

File No. 171128

Committee Item No. _____

Board Item No. 33

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: November 14, 2017

Cmte Board

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- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
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- Award Letter
- Application
- Public Correspondence

OTHER

- Appeal Letter - October 17, 2017
- Planning Department Response - November 6, 2017
- Public Hearing and Clerical Documents
- _____
- _____
- _____
- _____

Prepared by: Lisa Lew

Date: November 9, 2017

Prepared by: _____

Date: _____

**NOTICE TO BOARD OF SUPERVISORS OF APPEAL
FROM ACTION OF THE CITY PLANNING COMMISSION**

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 OCT 17 PM 2:31

BY EB

Notice is hereby given of an appeal to the Board of Supervisors from the following action of the City Planning Commission.

The property is located at 2161 - 2165 IRVING STREET.

OCTOBER 12, 2017

Date of City Planning Commission Action
(Attach a Copy of Planning Commission's Decision)

OCTOBER 17, 2017

Appeal Filing Date

The Planning Commission disapproved in whole or in part an application for reclassification of property, Case No. _____.

The Planning Commission disapproved in whole or in part an application for establishment, abolition or modification of a set-back line, Case No. _____.

The Planning Commission approved in whole or in part an application for conditional use authorization, Case No. 2016-002424CUA.

The Planning Commission disapproved in whole or in part an application for conditional use authorization, Case No. _____.

Statement of Appeal:

a) Set forth the part(s) of the decision the appeal is taken from:

see attached

b) Set forth the reasons in support of your appeal:

see attached

Person to Whom
Notices Shall Be Mailed

Name and Address of Person Filing Appeal:

Flo Kimmerling
Name

Mid Sunset Neighborhood Assoc.
Name

1282 26th Ave.
Address

1282 26th Ave
Address

415 681-1613
Telephone Number

415 681-1613
Telephone Number

[Signature]

Signature of Appellant or
Authorized Agent

October 17, 2017

To: Board of Supervisors
Re: Proposed MCD, Barbary Coast Dispensary
2161-2165 Irving St.
Case # 2016-002424CUA

We are writing to express the wishes and concerns of the Mid-Sunset Neighborhood Association in reference to the above mentioned case. We wish to appeal the decision made on October 12, 2017 by the Planning Commission. While there was a strong contingent of individuals who felt that under no conditions should the proposed MCD be given conditional use authorization by the Planning Commission, there was also a group of individuals who felt that given certain restrictions, it would be acceptable for the proposed MCD to operate in the neighborhood. This letter represents a summary of the conditions the Mid-Sunset Neighborhood Association proposes for the Barbary Coast Dispensary to operate on Irving Street.

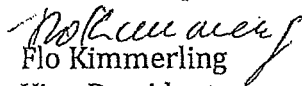
Conditions include:

- Any restrictions or conditions developed under the current 45 day moratorium (or any extensions thereof) for a new MCD in San Francisco must be applied retroactively.
- Because this dispensary would be operating within four blocks of Jefferson Elementary School, on a road that hundreds of children walk back and forth to and from school every weekday:
 - The dispensary should not operate on weekdays before 9:00am, or between the hours of 2:30pm to 4:00pm.
 - No edible products or others that could reasonably be seen as enticing to children may be displayed in the storefront or any other areas outside the store.
- The merchant must provide adequate security patrol outside of the premises at all hours of operations to ensure general safety and adherence to the law.
- The merchant must not expand either the size of the premises or scope of the services offered beyond that noted on this conditional use authorization. Specifically, the MCD should not be able to add recreational use in January of 2018. Also no delivery service should be allowed.
- Closing time to be 8:00pm, which is later than most of the businesses on Irving Street close, but in line with the average time of closure of the local Walgreen's pharmacy. As the owners feel they provide a medical service and call their clients their patients, they see themselves as a pharmacy.

In addition, we strongly insist that the city monitor the consequences to the surrounding neighborhood if authorization is granted and take all necessary remedial action if necessary.

In this regard, we are especially concerned about several concerts that are held annually in Golden Gate Park, only one block away from the proposed MCD. We anticipate very high use of the proposed MCD by those who attend the concert. This could have severe adverse effects on the community.

Thank you for your consideration. We look forward to an opportunity to discuss conditions under which this MCD would be a welcomed neighbor to both those who live and shop on the Irving St. corridor and to its merchants.



Flo Kimmerling
Vice-President

Mid-Sunset Neighborhood Association

Pursuant to Planning Code Section 308.1(b), the undersigned members of the Board of Supervisors believe that there is sufficient public interest and concern to warrant an appeal of the Planning Commission on Case No. 2016-002424CUP, a conditional use authorization regarding (address) 2161-2165 IRVING STREET, District 4. The undersigned members respectfully request the Clerk of the Board to calendar this item at the soonest possible date.

SIGNATURE	DATE
<u>[Signature]</u>	<u>10/13/17</u>
<u>[Signature]</u>	<u>10/13/17</u>
<u>[Signature]</u>	<u>10/13/17</u>
<u>[Signature]</u>	<u>10/13/17</u>
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RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2017 OCT 17 PM 2:31
BY [Signature]

(Attach copy of Planning Commission's Decision)



SAN FRANCISCO PLANNING DEPARTMENT

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 OCT 17 PM 2:31

Subject to: (Select only if applicable)

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

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Planning Commission Motion No. 20027

HEARING DATE: OCTOBER 12, 2017

Case No.: 2016-002424CUA
 Project Address: 2161-2165 IRVING STREET
 Zoning: Irving Street Neighborhood Commercial District
 65-A Height and Bulk District
 Block/Lot: 1777/037
 Project Sponsor: Brendan Hallinan
 345 Franklin Street
 San Francisco, CA 94102
 Staff Contact: Nancy Tran – (415) 575-9074
nancy.h.tran@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 732, TO ESTABLISH A MEDICAL CANNABIS DISPENSARY (MCD) (D.B.A. BARBARY COAST DISPENSARY) WITHIN THE IRVING STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT.

PREAMBLE

On December 18, 2015, Brendan Hallinan, on behalf of Barbary Coast Dispensary (hereinafter "Project Sponsor"), filed Building Permit Application Number 2015.12.18.5450 with the Department of Building Inspection to authorize a change of use and establish a Medical Cannabis Dispensary (MCD) within existing, vacant ground floor retail spaces at 2161-2165 Irving Street, located within the Irving Street Neighborhood Commercial District and a 65-A Height and Bulk District. On March 30, 2017, the Project Sponsor filed Application No. 2016-002424CUA seeking Conditional Use Authorization pursuant to subject Planning Code Sections 303 and 732 to establish an MCD (d.b.a. Barbary Coast Dispensary) at the location.

Per Ordinance No. 100-17 (effective June 19, 2017), MCDs proposed within the Irving, Judah, Noriega, and Taraval Street Neighborhood Commercial Districts are subject to permanent controls requiring Conditional Use Authorization. On September 12, 2017, the Board of Supervisors passed an interim zoning control to impose a 45-day moratorium prohibiting the Planning Commission from approving any new MCDs, except for those whose application have been scheduled to be heard by the Commission as of September 11, 2017. The moratorium, enacted through ordinance No. 190-17, was signed by the

Mayor on September 22, 2017. The application for an MCD at 2161-2165 Irving Street is exempt from the ordinance as its hearing was scheduled before the Plannign Commission prior to September 11, 2017.

On September 26, 2017, Mayor Lee introduced legislation with respect to adult use cannabis. The Planning Commission is scheduled to hear and make a formal recommendation on the matter at its October 19 meeting.

On October 12, 2017, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2016-002424CUA.

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. 2016-002424CUA, pursuant to Planning Code Sections 303 and 732, to establish a Medical Cannabis Dispensary (MCD) (d.b.a. Barbary Coast Dispensary), 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 corner of Irving Street and 23rd Avenue, Block 1777, Lot 037. The subject property is located within the Irving Street Neighborhood Commercial District ("NCD") and the 65-A Height and Bulk District. The property is developed with a two-story commercial building. There is a massage establishment and professional office on the second floor and two ground floor restaurants. The MCD is proposed in two ground floor tenant spaces that have been vacant for several years and previously occupied by an internet cafe and a grocery store. The subject property measures approximately 85 feet by 100 feet, with 8,500 square feet of lot area, and approximately 65% lot coverage.
3. **Surrounding Properties and Neighborhood.** The subject property is within the Irving Street NCD located in the Outer Sunset neighborhood which stretches along Irving Street from 19th to 27th Avenues. The District provides a selection of convenience goods and services for the residents of the Outer Sunset District. There is a high concentration of restaurants, drawing customers from throughout the City and the region. There are also a significant number of professional, realty, and business offices as well as financial institutions. The area surrounding this part of the Irving Street NCD is zoned RH-2 (Residential House, Two-Family).

The project site is located on the Irving Street commercial corridor between 22nd and 23rd Avenues. A variety of commercial establishments are located within ground floor storefronts in the Irving Street NCD, including restaurants, apparel stores, personal service, office and other types of retailers. Buildings in the vicinity range from two to three stories in height. Upper floors of buildings are generally occupied by offices or residential units.

The subject location along Irving Street is served by the 7 and 7X MUNI Bus lines. It is also in proximity to 28, 28R, 29, N, NX lines as well as bicycle routes along 20th Avenue and Kirkham Street. The immediate area is not identified as part of the Vision Zero High Injury Network for pedestrians and cyclists. There are no other MCDs currently located in proximity to the subject property; the nearest established MCD is located two miles away at 4811 Geary Boulevard within the Inner Richmond neighborhood. The Conditional Use Authorization for an MCD at 2505 Noriega Street, located approximately one mile away from the subject property, was approved by the Commission on July 13, 2017 and is currently under appeal with the Board of Supervisors

4. **Project Description.** The Project Sponsor proposes to establish a new Medical Cannabis Dispensary (MCD) (d.b.a. Barbary Coast Dispensary) at 2161-2165 Irving Street, within two vacant ground floor retail commercial spaces last occupied by an internet cafe and a grocery store. The project does not propose 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 8:00AM to 10:00PM, seven days a week.

The proposal includes tenant improvements to the two retail spaces, which combined consist of approximately 2,600 square feet and 44 linear feet of frontage along Irving Street. No physical expansion of the building is proposed and exterior work would be limited to signage only. No parking would be required for the change of use. The Project Sponsor will maintain security guard presence during business hours and will install cameras within and around the facility

The Project Sponsor's goal is to provide medical cannabis to registered patients within the Outer Sunset and other nearby neighborhoods, as there are currently no MCDs in the surrounding area. The Project Sponsor currently operates an MCD within San Francisco at 952 Mission Street.

5. **Public Comment/Community Outreach.** The Project Sponsor conducted door-to-door outreach with Cantonese and Mandarin interpreters to adjacent neighbors and businesses on Irving Street between 19th Avenue and 25th Avenue. The sponsors hosted 18 open houses at the proposed property prior to the Commission hearing and promoted the events through a segment on KTSF 26 Chinese news. Additionally, the sponsors attended two community meetings with the Outer Sunset Merchants Association and Sunset Youth Services. A more detailed summary of outreach efforts can be found as an attachment to the project sponsor's application submittal.

To date, the Department has received approximately (89) communications in favor of the project, which praise the Project Sponsor for its responsible management and professionalism at its other established MCDs within San Francisco. The letters state that the proposal would provide better access to medical marijuana, more jobs in the area and would improve the neighborhood. In addition, the Department received a petition in support of the project with nearly 1,400

signatures; the printed case report only contains a representative sample of the signed petition received

To date, the Department has received approximately (369) comments in opposition to the proposal. These individuals expressed concerns that the proposal is neither necessary nor desirable for the neighborhood. They also cited that it will lead to clustering of MCDs in the area and will negatively affect the family-oriented character of the neighborhood. In addition, the Department received petitions in opposition of the project with over 3,000 signatures; the printed case report only contains a representative sample of the signed petition received.

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 202.2(e)(1) sets forth the following 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 and neighborhood groups 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 732 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 vacant retail spaces of approximately 2,600 square feet combined and does not propose any expansion; therefore, the proposed use size is principally permitted within the District.

- C. **Hours of Operation.** Planning Code Section 732 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 8 a.m. and 10 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 44 feet of linear frontage along Irving Street and will meet minimum fenestration requirement with respect to transparent windows and doorways. 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 732 does not require commercial uses at the ground floor.

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. While not required, the proposed MCD will provide an active commercial at the ground floor under this Section.

- F. **Off-Street Parking.** Planning Code Section 151 does not require off-street parking for institutional uses as listed in the required parking table.

The proposed MCD is considered an institutional use and does not propose any expansion; therefore, it would not be required to provide any off-street parking. However, two existing spaces at the rear will be provided for staff and meets the maximum accessory quantity permitted.

- 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 a existing retail spaces with approximately 2,600 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 four (4) 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. While a merger with the adjacent storefront is proposed on the same lot, it does not exceed the use size limitation allowed. 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 MCD to the project site is approximately 2 miles away, located along Geary Street in the Inner Richmond neighborhood. The Conditional Use Authorization for an MCD at 2505 Noriega Street, located approximately one mile away from the subject property, was approved by the Commission on July 13, 2017 and is currently under appeal with the Board of Supervisors.

- 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 has been vacant for several years. No new construction, additions, or expansion of the building envelope or storefront are proposed.

- 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 2,600 square-foot MCD. In terms of trip generation, traffic and parking, the proposed MCD use would not increase the occupancy or intensity of use from the previous uses (internet café and restaurant). Another retail or restaurant use, which are common throughout the District, would likely locate within the space if the request for Conditional Use Authorization is denied. The proposed dispensary will comply with current accessibility requirements. 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.

- 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 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 Irving 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. **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 202.2(e)(1). 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 established MCDs operating 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 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 Irving 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 existing, vacant storefronts, and would thus help to activate this portion of the NCD. The last uses within the two tenant spaces were an internet café and restaurant, 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. 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 8 a.m. and 10 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 bicycle parking and encourage travel to the site by alternative means of transportation, other than by private automobile.

9. 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 15-20 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 8 a.m. and 10 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 Irving Street is served by the 7 and 7X MUNI Bus lines. It is also in proximity to 28, 28R, 29, N, NX lines as well as bicycle routes along 20th Avenue and Kirkham Street.

- 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 spaces are 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.

10. 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.

11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

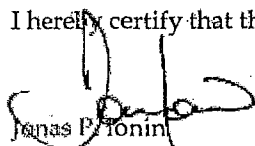
That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2014-002424CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated September 29, 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. 20027. 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 October 12, 2017.


Jonas P. Tonin
Commission Secretary

AYES: Hillis, Richards, Fong, Johnson, Koppel, Melgar

NAYS: None

ABSENT: Moore

ADOPTED: October 12, 2017

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to establish a Medical Cannabis Dispensary (MCD) (d.b.a. Barbary Coast Dispensary) located at 2161-2165 Irving Street, Lot 037 in Assessor's Block 1777, pursuant to Planning Code Section(s) 303 and 732, within the Irving Street Neighborhood Commercial District and a 65-A Height and Bulk District; in general conformance with plans, dated September 29, 2017, and stamped "EXHIBIT B" included in the docket for Case No. 2016-002424CUA and subject to conditions of approval reviewed and approved by the Commission on October 12, 2017 under Motion No. 20027. 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 October 12, 2017 under Motion No 20027.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 20027 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

Jalipa, Brent (BOS)

From: Ko, Yvonne (CPC)
Sent: Monday, October 16, 2017 11:11 AM
To: Jalipa, Brent (BOS)
Cc: Law, Ray (BOS)
Subject: RE: Filing Fee Requirement

RECEIVED:
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 OCT 17 PM 2:32

[Handwritten signature]

Hi Brent,

Since the Mid-Sunset Neighborhood Association qualifies for the fee waiver request, Ray can go ahead and submit the CUA Appeal application (on behalf of the neighborhood organization to the BOS Office (RE: Project ID # 2016-002424CUA)).

Hi Ray,

Please provide to Planning Department a letter of authorization from the "Mid-Sunset Neighborhood Association", signed by its President or other officer, as proof for you to file the CUA appeal on their behalf.

Thank you very much.

Yvonne Ko, Revenue Team Supervisor
San Francisco Planning Department
Finance Division
50 Mission Street, Suite 400
San Francisco, CA 94103
(W) 415-558-6386
(F) 415-558-6409

From: Law, Ray (BOS)
Sent: Monday, October 16, 2017 10:52 AM
To: Landis, Deborah (CPC); Ko, Yvonne (CPC); Chang, Michelle (CPC)
Subject: RE: Filing Fee Requirement

Thank you Debroah and Yvonne for following up!

Yvonne – Please find attached the application form. I found the Mid-Sunset Neighborhood Association in the list Deborah shared. Please let me know if you still need anything from the group. Thanks!

Ray Law
Legislative Aide
Office of Supervisor Katy Tang

1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
Phone: 415-554-7460 Fax: 415-554-7432
www.sfbos.org/tang

From: BOS Legislation, (BOS)
To: geokimm@sbcglobal.net; jesse.barbarycoast@gmail.com; brendan@hallinan-law.com
Cc: Givner, Jon (CAT); Stacy, Kate (CAT); Jensen, Kristen (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Starr, Aaron (CPC); Sider, Dan (CPC); Tran, Nancy (CPC); Ionin, Jonas (CPC); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS Legislation, (BOS)
Subject: APPEAL RESPONSE: Conditional Use Authorization Appeal - Proposed 2161-2165 Irving Street Project - Appeal Hearing on November 14, 2017
Date: Monday, November 06, 2017 2:29:31 PM
Attachments: [image001.png](#)

Good afternoon,

Please find linked below a letter received by the Office of the Clerk of the Board from the Planning Department, regarding the appeal of the Conditional Use Authorization for the proposed project at 2161-2165 Irving Street.

[Planning Response Letter - November 6, 2017](#)

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on November 14, 2017.

Please note: The filing period to appeal this conditional use authorization closes on Monday, November 13, 2017. If the Office of the Clerk of the Board receives an appeal by another appellant by the end of the filing period, this hearing may be continued to a date not less than 10 nor more than 30 days after the close of the filing period.

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

[Board of Supervisors File No. 171128](#)

Regards,

Brent Jalipa

Legislative Clerk

Board of Supervisors - Clerk's Office
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
(415) 554-7712 | Fax: (415) 554-5163
brent.jalipa@sfgov.org | www.sfbos.org



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

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—



SAN FRANCISCO PLANNING DEPARTMENT

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 NOV -5 AM 11:07

Conditional Use Authorization Appeal *PK*

2161-2165 Irving Street

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE: November 3, 2017
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: John Rahaim, Planning Director – Planning Department (415) 558-6411
 Nancy Tran, Case Planner – Planning Department (415) 575-9174
RE: File No. 171128, Planning Case No. 2016-002424CUA - Appeal of the approval of
 Conditional Use Authorization for 2161-2165 Irving Street
HEARING DATE: November 14, 2017
ATTACHMENTS:

A. Planning Commission Motion No. 20027

PROJECT SPONSOR: Brendan Hallinan, 345 Franklin Street, San Francisco, CA 94102
APPELLANT: Flo Kimmerling, on behalf of Mid-Sunset Neighborhood Association, 1282 26th
 Avenue, San Francisco, CA 94112

INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the "Board") regarding the Planning Commission's ("Commission") approval of the application for Conditional Use Authorization pursuant to Planning Code Sections 303 (Conditional Use Authorization) and 732 (Medical Cannabis Dispensaries), to establish a Medical Cannabis Dispensary ("MCD") (d.b.a. "Barbary Coast Dispensary") within existing vacant ground floor retail spaces at 2161-2165 Irving Street within the Irving Street Neighborhood Commercial District ("NCD") and a 65-A Height and Bulk District ("the project").

This response addresses the appeal ("Appeal Letter") to the Board filed on October 17, 2017 by Flo Kimmerling, on behalf of Mid-Sunset Neighborhood Association located at 1282 26th Avenue. The Appeal Letter referenced the proposed project in Case No. 2016-002424CUA.

The decision before the Board is whether to uphold, overturn, or amend the Planning Commission's approval of Conditional Use Authorization to allow the establishment of a Medical Cannabis Dispensary located at 2161-2165 Irving Street.

SITE DESCRIPTION & PRESENT USE

The project is located at the corner of Irving Street and 23rd Avenue, Block 1777, Lot 037. The subject property is located within the Irving Street Neighborhood Commercial District ("NCD") and the 65-A Height and Bulk District. The property is developed with a two-story commercial building. There is a massage establishment and professional office on the second floor and two ground floor restaurants. The MCD is proposed in two ground floor tenant spaces that have been vacant for several years and

BACKGROUND

On December 18, 2015, Brendan Hallinan, on behalf of Barbary Coast Dispensary (hereinafter "Project Sponsor"), filed Building Permit Application Number 2015.12.18.5450 with the Department of Building Inspection to authorize a change of use and establish a Medical Cannabis Dispensary (MCD) within existing, vacant ground floor retail spaces at 2161-2165 Irving Street, located within the Irving Street Neighborhood Commercial District and a 65-A Height and Bulk District. On March 30, 2017, the Project Sponsor filed Application No. 2016-002424CUA seeking Conditional Use Authorization pursuant to subject Planning Code Sections 303 and 732 to establish an MCD (d.b.a. Barbary Coast Dispensary) at the location.

On October 12, 2017, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2016-002424CUA. The Commission heard the request for Conditional Use Authorization and voted 6-0 (Moore absent) to approve the request to establish an MCD at 2161-2165 Irving Street. Over two hours of public testimony was heard on this item, both in support and in opposition to the proposed project.

Opponents of the proposed MCD stated concerns that the business would result in an increase in the amount of traffic, would be detrimental to other businesses in the area, reduce the quality of life in the neighborhood, and imperil the safety of children and other residents. Many opponents noted the nearby elementary school, believing that this should disqualify an MCD from locating at the project site. Supporters of the proposed MCD attempted to quell those fears by discussing Barbary Coast Dispensary's existing business practices for their location on Mission Street; the business's commitment to the community, especially through charitable giving; and patients' needs for a well-run MCD located in their Sunset neighborhood, where there are currently no MCDs.

On October 17, 2017, Flo Kimmerling, on behalf of Mid-Sunset Neighborhood Association located at 1282 26th Avenue, filed the Appeal Letter challenging the Conditional Use Authorization decision by the Planning Commission.

On September 12, 2017, the Board of Supervisors approved a moratorium on new MCDs [Board File Number 170865, v5]. The moratorium prohibits the Planning Commission from approving any new MCD, except for those MCDs whose application had been scheduled to be heard by the Commission as of September 11, 2017. The existing moratorium explicitly contemplated and allowed the proposed MCD at 2161-2165 Irving Street to be considered for approval. Therefore, the Board maintains their full authority and discretion to approve, disapprove, or modify this Conditional Use Authorization when the appeal is heard by the Board, tentatively scheduled for November 14, 2017.

CONDITIONAL USE AUTHORIZATION REQUIREMENTS

Planning Code Section 303 establishes criteria for the Commission to consider when reviewing all applications for Conditional Use approval. To approve the project, the Commission must find that these criteria have been met:

ISSUE 1: The Appellant proposes that restrictions or conditions developed under the current 45 day moratorium (or any extensions thereof) should be applied retroactively for the proposed MCD.

RESPONSE 1: As described above, the existing moratorium enacted by the Board of Supervisors explicitly contemplated and allowed certain pending MCD proposals to be considered for approval. The proposed MCD at 2161-2165 Irving Street fit the Board's criteria to be exempt from the moratorium in that it had been duly scheduled for Planning Commission consideration. Therefore, the Board maintains their full authority and discretion to approve, disapprove, or modify this Conditional Use Authorization when the appeal is heard by the Board, tentatively scheduled for November 14, 2017.

ISSUE 2: The Appellant contends that the proposed MCD would operate along a thoroughfare used by children walking to/from nearby Jefferson Elementary School (located within four blocks). The Appellant proposes prohibiting operational hours before 9A.M. or between 2:30P.M. to 4P.M. on weekdays and any product display visible from outside the dispensary. The Appellant also proposes requiring an 8P.M. close time to be in line with local pharmacy hours.

RESPONSE 2: Minors are not permitted into any MCD and any operator or patient that chooses to distribute medical cannabis to minors risks the loss of their operating or patient license. To ensure adherence to regulations, trained security personnel for the MCD will be vigilant in verifying that patients have valid identification and recommendation for medical cannabis.

The project complies with Section 303(c) Conditional Use criteria and all provisions of the Planning Code, including operating hours.

Planning Commission Findings: 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.

Staff Discussion: Existing required buffers for sensitive uses (i.e., 1000 feet from a school/community facility and not located on the same parcel as a facility providing substance abuse services) significantly limit the available locations for MCDs. The Commission noted that this causes an equity issue within the City where there is an overconcentration of MCDs in areas while other areas have none. The Commission also expressed disagreement that outright prohibition would limit risks to children, stating that improved education and discussion on the matter is more effective.

Planning Commission Findings: The proposed MCD operational hours, between 8 A.M. and 10 P.M., are principally permitted within the District and would also comply with Section 3308 of the San Francisco Health Code. With respect to the Appellant's product display concerns, the proposed MCD would be required to comply with the SF Health and California Health and Safety Codes concerning signage, advertisement and display regulations.

Staff Discussion: The appellant's suggested hours are unusual and not consistent with the law which already limits MCDs hours of operation as compared to other businesses. Existing regulations establish a required distance from schools and other community facilities that

The proposed MCD will be located within an existing building that has been vacant for several years. No new construction, additions, or expansion of the building envelope or storefront are proposed. The existing storefront will be replaced and upgraded with high-quality materials, and should serve to enhance the District.

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 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.

The proposed project is consistent with the stated purposes of the Irving 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.

CONCLUSION

For the reasons stated above, the Planning Department recommends that the Board uphold the Planning Commission's decision in approving the Conditional Use authorization to establish an MCD in the existing vacant ground floor retail spaces at 2161-2165 Irving Street within the Irving Street NCD and a 65-A Height and Bulk District, and deny the Appellant's request for appeal.

From: BOS Legislation, (BOS)
To: geokimm@sbcglobal.net; jesse.barbarycoast@gmail.com; brendan@hallinan-law.com
Cc: Givner, Jon (CAT); Stacy, Kate (CAT); Jensen, Kristen (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Starr, Aaron (CPC); Rodgers, AnMarie (CPC); Tran, Nancy (CPC); Ionin, Jonas (CPC); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Allsa (BOS); BOS Legislation, (BOS)
Subject: HEARING NOTICE: Conditional Use Authorization Appeal - Proposed 2161-2165 Irving Street Project - Appeal Hearing on November 14, 2017
Date: Friday, November 03, 2017 9:39:26 AM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **November 14, 2017, at 3:00 p.m.**, to hear an appeal regarding the Conditional Use Authorization for the proposed project at 2161-2165 Irving Street.

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

[Hearing Notice - November 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. 171128](#)

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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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.

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, November 14, 2017


Time: 3:00 p.m.

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

NOTE: The filing period to appeal this conditional use authorization closes on Monday, November 13, 2017. If the Office of the Clerk of the Board receives an appeal by another appellant by the end of the filing period, this hearing may be continued to a date not less than 10 nor more than 30 days after the close of the filing period.

Subject: **File No. 171128.** Hearing of persons interested in or objecting to the certification of a Conditional Use Authorization pursuant to Planning Code, Sections 303, and 732, for a proposed project located at 2161-2165 Irving Street, Assessor's Parcel Block No. 1777, Lot No. 037, identified in Case No. 2016.002424CUA, issued by the Planning Commission by Motion No. 20027 dated October 12, 2017, to establish a Medical Cannabis Dispensary, dba Barbary Coast Dispensary, within the Irving Street Neighborhood Commercial District and a 65-A height and bulk district. (District 4) (Appellant: Flo Kimmerling for Mid-Sunset Neighborhood Association) (Filed October 17, 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, November 10, 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 No. 171128

Description of Items: Public Hearing Notices - Hearing - Appeal of Conditional Use Authorization - Proposed Project at 2161-2165 Irving Street - 156 Notices Mailed

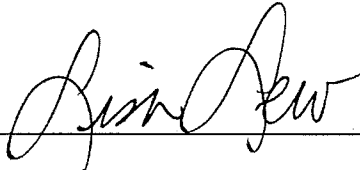
I, Lisa Lew, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: November 3, 2017

Time: 8:22 a.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.

From: BOS Legislation, (BOS)
To: geokimm@sbcglobal.net; jesse.barbarycoast@gmail.com; brendan@hallinan-law.com
Cc: Givner, Jon (CAT); Stacy, Kate (CAT); Jensen, Kristen (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Starr, Aaron (CPC); Rodgers, AnMarie (CPC); Tran, Nancy (CPC); Ionin, Jonas (CPC); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS Legislation, (BOS)
Subject: Conditional Use Authorization Appeal - Proposed 2161-2165 Irving Street Project - Appeal Hearing on November 14, 2017
Date: Monday, October 23, 2017 5:20:07 PM
Attachments: [image001.png](#)

Good afternoon,

The Office of the Clerk of the Board has scheduled a hearing for Special Order before the Board of Supervisors on **November 14, 2017, at 3:00 p.m.** Please find linked below letters of appeal filed against the proposed project at 2161-2165 Irving Street, and an informational letter from the Clerk of the Board.

[Conditional Use Authorization Appeal Letter - October 17, 2017](#)

[Clerk of the Board Letter - October 20, 2017](#)

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

[Board of Supervisors File No. 171128](#)

Please note that the hearing date is swiftly approaching. Our office must notice this appeal hearing on Tuesday, November 3, 2017. If you have any special recipients for the hearing notice, kindly provide a list of addresses for interested parties to us in Excel spreadsheet format by 12:00 p.m., October 25, 2017.

Regards,

Brent Jalipa

Legislative Clerk

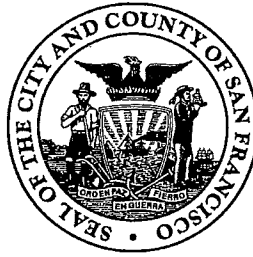
Board of Supervisors - Clerk's Office
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
(415) 554-7712 | Fax: (415) 554-5163
brent.jalipa@sfgov.org | www.sfbos.org



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

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

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

October 20, 2017

Flo Kimmerling
Vice-President, Mid-Sunset Neighborhood Association
1282 26th Avenue
San Francisco, CA 94122

Subject: Appeal of Conditional Use Authorization - 2161-2165 Irving Street Project

Dear Ms. Kimmerling:

Thank you for your appeal filing regarding the proposed project at 2161-2165 Irving Street. The conditional use appeal was filed with the subscription of five members of the Board of Supervisors, and therefore meets the filing requirements of Planning Code, Section 308.1.

Pursuant to Planning Code, Section 308.1, a hearing date has been scheduled for **Tuesday, November 14, 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.

Note: The filing period to appeal the conditional use authorization closes on Monday, November 13, 2017. If our office receives an appeal by another appellant by the end of the filing period, your hearing may be continued to a date not less than 10 nor more than 30 days after the close of the filing period.

Please provide to the Clerk's Office by noon:

20 days prior to the hearing: names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and


11 days prior to the 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.

NOTE: 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,



Angela Calvillo
Clerk of the Board

c: Brendan Hallinan, Project Sponsor
Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Kristen Jensen, Deputy City Attorney
John Rahaim, Planning Director
Scott Sanchez, Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
Aaron Starr, Manager of Legislative Affairs, Planning Department
AnMarie Rodgers, Senior Policy Advisor, Planning Department
Nancy Tran, Staff Contact, Planning Department
Jonas Ionin, Planning Commission Secretary

BOS-11
Leg Clerk
FW: 171128-31

Kaaren Ann Alvarado
1255 – 25th Avenue
San Francisco, CA 94122
(415) 564 – 0199

October 26, 2017

Clerk, Board of Supervisors
#1 Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102

RE: Irving Street>SOS

Attention Gentle People:

Please do not approve the store of the sale of marijuana of Irving Street.

I am a native and a local person for all (67 yrs.) of this neighborhood.

We experience enough troubles and do not need more people or incidences.

I have contacted you during the annual Valentine deliveries, I spoke briefly with Katie Tang on the corner of twenty-fourth and Irving but at that time I wasn't aware of this possibility. I was not given notice of this pending approval and I cannot attend your 11/14 meeting, sorry. My health situation is an issue. We have a store going in at 32 + Noriega--an easy bus ride/walk.

If you have any questions the favor of a response is deemed pertinent:

Phone: 415 564 0199

Email: Kaaren25@att.net.

Best regards,



Kaaren Alvarado

2017 OCT 30 PM 3:37
BOS-11
Leg Clerk
FW: 171128-31

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 Conditional Use Authorization - Proposed Project at 2161-2165 Irving Street

The text is listed:

Hearing of persons interested in or objecting to the certification of a Conditional Use Authorization pursuant to Planning Code, Sections 303, and 732, for a proposed project located at 2161-2165 Irving Street, Assessor's Parcel Block No. 1777, Lot No. 037, identified in Case No. 2016-002424CUA, issued by the Planning Commission by Motion No. 20027 dated October 12, 2017, to establish a Medical Cannabis Dispensary, dba Barbary Coast Dispensary, within the Irving Street Neighborhood Commercial District and a 65-A height and bulk district. (District 4) (Appellant: Flo Kimmerling for Mid-Sunset Neighborhood Association) (Filed October 17, 2017).

Signature of Sponsoring Supervisor: *Alisa Jomard*

or Clerk's Use Only

