

BOARD of SUPERVISORS



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February 19, 2014

File No. 140097

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On February 4, 2014, Supervisor Yee introduced the following legislation:

File No. 140097

Ordinance amending the Planning Code to require that, in the Ocean Avenue Neighborhood Commercial Transit District, a Medical Cannabis Dispensary (MCD) may be allowed within 500 feet of another MCD as a conditional use, provided that ~~no other Citywide regulation governing the proximity of MCDs to each other becomes law~~; affirming the Planning Department's California Environmental Quality Act determination; and making Planning Code, Section 302, findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Nannie Turrell, Environmental Planning
Jeanie Poling, Environmental Planning

*Not a project under CEQA Guidelines
Sections 15060(c) and 15378
because there is no direct or
indirect physical change in
the environment.*

*Nannie Turrell
February 19, 2014*

1 [Planning Code - Medical Cannabis Dispensaries - Ocean Avenue Neighborhood Commercial
2 Transit District]

3 **Ordinance amending the Planning Code to require that, in the Ocean Avenue**
4 **Neighborhood Commercial Transit District, a Medical Cannabis Dispensary (MCD) may**
5 **be allowed within 500 feet of another MCD as a conditional use, provided that no other**
6 **Citywide regulation governing the proximity of MCDs to each other becomes law;**
7 **affirming the Planning Department's California Environmental Quality Act**
8 **determination; and making Planning Code, Section 302, findings, and findings of**
9 **consistency with the General Plan, and the eight priority policies of Planning Code,**
10 **Section 101.1.**

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

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

17 Section 1. 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.). The Board of Supervisors hereby affirms this determination.
21 Said determination is on file with the Clerk of the Board of Supervisors in File No. _____
22 and is incorporated herein by reference.

23 (b) On _____, the Planning Commission, in Resolution No. _____, 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. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
4 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
5 in Planning Commission Resolution No. _____ and the Board incorporates such reasons
6 herein by reference. A copy of Planning Commission Resolution No. _____ is on file with the
7 Board of Supervisors in File No. _____.

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9 Section 2. The Planning Code is hereby amended by revising Section 737, to read as
10 follows:

11 **SEC. 737.1. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT**
12 **DISTRICT.**

13 * * * *

14 **SEC. 737. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**
15 **ZONING CONTROL TABLE**

16 * * * *

17 **SPECIFIC PROVISIONS FOR THE OCEAN AVENUE NCT DISTRICT**

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Article 7 Code Section	Other Code Section	Zoning Controls
§ 737.54	§ 790.60, § 1900 Health Code	MESSAGE ESTABLISHMENT Controls: Massage shall generally be subject to Conditional Use authorization. Certain exceptions to the Conditional Use requirement for massage are described in Section 790.60(c). When considering an application for a conditional use permit

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		pursuant to this subsection, the Planning Commission shall consider, in addition to the criteria listed in Section 303(c), the additional criteria described in Section 303(o).
§ 737.84	Health Code	<u>MEDICAL CANNABIS DISPENSARIES</u>
§ 790.141	§ 3308	<u>Boundaries: Ocean Avenue Neighborhood Commercial Transit District</u>
		<u>Controls:</u>
		<u>(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.</u>
		<u>(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:</u>
		<u>(1) the MCD will bring measurable community benefits and enhancements to the Ocean Avenue NCT District;</u>
		<u>(2) the MCD has prepared a parking and transportation management plan sufficient to address the anticipated impact of patients visiting the MCD; and(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</u>

		<p><i>liaison to deal effectively with current and future neighborhood concerns.</i></p> <p><i>(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.</i></p> <p><i>(d) Medical cannabis dispensaries in the Ocean Avenue NCT District may only operate between the hours of 8 a.m. and 10 p.m.</i></p>
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Section 3. 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 4. 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.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declares that it would have

1 passed this ordinance and each and every section, subsection, sentence, clause, phrase, and
2 word not declared invalid or unconstitutional without regard to whether any other portion of
3 this ordinance would be subsequently declared invalid or unconstitutional.

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5 Section 6. No Conflict with Federal or State Law. Nothing in this ordinance shall be
6 interpreted or applied so as to create any requirement, power, or duty in conflict with any
7 federal or state law.

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

12 By: _____
13 VICTORIA WONG
Deputy City Attorney

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