



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JULY 26, 2018

EXPIRATION DATE: AUGUST 14, 2018

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: **Health Services – Ocean Avenue Neighborhood Commercial Transit District**

Case Number: **2018-007347PCA** [Board File No. 180483]

Initiated by: Supervisor Yee / Introduced May 16, 2018

Staff Contact: Audrey Butkus, Legislative Affairs
audrey.butkus@sfgov.org, (415) 575-9129

Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

Recommendation: **Recommend Approval**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to require a Conditional Use authorization (CUA) for Health Service Uses on the ground floor, and principally permit Health Service Uses above the ground story in the Ocean Ave Neighborhood Commercial Transit District (Ocean Ave NCTD).

The Way It Is Now:

1. In the Ocean Avenue NCT, Health Services are principally permitted at the second story and below, and not permitted above the second story.

The Way It Would Be:

1. In the Ocean Avenue NCT, Health Service Uses would be require Conditional Use authorization on the ground story and principally permitted on the second story and above.

ISSUES AND CONSIDERATIONS

Health Service Uses:

Health Service Uses are defined in Sec. 102 as “A Retail Sales and Service Use that 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”. Health Service Uses typically include services provided by physicians, surgeons, dentists, podiatrists, psychologists, psychiatrists, acupuncturists, chiropractors, or other health-care professionals. They are present in many

NCD's and NCTD's throughout the city, typically taking the form of small, specialty doctor's offices, or chain clinics.

Although Health Service Uses are technically considered a retail use, these types of businesses do not typically attract the same activity on the ground floor as many traditional retail uses like restaurants, grocery stores, gift shops, etc. Health Service Uses are typically catering to a population of clients who have made appointments in advance. These types of medical professional storefronts are often occupied by reception or a lobby, with the views into the building from the street shielded by partitions or screens. Additionally, there has been growing concern that Health Services Uses may over concentrate in certain neighborhood commercial corridors due to their general ability to pay higher rents than many other types of retail uses.

Ocean Avenue Neighborhood Commercial Transit District

The Ocean Avenue Neighborhood Commercial Transit District (Ocean Avenue NCTD) is a historically car-oriented arterial, with relatively fast-moving traffic. The City and Ocean Avenue Association have worked together to invest in improved façades, plant sidewalk gardens and trees, add new pedestrian crossings, and widen the sidewalk, creating a welcoming pedestrian environment. Nodes of activity have emerged around key anchors, including in the few blocks around the new Ingleside Branch Library and Whole Foods Market.



Figure 1: Ocean Avenue NCTD Boundary

As of 2017, the commercial vacancy rate in the Ocean Avenue NCTD was approximately 9.5%. This vacancy rate is considered within the healthy commercial vacancy range of between 5%-10%. The number of ground story Health Service Uses in the Ocean Avenue NCTD in December of 2017 was 7 out of a total of 157 storefronts. These uses included several chiropractor offices, podiatrists, and dentist offices.

North Beach Commercial Uses Limits

In 2017, Supervisor Peskin introduced legislation that would make significant changes to the North Beach SUD which included increasing restrictions on Health Service Uses. The changes, which were supported by the Planning Commission, altered the controls for Health Services on the ground story from permitted, to not permitted, and required Conditional Use authorization for Health Service Uses on the second story, wherein they were previously permitted by right on the second story. The Department recommended that the use should be permitted with a Conditional Use on the ground story, rather than not permitted. The justification from staff was that prohibiting the use on the ground story may overly restrict the types of uses that are allowed on the ground story in the SUD and therefore contribute to increased vacancy rates. The Commissioner comments on the proposed change were as follows: Commissioner Christine Johnson aligned with staff and cautioned about overly restricting uses in NCD's. She stated that there should be flexibility in defining which kinds of uses constitute "active" in NCD's. Commissioner Moore countered by stating that Health Service Uses can take over neighborhood commercial spaces because of their ability to pay higher rents. She also stated that these types of uses can become predatory and felt that the legislation as proposed by Supervisor Peskin was appropriate for ensuring that the unique character of the North Beach SUD was retained and protected. The Commissioners voted 4:1 (Fong, Koppel, Melgar, Moore: Johnson against) to approve the legislation as proposed, which included prohibiting Health Service Uses on the ground story and requiring a CU authorization on the second story.

Restricting Uses in NCTD's:

It should be kept in mind that prohibiting a significant number of retail uses at the first story can stifle the vibrancy and diversity in uses of an NCTD. NCTDs that allow a greater variety of uses cast a wider net of possible replacement tenants. These include uses that help residents satisfy their basic personal needs, such as groceries, personal toiletries and health services. As the General Plan notes, neighborhood commercial corridors that have a diverse retail base and can continue to attract a variety of uses are also prosperous ones. The efforts to increase the vitality of the Ocean Avenue NCT should include supporting policies that would make it easier for principally permitted uses that foster an active ground floor environment to establish themselves in the ground story. Reducing neighborhood noticing requirements for a change of use permit would be one way to accomplish this.

Implementation:

The Ordinance would not significantly impact our current implementation procedures or staff time due to the fact that the proposed Ordinance covers a small area.

General Plan Priorities:

The proposed Ordinance is consistent with the following objectives and policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences that cannot be mitigated.

The proposed Ordinance ensures that Health Service Uses, which can have a deadening effect on the pedestrian realm, do not over concentrate in the Ocean Avenue NCTD, while also allowing an avenue for establishment if found to be appropriate through a Conditional Use authorization.

OBJECTIVE 7

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

The proposed Ordinance ensures that Health Service Uses are not over concentrated in the Ocean Avenue NCTD, while also ensuring that controls on other ground story uses do not become overly restrictive.

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.

Health Service Uses are considered a neighborhood serving use; however they are often able to pay a higher rent than many other types of neighborhood serving businesses. As such, neighborhoods can become over concentrated with Health Service Uses, and these types of uses can cause the rents to rise, making it difficult for other uses to survive. This Ordinance ensures that Health Service Uses are still able to establish themselves in the Ocean Avenue NCTD above the ground story, or on the ground story if they are considered appropriate. This appropriate level of regulation serves to protect other neighborhood serving uses from being out-priced on the ground story.

BALBOA PARK STATION AREA PLAN

OBJECTIVE 1.2

STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT.

Policy 1.2.3

Retain and improve the neighborhood's existing businesses while also attracting new businesses that address unmet retail and service needs of the diverse local neighborhoods.

The proposed Ordinance will ensure additional Health Service Uses that wish to locate on the ground floor are appropriate for the Ocean Avenue NCTD through the CU authorization process. This additional process and review will serve to protect and encourage a mix of retail uses that may not be able to otherwise afford the same rent prices Health Service Uses can pay.

RECOMMENDATION

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The Department supports the proposed Ordinance for the following reasons:

1. Health Service Uses do not foster an active storefront on the ground floor to the same extent that many traditional retail and eating establishments attract activity at the street level. In an NCTD that has struggled to maintain an active, pedestrian-oriented commercial corridor, an overconcentration of these types of uses can serve to diminish the vibrancy of the district. The CU authorization process works to assure that a new use is necessary, desirable and compatible with its surroundings. It can be relied upon to assure that any new Health Service Uses are appropriate for the NCTD.
2. The Conditional Use authorization process also keeps a path clear to establishing new Health Service Uses in the Ocean Avenue NCTD. As noted in the Issues and Considerations section, when restricting currently permitted uses on the ground floor of retail corridors, caution should be exercised in order to prevent a stifling of the vibrancy and diversity in uses.
3. Many of the new Health Service Uses that would be subject to the CU authorization would be eligible for the Community Business Priority Processing Program (CB3P) so long as said business does not possess more than 20 other locations and is not seeking to expand currently allowed hours of operation or seeking to merge multiple storefronts. The CB3P would require the CU authorization application to be heard by the Planning Commission within 90 days of a complete application submittal. This program will assist in ensuring that the new proposed limitations on Health Services Uses in the Ocean Avenue NCTD do not overly restrict these types of businesses from establishing themselves without extensive delays so long as they are evaluated to be appropriate for the neighborhood.

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.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) 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.

RECOMMENDATION: Recommendation of Approval
--

Attachments:

Exhibit A: Draft Planning Commission Resolution



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution HEARING DATE JULY 26, 2018

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: **Health Services – Ocean Avenue Neighborhood Commercial Transit District**

Case Number: **2018-007347PCA** [Board File No. 180483]

Initiated by: Supervisor Yee / Introduced May 16, 2018

Staff Contact: Audrey Butkus, Legislative Affairs
audrey.butkus@sfgov.org, (415) 575-9129

Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

Recommendation: **Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PROVIDE THAT IN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT A HEALTH SERVICE USE, WHETHER PRINCIPAL OR ACCESSORY, REQUIRES A CONDITIONAL USE AUTHORIZATION ON THE GROUND STORY AND IS PERMITTED ABOVE THE GROUND STORY; AFFIRMING THE PLANNING DEPARTMENT’S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on May 8, 2018, Supervisor Yee introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 180483, which would amend the Planning Code to provide that in the Ocean Avenue Neighborhood Commercial Transit District a Health Service Use, whether Principal or Accessory, requires a Conditional Use authorization on the ground story and is permitted above the ground story;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 26, 2018; 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 15378; 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** the proposed ordinance.

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. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences that cannot be mitigated.

The proposed Ordinance ensures that Health Service Uses, which can have a deadening effect on the pedestrian realm, do not over concentrate in the Ocean Avenue NCTD, while also allowing an avenue for establishment if found to be appropriate through a Conditional Use authorization.

OBJECTIVE 7

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

The proposed Ordinance ensures that Health Service Uses are not over concentrated in the Ocean Avenue NCTD, while also ensuring that controls on other ground story uses do not become overly restrictive.

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.

Health Service Uses are considered a neighborhood serving use; however they are often able to pay a higher rent than many other types of neighborhood serving businesses. As such, neighborhoods can become over concentrated with Health Service Uses, and these types of uses can cause the rents to rise, making it difficult for other uses to survive. This Ordinance ensures that Health Service Uses are still able to establish themselves in the Ocean Avenue NCTD above the ground story, or on the ground story if they are considered appropriate. This appropriate level of regulation serves to protect other neighborhood serving uses from being out-priced on the ground story.

BALBOA PARK STATION AREA PLAN

OBJECTIVE 1.2

STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT.

Policy 1.2.3

Retain and improve the neighborhood’s existing businesses while also attracting new businesses that address unmet retail and service needs of the diverse local neighborhoods.

The proposed Ordinance will ensure additional Health Service Uses that wish to locate on the ground floor are appropriate for the Ocean Avenue NCTD through the CU authorization process. This additional process and review will serve to protect and encourage a mix of retail uses that may not be able to otherwise afford the same rent prices Health Service Uses can pay.

2. **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.

3. **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 described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 26, 2018.

Jonas P. Ionin
Commission Secretary

**Resolution No.
July 26, 2018**

**CASE NO. 2018-007347PCA
Health Services – Ocean Avenue Neighborhood Commercial Transit District**

AYES:

NOES:

ABSENT:

ADOPTED: July 26, 2018