



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: FEBRUARY 21, 2013

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

Reception:
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Information:
415.558.6377

Project Name: **Medical Service Use-Sacramento Neighborhood Commercial District**
Case Number: 2013.0077T [Board File No. 13-0042]
Initiated by: Supervisor Farrell / Introduced January 15, 2013
Staff Contact: AnMarie Rodgers, Manager Legislative Affairs
 anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Recommend Approval, With Technical Modifications**

PLANNING CODE AMENDMENT

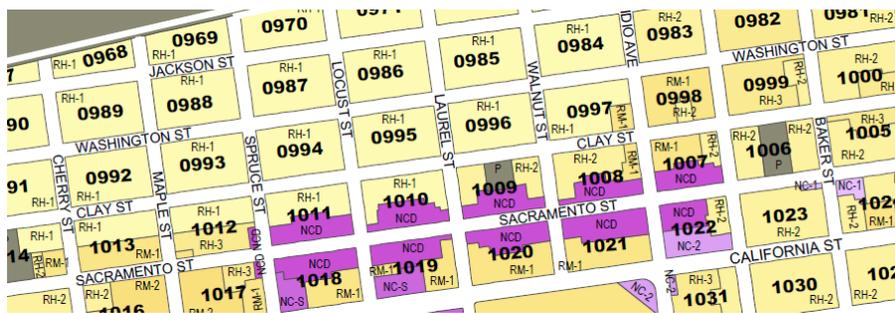
The proposed Ordinance would amend the San Francisco Planning Code, Section 724.1, and related portions of Table 724, that would permit a change of use from a Business or Professional Service use to Medical Service use on the first floor or below in the Sacramento Neighborhood Commercial District; and making environmental findings, Planning Code Section 302 findings, and findings of consistency with General Plan and the Priority Policies of Planning Code Section 101.1.

The Way It Is Now:

New Medical Service¹ uses are prohibited at all floors in the Sacramento Street Neighborhood Commercial District.

The Way It Would Be:

A change of use from a Business or Professional Service² use to a Medical Service use would be permitted on the first story or below provided no Residential Use or Active Street Frontage³ is lost.



The Sacramento Street NCD runs about five linear blocks along Sacramento Street from Spruce Street east to Lyon Street. It includes lots located on blocks 1007-1012 and blocks 1017-1022.

ISSUES AND CONSIDERATIONS

The Sacramento Street Neighborhood Commercial District was established in 1987. The district is intended to promote growth that is compatible with the low-density residential neighborhood. While

most new commercial uses are promoted at the ground floor and below, special controls are in place to preserve existing neighborhood serving retail uses. Medical Service uses are prohibited at all levels and professional and business services are restricted at the ground story. Existing residential uses are protected on all stories.

At the time that the controls were established there were concerns that Medical Service uses were displacing neighborhood serving businesses and residential units. This specific ordinance is tailored to allow a limited exception.

The intention behind this legislation is to allow an existing, legally permitted Business Professional service use to a Medical Service use for counseling offices. To ensure that this legislation does not allow broad changes, the provision was crafted to apply to narrow circumstances, i.e., only existing Business Professional services where no active frontage nor residential uses were lost.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend approval with minor, technical modifications of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The Department believes that the language of the proposed amendment is restrictive enough that the applicability is very limited. In this instance, the existing use is a legally permitted type of office (business, professional service) that will change to another office-like use: counseling—which is a Medical Service use. This change will allow an existing counseling use to remain in the neighborhood and, as written, will ensure that very few other properties would qualify for this same exception.

Supervisor Farrell has conducted outreach within the community. As a result of this outreach, the Presidio Heights Association of Neighbors passed a resolution in support of the proposed Ordinance. The Supervisor reached out to Sacramento Street merchants (which do not currently have an association) and found no opposition. The Department conducted a project review meeting with the owners of 3239-3241 Sacramento Street (the project prompting the proposed Ordinance) to review the proposal and ensure that neither residential nor active frontages would be lost.

The recommended modifications would seek to exactly match terminology in the amendments to the existing Planning Code definitions and add references to an existing Planning Code Sections for clarity. In this light, the Department recommends the following two technical modifications 1) strike the word “office” in the district description that would allow a change of Business or Professional Service use to “medical service office” so that it reads as “medical service” only and 2) in the specific provisions chart a reference should be added to Planning Code Section 145.1(2)(A) as the definition of “active street frontage”.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received no materials in opposition to the proposed legislation.

| | |
|------------------------|-----------------------------------|
| RECOMMENDATION: | Recommendation of Approval |
|------------------------|-----------------------------------|

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 130042

END NOTES:

¹ Planning Code Section 790.114 defines **Medical Service** as “a retail use which provides medical and allied health services to the individual by physicians, surgeons, dentists, podiatrists, psychologists, psychiatrists, acupuncturists, chiropractors, or any other health-care professionals when licensed by a State-sanctioned Board overseeing the provision of medically oriented services. It includes a clinic, primarily providing outpatient care in medical, psychiatric or other health services, and not part of a hospital or medical center, as defined in Section 790.44 of this Code. It also includes a massage establishment, as defined by Section 1900 of the Health Code, that is a sole proprietorship, as defined in California Business and Professions Code Section 4612(b)(1), and where the sole proprietor is certified pursuant to the California Business and Professions Code Section 4600 et seq., and one that employs or uses only persons certified by the state's Massage Therapy Organization, pursuant to the California Business and Professions Code Section 4600 et seq.”

² Planning Code Section 790.108 defines a **Business or Professional Service** as “a retail use which provides to the general public, general business or professional services, including but not limited to, architectural, management, clerical, accounting, legal, consulting, insurance, real estate brokerage, and travel services. It also includes business offices of building, plumbing, electrical, painting, roofing, furnace or pest control contractors, if no storage of equipment or items for wholesale use are located on-site. It may also include incidental accessory storage of office supplies and samples. Parking, loading and unloading of all vehicles shall be located entirely within the building containing the use. It may provide services to the business community, provided that it also provides services to the general public. Otherwise, it shall be considered a nonretail service, as defined in Section 790.100 of this Code. It does not include research service of an industrial or scientific nature in a commercial or medical laboratory, other than routine medical testing and analysis by a health-care professional or hospital.

³ Planning Code Section 145.1(2)(A) describes street frontages in Neighborhood Commercial and other districts. This Section defines **Active Use** as follows: (2) Active use. An "active use", shall mean any principal, conditional, or accessory use which by its nature does not require non-transparent walls facing a public street or involves the storage of goods or vehicles. (A) Residential uses are considered active uses above the ground floor; on the ground floor, residential uses are considered active uses only if more than 50 percent of the linear residential street frontage at the ground level features walk-up dwelling units which provide direct, individual pedestrian access to a public sidewalk, and are consistent with the Ground Floor Residential Design Guidelines, as adopted and periodically amended by the Planning Commission. (B) Spaces accessory to residential uses, such as fitness or community rooms, are considered active uses only if they meet the intent of this section and have access directly to the public sidewalk or street. (C) Building lobbies are considered active uses, so long as they do not exceed 40 feet or 25% of building frontage, whichever is larger. (D) Public Uses described in 790.80 and 890.80 are considered active uses except utility installations.



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution Planning Code Text Change

HEARING DATE: FEBRUARY 21, 2013

Project Name: Medical Service Use-Sacramento Neighborhood Commercial District
Case Number: 2013.00771 [Board File No. 13-0042]
Initiated by: Supervisor Farrell / Introduced January 15, 2013
Staff Contact: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Recommend Approval, With Technical Modifications**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WOULD AMEND THE SAN FRANCISCO PLANNING CODE, SECTION 724.1, AND RELATED PORTIONS OF TABLE 724, THAT WOULD PERMIT A CHANGE OF USE FROM A BUSINESS OR PROFESSIONAL SERVICE USE TO MEDICAL SERVICE USE ON THE FIRST FLOOR OR BELOW IN THE SACRAMENTO NEIGHBORHOOD COMMERCIAL DISTRICT; AND MAKING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

WHEREAS, on January 15, 2013, Supervisors Farrell introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 13-0042, which would amend the San Francisco Planning Code, Section 724.1, and related portions of Table 724, that would permit a change of use from a Business or Professional Service use to Medical Service use on the first floor or below in the Sacramento Neighborhood Commercial District; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 21, 2013; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); 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

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed Ordinance.

The recommended modifications would seek to exactly match terminology in the amendments to the existing Planning Code definitions and add references to an existing Planning Code Sections for clarity.

In this light, the Commission recommends the following two technical modifications:

- 1) strike the word "office" in the district description that would allow a change of Business or Professional Service use to "medical service office" so that it reads as "medical service" only and
- 2) in the specific provisions chart a reference should be added to Planning Code Section 145.1(2)(A) as the definition of "active street frontage".

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. At the time that the controls were established there were concerns that Medical Service uses were displacing neighborhood serving businesses and residential units.
 2. This specific ordinance is tailored to allow a limited exception.
 3. Supervisor Farrell has conducted outreach within the community. As a result of this outreach, the Presidio Heights Association of Neighbors passed a resolution in support of the proposed Ordinance. The Supervisor reached out to Sacramento Street merchants (which do not currently have an association) and found no opposition.
 4. The Department conducted a project review meeting with the owners of 3239-3241 Sacramento Street (the project prompting the proposed Ordinance) to review the proposal and ensure that neither residential nor active frontages would be lost.
1. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE AND INDUSTRY ELEMENT

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.

The proposed Ordinance would permit an existing business to remain in the community without any loss of neighborhood serving uses or residential uses.

8. **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 permit an existing business to remain in the community without any loss of neighborhood serving uses or residential uses.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

Existing housing and neighborhood character will be conserved because no housing will be lost.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance will have no 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 will 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 will have no impact on the City's ability to achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

Landmarks and historic buildings would not be negatively impacted by the proposed Ordinance.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed Ordinance.

- 8. 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 recommends that the Board ADOPT the proposed Ordinance as described in this Resolution and in the proposed Ordinance.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 21, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: February 21, 2013

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

January 22, 2013

Planning Commission
Attn: Linda Avery
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On January 15, 2013, Supervisor Farrell introduced the following proposed legislation:

File No. 130042

Ordinance amending the Planning Code, Section 724.1, and related portions of Table 724, to permit a change of use from a business or professional service use to medical service use on the first floor or below in the Sacramento Neighborhood Commercial District; and making environmental findings, Planning Code Section 101.1 findings, and findings of consistency with the General Plan.

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 & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

By: Alisa Miller, Committee Clerk

Land Use & Economic Development Committee

- c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Bill Wycko, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

1 [Planning Code - Medical Service Use - Sacramento Neighborhood Commercial District]

2
3 **Ordinance amending the Planning Code, Section 724.1, and related portions of Table**
4 **724, to permit a change of use from a business or professional service use to medical**
5 **service use on the first floor or below in the Sacramento Neighborhood Commercial**
6 **District; and making environmental findings, Planning Code Section 101.1 findings, and**
7 **findings of consistency with the General Plan.**

8 NOTE: Additions are *single-underline italics Times New Roman*;
9 deletions are ~~*strike-through italics Times New Roman*~~.
10 Board amendment additions are double-underlined;
11 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. The Board of Supervisors of the City and County of San Francisco hereby
14 finds and determines that:

15 (a) General Plan and Planning Code Findings.

16 (1) On _____, at a duly noticed public hearing, the Planning
17 Commission in Resolution No. _____ found that the proposed Planning Code
18 amendments contained in this ordinance were consistent with the City's General Plan and
19 with Planning Code Section 101.1(b) and recommended that the Board of Supervisors adopt
20 the proposed Planning Code amendments. A copy of said Resolution is on file with the Clerk
21 of the Board of Supervisors in File No. _____ and is incorporated herein by
22 reference. The Board finds that the proposed Planning Code amendments contained in this
23 ordinance are on balance consistent with the City's General Plan and with Planning Code
24 Section 101.1(b) for the reasons set forth in said Resolution.

25
Supervisor Farrell
BOARD OF SUPERVISORS

1 (2) Pursuant to Planning Code Section 302, the Board finds that the proposed
2 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
3 Planning Commission Resolution No. _____, which reasons are incorporated herein
4 by reference as though fully set forth.

5 (b) Environmental Findings. The Planning Department has determined that the
6 actions contemplated in this ordinance comply with the California Environmental Quality Act
7 (California Public Resources Code Section 21000 et seq.). Said determination is on file with
8 the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein
9 by reference.

10
11 Section 2. The San Francisco Planning Code is hereby amended by amending Section
12 724.1, to read as follows:

13 **SEC. 724.1. SACRAMENTO STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

14 Located in the Presidio Heights neighborhood in north-central San Francisco, the
15 Sacramento Street Neighborhood Commercial District functions as a small-scale linear
16 shopping area. It extends along Sacramento Street between Lyon and Spruce. Interspersed
17 among residential buildings and garages, the district's daytime-oriented retail stores provide a
18 limited array of convenience goods to the immediate neighborhood. Sacramento Street also
19 has many elegant clothing, accessory, and antique stores and services, such as hair salons,
20 which attract customers from a wider trade area. Its numerous medical and business offices
21 draw clients from throughout the City. Evening activity in the district is limited to one movie
22 theater, a few restaurants, and some stores near Presidio Avenue.

23 The Sacramento Street District controls are designed to promote adequate growth
24 opportunities for development that is compatible with the surrounding low-density residential
25 neighborhood. The building standards monitor large-scale development and protect rear yards

1 at the grade level and above. Most new commercial development is permitted at the first
2 story; general retail uses are permitted at the second story only if such use would not involve
3 conversion of any existing housing units. Special controls are designed to protect existing
4 neighborhood-serving ground-story retail uses. New medical service offices are prohibited at
5 all stories except a change of use is permitted on the first story or below from a business or
6 professional service use to medical service office use under certain circumstances. Personal and
7 business services are restricted at the ground story and prohibited on upper stories. Limits on
8 new ground-story eating and drinking uses, as well as new entertainment and financial service
9 uses, are intended to minimize the environmental impacts generated by the growth of such
10 uses. The daytime orientation of the district is encouraged by prohibiting bars and restricting
11 late-night commercial activity. New hotels and parking facilities are limited in scale and
12 operation to minimize disruption to the neighborhood. Most new automobile and drive-up uses
13 are prohibited to promote continuous retail frontage.

14 Housing development in new buildings is encouraged above the second story.
15 Existing residential units are protected by limitations on demolitions and prohibitions of upper-
16 story conversions.

17
18 Section 3. In enacting this ordinance, the Board intends to amend only those words,
19 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, or any other
20 constituent part of Table 724 that are explicitly shown in this legislation as additions, deletions,
21 Board amendment additions, and Board amendment deletions in accordance with the "Note"
22 that appears under the official title of the legislation. Those portions of Table 724 not shown
23 here are not amended by this ordinance and remain in effect. The San Francisco Planning
24 Code is hereby amended by amending Section 724.51 of Table 724, to read as follows:

1 **SEC. 724. SACRAMENTO STREET NEIGHBORHOOD COMMERCIAL DISTRICT**
 2 **ZONING CONTROL TABLE**

| | | | | | |
|---------------------------|-----------------|--------------|-------------------|-----------------|-------------------|
| | | | Sacramento Street | | |
| No. | Zoning Category | § References | Controls | | |
| | | | Controls by Story | | |
| | | § 790.118 | 1 st | 2 nd | 3 rd + |
| Retail Sales and Services | | | | | |
| 724.51 | Medical Service | § 790.114 | # | | |

11 Section 4. In enacting this ordinance, the Board intends to amend only those words,
 12 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, or any other
 13 constituent part of Table 724 that are explicitly shown in this legislation as additions, deletions,
 14 Board amendment additions, and Board amendment deletions in accordance with the "Note"
 15 that appears under the official title of the legislation. Those portions of Table 724 not shown
 16 here are not amended by this ordinance and remain in effect. The San Francisco Planning
 17 Code is hereby amended by adding a new row at the end of the Specific Provisions For the
 18 Sacramento Street Neighborhood Commercial District portion of Table 724, to read as follows:

19 **SPECIFIC PROVISIONS FOR THE SACRAMENTO STREET**
 20 **NEIGHBORHOOD COMMERCIAL DISTRICT**

| Article 7 Code Section | Other Code Section | Zoning Controls |
|---------------------------|---|--|
| <u>§ 724.51</u> | <u>§§ 145.1, 790.88,</u> <u>790.108, 790.114</u> | <u>Boundaries: Sacramento Street Neighborhood</u> <u>Commercial District</u> <u>Controls: A business or professional service use may be</u> |

| | | |
|--|--|--|
| | | <u>converted to a medical service use on the first story or below if no residential use or active street frontage is lost.</u> |
|--|--|--|

Section 5. Other Uncodified Provisions.

(a) General Welfare. In adopting and implementing this ordinance, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(b) Conflict with State or Federal Law. This ordinance shall be construed so as not to conflict with applicable federal or State laws, rules or regulations. Nothing in this ordinance shall authorize any City agency or department to impose any duties or obligations in conflict with limitations on municipal authority established by State or federal law at the time such agency or department action is taken.

(c) Severability. If any of the provisions of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of those provisions, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

(d) Scope of Ordinance. In enacting this ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, tables, or any other constituent part of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board

1 amendment deletions in accordance with the "Note" that appears under the official title of the
2 legislation.

3
4 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

5
6 By: 
MARLENA G. BYRNE
7 Deputy City Attorney