File No. 190108 Committee Item No. 5
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Transportation Committee **Date** February 4, 2019

Board of Supervisors Meeting **Date** _____

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Completed by: Erica Major **Date** February 1, 2019
Completed by: Erica Major **Date** _____

FILE NO. 190108 ORDINANCE NO.

[Planning Code - Conversion of Medical Cannabis Dispensary Uses to Cannabis Retail Uses]

Ordinance amending the Planning Code to allow Medical Cannabis Dispensaries (MCDs) with approvals from the Planning Department for a Medical Cannabis Dispensary Use as of January 5, 2018, to apply to convert to Cannabis Retail Uses under the same conditions as MCDs that held valid final permits from Department of Public Health as of January 5, 2018; exempting all such converted Cannabis Retail Uses from otherwise applicable Conditional Use Authorization requirements; ~~clarifying that such Cannabis Retail Uses are not exempted from any minimum radius that is required by a State licensing authority for distance between a Cannabis Retailer and an existing school, day care center or youth center;~~ allowing Equity Program or Equity Incubator Applicants who have MCD applications pending at the Planning Department to apply to convert to Cannabis Retail Uses; exempting such Cannabis Retail Uses from the minimum radius requirements between those establishments and existing Cannabis Retailers and Medical Cannabis Retailers; 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 public necessity, convenience, and welfare findings under Planning Code, Section 302.

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

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

Section 1.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 181061 and is incorporated herein by reference. The Board affirms this determination.

(b) On November 15, 2018, the Planning Commission, in Resolution No. 20340, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 181061, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that these Planning Code Amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 20340, and the Board incorporates such reasons herein by reference.

Section 2. Article 1.7 of the Planning Code is hereby amended by revising Section 190, to read as follows:

SEC. 190. CONVERSION OF MEDICAL CANNABIS DISPENSARIES TO CANNABIS RETAIL ESTABLISHMENTS.

(a) ***Conversion of MCDs with Planning Commission Approval to Cannabis Retail Uses.***

(1) An establishment *may convert from the prior authorized Use at the property to a Cannabis Retail Use by obtaining a building permit authorizing the change of Use, if the establishment (to be termed a "Grandfathered MCD") satisfies one of the following three criteria:* ~~*that either*~~

(A) holds a valid *final* permit from the Department of Public Health to operate as a Medical Cannabis Dispensary, *pursuant to Section 3307 of the Health Code,* as of ~~*the effective date of the ordinance in Board File No. 171042*~~*January 5, 2018;*

(B) holds an approval for a Medical Cannabis Dispensary Use from the Planning Department as of January 5, 2018; or ~~*that*~~

(C) submitted a complete application for ~~*such*~~ a permit *from the Department of Public Health to operate as a Medical Cannabis Dispensary* by July 20, 2017, and receives ~~*such*~~ a *final* permit ~~*from the Department of Public Health ("Grandfathered MCD"). may convert to a Cannabis Retail Use by obtaining a building permit authorizing the change of use, as set forth below*~~. ~~*Such permits are subject to neighborhood notification pursuant to Section 312, regardless of zoning district.*~~

~~*(b)*~~ *(2)* A Grandfathered MCD converting to a Cannabis Retail Use pursuant to this Section 190 is not subject to:

(A) a Conditional Use Authorization requirement for Cannabis Retail Uses in the zoning district in which it is located; or

(B) the locational restrictions for Cannabis Retail set forth in subsection 202.2(a)~~., except that if a State licensing authority specifies a minimum radius from an existing School, public or private, or from an existing day care center or youth center, that minimum radius shall apply~~.

(3) A Grandfathered MCD is subject to all other Planning Code requirements, including but not limited to the neighborhood notification requirement of Section 312.

~~*(c) In order for a Grandfathered MCD to convert to a Cannabis Retail Use pursuant to this Section 190, a completed application for the change of use must be submitted to the Department of Building Inspection no later than March 31, 2018, and a first approval by the Planning Department or Planning Commission must be received on or before December 31, 2019. An application will be deemed to have received its first approval from the Planning Department or Planning Commission when that body issues its decision, regardless of whether any appeal or lawsuit is subsequently filed challenging any City approval related to the application.*~~

(b) Establishment of Cannabis Retail Uses at Sites with MCD Applications Pending Before the Planning Commission.

(1) For the purposes of this subsection (b), a Pending MCD Applicant is an applicant that submitted a complete application to the Department of Public Health to operate a Medical Cannabis Dispensary by July 20, 2017, but that did not receive a permit or authorization from the Planning Department to operate such Use as of January 5, 2018, and that qualifies as either an Equity Applicant or an Equity Incubator pursuant to Section 1604 of the Police Code.

(2) A Pending MCD Applicant may establish a Cannabis Retail Use at the property where the application to operate a Medical Cannabis Dispensary was proposed by obtaining building permit authorization for the change of use.

(3) Except as specified in this subsection (b), a Pending MCD Applicant that obtains a change of use permit for a Cannabis Retail Use is subject to all Planning Code requirements, including but not limited to the neighborhood notification requirement set forth in Section 312 and Conditional Use Authorization if required for a Cannabis Retail Use by the zoning district in which the property is located.

(4) A Pending MCD Applicant is not subject to the minimum radius requirement between Cannabis Retailers or between a Cannabis Retailer and a Medicinal Cannabis Retailer, as set

forth in subsection 202.2(a), but is subject to all other locational requirements for Cannabis Retail set forth in subsection 202.2(a).

(*c*~~d~~) All other applications for a change of use from a Medical Cannabis Dispensary Use to a Cannabis Retail Use shall be subject to the zoning controls for the district in which the Medical Cannabis Dispensary is located.

(*d*~~e~~) This Section 190 shall expire by operation of law on January 1, 202~~0~~*1*. Upon its expiration, the City Attorney shall cause this Section 190 to be removed from the Planning Code.

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.

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

By: _____ for
VICTORIA WONG
Deputy City Attorney

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FILE NO. 190108

LEGISLATIVE DIGEST

[Planning Code - Conversion of Medical Cannabis Dispensary Uses to Cannabis Retail Uses]

Ordinance amending the Planning Code to allow Medical Cannabis Dispensaries (MCDs) with approvals from the Planning Department for a Medical Cannabis Dispensary Use as of January 5, 2018 to apply to convert to Cannabis Retail Uses under the same conditions as MCDs that held valid final permits from DPH as of January 5, 2018; exempting all such converted Cannabis Retail Uses from otherwise applicable Conditional Use Authorization requirements; allowing Equity Program or Equity Incubator Applicants who have MCD applications pending at the Planning Department to apply to convert to Cannabis Retail Uses; exempting such Cannabis Retail Uses from the minimum radius requirements between those establishments and existing Cannabis Retailers and Medical Cannabis Retailers; 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 public necessity, convenience, and welfare findings under Planning Code, Section 302.

Existing Law

Planning Code Section 190 allows an establishment that holds a valid Department of Public Health (DPH) permit to operate a Medical Cannabis Dispensary (MCD), or that applied for such a permit as of July 20, 2017, and that obtains such a permit (collectively, "Grandfathered MCDs"), to convert to a Cannabis Retail Use by obtaining a building permit for a change of use. Such establishments are not subject to the locational restrictions of Planning Code Section 202.2(a), which prohibit a new Cannabis Retail use within 600 feet of an existing Cannabis Retailer or Medicinal Cannabis Retailer, with limited exceptions. In order for a Grandfathered MCD to convert to a Cannabis Retail Use pursuant to Section 190, a completed application for the change of use must be submitted to the Department of Building Inspection no later than March 31, 2018, and a first approval by the Planning Department or Planning Commission must be received on or before December 31, 2019.

Amendments to Current Law

This ordinance would amend Section 190 to allow an establishment to convert from a prior authorized use on the property to a Cannabis Retail Use as a Grandfathered MCD if it satisfies one of three criteria: (1) it holds a valid permit from DPH to operate an MCD; (2) it holds an approval for an MCD use from the Planning Department as of January 5, 2018; or (3) it submitted an application for an MCD permit to DPH by July 20, 2017, and receives such a permit.

The amendments would also provide that a Grandfathered MCD would not be subject to a conditional use authorization requirement.

The amendments would also allow a Pending MCD Applicant to establish a Retail Cannabis use at a property where an MCD use has been proposed but not approved, by obtaining a building permit for the change of use. The amendment defines a Pending MCD Applicant as an applicant that submitted a complete application to the Department of Public Health to operate a Medical Cannabis Dispensary by July 20, 2017, but that did not receive a permit or authorization from the Planning Department to operate such Use as of January 5, 2018, and that qualifies as either an Equity Applicant or an Equity Incubator pursuant to Section 1604 of the Police Code. Except as noted below, such a Retail Cannabis use would be subject to all Planning Code requirements, including but not limited to the neighborhood notification requirement set forth in Section 312 and a Conditional Use Authorization if required for a Cannabis Retail use by the zoning district in which the property is located. Such a Retail Cannabis use would not be subject to the minimum radius requirement between Cannabis Retailers or between a Cannabis Retailer and a Medicinal Cannabis Retailer, as set forth in Planning Code Section 202.2(a), but would be subject to all other locational requirements for Cannabis Retail set forth in Section 202.2(a).

The amendments would eliminate the requirement that in order for a Grandfathered MCD to convert to a Cannabis Retail Use pursuant to Section 190, a completed application for the change of use must be submitted to the Department of Building Inspection no later than March 31, 2018, and a first approval by the Planning Department or Planning Commission must be received on or before December 31, 2019.

Background Information

This Legislative Digest reflects an amendment made by the Land Use Committee of the Board of Supervisors on January 7, 2019. This amendment would delete the proposed amendment that would have clarified that, although Grandfathered MCDs are not subject to the locational requirements of Planning Code Section 202.2(a), if a state licensing authority requires a minimum radius from an existing school, daycare center or youth center to a Cannabis Retail use, that minimum radius shall apply. Even without this clarifying amendment, a Grandfathered MCD seeking to convert to a Cannabis Retail Use and obtain a state license would be subject to any minimum radius to an existing school, daycare center or youth center that is specified by the Bureau of Cannabis Control, pursuant to California Business & Professions Code Section 26054(b).

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From: Board of Supervisors, (BOS)
Sent: Tuesday, January 15, 2019 2:53 PM
To: BOS-Supervisors; Major, Erica (BOS)
Subject: FW: Public Comments in OPPOSITION to #181061: Planning Code - Conversion of Medical Cannabis Dispensary Uses to Cannabis Retail Uses
Attachments: Letter to SF Board of Supervisors.pdf

From: Rob Yost <robertmyost@gmail.com>
Sent: Monday, January 14, 2019 3:16 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Public Comments in OPPOSITION to #181061: Planning Code - Conversion of Medical Cannabis Dispensary Uses to Cannabis Retail Uses

Dear Board of Supervisors,

In advance of tomorrow's Board of Supervisors meeting, I respectfully submit for consideration the attached written comments IN OPPOSITION to Topic #46, FILE #181061 - "Planning Code - Conversion of Medical Cannabis Dispensary Uses to Cannabis Retail Uses."

Respectfully submitted,

Robert Yost

January 14, 2018

TO: San Francisco Board of Supervisors
RE: Public comments IN OPPOSITION to CANNABIS GRANDFATHERING UPDATE, File # 181061

Dear Supervisors:

By and on behalf of a committee of concerned homeowners in The Metropolitan, a condominium complex located in the South Beach/Rincon Hill neighborhood at 333/355 1st Street, I respectfully submit the following comments **IN OPPOSITION** to the above captioned matter and the proposed Ordinance described therein. The present opposition is specifically directed to the proposed exemption for sites from the "600' Buffer Rule" minimum radius requirement.

San Francisco Planning Code Section 202.2(a) *et seq.* is clear on its face and unambiguous in prohibiting a parcel containing a Cannabis Retail Use from operating within 600 feet of another such establishment. The Code, as already written, expresses the clear will and intent of the Board of Supervisors. Further, when originally proposed, the 600' Buffer Rule was significantly debated before the Board of Supervisors, and testimony from more than 150 members of the public was considered in a hearing lasting nearly seven hours.[1] The 600' Buffer Rule provides a reasoned and balanced compromise reflective of all inputs and interests, and therefore requires no additional amendment or exemptions. If it had been the will of the Board of Supervisors or the City, a "grandfathering" clause exempting certain applicants could have been added to the planning code at that time. Additionally, the proposed Ordinance, if adopted, would disproportionately impact District 6, which according to recent news articles, already has the largest share of San Francisco's cannabis dispensaries,[2] as reflected in Exhibit A attached hereto. Exempting applicants from the 600' Buffer Rule will only exacerbate the "clustering" of dispensaries already occurring in District 6.

I therefore respectfully request and submit that the Board of Supervisors:

1. **REJECT the present proposed Ordinance in its entirety;**
   Or, in the alternative:
2. **REJECT aspects of the proposed Ordinance creating exemptions to the 600' Buffer Rule.**

Respectfully submitted,

Robert M. Yost, by and on behalf of a committee of homeowners within the Metropolitan Condominium Complex, who previously submitted a signed petition to the Planning Commission, attached hereto as Exhibit B.

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[1] J.K. Dineen, *Cannabis Dispensary Rules in SF Create Clusters*, San Francisco Chronicle, Aug. 10, 2017, https://www.sfchronicle.com/bayarea/article/Cannabis-dispensary-rules-in-SF-create-clusters-11746532.php.

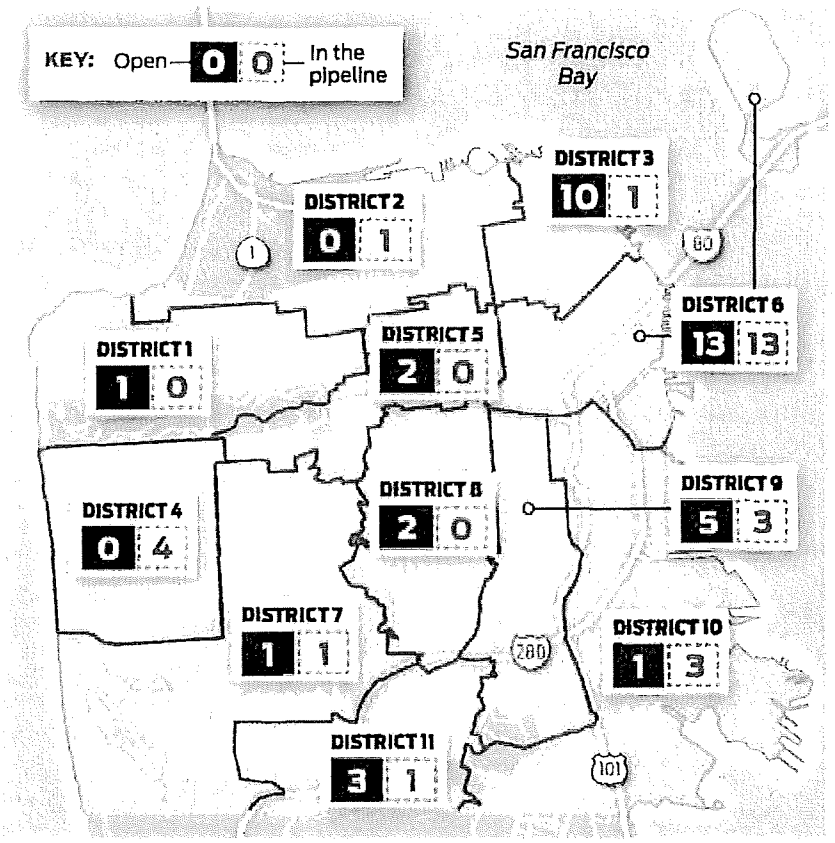
[2] *Id.* (stating that (a) as of August, 2017, 13 of San Francisco's 38 cannabis dispensaries were located in District 6, comprising 34 percent of such dispensaries, and (b) 13 of the 27 either proposed or approved but not yet open dispensaries were also located in District 6).

EXHIBIT A

Provided below is a map that was published[3] by the San Francisco Chronicle in August, 2017 that illustrates the disbursement of dispensaries by supervisorial district, and shows the imbalance and disproportionate impact to District 6.

Medical cannabis dispensaries in S.F.

By supervisorial district



Todd Trumbull / The Chronicle

[3] J.K. Dineen, *Cannabis Dispensary Rules in SF Create Clusters*, San Francisco Chronicle, Aug. 10, 2017, https://www.sfchronicle.com/bayarea/article/Cannabis-dispensary-rules-in-SF-create-clusters-11746532.php.

Exhibit B

Petition Previously Submitted to the Planning Commission on November 15, 2018

PETITION

We, the undersigned residents of The Metropolitan Association, composed of 345 units located at 333 and 355 1st Street, San Francisco, CA 94105, address this Petition to the Planning Commission to reject the proposed amendment) to the ordinance containing this rule to provide an exemption to the 600' Buffer Rule for certain Cannabis Retail establishments. The present opposition is specifically directed to the proposed exemption for sites from the "600' Buffer Rule" minimum radius requirement.

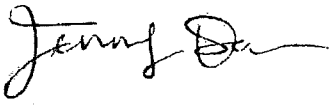
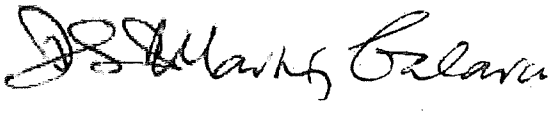
San Francisco Planning Code Section 202.2(a)(5)(B) is clear on its face and unambiguous in prohibiting a parcel containing a Cannabis Retail Use from operating within 600 feet of another such establishment. The Code, as already written, expresses the clear will and intent of the Board of Supervisors. Further, when originally proposed, the 600' Buffer Rule was significantly debated before the Board of Supervisors, and testimony from more than 150 members of the public was considered in a hearing lasting nearly seven hours.[1] The 600' Buffer Rule provides a reasoned and balanced compromise reflective of all inputs and interests, and therefore requires no additional amendment or exemptions. Additionally, the proposed Ordinance, if adopted, would disproportionately impact District 6, which according to recent news articles, already has the largest share of San Francisco's cannabis dispensaries,[i] as reflected in Exhibit A attached hereto. Exempting applicants from the 600' Buffer Rule will only exacerbate the "clustering" of dispensaries already occurring in District 6.

We therefore respectfully request and submit that the Planning Commission:

1. **REJECT the present proposed Ordinance in its entirety;**

Or, in the alternative:

2. **REJECT aspects of the proposed Ordinance creating exemptions to the 600' Buffer Rule.**

PRINT YOUR NAME AND ADDRESS	SIGNATURE
Jennifer Bevan 333 1st Street #1103 SF, CA 94105	
KAS BROEMMER 355 1ST ST, S810 SF 94105	
Dennis Martinez-Velarde 355 1st St, #407, SF CA 94105	
Amy Patel 355 1st St, S1902, SF, CA 94105	

PRINT YOUR NAME AND ADDRESS	SIGNATURE
ILARIA BADAGNANI 355 1ST ST UNIT S1101 SAN FRANCISCO, CA 94105	
Jason Chan ~~355 1st~~ 333 1st Street, N606	
JILL FERRER 355 1st st. #S1009 SF CA 94105	
Channie Wu 333 1st St. #N901 San Francisco, CA 94105	
LANLANG W. LIN 333-1ST ST SF CA 94105	
Shalini Bhatia 355 1st St., Unit 2105 San Francisco, CA 94105	
Abby Cheng 355 1st Street, Unit 3707 San Francisco, CA ~~94131~~ 94105	
Charlie Wu 333 1st St. unit 1602 SF, CA, 94107	Charlie Wu
Melanie Twardzicki 355 1st Street. unit S1904 San Francisco, CA 94105	
ROB YOST 355 1st Street, #S905 SAN FRANCISCO, CA 94105	

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

November 26, 2018

Ms. Angela Calvillo, Clerk, Board of Supervisors
Nichole Elliot, Director of the Office of Cannabis
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2018-008367PCA:**
CANNABIS GRANDFATHERING UPDATE
Board File No. 181061
Planning Commission Recommendation: ***Approval with Modifications***

Dear Ms. Calvillo and Ms. Elliot,

On November 15, 2018, the Planning Commission conducted duly noticed public hearing at regularly scheduled meetings to consider the proposed Ordinance, introduced by the City Administrator's Office that would amend Planning Code Section 190. At the hearing the Planning Commission recommended approval with modifications.

The Commission's proposed modifications were as follows:

1. Amend Section 190(b)(1). Modify the Ordinance so that to qualify as a 'Pending MCD applicant,' the applicant would need to have had a complete application submitted to the Department of Public Health by July 20, 2017 AND in active processing status as of January 5, 2018.
2. Amend Section 190(b)(3). Modify the Ordinance so that a 'Pending MCD applicant' utilizing an exemption from the locational requirements of Section 202.2(a) obtain Conditional Use Authorization to establish the Cannabis Retail use. Additionally, require that in addition to the findings of Section 303, the Commission shall consider the overall availability of MCD and Cannabis Retail establishments in the district where the proposed Cannabis Retail use is located and whether the approval of the Cannabis Retail use would create a noticeable overconcentration of Cannabis Retail uses in the district.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Director Elliott, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

Aaron D. Starr
Manage of Legislative Affairs

cc:
Victoria Wong, Deputy City Attorney
Erica Major, Office of the Clerk of the Board

Attachments:
Planning Commission Resolution
Planning Department Executive Summary

SAN FRANCISCO
PLANNING DEPARTMENT

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Information:
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Planning Commission Resolution No. 20340

HEARING DATE NOVEMBER 15, 2018

Project Name:	CANNABIS GRANDFATHERING UPDATE
Case Number:	2018-008367PCA [Board File No. 181061]
Initiated by:	City Administrator / Introduced November 13, 2018
Staff Contact:	Michael Christensen, Current Planning Michael.Christensen@sfgov.org, 415-575-8742
Reviewed by:	Aaron Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, 415-558-6362

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW MEDICAL CANNABIS DISPENSARIES (MCDS) WITH APPROVALS FROM THE PLANNING DEPARTMENT FOR A MEDICAL CANNABIS DISPENSARY USE AS OF JANUARY 5, 2018 TO APPLY TO CONVERT TO CANNABIS RETAIL USES UNDER THE SAME CONDITIONS AS MCDS THAT HELD VALID FINAL PERMITS FROM DPH AS OF JANUARY 5, 2018; EXEMPTING ALL SUCH CONVERTED CANNABIS RETAIL USES FROM OTHERWISE APPLICABLE CONDITIONAL USE AUTHORIZATION REQUIREMENTS; CLARIFYING THAT SUCH CANNABIS RETAIL USES ARE NOT EXEMPTED FROM ANY MINIMUM RADIUS THAT IS REQUIRED BY A STATE LICENSING AUTHORITY FOR DISTANCE BETWEEN A CANNABIS RETAILER AND AN EXISTING SCHOOL, DAY CARE CENTER OR YOUTH CENTER; ALLOWING EQUITY PROGRAM OR EQUITY INCUBATOR APPLICANTS WHO HAVE MCD APPLICATIONS PENDING AT THE PLANNING DEPARTMENT TO APPLY TO CONVERT TO CANNABIS RETAIL USES; EXEMPTING SUCH CANNABIS RETAIL USES FROM THE MINIMUM RADIUS REQUIREMENTS BETWEEN THOSE ESTABLISHMENTS AND EXISTING CANNABIS RETAILERS AND MEDICAL CANNABIS RETAILERS; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on November 13, 2018, the City Administrator's Office introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 181061, which would amend Section 190 of the Planning Code to clarify and alter requirements for conversion of existing Medical Cannabis Dispensaries (MCDs) to Cannabis Retail establishments and to provide a grandfathering provision from the locational requirements of Section 202.2(a) for applications in processing as of January 5, 2018;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 15, 2018; and,

WHEREAS, the proposed Ordinance has been determined to not be a project under CEQA; 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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The recommended modifications are to include all the changes listed under the "Issues and Considerations" of the Executive Summary, which are also listed here:

1. **Amend Section 190(b)(1).** Modify the Ordinance so that to qualify as a 'Pending MCD applicant,' the applicant would need to have had a complete application submitted to the Department of Public Health by July 20, 2017 AND in active processing status as of January 5, 2018.

2. **Amend Section 190(b)(3).** Modify the Ordinance so that a 'Pending MCD applicant' utilizing an exemption from the locational requirements of Section 202.2(a) obtain Conditional Use Authorization to establish the Cannabis Retail use. Additionally, require that in addition to the findings of Section 303, the Commission shall consider the overall availability of MCD and Cannabis Retail establishments in the district where the proposed Cannabis Retail use is located and whether the approval of the Cannabis Retail use would create a noticeable overconcentration of Cannabis Retail uses in the district.

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 supports the overall goals of this Ordinance because of policies of the Commerce and Industry element to support maintaining and strengthening viable neighborhood commercial areas and to support providing employment opportunities for city residents, particularly the unemployed and economically disadvantaged. MCDs and Cannabis Retail establishments provide economic activity to areas struggling with high vacancy rates by providing a destination retail outlet that can spur activity for nearby businesses. In addition, MCDs and Cannabis Retail establishments provide employment to unskilled and semi-skilled workers and often provide economic opportunity to those previously impacted by the war on drugs, which severely disproportionally impacted black and brown persons in the United States.

As the initial ordinance creating Section 190 was intended to allow existing applications to proceed with review even if they did not meet the new requirements of the ordinance, the changes to the text proposed in this ordinance will bring the code into greater consistency with the initial intent for Section 190.

2. **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 3
PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1
Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

Policy 3.4
Assist newly emerging economic activities.

The proposed ordinance seeks to attract, retain and expand the newly emerging cannabis industry, which provides employment opportunities for unskilled and semi-skilled workers

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.

The proposed ordinance seeks to allow the retention of existing small businesses in the City by providing them a pathway to convert to Cannabis Retail, which permits adult use sales. As such, it allows these existing businesses the opportunity to adapt to changing market conditions initiated by the legalization of adult use cannabis.

3. **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 not have a negative 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.

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 or neighborhood character.

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.

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.

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.

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.

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.

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.

4. **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 APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 15, 2018.

Jonas P. Ionin
Commission Secretary

AYES: Fong, Hillis, Johnson, Koppel, Melgar

NOES: Richards

ABSENT: Moore

ADOPTED: November 15, 2018

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Planning Code Text Amendment
HEARING DATE: NOVEMBER 15, 2018
90-DAY DEADLINE: FEBRUARY 11, 2019

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name:	CANNABIS GRANDFATHERING UPDATE
Case Number:	2018-008367PCA [Board File No. tbd]
Initiated by:	City Administrator / Introduced November 13, 2018
Staff Contact:	Michael Christensen, Current Planning Michael.Christensen@sfgov.org, 415-575-8742
Reviewed by:	Aaron Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, 415-558-6362
Recommendation:	**Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to allow Medical Cannabis Dispensaries (MCDs) with approvals from the Planning Department for a MCD Use as of January 5, 2018 to apply to convert to Cannabis Retail Uses under the same conditions as MCDs that held valid final permits from DPH as of January 5, 2018; exempting all such converted Cannabis Retail Uses from otherwise applicable Conditional Use Authorization requirements; clarifying that such Cannabis Retail Uses are not exempted from any minimum radius that is required by a State licensing authority for distance between a Cannabis Retailer and an existing School, day care center or youth center; allowing Equity Program or Equity Incubator Applicants who have MCD applications pending at the Planning Department to apply to convert to Cannabis Retail Uses; exempting such Cannabis Retail Uses from the minimum radius requirements between those establishments and existing Cannabis Retailers and Medical Cannabis Retailers.

The Way It Is Now:

1. For existing MCDs to convert to Cannabis Retail under Planning Code Section 190, they must first obtain a final permit to operate from the Department of Public Health (DPH).
2. For existing MCDs to convert to Cannabis Retail under Planning Code Section 190, they must have submitted a Building Permit Application to change the use by March 31st, 2018.
3. A site with a pending Building Permit Application to operate a MCD that is within 600' of another MCD or Cannabis Retail establishment is not compliant with the Planning Code and unable to be approved, even though the application was submitted by the June 20, 2017 deadline.

The Way It Would Be:

1. For existing MCDs to convert to Cannabis Retail under Planning Code Section 190, they must first obtain a final permit to operate from the DPH or obtain Planning Department approval to operate a MCD.

2. For existing MCDs to convert to Cannabis Retail under Planning Code Section 190, they must still submit a Building Permit Application to change the use; however, the application would not need to have been submitted by March 31st, 2018.
3. A site with a pending Building Permit Application to operate a MCD will be compliant with the Planning Code and able to be approved even if it is within 600' of another MCD or Cannabis Retail establishment if all other Planning Code requirements are met and if the proposed operator is a qualified Equity Applicant or Equity Incubator pursuant to Section 1604 of the Police Code.

BACKGROUND

On October 9, 2015, Governor Brown signed into law the Medical Marijuana Regulation and Safety Act[1] ("MMRSA"), which established a comprehensive state licensing and regulatory framework for medicinal cannabis. This law also recognized the authority of local jurisdictions to prohibit or impose additional restrictions on commercial activities relating to medicinal cannabis. MMRSA was later renamed the Medical Cannabis Regulation and Safety Act ("MCRSA").

On November 8, 2016, the voters of California approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA). Prop 64 decriminalized the nonmedicinal use of cannabis by adults, created a state regulatory, licensing, and taxation system for non-medicinal cannabis businesses, and reduced penalties for marijuana-related crimes. San Franciscans overwhelming approved of legalized adult use cannabis with 74.3% voting yes on Proposition 64.

On November 9, 2016, the Mayor issued Executive Directive 16-05, "Implementing Prop 64: Adult Use of Marijuana Act." This directed DPH and the Planning Department, in consultation with other departments, to move forward with legislation for the Board of Supervisors' consideration that would address land use, licensing, safety, and youth access issues related to adult use cannabis under Proposition 64. Pursuant to that Executive Directive, the City developed this comprehensive legislation that will establish a complete regulatory framework for a broad range of cannabis businesses, and that will identify where, and under what conditions, they may operate.

On June 27, 2017, Governor Brown signed into law the Medicinal and Adult-Use Cannabis Regulations and Safety Act (MAUCRSA), which reconciled MCRSA and Proposition 64, and established a unified state regulatory scheme for commercial activities relating to both medicinal and adult use cannabis. Under MAUCRSA, businesses that engage in commercial cannabis activities will be required to obtain a state cannabis license and comply with strict operating conditions. MAUCRSA requires that state agencies begin issuing state cannabis business licenses by January 1, 2018. Under MAUCRSA, local jurisdictions may adopt and enforce ordinances to further regulate cannabis businesses, including but not limited to zoning and permitting requirements.

On December 5, 2017, the Board of Supervisors adopted Ordinance No. 171041. This ordinance amended Planning Code requirements for MCDs, created a new land use definition for Cannabis Retail to include the sale of cannabis products to non-medical consumers, and defined other cannabis land uses in the Planning Code. As part of these amendments, Section 190 was added to the Planning Code to create a process for existing MCDs to convert to Cannabis Retail uses. Section 190 requires that a Building Permit Application for the change of use to Cannabis Retail be submitted by March 31, 2018 to qualify for the conversion; however, due to delays in creating the Office of Cannabis's application process and confusion

[1] MMRSA became effective on January 1, 2016.

on the part of dispensary operators, four existing MCDs did not file applications by the March 31, 2018 deadline. These four applicants are not eligible to convert to Cannabis Retail. Additionally, the legislative amendments created a new 600' buffer requirement between any proposed MCD or Cannabis Retail establishment and any existing MCD or Cannabis Retail establishment. Applications in processing were not provided any grandfathering from that requirement and were rendered non-compliant with the Planning Code if they were within 600' of an existing MCD or Cannabis Retail establishment.

ISSUES AND CONSIDERATIONS

Ordinance Intent

The initial ordinance was intended to allow sites in processing to continue processing. As such, Section 190 was written broadly to allow sites to convert from an MCD to Cannabis Retail using the Section even if they were not yet approved as of the date of the ordinance (if the applications had been submitted by July 20, 2017). However, this exemption was written to apply only to the conversion from an MCD to a Cannabis Retail establishment and cannot be applied to the initial establishment of an MCD use. Without first being able to establish as an MCD, the conversion procedure can never be used, which was not the intent of the ordinance. Providing the flexibility proposed in this ordinance would bring the code into greater consistency with the City's initial intent.

Obtaining a Full Permit to Operate

To qualify for conversion under Section 190, a site must obtain a full permit to operate from DPH. To obtain a full permit to operate, a site must 1) obtain Planning Department approval; 2) obtain a full building permit from the Department of Building Inspection (DBI); 3) complete the buildout of the space; and 4) receive a final inspection from DBI and DPH. Numerous sites were fully approved by the Planning Commission as MCDs at the end of 2017, but due to a competitive construction market may not fully complete their buildout prior to December 31, 2018. As such, they may not qualify for conversion to Cannabis Retail despite being authorized by the Planning Commission as MCDs only a year ago. By changing this requirement from "a full permit to operate from DPH" to "a full permit to operate from DPH or obtaining a Planning Department authorization for the use", these sites will remain qualified for conversion under Section 190 regardless of their construction timeline.

The Department has identified the following locations which may be impacted by this issue:

1. 2165 Irving Street (District 4)
2. 761 Bryant Street (District 6)
3. 1276 Market Street (District 6)
4. 3015 San Bruno Avenue (District 11)

Missing the March 31st Deadline

The March 31st deadline was selected to allow time for the Office of Cannabis to establish their permitting process, and to provide the Planning Department enough time to process these permits by the end-of-

year deadline[2]. However, due to the complexity of creating the regulatory framework for verifying equity applicants, the Office of Cannabis was not able to start accepting applications until May 22, 2018. Further, a total of five sites did not submit Building Permit Applications by March 31, 2018 due to confusion stemming from the Office of Cannabis not accepting applications. As such, those sites currently cannot convert to Cannabis Retail using the process afforded to all other existing MCDs in the City.

These five locations were approved in prior years as MCDs and are small businesses providing economic activity and opportunity in the City. Not allowing them to convert to Cannabis Retail will cause them to cease adult use sales when the temporary authorization for adult use sales expires on January 1, 2020[3]. This will cause these businesses to be less competitive with other cannabis businesses that can sell adult use cannabis, likely causing them to go out of business. As the Priority General Plan Findings (detailed below) contain a policy that existing neighborhood-serving retail uses be preserved and enhanced, providing additional flexibility to these businesses to allow their conversion to Cannabis Retail is consistent with City policy.

The Department has identified the following locations which have been impacted by this issue:

1. 1328 Grove Street (District 5)
2. 79 9th Street (District 6)
3. 122 10th Street (District 6)
4. 3139 Mission Street (District 9)
5. 5258 Mission Street (District 10)

The 600' Buffer Rule

When the ordinance was adopted, Planning Code Section 202.2 was amended to require a 600' buffer between any new MCD or Cannabis Retail establishment and any existing MCD or Cannabis Retail establishment. Applications in processing were not afforded a grandfathering provision from this requirement. Unlike the sites identified above, these sites have never received any approval for an MCD or Cannabis Retail use and it would not be appropriate to exempt them from any CUA requirement for the establishment of the use; however, as these sites were in processing when the Board adopted the 600' rule and it was the City's intention to allow applications in process at the to move forward. Providing an exemption for these sites from the 600' rule from other MCDs and Cannabis Retail establishments (but not from schools) would provide the Planning Commission flexibility to review these sites based on the merit of their applications.

Two of the three sites require a CUA to establish a Cannabis Retail establishment in their respective zoning districts; therefore, the Planning Commission retains its ability to deny those applications if they don't meet the conditional use the findings. The only site that does not require a CUA is 443 Folsom Street, listed below, and is approximately 599 feet from the nearest existing MCD. The Department's

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[2] The regulatory framework of Article 33 of the Health Code is scheduled to expire on December 31, 2018. Article 33 provides the authority for MCD to operate, and when it expires so does their ability to operate as an MCD.

[3] Per Planning Code Section 191

recommended modifications (detailed later in the document) address providing more flexibility to the Commission during its review of these sites.

The Department has identified the following locations which have been impacted by this issue:

1. 443 Folsom Street (District 6), 599 feet from nearest cannabis business at 527 Howard
2. 2057 Market Street (District 8), 78 feet from nearest cannabis business at 2029 Market Street
3. 5 Leland Avenue (District 10), 68 feet from nearest cannabis business at 2442 Bayshore Boulevard

General Plan Compliance
This legislation would support key Objectives and Policies of the General Plan:

- The Commerce and Industry Element supports providing expanded employment opportunities for city residents, particularly the unemployed and economically disadvantaged. MCDs and Cannabis Retail stores provide employment opportunities for semi-skilled and unskilled workers, and the City's equity requirements encourage or require the hiring of persons impacted by the racially impactful war on drugs into the industry. Thus, these businesses provide opportunity for residents who are disadvantaged in typical economic sectors.
- The Commerce and Industry Element also supports maintaining and strengthening viable neighborhood commercial areas easily accessible to residents, and particularly supports promoting 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. As a new industry, MCDs and Cannabis Retail establishment can help to activate existing neighborhood commercial districts struggling with high levels of vacancies.

Implementation
The Department has determined that this ordinance will not impact our current implementation procedures.

RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. **Amend Section 190(b)(1).** Modify the Ordinance so that to qualify as a 'Pending MCD applicant,' the applicant would need to have had a complete application submitted to the Department of Public Health by July 20, 2017 AND in active processing status as of January 5, 2018.
2. **Amend Section 190(b)(3).** Modify the Ordinance so that a 'Pending MCD applicant' utilizing an exemption from the locational requirements of Section 202.2(a) obtain Conditional Use Authorization to establish the Cannabis Retail use. Additionally, require that in addition to the findings of Section 303, the Commission shall consider the overall availability of MCD and Cannabis Retail establishments in the district where the proposed Cannabis Retail use is located

and whether the approval of the Cannabis Retail use would create a noticeable overconcentration of Cannabis Retail uses in the district.

BASIS FOR RECOMMENDATION

The Department supports the overall goals of this Ordinance because of policies of the Commerce and Industry element to support maintaining and strengthening viable neighborhood commercial areas and to support providing employment opportunities for city residents, particularly the unemployed and economically disadvantaged. MCDs and Cannabis Retail establishments provide economic activity to areas struggling with high vacancy rates by providing a destination retail outlet that can spur activity for nearby businesses. In addition, MCDs and Cannabis Retail establishments provide employment to unskilled and semi-skilled workers and often provide economic opportunity to those previously impacted by the war on drugs, which severely disproportionally impacted black and brown persons in the United States. As the initial ordinance creating Section 190 was intended to allow existing applications to proceed with review even if they did not meet the new requirements of the ordinance, the changes to the text proposed in this ordinance will bring the code into greater consistency with the initial intent for Section 190.

Recommendation 1: Amend Section 190(b)(1). The intent of this section is to provide a grandfathering clause to applications in processing at the time of the adoption of the ordinance that established the 600' rule. The proposed language is ambiguous and could apply to a site that had an application in prior years that was not in processing as of January 5, 2018, which is not the intent of the Section.

Recommendation 2: Amend Section 190(b)(3). Conditional Use Authorization is already required for two of the three sites that could utilize the proposed exemption from the 600' rule. Requiring Conditional Use Authorization would allow an additional finding for approval to be added so that the Commission can consider the relative availability of cannabis in the area and the impact that the exemption would have on the overall concentration of Cannabis Retail storefronts in the district.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments:

Exhibit A:	Draft Planning Commission Resolution
Exhibit B:	Board of Supervisors File No. XXXXX

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 16, 2018

File No. 181061

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

Dear Ms. Gibson:

On November 13, 2018, the City Administrator introduced the following proposed legislation:

File No. 181061

Ordinance amending the Planning Code to allow Medical Cannabis Dispensaries (MCDs) with approvals from the Planning Department for a Medical Cannabis Dispensary Use as of January 5, 2018, to apply to convert to Cannabis Retail Uses under the same conditions as MCDs that held valid final permits from Department of Public Health as of January 5, 2018; exempting all such converted Cannabis Retail Uses from otherwise applicable Conditional Use Authorization requirements; clarifying that such Cannabis Retail Uses are not exempted from any minimum radius that is required by a State licensing authority for distance between a Cannabis Retailer and an existing school, day care center or youth center; allowing Equity Program or Equity Incubator Applicants who have MCD applications pending at the Planning Department to apply to convert to Cannabis Retail Uses; exempting such Cannabis Retail Uses from the minimum radius requirements between those establishments and existing Cannabis Retailers and Medical Cannabis Retailers; 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 public necessity, convenience, and welfare findings under Planning Code, Section 302.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment. Any proposal would require environmental review.

Joy Navarrete
Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning, ou=Environmental Planning, email=joy.navarrete@sfgov.org, c=US
Date: 2018.11.21 13:56:13 -08'00'

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

January 5, 2018

TO: San Francisco Land Use and Transportation Committee
RE: Public comments IN OPPOSITION to CANNABIS GRANDFATHERING UPDATE, File # 181061

Dear Supervisors Tang, Kim, and Safai:

By and on behalf of a committee of concerned homeowners in The Metropolitan, a condominium complex located in the South Beach/Rincon Hill neighborhood at 333/355 1st Street, I respectfully submit the following comments **IN OPPOSITION** to the above captioned matter and the proposed Ordinance described therein. The present opposition is specifically directed to the proposed exemption for sites from the "600' Buffer Rule" minimum radius requirement.

San Francisco Planning Code Section 202.2(a) *et seq.* is clear on its face and unambiguous in prohibiting a parcel containing a Cannabis Retail Use from operating within 600 feet of another such establishment. The Code, as already written, expresses the clear will and intent of the Board of Supervisors. Further, when originally proposed, the 600' Buffer Rule was significantly debated before the Board of Supervisors, and testimony from more than 150 members of the public was considered in a hearing lasting nearly seven hours.[1] The 600' Buffer Rule provides a reasoned and balanced compromise reflective of all inputs and interests, and therefore requires no additional amendment or exemptions. If it had been the will of the Board of Supervisors or the City, a "grandfathering" clause exempting certain applicants could have been added to the planning code at that time. Additionally, the proposed Ordinance, if adopted, would disproportionately impact District 6, which according to recent news articles, already has the largest share of San Francisco's cannabis dispensaries,[2] as reflected in Exhibit A attached hereto. Exempting applicants from the 600' Buffer Rule will only exacerbate the "clustering" of dispensaries already occurring in District 6.

I therefore respectfully request and submit that the Land Use and Transportation Committee:

1. **REJECT the present proposed Ordinance in its entirety;**
   Or, in the alternative:
2. **REJECT aspects of the proposed Ordinance creating exemptions to the 600' Buffer Rule.**

Respectfully submitted,

Robert M. Yost, by and on behalf of a committee of homeowners within the Metropolitan Condominium Complex, who previously submitted a signed petition to the Planning Commission, attached hereto as Exhibit B.

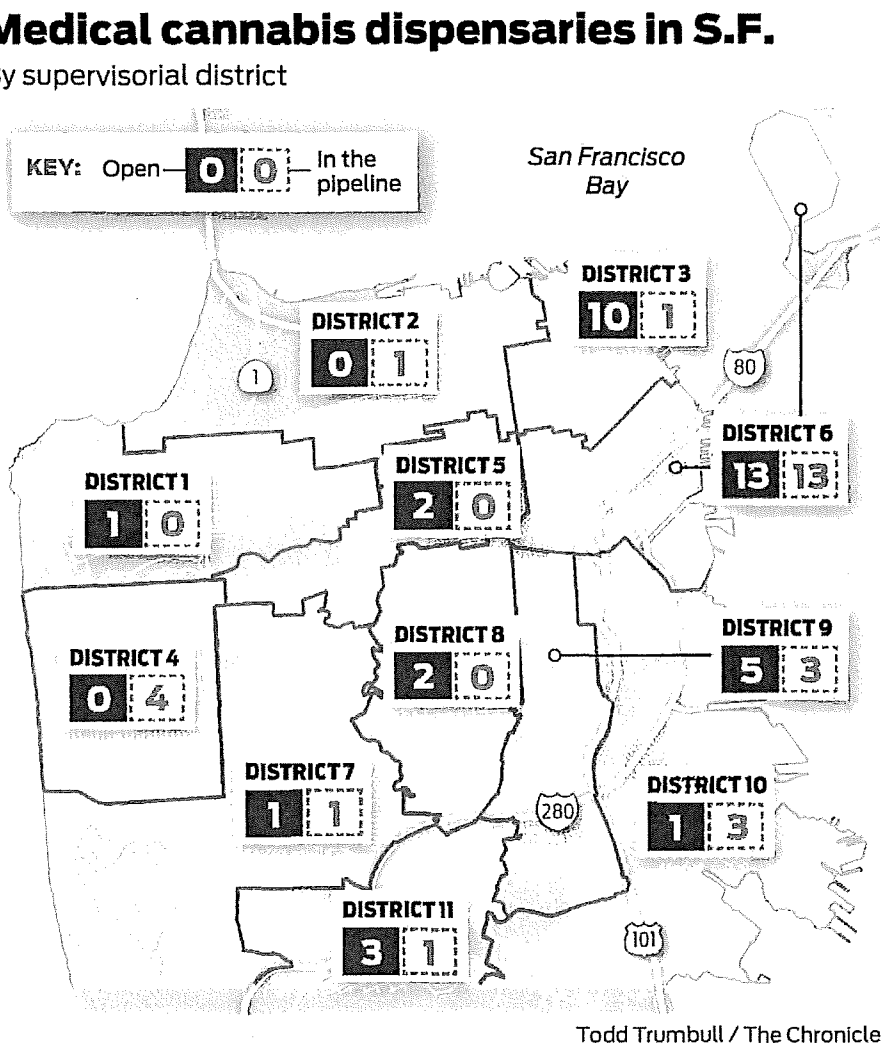
---

[1] J.K. Dineen, *Cannabis Dispensary Rules in SF Create Clusters*, San Francisco Chronicle, Aug. 10, 2017, https://www.sfchronicle.com/bayarea/article/Cannabis-dispensary-rules-in-SF-create-clusters-11746532.php.

[2] *Id.* (stating that (a) as of August, 2017, 13 of San Francisco's 38 cannabis dispensaries were located in District 6, comprising 34 percent of such dispensaries, and (b) 13 of the 27 either proposed or approved but not yet open dispensaries were also located in District 6).

EXHIBIT A

Provided below is a map that was published[3] by the San Francisco Chronicle in August, 2017 that illustrates the disbursement of dispensaries by supervisorial district, and shows the imbalance and disproportionate impact to District 6.



[3] J.K. Dineen, *Cannabis Dispensary Rules in SF Create Clusters*, San Francisco Chronicle, Aug. 10, 2017, https://www.sfchronicle.com/bayarea/article/Cannabis-dispensary-rules-in-SF-create-clusters-11746532.php.

Exhibit B

Petition Previously Submitted to the Planning Commission on November 15, 2018

PETITION

We, the undersigned residents of The Metropolitan Association, composed of 345 units located at 333 and 355 1st Street, San Francisco, CA 94105, address this Petition to the Planning Commission to reject the proposed amendment) to the ordinance containing this rule to provide an exemption to the 600' Buffer Rule for certain Cannabis Retail establishments. The present opposition is specifically directed to the proposed exemption for sites from the "600' Buffer Rule" minimum radius requirement.

San Francisco Planning Code Section 202.2(a)(5)(B) is clear on its face and unambiguous in prohibiting a parcel containing a Cannabis Retail Use from operating within 600 feet of another such establishment. The Code, as already written, expresses the clear will and intent of the Board of Supervisors. Further, when originally proposed, the 600' Buffer Rule was significantly debated before the Board of Supervisors, and testimony from more than 150 members of the public was considered in a hearing lasting nearly seven hours.[1] The 600' Buffer Rule provides a reasoned and balanced compromise reflective of all inputs and interests, and therefore requires no additional amendment or exemptions. Additionally, the proposed Ordinance, if adopted, would disproportionately impact District 6, which according to recent news articles, already has the largest share of San Francisco's cannabis dispensaries,[i] as reflected in Exhibit A attached hereto. Exempting applicants from the 600' Buffer Rule will only exacerbate the "clustering" of dispensaries already occurring in District 6.

We therefore respectfully request and submit that the Planning Commission:

1. **REJECT the present proposed Ordinance in its entirety;**

Or, in the alternative:

2. **REJECT aspects of the proposed Ordinance creating exemptions to the 600' Buffer Rule.**

PRINT YOUR NAME AND ADDRESS	SIGNATURE
Jennifer Baran 333 1st Street #1103 SF, CA 94105	
KAS BROEMMER 355 1ST ST, S810 SF 94105	
Dennis Martinez-Velarde 355 1st St., #407, SF CA 94105	
Amy Patel 355 1st St, S1902, SF, CA 94105	

PRINT YOUR NAME AND ADDRESS	SIGNATURE
ILARIA BADAGNANI 355 1ST ST UNIT S1101 SAN FRANCISCO, CA 94105	
Jason Chan ~~355~~ 333 1st Street, N606	
JIM FERRER 355 1st ct. #S1009 SF CA 94105	
Channie Wu 333 1st St. #N901 San Francisco, CA 94105	
LAMAMP W. LAU 333-1ST ST SF CA 94105	
Shalini Bhatia 355 1st St., Unit 2405 San Francisco, CA 94105	
Abby Cheng 355 1st Street, Unit 3707 San Francisco, CA ~~94131~~ 94105	
Charlie Wu 333 1st St. unit 1602 SF, CA, 94105	
Melanie Twardzicki 355 1st Street. unit S1904 San Francisco, CA 94105	
Rob Yost 355 1st Street, #S905 San Francisco, CA 94105	

181061

From: Edward <ed.mat.brown@gmail.com>
Sent: Monday, November 26, 2018 1:15 PM
To: Major, Erica (BOS)
Cc: Elliott, Nicole (ADM); Hillsman, Eugene (ADM); Safai, Ahsha (BOS); Kim, Jane (BOS); Tang, Katy (BOS)
Subject: Public Comments - Land Use and Transportation Committee
Attachments: 11.26 - Land Use and Transportation Committee Comments.pdf

Erica,

I'm unable to make it today, can you please ensure that my comments are submitted to the BOS members for today's meeting at 1:30pm.

Thank you

Edward Brown, SFCEWG

Land Use and Transportation Committee Clerk

1 Dr. Carlton B. Goodlett Place

Room 244

San Francisco, CA 94102

RE: File No. 181061 Legislation Under 30 Day Rule – Public Comments

Dear Supervisors Tang, Kim and Safai,

I am writing to urge you not to approve the recommended amendments to Section 190. The amendments represent an attempt by those that failed to establish themselves as MCD's or failed to follow the rules for existing MCD's to be grandfathered MCD's (GMCD's).

The BOS has adequately addressed and created a cannabis retail process for those that don't qualify as MCD's; The Equity Permitting Process. Section 190, which is set to sunset January 1, 2020, was not intended to save "pipeline MCD's" but was a process for existing, established, and compliant MCD's to preserve their retail use and allow for them to continue selling adult-use cannabis.

There are 12 varying levels of pipeline MCD's that are seeking to be Grandfathered MCD, I'd like to explore 9 of them in detail.

Obtaining a Full Permit to Operate

Affecting: 2165 Irving Street (D4), 761 Bryant St (D6), 1276 Market Street (D6), 3015 San Bruno Ave (D11)

Section 190 Currently: Requires that a GMCD obtain a full-permit to operate from DPH.

Their Argument: Due to construction cost/timing, they will not be able to obtain a full-permit by December 31, 2018.

My Response: By allowing their proposed changes, we are assuming they would have been compliant with the DPH to obtain a full-permit.

The changes usurp power from DPH and allows the Planning Department to give GMCD authorizations. The BOS previously approved Section 190 and should not spend city resources to further any additional changes.

The proposed changes will have disastrous effects on Equity Applicants seeking retail permits.

If approved, Pipeline MCD's locations will create new 600ft buffers, not previously contemplated by the OOC, and this will limit the space available for new Equity Retailers. A scenario could occur, where the 761 Bryant St location would transition to a GMCD and any current Equity Applicant within 600 feet would be disqualified from the area.

In addition, Section 1613 of Article 16 (c) "The Controller shall track the number of permits that are awarded pursuant to Article 16 [by] September 19, 2019." The controller will submit a report to the BOS recommending if Cannabis Business Permit should be subject to a cap or some other limit. The State licensing authority has the power to limit licenses based on concentration concerns. By allowing these 4 pipeline MCDs to be GMCDs the City is potentially limiting the number of Equity Applicants that could participate in the local cannabis industry.

The City has spent considerable resources and has made it a priority that Equity Applicant obtain permits to participate in the local cannabis industry. By allowing the pipeline MCDs to jump in front of equity applicants creates another barrier to entry for them.

Mayor Breed has agreed to pledge 90k for Equity applicants to have access to legal services through OEWD. By allowing this proposal, we are putting City resources toward non-compliant actors while Equity applicants who have followed the rules of verification and submitted a complete application are awaiting their chance to sell adult-use cannabis.

<u>The proposed changes are unfair to actual existing MCD's.</u>

Currently all GMCD's that have obtained a full permit from DPH, has had to fulfill an Equity Plan. The OOC has required each MCD to submit a plan of how they would support future Equity Operators and further the City's Equity Goals. Meeting the requirements of an Equity plan is a requirement for the authorization to sell adult-use cannabis. GMCD's have spent considerable sums of money to remain compliant by holding Job-Fairs, Biz Management Workshops, and donating money to community organizers who held numerous events to benefit future Equity operators.

What has pipeline MCD's done to advance the City's Equity goals?

GMCD's have established community bonds in their respective neighborhoods and most have been a pillar in their communities.

Why we would let these 4 pipeline MCD's participate in the fruits of adult-use cannabis sales when they have not complied with other City Requirements is ridiculous and should be avoided.

My Solution: The pipeline MCD's suggest that they will go out of business without these changes. This is non-sense and suggest a failure to understand San Francisco's cannabis permitting rules. If they were concerned about going out of business, they could have applied for a Cannabis Retail Permit on May 22nd, when the OOC opened applications. Currently, they can apply for a Cannabis Business Permit with the Office of Cannabis by partnering with an Equity Applicant or pursuing an Incubator.

Missing the March 31'st Deadline

Affecting: 1328 Grove St (D5), 79 9th St (D6), 122 10th St (D6), 3139 Mission St (D9), 5258 Mission St (D10)

Section 190 Currently: A completed application for the change of use must be submitted to the Department of Building Inspection, no later than March 31, 2018.

Their argument: These 5 pipeline MCD's did not submit their Building permit Application by March 31st 2018 due to confusion by the Office of Cannabis not accepting applications. By not allowing them to convert and sell adult use cannabis will put them at a disadvantage with other MCD and they will likely go out of business.

The Planning Department's Priority General Plan contain a policy that existing neighborhood-serving retail uses be preserved and enhanced.

My response: We should not approve any GMCD conversion process to include these 5 businesses. Why should the city allow for GMCD conversion if they, as existing MCD's, cannot abide by City regulations?

So, all of the City's GMCDs that are in operation were able to comply by submitting their Building permit application by March 31st, and these five should be given the same priority because, sadly, they were confused by the permitting process? This is a ridiculous assertion.

The Planning Department said that existing retail uses be preserved and enhanced, and yes I agree, for those that can follow the City's permitting rules! Besides, this is cannabis sales, and this alone isn't unique that the City should change the conversion process to fit pipeline MCD's.

<u>The proposed changes will have disastrous effects on Equity Applicants seeking retail permits.</u>

Same as above.

<u>The proposed changes are unfair to actual existing MCD's.</u>

Same as above.

My Solution: I disagree with the Planning Department's view that these existing retailers only have one option, to be converted to Cannabis Retailers or go out of business. The 5 businesses can partner with an Equity Applicant and/or provide an Equity Incubation opportunity to secure their license.

The 600' Buffer Rule

No comment.

Respectfully,

Edward Brown

Ramon Garcia

San Francisco Cannabis Equity Working Group

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

November 13, 2018

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

Dear Commissioners:

On November 13, 2018, the City Administrator introduced the following legislation:

File No. 181061

Ordinance amending the Planning Code to allow Medical Cannabis Dispensaries (MCDs) with approvals from the Planning Department for a Medical Cannabis Dispensary Use as of January 5, 2018, to apply to convert to Cannabis Retail Uses under the same conditions as MCDs that held valid final permits from Department of Public Health as of January 5, 2018; exempting all such converted Cannabis Retail Uses from otherwise applicable Conditional Use Authorization requirements; clarifying that such Cannabis Retail Uses are not exempted from any minimum radius that is required by a State licensing authority for distance between a Cannabis Retailer and an existing school, day care center or youth center; allowing Equity Program or Equity Incubator Applicants who have MCD applications pending at the Planning Department to apply to convert to Cannabis Retail Uses; exempting such Cannabis Retail Uses from the minimum radius requirements between those establishments and existing Cannabis Retailers and Medical Cannabis Retailers; 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 public necessity, convenience, and welfare findings under 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

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Dan Sider, Director of Executive Programs
Aaron Starr, Manager of Legislative Affairs
AnMarie Rodgers, Director of Citywide Planning
Scott Sanchez, Zoning Administrator
Lisa Gibson, Environmental Review Officer
Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

BOARD of SUPERVISORS

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

November 16, 2018

File No. 181061

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

Dear Ms. Gibson:

On November 13, 2018, the City Administrator introduced the following proposed legislation:

File No. 181061

Ordinance amending the Planning Code to allow Medical Cannabis Dispensaries (MCDs) with approvals from the Planning Department for a Medical Cannabis Dispensary Use as of January 5, 2018, to apply to convert to Cannabis Retail Uses under the same conditions as MCDs that held valid final permits from Department of Public Health as of January 5, 2018; exempting all such converted Cannabis Retail Uses from otherwise applicable Conditional Use Authorization requirements; clarifying that such Cannabis Retail Uses are not exempted from any minimum radius that is required by a State licensing authority for distance between a Cannabis Retailer and an existing school, day care center or youth center; allowing Equity Program or Equity Incubator Applicants who have MCD applications pending at the Planning Department to apply to convert to Cannabis Retail Uses; exempting such Cannabis Retail Uses from the minimum radius requirements between those establishments and existing Cannabis Retailers and Medical Cannabis Retailers; 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 public necessity, convenience, and welfare findings under Planning Code, Section 302.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

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

MEMORANDUM

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

FROM: Erica Major, Assistant Clerk
Land Use and Transportation Committee

DATE: November 16, 2018

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

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, which is being referred to the Small Business Commission for comment and recommendation.

File No. 181061

Ordinance amending the Planning Code to allow Medical Cannabis Dispensaries (MCDs) with approvals from the Planning Department for a Medical Cannabis Dispensary Use as of January 5, 2018, to apply to convert to Cannabis Retail Uses under the same conditions as MCDs that held valid final permits from Department of Public Health as of January 5, 2018; exempting all such converted Cannabis Retail Uses from otherwise applicable Conditional Use Authorization requirements; clarifying that such Cannabis Retail Uses are not exempted from any minimum radius that is required by a State licensing authority for distance between a Cannabis Retailer and an existing school, day care center or youth center; allowing Equity Program or Equity Incubator Applicants who have MCD applications pending at the Planning Department to apply to convert to Cannabis Retail Uses; exempting such Cannabis Retail Uses from the minimum radius requirements between those establishments and existing Cannabis Retailers and Medical Cannabis Retailers; 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 public necessity, convenience, and welfare findings under 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.

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RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ No Comment

____ Recommendation Attached

_____
Chairperson, Small Business Commission

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: Greg Wagner, Acting Director, Department of Public Health
Nicole Elliot, Director, Office of Cannabis

FROM: Erica Major, Assistant Clerk
Land Use and Transportation Committee

DATE: November 16, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by City Administrator on November 13, 2018:

File No. 181061

Ordinance amending the Planning Code to allow Medical Cannabis Dispensaries (MCDs) with approvals from the Planning Department for a Medical Cannabis Dispensary Use as of January 5, 2018, to apply to convert to Cannabis Retail Uses under the same conditions as MCDs that held valid final permits from Department of Public Health as of January 5, 2018; exempting all such converted Cannabis Retail Uses from otherwise applicable Conditional Use Authorization requirements; clarifying that such Cannabis Retail Uses are not exempted from any minimum radius that is required by a State licensing authority for distance between a Cannabis Retailer and an existing school, day care center or youth center; allowing Equity Program or Equity Incubator Applicants who have MCD applications pending at the Planning Department to apply to convert to Cannabis Retail Uses; exempting such Cannabis Retail Uses from the minimum radius requirements between those establishments and existing Cannabis Retailers and Medical Cannabis Retailers; 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 public necessity, convenience, and welfare findings under Planning Code, Section 302.

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: erica.major@sfgov.org.

c: Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Ray Law, Office of Cannabis

OFFICE OF THE
CITY ADMINISTRATOR

London N. Breed, Mayor
Naomi M. Kelly, City Administrator

To: Angela Calvillo, Clerk of the Board

From: Naomi Kelly, City Administrator

Subject: Planning Code - Conversion of Medical Cannabis Dispensary Uses to Cannabis Retail Uses

Date: October 29, 2018

Please see the attached ordinance amending the Planning Code to allow Medical Cannabis Dispensaries (MCDs) with approvals from the Planning Department for a Medical Cannabis Dispensary Use as of January 5, 2018 to apply to convert to Cannabis Retail Uses under the same conditions as MCDs that held valid final permits from DPH as of January 5, 2018; exempting all such converted Cannabis Retail Uses from otherwise applicable Conditional Use Authorization requirements; clarifying that such Cannabis Retail Uses are not exempted from any minimum radius that is required by a State licensing authority for distance between a Cannabis Retailer and an existing School, day care center or youth center; allowing Equity Program or Equity Incubator Applicants who have MCD applications pending at the Planning Department to apply to convert to Cannabis Retail Uses; exempting such Cannabis Retail Uses from the minimum radius requirements between those establishments and existing Cannabis Retailers and Medical Cannabis Retailers; 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 public necessity, convenience, and welfare findings under Planning Code, Section 302.

If you have any questions, please contact Nicole Elliott (415) 554-4684. Thank you for your consideration.