



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

July 11, 2016

Philip Lesser
555 Laurel Avenue, #501
San Mateo, CA 94401

Site Address: 2401 Mission Street
Assessor's Block/Lot: 3610/029
Zoning District: NCT (Mission Street Neighborhood Commercial Transit)
Staff Contact: Jeff Speirs, (415) 575-9106 or jeffrey.speirs@sfgov.org
Record No.: 2016-007386ZAD

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

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Dear Mr. Lesser:

This letter is in response to your request for a Letter of Determination regarding the property at 2401 Mission Street. This parcel is located in the Mission Street NCT (Neighborhood Commercial Transit) Zoning District and 55-X Height and Bulk District. The request is to determine if the subject property may be used to cultivate cannabis as a Neighborhood Agriculture use per Planning Code Section 736.69C.

Per Planning Code Section 102, Neighborhood Agriculture is defined as follows:

An Agricultural Use that occupies less than one acre for the production of food or horticultural crops to be harvested, sold, or donated and complies with the controls and standards herein. The use includes, but is not limited to, home, kitchen, and roof gardens. Farms that qualify as Neighborhood Agricultural use may include, but are not limited to, community gardens, community-supported agriculture, market gardens, and private farms. Neighborhood Agricultural use may be principal or accessory use. This use is subject to location and operational conditions outlined in Section 202.2(c) of this Code."

The location and operational conditions of Section 202.2(c) are as follows:

Agriculture Use. The Agricultural Uses listed below shall be subject to the corresponding conditions:

(1) *Agricultural Uses. Any plot of land that exceeds 1,000 square feet and is newly established shall comply with the applicable water use requirements of Administrative Code Chapter 63. Pursuant to Section 63.6.2(b) of the Administrative Code, no permit for any site where the modified land area exceeds 1,000 square feet shall be issued until the General Manager of the Public Utilities Commission has approved the applicable landscape project documentation.*

(2) *Neighborhood Agriculture. Limited sales and donation of fresh food and/or horticultural products grown on site may occur on otherwise vacant property, but such sales may not occur within a Dwelling Unit. Food and/or horticultural products grown that are used for personal consumption are not regulated. The following physical and operational standards shall apply to Neighborhood Agriculture:*

(A) *Compost areas must be setback at least 3 three feet from Dwelling Units and decks;*

(B) *If the farmed area is enclosed by fencing, the fencing must be (i) wood fencing, (ii) Ornamental Fencing as defined by Planning Code Section 102, or (ii) chain-link or woven wire fencing if over half of the fence area that borders a public right-of-way will be covered by plant material or other vegetative screening within three years of the fence installation;*

(C) *Use of mechanized farm equipment is generally prohibited in Residential Districts; provided,*

however, that during the initial preparation of the land, heavy equipment may be used to prepare the land for Agriculture use. Landscaping equipment designed for household use shall be permitted;

(D) Farm equipment shall be enclosed or otherwise screened from sight;

(E) Sale of food and/or horticultural products from the use may occur between the hours of 6:00 a.m. and 8:00 p.m.;

(F) In all districts, sales, pick-ups, and donations of fresh food and horticultural produces grown on site are permitted. In every district except Residential Districts, value-added products, where the primary ingredients are grown and produced on site, are permitted.

The intent of the Neighborhood Agriculture use category (as adopted under Ordinance No. 66-11: Urban Agriculture Ordinance) was to foster small-scale, local food production in San Francisco beyond that which are grown for personal consumption. As such, the Neighborhood Agriculture use category is principally permitted throughout all zoning districts.

In the Planning Department's case report for the Urban Agriculture Ordinance (Case No. 2010.0571T – heard by the Planning Commission on February 17, 2011), staff noted the following: "The proposed ordinance does not augment, alter or eliminate any existing regulations on controlled substances. Growing controlled substances for commercial use would continue to be reviewed under Planning Code controls for 'greenhouse' uses and would continue to be...not permitted in Neighborhood Commercial Districts."

In light of the intent of the Urban Agriculture Ordinance, it is my determination that the Neighborhood Agriculture use category does not allow for the cultivation of cannabis. Additionally, the subject property may not be used for the cultivation of cannabis because "greenhouse" uses are not permitted within the Mission NCT Zoning District.

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez
Zoning Administrator

cc: Property Owner
Neighborhood Groups
Jeff Speirs, Planner

June 1, 2016

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CK # 003356 \$ 645 -
R. SUCRE (SE)

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JUN 01 2016

Mr. Scott Sanchez
Zoning Administrator
San Francisco Planning Department
1650 Mission Street
Suite 400
San Francisco CA 94103

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
RECEPTION DESK

Re: Requested Letter of Determination

Dear Mr. Sanchez,

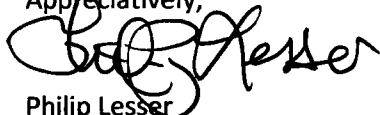
On December 9, 2010 the San Francisco Planning Commission accepted the Planning Department's recommendation to take discretionary review and approve with conditions a Medical Cannabis Dispensary at 2441 Mission Street (3610/026).

The MCD has subsequently operated successfully and has been embraced as a good neighbor and resource to the community.

It now wishes to vertically integrate its operation with a lawful cultivation component. In this regard, the MCD has an opportunity to lease a basement of approximately 10,000 square feet down the block at 2401 Mission Street (3610/029).

Would cultivation of cannabis by this MCD in the basement of the building at 2401 Mission Street by Shambala Healing Arts Center MCD be a permissible use per SEC. 736.69C (Neighborhood Agriculture)?

Appreciatively,



Philip Lesser
For Shambala Healing Arts Center
555 Laurel Avenue, #501
San Mateo CA 94401

Attachments: \$645 Check for Written Determination Fee

PHILIP F. LESSER

LESSER ENTERPRISES, LLC
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SAN MATEO, CALIFORNIA 94401-4179

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