Resolution extending interim zoning controls that require conditional use authorization for Medical Cannabis Dispensaries in the Irving, Judah, Noriega, and Taraval Street Neighborhood Commercial Districts and impose additional conditional use authorization criteria; and making environmental findings, including findings of consistency with the eight priority policies of Planning Code, Section 101.1.

WHEREAS, Planning Code, Section 306.7 provides for the imposition of interim zoning controls to accomplish several objectives, including preservation of residential and mixed residential and commercial areas in order to preserve the existing character of such neighborhoods and areas; development and conservation of the commerce and industry of the City in order to maintain the economic vitality of the City, to provide its citizens with adequate jobs and business opportunities, and to maintain adequate services for its residents, visitors, businesses and institutions; control of uses which have an adverse impact on open space and other recreational areas and facilities; control of uses which generate an adverse impact on pedestrian and vehicular traffic; and control of uses which generate an adverse impact on public transit; and

WHEREAS, In 2012, the Board of Supervisors passed and the Mayor approved Ordinance No. 175-12, creating the Irving, Judah, Noriega, and Taraval Street Neighborhood Commercial Districts (NCDs) in the Outer Sunset neighborhood for non-residential properties zoned NC-2, with the intent to enhance the character along those commercial corridors by requiring active ground-floor uses as defined by Planning Code, Section 145.4; and

WHEREAS, At the time Ordinance No. 175-12 was approved, a Medical Cannabis Dispensary (MCD) was not defined as an “active use” under Section 145.4 of the Planning Code.
Code, and therefore, pursuant to the zoning controls contained in Ordinance No. 175-12, was subject to conditional use authorization in the Irving, Judah, Noriega, and Taraval Street NCDs; and

WHEREAS, In approving Ordinance No. 22-15 in February 2015, this Board defined an MCD as an active use pursuant to Section 145.4 of the Planning Code; and

WHEREAS, Ordinance No. 22-15 had the inadvertent effect of eliminating the conditional use authorization requirement for MCDs in the Irving, Judah, Noriega, and Taraval Street NCDs; and

WHEREAS, The establishment of an MCD in the Irving, Judah, Noriega, or Taraval Street NCD without conditional use authorization may impact the existing neighborhood character, pedestrian and vehicular traffic, and open space and other recreational areas and facilities in those NCDs, due to possible increases in vehicle and pedestrian traffic, litter, noise, crime, and other activities related to the MCD; and

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

WHEREAS, Policy 4 of the eight priority policies of the City's General Plan and Planning Code, Section 101.1 establishes a policy "That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking"; and

WHEREAS, The 2012 conditional use authorization requirement for MCDs allows the Planning Commission to consider proposed MCD projects and impose conditions necessary to conserve and protect the neighborhood character of the Irving, Judah, Noriega, and Taraval Street NCDs; and
WHEREAS, On May 5, 2015, the Board of Supervisors adopted Resolution No. 179-15, which imposed interim controls requiring that proposed MCDs obtain conditional use authorization pursuant to Planning Code, Section 303 and satisfy additional conditional use criteria, for a period of eighteen months; and

WHEREAS, The interim controls adopted by this Board in Resolution No. 179-15 are intended and designed to address and ameliorate the problems and conditions associated with the inadvertent removal of the conditional use authorization requirement for MCDs in the Irving, Judah, Noriega, and Taraval Street NCDs; and

WHEREAS, The circumstances that led to the adoption of Resolution No. 179-15 still persist today; and

WHEREAS, The extension of these interim controls will allow this Board time to consider how to regulate MCDs in the Irving, Judah, Noriega, and Taraval Street NCDs; and

WHEREAS, This Board has considered the impact on the public health, safety, peace, and general welfare if the interim controls proposed herein were not extended; and

WHEREAS, This Board has determined that the public interest will be best served by extension of these interim controls at this time, in order to ensure that the legislative scheme that may be ultimately adopted is not undermined during the planning and legislative process for permanent controls; and

WHEREAS, The Planning Department has determined that the actions contemplated in this Resolution are in compliance with the California Environmental Quality Act (California Public Resources Code, Section 21000 et. seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 161283 and is hereby affirmed and incorporated by reference as though fully set forth; now, therefore, be it

RESOLVED, Pursuant to Planning Code, Section 306.7, the Board of Supervisors, by this Resolution, hereby requires that, as of the effective date of this Resolution, any proposed
MCD in the Irving, Judah, Noriega or Taraval Street NCD must obtain conditional use
authorization from the Planning Commission; and, be it

FURTHER RESOLVED, That in order to grant a conditional use authorization, the
Planning Commission must find that the facts presented establish that the proposed MCD
satisfies both the criteria set forth in Planning Code, Section 303 and the additional criteria set
forth below:

1. the MCD will bring measurable community benefits and enhancements to the NCD;
2. the MCD has prepared a parking and transportation management plan sufficient to
address the anticipated impact of patients visiting the MCD; and
3. the MCD has demonstrated a commitment to maintaining public safety by actively
engaging with the community prior to applying for the conditional use, including adequate
security measures in its operation of the business, and designating a community liaison to
deal effectively with current and future neighborhood concerns; and be it

FURTHER RESOLVED, That these interim controls shall remain in effect for six
months from the expiration of the interim zoning controls established by Resolution No. 179-
15, or until the adoption of permanent legislation regulating MCDs in the Irving, Judah,
Noriega, and Taraval Street NCDs, whichever first occurs; and, be it

FURTHER RESOLVED, That these interim zoning controls advance and are consistent
with Policies 2 and 4 of the Priority Policies set forth in Planning Code, Section 101.1, in that
they require consideration of a proposed MCD's impacts on neighborhood character and
pedestrian and vehicular traffic in the Irving, Judah, Noriega, and Taraval Street NCDs, by
retaining the conditional use authorization requirement for MCDs that has been in effect since
2012 and imposing additional conditional use criteria specific to the potential impacts of
MCDs; with respect to Priority Policies 1, 3, 5, 6, 7, and 8, the Board finds that these interim
zoning controls do not, at this time, have an effect upon these policies, and thus, will not conflict with said policies.

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

By: VICTORIA WONG
Deputy City Attorney
Resolution extending interim zoning controls that require conditional use authorization for Medical Cannabis Dispensaries in the Irving, Judah, Noriega and Taraval Street Neighborhood Commercial Districts and impose additional conditional use authorization criteria; and making environmental findings, including findings of consistency with the eight priority policies of Planning Code, Section 101.1.

December 12, 2016 Land Use and Transportation Committee - RECOMMENDED AS COMMITTEE REPORT

December 13, 2016 Board of Supervisors - ADOPTED
Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang and Yee
Vacant: 1 - District 8

I hereby certify that the foregoing Resolution was ADOPTED on 12/13/2016 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Date Approved: 12/22/16