK (Sunset-Parkside Education and Action Committee)
- Sherwin Williams Ocean Ave
- Saint Ignatius Neighborhood Association
- Housing Rights Committee of San Francisco
- Sunset Heights Association of Responsible People
- People of Parkside Sunset
- Sunset Youth Services
- Taraval Community Police Advisory Board

Exhibit T

Sunset Advisory Committee

The Committee is tasked with assisting The Apothecarium Sunset in its educational mission of informing the community about medical uses of cannabis and ensuring that youth are encouraged not to use any substances including alcohol or cannabis.

The committee was formed shortly after The Apothecarium Sunset received approval from The Planning Commission in July 2017. The group is co-chaired by Dr Floyd Huen and Nick Lau, a Sunset resident.

Other Members Include:

1. Eric Mar, former San Francisco Supervisor
2. Art Tom, Sunset Resident
3. Candace Li, Sunset Resident
4. Andy Wernette, Sunset Resident
5. Michelle Wernette, Sunset Resident
6. Collin Lam, Richmond resident
7. Frances Fu, Employed in the Sunset
8. Frank Mah, Sunset Resident
9. Abraham Drucker, Sunset Resident
10. Shabnam Malek, Sunset Resident

Upcoming Plans and Activities:

- Actively recruit new members including from key health care organizations serving Sunset residents.
- Publicize educational events organized by the Apothecarium (including seminars on Cancer & Cannabis; Traditional Chinese Medicine and Cannabis; and Chronic Pain and Cannabis)
- Outreach to practitioners of Traditional Chinese Medicine

Exhibit U

Table of MCD's per SF District as of June 2017

District	Pending Permit	Permit	Grand Total
1		1	1
2		1	1
3	5	9	14
4	4		4
5	1	2	3
6	11	13	24
7	1	1	2
8	1	1	2
9	3	6	9
10	2	1	3
11	2	3	5
Grand Total	30	38	68

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

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the 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.

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.

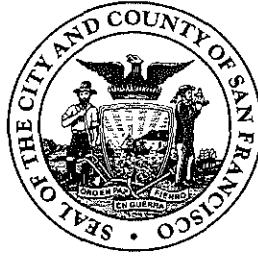
Very truly yours,



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

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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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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. |

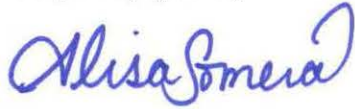
For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and two copies of the documentation for distribution.

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 Pomeroy*

For Clerk's Use Only