

File No. 161241

Committee Item No. 9

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date January 9, 2017

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Memorandum of Understanding (MOU) |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 - Ethics Commission |
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OTHER

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>CEQA Determination</u> |
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Completed by: Alisa Somera Date January 6, 2017

Completed by: _____ Date _____

1 [Interim Zoning Controls - Indoor Agriculture]

2
3 **Resolution creating interim zoning controls to require conditional use authorization for**
4 **indoor agriculture uses, as defined in Planning Code, Section 102, and other indoor**
5 **agriculture uses in Production, Distribution, and Repair zoning districts; making**
6 **findings of consistency with the eight priority policies of Planning Code, Section 101.1;**
7 **and affirming the Planning Department’s determination under the California**
8 **Environmental Quality Act.**

9
10 WHEREAS, Planning Code, Section 306.7 provides for the imposition of interim zoning
11 controls to accomplish several objectives, including preservation of residential and mixed
12 residential and commercial areas in order to preserve the existing character of such
13 neighborhoods and areas, and development and conservation of the commerce and industry
14 of the City in order to maintain the economic vitality of the City, to provide its citizens with
15 adequate jobs and business opportunities, and to maintain adequate services for its residents,
16 visitors, businesses and institutions; and

17 WHEREAS, Policy 2 of the eight priority policies of the City’s General Plan and of
18 Planning Code, Section 101.1 establishes a policy “That existing housing and neighborhood
19 character be conserved and protected in order to preserve the cultural and economic diversity
20 of our neighborhoods;” and

21 WHEREAS, Indoor Agricultural uses, as defined in Planning Code, Section 102, and
22 other indoor agriculture uses frequently involve cultivation of medical cannabis; and

1 WHEREAS, California’s Proposition 64, the Adult Use of Marijuana Act (AUMA), was
2 passed by the voters on November 8, 2016, permitting commercial cultivation of cannabis for
3 nonmedical purposes, subject to a state licensing requirement; and

4 WHEREAS, Production, Distribution and Repair (PDR) zoning districts are areas in
5 which commercial cannabis cultivation businesses may wish to locate; and

6 WHEREAS, The office of Mayor Edwin M. Lee, the Planning Department, the Office of
7 Economic and Workforce Development and industry stakeholders are considering the
8 recommendations of the San Francisco Cannabis State Legalization Task Force and
9 engaging in broader discussions about amending and updating the existing Planning Code
10 land use controls to allow for cultivation, manufacturing and distribution while ensuring San
11 Francisco’s policy goals for PDR-zoned areas are maintained; and

12 WHEREAS, An over-concentration of commercial cannabis cultivation businesses may
13 have a negative impact on the character of neighborhoods within PDR zoning districts, and on
14 the commerce and industry of the City, including within PDR zoning districts; and

15 WHEREAS, It is important that commercial cannabis cultivation operations adequately
16 address public health, safety and general welfare concerns, for example, by having adequate
17 security measures; and

18 WHEREAS, These interim zoning controls advance and are consistent with Policy 2 of
19 the Priority Policies set forth in Planning Code, Section 101.1, in that they address the impacts
20 of proposed cannabis cultivation businesses on neighborhood character in PDR zoning
21 districts; and

22 WHEREAS, With respect to Priority Policies 1, 3, 4, 5, 6, 7 and 8, the Board finds that
23 these interim zoning controls do not, at this time, have an effect upon these policies, and thus,
24 will not conflict with said policies; and

1 WHEREAS, Adoption of these interim controls will allow the Board of Supervisors time
2 to consider how to regulate commercial cannabis cultivation in PDR zoning districts; and

3 WHEREAS, The Board has considered the impact on the public health, safety, peace,
4 and general welfare if the interim controls proposed herein are not imposed; and

5 WHEREAS, The Board has determined that the public interest will be best served by
6 imposition of these interim controls at this time, to ensure that the legislative scheme that may
7 be ultimately adopted is not undermined during the planning and legislative process for
8 permanent controls; and

9 WHEREAS, The Planning Department has determined that the actions contemplated in
10 this Resolution are in compliance with the California Environmental Quality Act (California
11 Public Resources Code, Section 21000 et. seq.); and

12 WHEREAS, Said determination is on file with the Clerk of the Board of Supervisors in
13 File No. 161241 and is hereby affirmed and incorporated by reference as though fully set
14 forth; now, therefore, be it

15 RESOLVED, That pursuant to Planning Code, Section 306.7, the City hereby requires
16 that, as of the effective date of this Resolution, any proposed indoor Agriculture use, as
17 defined in Planning Code, Section 102, as well as any other proposed indoor agricultural use,
18 that is located in a PDR zoning district must obtain conditional use authorization from the
19 Planning Commission, pursuant to Planning Code, Section 303; and, be it

20 FURTHER RESOLVED, That these interim zoning controls advance and are consistent
21 with Policy 2 of the Priority Policies set forth in Planning Code, Section 101.1, in that they
22 require consideration of a proposed cannabis cultivation business's impacts on neighborhood
23 character in PDR zoning districts, by requiring conditional use authorization for this new use;
24 and be it

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FURTHER RESOLVED, That these interim controls shall remain in effect for eighteen months from the effective date of this Resolution, or until the adoption of permanent legislation regulating commercial cannabis cultivation in PDR zoning districts, whichever first occurs.

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

By: _____
VICTORIA WONG
Deputy City Attorney

n:\egana\as2016\1700282\01149909.docx

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

November 22, 2016

File No. 161241

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

Dear Ms. Gibson:

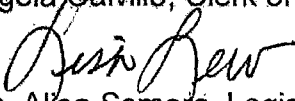
On November 15, 2016, Mayor Lee introduced the following proposed legislation:

File No. 161241

Resolution creating interim zoning controls to require conditional use authorization for indoor agriculture uses, as defined in Planning Code, Section 102, and other indoor agriculture uses in Production, Distribution, and Repair zoning districts; making findings of consistency with the eight priority policies of Planning Code, Section 101.1; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Galvillo, Clerk of the Board

for 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 Guidelines Sections 15378 and 15060(c) (2) because it does not result in a physical change in the environment.

Joy Navarrete 12/02/16

Henry G. Wykowski & Associates

ATTORNEYS AT LAW

WWW.WYKOWSKILAW.COM

235 MONTGOMERY STREET
SUITE 657
SAN FRANCISCO, CALIFORNIA, 94104

TELEPHONE: (415) 788-4545
FACSIMILE: (415) 788-4546

CONTACT EMAIL: HGW@WYKOWSKILAW.COM

December 5, 2016

VIA EMAIL (board.of.supervisors@sfgov.org; alisa.somera@sfgov.org)

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

Re: Resolution No. 161241 – Interim Zoning Controls on Indoor Agriculture

Honorable Members of the Land Use Committee and of the Board of Supervisors:

We write on behalf of our client, who is a Stakeholder with respect to this proposed resolution by virtue of being the holder, in good standing, of a medical cannabis dispensary permit that already has been issued by the City and County of San Francisco pursuant to Article 33, the Medical Cannabis Act.

As the Supervisors are aware, “cultivation” of medical cannabis did not have official legal status within California prior to the the recent (October 2015) passage of the MMRSA. That legal status was further cemented under Proposition 64, the Adult Use of Marijuana Act (AUMA), passed by the voters on November 8, 2016.

Nevertheless, the City and County of San Francisco has had a longstanding practice of allowing holders of medical cannabis dispensary permits to cultivate, subject only to section 3308(f) (no more “than ninety-nine (99) cannabis plants in up to 100 square feet of total garden canopy...” at the dispensary site) and section 3308(h) (“any cultivation of medical cannabis on the premises of a medical cannabis dispensary must be conducted indoors”). Accordingly, it is fair to say that existing permit holders have had an entitlement to also cultivate within the City that arises from their status as a licensed dispensary.

From our reading, it is unclear whether the proposed Resolution No. 161241, as presently worded, is directed only at those who are newcomers to the dispensary permitting process or, alternatively, it is also meant to capture those who already are existing permit holders.

The phrase “proposed indoor Agriculture use”, which is repeated within the draft Resolution, leads one to believe it is the former. Because the issued dispensary permit already

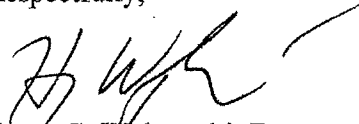
includes a right to cultivate up to ninety-nine plants indoors at the dispensary itself, additional offsite cultivation by the permit holder is more than "proposed use". On the other hand, there is no specific phrasing within the Resolution that unambiguously exempts existing permit holders from the interim controls.

There are only a limited number of existing medical cannabis permit holders within the City and County of San Francisco. Of that class of Stakeholders, many licensees, including our client, have undertaken extraordinary planning efforts to build their dispensaries, working as solid partners with the City, under the firm belief that they would be able to deploy their right to cultivate at an offsite location at a later time. Now, in the view of those existing permit holders, their implied entitlements are being threatened (or at least, being called into question).

Accordingly, the most prudent course of action for the Board of Supervisors at this time would be to add a provision to draft Resolution No. 16241, to make clear that existing Article 33 medical cannabis permit holders in good standing are exempt from the interim zoning controls.

Thank you for the opportunity to submit this comment.

Respectfully,

A handwritten signature in black ink, appearing to read "H. Wykowski", with a long horizontal flourish extending to the right.

Henry G. Wykowski, Esq.

HGW:chj

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

November 22, 2016

File No. 161241

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

Dear Ms. Gibson:

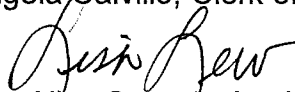
On November 15, 2016, Mayor Lee introduced the following proposed legislation:

File No. 161241

Resolution creating interim zoning controls to require conditional use authorization for indoor agriculture uses, as defined in Planning Code, Section 102, and other indoor agriculture uses in Production, Distribution, and Repair zoning districts; making findings of consistency with the eight priority policies of Planning Code, Section 101.1; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

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

Attachment

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

BOARD of SUPERVISORS



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

MEMORANDUM

TO: John Rahaim, Director, Planning Department
Todd Rufo, Director, Office of Economic and Workforce Development

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

DATE: November 22, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Lee on November 15, 2016:

File No. 161241

Resolution creating interim zoning controls to require conditional use authorization for indoor agriculture uses, as defined in Planning Code, Section 102, and other indoor agriculture uses in Production, Distribution, and Repair zoning districts; making findings of consistency with the eight priority policies of Planning Code, Section 101.1; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Scott Sanchez, Planning Department
Lisa Gibson, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Jeanie Poling, Planning Department
Ken Rich, Office of Economic and Workforce Development
Lisa Pagan, Office of Economic and Workforce Development

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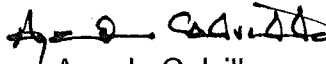
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1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
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NOTICE OF PUBLIC HEARING
BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO
LAND USE AND TRANSPORTATION COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

- Date:** Monday, December 5, 2016
- Time:** 1:30 p.m.
- Location:** Legislative Chamber, Room 250, located at City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco, CA
- Subject:** File No. 161241. Resolution creating interim zoning controls to require conditional use authorization for indoor agriculture uses, as defined in Planning Code, Section 102, and other indoor agriculture uses in Production, Distribution, and Repair zoning districts; making findings of consistency with the eight priority policies of Planning Code, Section 101.1; and affirming the Planning Department's determination under the California Environmental Quality Act.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. 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. Agenda information relating to this matter will be available for public review on Friday, December 2, 2016.


Angela Calvillo
Clerk of the Board

DATED: November 23, 2016
PUBLISHED/POSTED: November 25, 2016

CALIFORNIA NEWSPAPER SERVICE BUREAU

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Alisa Somera
CCSF BD OF SUPERVISORS (OFFICIAL NOTICES)
1 DR CARLTON B GOODLETT PL #244
SAN FRANCISCO, CA 94102

COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE
Ad Description AS - 12.05.16 Land Use - 161241 Interim Zoning Controls

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO EXAMINER. Thank you for using our newspaper. Please read this notice carefully and call us with ny corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

11/25/2016

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an invoice.

EXM# 2950277
NOTICE OF PUBLIC HEARING
BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO
LAND USE AND TRANSPORTATION COMMITTEE
MONDAY, DECEMBER 6, 2016 - 1:30 PM
CITY HALL, LEGISLATIVE CHAMBER, ROOM 250
1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: File No. 161241. Resolution creating interim zoning controls to require conditional use authorization for indoor agriculture uses, as defined in Planning Code, Section 102, and other indoor agriculture uses in Production, Distribution, and Repair zoning districts; making findings of consistency with the eight priority policies of Planning Code, Section 101.1; and affirming the Planning Department's determination under the California Environmental Quality Act. In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. 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. Agenda information relating to this matter will be available for public review on Friday, December 2, 2016. - Angela Calvillo, Clerk of the Board



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BOS-11, 3, LU, Leg. Dep.,
Dep. City Atty., Mayor's Office,
City Hall BOS IT, Ops
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7630
Fax No. 554-7634
TDD/TTY No. 544-5227

President, District 5
BOARD of SUPERVISORS



London Breed

PRESIDENTIAL ACTION

Date: 11/21/16

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 161241 Mayor
(Primary Sponsor)

Title. Resolution creating interim zoning controls to require conditional use authorization for indoor agriculture uses, as defined in Planning Code,

Transferring (Board Rule No 3.3)

File No. _____
(Primary Sponsor)

Title. _____

From: _____ Committee

To: _____ Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor _____

Replacing Supervisor _____

For: _____ Meeting
(Date) (Committee)

London Breed

London Breed, President
Board of Supervisors

201 NOV 21 AM 10:50

BOARD of SUPERVISORS




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

LAND USE AND TRANSPORTATION COMMITTEE SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Malia Cohen, Chair
Land Use and Transportation Committee

FROM:  Alisa Somera, Legislative Deputy Director

DATE: December 5, 2016

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, December 6, 2016

The following file **should not** be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, December 6, 2016. This item **was continued** at the Committee Meeting on Monday, December 5, 2016, at 1:30 p.m., by the votes indicated.

Item No. 43 File No. 161241

Resolution creating interim zoning controls to require conditional use authorization for indoor agriculture uses, as defined in Planning Code, Section 102, and other indoor agriculture uses in Production, Distribution, and Repair zoning districts; making findings of consistency with the eight priority policies of Planning Code, Section 101.1; and affirming the Planning Department's determination under the California Environmental Quality Act.

Item No. 43 (File No. 161241) was not sent as a Committee Report.

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Jon Givner, Deputy City Attorney

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *for* Mayor Edwin M. Lee *Ed*
RE: Interim Zoning Controls – Indoor Agriculture
DATE: November 15, 2016

Attached for introduction to the Board of Supervisors is a resolution creating interim zoning controls to require conditional use authorization for indoor Agriculture uses, as defined in Planning Code Section 102, and other indoor agriculture uses in Production, Distribution and Repair zoning districts; making findings of consistency with the eight priority policies of Planning Code Section 101.1; and affirming the Planning Department's determination under the California Environmental Quality Act.

I respectfully request that this item be calendared in Land Use Committee on November 28, 2016 and sent forward as a Committee Report to the full Board on November 29, 2016.

Should you have any questions, please contact Nicole Elliott at (415) 554-7940.

RECEIVED
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BY: *ABC*

