

File No. 170516 Committee Item No. 4
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
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Committee: Land Use and Transportation Committee Date July 24, 2017

Board of Supervisors Meeting Date _____
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Completed by: Erica Major Date July 19, 2017
Completed by: _____ Date _____

1 [Planning Code - Medical Cannabis Dispensaries in Supervisorial District 11]

2
3 **Ordinance amending the Planning Code to limit the number of medical cannabis**
4 **dispensaries in Supervisorial District 11 to three at any given time; affirming the**
5 **Planning Department's determination under the California Environmental Quality Act;**
6 **making findings of consistency with the General Plan, and the eight priority policies of**
7 **Planning Code, Section 101.1; and making a finding of public necessity, convenience,**
8 **and welfare pursuant to Planning Code, Section 302.**

9 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Environmental and Land Use Findings.

18 (a) The Planning Department has determined that the actions contemplated in this
19 ordinance comply with the California Environmental Quality Act (California Public Resources
20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
21 Supervisors in File No. 170516 and is incorporated herein by reference. The Board affirms
22 this determination.

23 (b) On July 20, 2017, the Planning Commission, in Resolution No. 19964, adopted
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. 170516, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the
4 proposed Planning Code amendments will serve the public necessity, convenience, and
5 welfare for the reasons set forth in Planning Commission Resolution No. 19964, and the
6 Board incorporates such reasons herein by reference.

7
8 Section 2. General Findings.

9 (a) Supervisorial District 11 is adequately served by the existing number of medical
10 cannabis dispensaries (MCDs) in the District. There are three permitted MCDs currently
11 located in District 11. Two additional MCDs are located just outside the boundaries of District
12 11 in San Francisco. Two more MCDs are currently proposing to locate in District 11. District
13 11 residents recently mobilized to oppose two other proposed MCDs in District 11.

14 (b) Locations available for new MCDs in San Francisco are limited. District 11
15 includes several areas in which MCDs are permitted, resulting in a clustering of MCDs along
16 the Mission Street corridor. This clustering creates disproportionate detrimental land use
17 impacts on District 11 and its residents. Specifically, District 11 residents have complained of
18 youth cannabis usage, undesirable odors, loitering, and traffic congestion caused by existing
19 MCDs.

20 (c) District 11 is bordered by San Mateo County on the south. San Mateo County has
21 banned all MCDs from operating within its boundaries. Therefore, MCD operators may seek
22 to locate in District 11 in order to serve San Mateo County residents, as well as residents of
23 San Francisco. As a result, District 11 and its residents bear the land use impacts of MCDs
24 that serve both San Francisco and San Mateo County residents.

(d) Due to the dearth of land available in District 11 and the demand for other types of commercial establishments in District 11, limiting the use of vacant commercial property for MCDs would benefit local residents, by allowing the land to be used for other purposes. In particular, District 11 residents have requested more neighborhood-serving, family-friendly businesses, such as childcare establishments and a viable, clean, and safe grocery store in the district.

(e) District 11's business corridors are among the the worst-performing in the city. Attracting a wide range of businesses that are neighborhood-serving and family-friendly would improve the performance and usefulness of these business corridors for the local community.

Section 3. The Planning Code is hereby amended by revising Sections 711, 712, 713, 731, 734, 737, and 745, to read as follows:

SEC. 711. NC-2 – SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT.

* * * *

Table 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2 ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	NC-2 Controls by Story		
		§ 790.118	1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
711.84	Medical Cannabis Dispensary	§ 790.141	P #		
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SPECIFIC PROVISIONS FOR NC-2 DISTRICTS		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 711.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NC-2 District may only operate between the hours of 8 a.m. and 10 p.m. <u>No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</u>
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SEC. 712. NC-3 – MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT.

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**Table 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3
ZONING CONTROL TABLE**

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No.	Zoning Category	§ References	NC-3 Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *	Institutions and Non-Retail Sales and Services				

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712.84	Medical Cannabis Dispensary	§ 790.141	P #		
* * * *					

SPECIFIC PROVISIONS FOR NC-3 DISTRICTS		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 712.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NC-3 District may only operate between the hours of 8 a.m. and 10 p.m. <i>No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</i>
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SEC. 713. NC-S – NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT.

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**Table 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT NC-S
ZONING CONTROL TABLE**

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No.	Zoning Category	§ References	NC-S Controls by Story
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		§ 790.118	1st	2nd	3rd+
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Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
			*	*	
713.84	Medical Cannabis Dispensary	§ 790.141	P #		
* * * *					

SPECIFIC PROVISIONS FOR NC-S DISTRICTS		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 713.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NC-S District may only operate between the hours of 8 a.m. and 10 p.m. <u>No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</u>
* * * *	* * * *	* * * *

SEC. 731. NCT-3 – MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.

* * * *

Table 731. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT NCT-3 ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	NCT-3 Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *					
Institutions and Non-Retail Sales and Services					
* *	* * * *	* * *	* *	* * *	* *
* *		*	* *	*	* *
731.84	Medical Cannabis Dispensary	§ 790.141	P #	-	-
* * * *					

SPECIFIC PROVISIONS FOR NCT-3 DISTRICTS

Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 731.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NCT-3 District may only operate between the hours of 8 am and 10 pm. <u>No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</u>
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4 **SEC. 734. NCT-2 – SMALL-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT**
5 **DISTRICT.**

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7 **Table 734. SMALL-SCALE NEIGHBORHOOD COMMERCIAL**
8 **TRANSIT DISTRICT NCT-2 ZONING CONTROL TABLE**

9 * * * *

No.	Zoning Category	§ References	NCT-2 Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *					
Institutions and Non-Retail Sales and Services					
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734.84	Medical Cannabis Dispensary	§ 790.141	P #		
* * * *					

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17 **SPECIFIC PROVISIONS FOR NCT-2 DISTRICTS**

Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 734.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NCT-2 District may only operate between the hours of 8 a.m. and 10 p.m. <u>No more than three MCDs shall be permitted at any given time within the boundaries of</u>

		<i>Supervisory District 11.</i>
* * * *	* * * *	* * * *

SEC. 737. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.

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**Table 737. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT
ZONING CONTROL TABLE**

* * * *

No.	Zoning Category	§ Reference s	Ocean Avenue Transit Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
737.84	Medical Cannabis Dispensary	§ 790.141	P #		
* * * *					

SPECIFIC PROVISIONS FOR THE OCEAN AVENUE NCT DISTRICT		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 737.84	Health Code	MEDICAL CANNABIS DISPENSARIES
§ 790.141	§ 3308	Boundaries: Ocean Avenue Neighborhood Commercial Transit District
		Controls:

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		<p>(a) A Medical Cannabis Dispensary (MCD) seeking to locate within 500 feet of another MCD use may be allowed as a conditional use; provided, however, that any amendments to regulations governing the proximity of an MCD to another MCD that are applicable to MCDs Citywide shall apply in the Ocean Avenue NCT District and will supersede the conditional use requirement contained in this Section 737.</p> <p>(b) The Planning Commission shall approve the application and authorize the conditional use if, in addition to the application's satisfying the requirements of Planning Code Section 303, the facts presented establish that:</p> <ul style="list-style-type: none">(1) the MCD will bring measurable community benefits and enhancements to the Ocean Avenue NCT District;(2) the MCD has prepared a parking and transportation management plan sufficient to address the anticipated impact of patients visiting the MCD; and
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		<p>(3) 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.</p> <p>(c) In addition to the above criteria, in regard to a Conditional Use authorization application, the Planning Commission shall consider the existing concentrations of MCDs within the District.</p> <p>(d) Medical Cannabis Dispensaries in the Ocean Avenue NCT District may only operate between the hours of 8 a.m. and 10 p.m.</p> <p><i><u>(e) No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</u></i></p>
* * * *	* * * *	* * * *

1 **SEC. 745. EXCELSIOR OUTER MISSION STREET NEIGHBORHOOD COMMERCIAL**
 2 **DISTRICT.**

3 * * * *

4 **Table 745. EXCELSIOR OUTER MISSION STREET**
 5 **NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE**

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No.	Zoning Category	§ References	Excelsior Outer Mission Street Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
745.84	Medical Cannabis Dispensary	§ 790.141	P #	P #	P #
* * * *					

SPECIFIC PROVISIONS FOR THE EXCELSIOR OUTER MISSION STREET NEIGHBORHOOD COMMERCIAL DISTRICT		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 745.84	Health Code	MEDICAL CANNABIS DISPENSARIES
§ 790.141	§ 3308	Boundaries: Excelsior Outer Mission Street Neighborhood Commercial District.
		Controls:
		(a) A Medical Cannabis Dispensary (MCD)

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		<p>seeking to locate within 500 feet of another MCD use may be allowed as a conditional use; provided, however, that any amendments to regulations governing the proximity of an MCD to another MCD that are applicable to MCDs Citywide shall apply in the Excelsior Outer Mission NCD and will supersede the conditional use requirement contained in this Section 745.</p> <p>(b) In addition to the requirements of Planning Code Section 303, the Planning Commission shall approve the application and authorize the conditional use if the facts presented are such to establish that:</p> <p>(1) the MCD will bring measurable community benefits and enhancements to the Excelsior Outer Mission Street Neighborhood Commercial District,</p> <p>(2) the MCD has prepared a parking and transportation management plan sufficient to address the anticipated impact of its patients,</p> <p>(3) the MCD has demonstrated a</p>
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		<p>commitment to maintaining public safety by actively engaging with the community prior to applying for the Conditional Use, including adequate security measures in the operation of their business and designating a community liaison to deal effectively with current and future neighborhood concerns.</p> <p>(c) In addition to the above criteria, in regard to a Conditional Use authorization application, the Planning Commission shall consider the existing concentrations of MCDs within the District.</p> <p>(d) A Medical Cannabis Dispensary may only operate between the hours of 8 am and 10 pm.</p> <p>(e) A Medical Cannabis Dispensary may locate above the first floor only if it shall be accessible to persons with disabilities as required under the California Building Code.</p> <p><i>(f) No more than three MCDs shall be permitted at any given time within the boundaries of</i></p>
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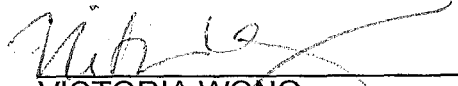
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		<u>Supervisory District 11.</u>
* * * *	* * * *	* * * *

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: 
VICTORIA WONG
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Medical Cannabis Dispensaries in Supervisorial District 11]

Ordinance amending the Planning Code to limit the number of medical cannabis dispensaries in Supervisorial District 11 to three at any given time; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making a finding of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

Existing Law

Currently, there is no limit on the number of Medical Cannabis Dispensaries (MCDs) in Supervisorial District 11, or elsewhere in the City.

Amendments to Current Law

The proposed ordinance would allow no more than three MCDs to be permitted in Supervisorial District 11 at any given time, by amending Sections 711, 712, 713, 731, 734, 737, and 745 of the Planning Code. Those sections of the Planning Code regulate the establishment of MCDs in District 11.

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SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19964

HEARING DATE JULY 20, 2017

Project Name: Medical Cannabis Dispensaries in Supervisorial District 11
Case Number: 2017-006196PCA [Board File No. 170516]
Initiated by: Supervisor Safai / Introduced May 2, 2017
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO LIMIT THE NUMBER OF MEDICAL CANNABIS DISPENSARIES IN SUPERVISORIAL DISTRICT 11 TO THREE AT ANY GIVEN TIME; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIEIS OF PLANNING CODE, SECTION 101.1; AND MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE PURSUANT TO PLANNING CODE, SECTION 302.

WHEREAS, on May 2, 2017 Supervisor Safai introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 170516, which would amend the Planning Code to limit the number of medical cannabis dispensaries in Supervisorial District 11 to three at any given time;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 20, 2017; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; and

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

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

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

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance.

Those modifications include:

1. Propose a Citywide interim moratorium on the approval of MCD applications until the City adopts new MCD regulations informed by the forthcoming Adult Use Cannabis controls.

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 Commission finds that the existing MCD regulatory framework needs reconsideration. The existing framework is now over 10 years old and the adult use and possession of cannabis is legal.
2. The Commission also recognizes that the City is in the process of developing a regulatory framework for Adult Use Cannabis. The end product will be a package of legislative proposals for introduction by the Board of Supervisors in early September 2017.
3. In this context, the Commission finds that an interim moratorium on the approval of MCD applications until the City adopts new MCD regulations informed by forthcoming Adult Use Cannabis controls is preferable to a piecemeal approach singling out a specific geography.
4. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

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 which has substantial undesirable consequences that cannot be mitigated.

The proposed Ordinance will help provide time for the City to determine what types of cannabis related uses provide substantial net benefits to the City and its Neighborhood Commercial Districts.

OBJECTIVE 2

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

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance will help provide time for the City to determine the types of cannabis related uses most appropriate of particular locations, thereby maintaining a favorable social and cultural climate that enhances its attractiveness as a firm location.

OBJECTIVE 6

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

Policy 6.1

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

The proposed Ordinance will help provide time for the City to determine the types of cannabis related uses most appropriate of particular locations, helping to recognize and encourage the diversity among its neighborhood commercial districts.

5. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

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

The proposed Ordinance would have a beneficial effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail as the Ordinance proposes to modify controls on MCDs.

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

The proposed Ordinance would not have a negative effect on housing and will have a beneficial effect on neighborhood character as the Ordinance proposes to modify regulations on MCDs.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing as the Ordinance proposes to modify regulations on MCDs.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking as the Ordinance proposes to modify regulations on MCDs.

5. 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 proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired as the Ordinance proposes to modify regulations on MCDs.

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

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake as the Ordinance proposes to modify regulations on MCDs.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings as the Ordinance proposes to modify regulations on MCDs.

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

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas as the Ordinance proposes to modify regulations on MCDs.

6. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 20, 2017.



Christine L. Silva
Commission Secretary

AYES: Fong, Johnson, Koppel, Melgar, Moore

NOES: None

ABSENT: Hillis, Richards

ADOPTED: July 20, 2017



CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

OFFICE OF SMALL BUSINESS
REGINA DICK-ENDRIZZI, DIRECTOR

File No. 170516
Received via email
7/19/2017

July 11, 2017

Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: BOS File No. 170516 [Planning Code - Medical Cannabis Dispensaries in Supervisorial District 11]

Small Business Commission Recommendation to the Board of Supervisors: **Do not approve**

Dear Ms. Calvillo,

On July 10, 2017, the Small Business Commission voted unanimously (6-0, 1 absent) to recommend that the Board of Supervisors not approve BOS File No. 170516.

The proposed legislation would limit the number of medical cannabis dispensaries (MCDs) in District 11 to three at any given time. Three MCDs are currently in operation in District 11; therefore, this legislation would prevent any new MCDs from opening unless one of the three businesses closes.

The Small Business Commission expressed concern in the following areas:

1. The commercial sale of medicinal and adult use cannabis will be regulated in the State of California beginning on January 1, 2018. State rules and regulations are to be released soon. The City & County of San Francisco is presently working to draft local laws. Pursuant to Executive Directive 16-05, City departments shall provide draft ordinances to the Mayor and Board of Supervisors by September 1, 2017. The Commission noted that it would be prudent to first review the forthcoming ordinances.
2. The sponsor's office and speakers articulated a number of grievances and noted that they are not against the cannabis industry itself; their grievances pertain to the irresponsible operators. They discussed one MCD operator in the district who makes positive contributions to the community and whose practices are considered exemplary. The Commission noted that the legislation would unfairly single out the legal medical cannabis industry and impede other exemplary MCDs from opening in District 11.
3. By limiting the total number of MCDs to three, the proposed legislation would actually be counterproductive to its stated objectives. Rather than addressing grievances with the two offending operators in District 11 or seeking punitive measures, the proposed limit would instead protect and promote them by creating an oligopoly: three businesses would dominate the cannabis market in the district.
4. The proposed legislation would further skew the distribution of MCDs in the City. District 11 presently has a relatively small number of MCDs. Other districts, such as Districts 3 and 6 have at least 10 MCDs in operation and additional applications under review (see table on next page). A cap of three in District 11 would push new businesses to other districts; patients whose needs are not served by the three existing businesses would need to travel to other districts, potentially creating other issues (such as increased congestion).

Commissioners reviewed election data while preparing to consider the proposed legislation. Past election data demonstrates that the majority of voters support cannabis in District 11. Proposition 215, which opened the door for MCDs, passed in 1996 with the support of 68% of voters in Excelsior and Ingleside. In 2016, 59% of voters in District 11 supported the passage of Proposition 64 to legalize the commercial sale of adult use (non-medical) cannabis. One would expect equal or stronger support for medical cannabis than for adult use cannabis.

The Commission encourages Supervisor Safai to explore solutions that would more appropriately address the concerns raised by constituents without restricting economic activity or consumers' ability to access a dispensary. One solution might be to urge the Department of Public Health to require the problematic operators to rectify the situation as a condition of maintaining the permit. The Entertainment Commission had issues with problematic businesses in the past and utilized enforcement tools to improve behavior. Another possible solution would be to heighten engagement with law enforcement and parking control officers.

As the City & County of San Francisco prepares for the legal commercial sale of cannabis in 2018, it can leverage its experience with MCDs to craft a stronger regulatory system. The Commission supports the City in taking action against businesses that are disruptive to neighbors and that negatively impact the economic vitality of the neighborhood commercial corridors. There are currently 28 applications under consideration (see table below). San Francisco may wish to consider immediate development and application of good neighbor standards as a condition for operating. Having a more robust good neighbor policy in place would be helpful in the transition to a new regulatory system in 2018.

Number of MCDs in San Francisco by District

District	MCDs in Operation	MCD Applications in Review	Total
1	1	0	1
2	0	1	1
3	10	1	11
4	0	5	5
5	2	0	2
6	13	13	26
7	1	1	2
8	2	0	2
9	5	3	8
10	1	3	4
11	3	1	4
TOTAL	38	28	66

The Small Business Commission respectfully requests that you do not approve this legislation.

Thank you for considering the Small Business Commission's comments. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Regina Dick-Endrizzi". The signature is fluid and cursive, with the first name "Regina" being the most prominent.

Regina Dick-Endrizzi
Director, Office of Small Business

cc: Ahsha Safai, Board of Supervisors
Nicole Elliott, City Administrator's Office
Mawuli Tugbenyoh, Mayor's Office
John Rahaim, Planning Department
Lisa Pagan, Office of Economic and Workforce Development
Alisa Somera, Land Use & Transportation Committee

BOARD of SUPERVISORS



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

May 12, 2017

File No. 170516

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On May 2, 2017, Supervisor Safai introduced the following proposed legislation:

File No. 170516

Ordinance amending the Planning Code to limit the number of medical cannabis dispensaries in Supervisorial District 11 to three at any given time; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making a finding of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

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

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

Joy
Navarrete

Digitally signed by Joy Navarrete.
DN: cn=Joy Navarrete, o=Planning,
ou=Environmental Planning,
email=joy.navarrete@sfgov.org,
c=US
Date: 2017.05.12 15:44:11 -07'00'

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May 12, 2017

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Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
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This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

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

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS



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

May 12, 2017

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On May 2, 2017, Supervisor Safai introduced the following proposed legislation:

File No. 170516

Ordinance amending the Planning Code to limit the number of medical cannabis dispensaries in Supervisorial District 11 to three at any given time; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making a finding of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

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

- c: John Rahaim, Director of Planning
- Aaron Starr, Acting Manager of Legislative Affairs
- Scott Sanchez, Zoning Administrator
- Lisa Gibson, Acting Environmental Review Officer
- AnMarie Rodgers, Senior Policy Advisor
- Jeanie Poling, Environmental Planning
- Joy Navarrete, Environmental Planning

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M E M O R A N D U M

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

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

DATE: May 12, 2017

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

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

File No. 170516

Ordinance amending the Planning Code to limit the number of medical cannabis dispensaries in Supervisorial District 11 to three at any given time; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making a finding of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

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

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

- No Comment**
- Recommendation Attached**

Chairperson, Small Business Commission

c: Menaka Mahajan, Small Business Commission

Member, Board of Supervisor
District 2



MARK FARRELL

RECEIVED
BOARD OF SUPERVISORS
City and County of San Francisco

2017 JUL 20 AM 9:41

COB
Leg Rep
LU Clerk
Leg Clerk

DATE: July 18, 2017

TO: Angela Calvillo
Clerk of the Board of Supervisors *Mark S. Farrell*

FROM: Supervisor Mark Farrell, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on Tuesday, July 25, 2017, as Committee Report:

170516 Planning Code - Medical Cannabis Dispensaries in Supervisorial District 11

Ordinance amending the Planning Code to limit the number of medical cannabis dispensaries in Supervisorial District 11 to three at any given time; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making a finding of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

This matter will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, July 24, 2017, at 1:30 p.m.

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 MAY 2 PM 3:21
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 [] inquires"

5. City Attorney request.

6. Call File No. [] from Committee.

7. Budget Analyst request (attach 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 a Imperative Form.

Sponsor(s):

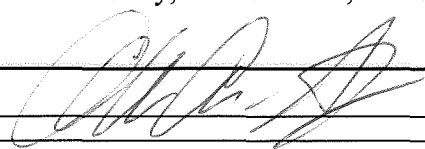
Supervisor Ahsha Safai

Subject:

Planning Code -- Medical Cannabis Dispensaries in Supervisorial District 11

The text is listed below or attached:

Ordinance amending the Planning Code to limit the number of medical cannabis dispensaries in Supervisorial District 11 to three at any given time; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1; and making a finding of public necessity, convenience, and welfare pursuant to Planning Code Section 302.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: