



# SAN FRANCISCO PLANNING DEPARTMENT

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## Letter of Determination

September 13, 2016

Douglas Shortes  
Matinkovic Milford Architects  
101 Montgomery Street, Suite 650  
San Francisco, CA 94104

<b>Site Address:</b>	1800 Filbert Street
<b>Assessor's Block/Lot:</b>	0519/053
<b>Zoning District:</b>	RH-2 (Residential, House – Two-Family)
<b>Staff Contact:</b>	Wayne Farrens, (415) 575 – 9172 or <a href="mailto:wayne.farrens@sfgov.org">wayne.farrens@sfgov.org</a>
<b>Record Number:</b>	2016-009335ZAD

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Dear Mr. Shortes:

This letter is in response to your request for a Letter of Determination regarding the property at 1800 Filbert Street. This parcel is located in the RH-2 (Residential, House – Two-Family) Zoning District and 40-X Height and Bulk District. The request is for confirmation that "Medical Service," as defined in Planning Code Section 790.114, is a permitted use in the existing ground floor commercial space of the subject building.

Planning Code Section 186 allows for indefinite continuance of limited commercial nonconforming uses within the RH-2 Zoning District. However, such nonconforming uses are further limited by Planning Code Section 183, which identifies a nonconforming use as abandoned if it has been discontinued for three or more years. An abandoned nonconforming use loses its nonconforming status and any subsequent uses of the subject property must conform to all applicable provisions of the Planning Code.

Planning Department records indicate that the last known legal use of the subject tenant space was a grocery store in 1985. It is unclear if and how the subject tenant space has been used since that time, but photos of the subject property taken in 2008 indicate that the grocery store use had already been discontinued at that time. Without any records documenting Planning Department approval of any subsequent commercial uses, any such uses are presumed to be illegal. Therefore, regardless of whether any commercial tenant has been present during the three-year time limit, the nonconforming use is determined to have been abandoned. However, per Planning Code Section 186(f), an abandoned nonconforming use may be reactivated with Conditional Use authorization.

In addition to the standard Conditional Use findings required by Planning Code Section 303, the Commission must also find that:

1. The subject space is located on or below the ground floor and was in commercial or industrial use prior to January 1, 1960; and
2. The proposed commercial use meets all applicable requirements of the Planning Code.

Upon approval of a Conditional Use authorization to reactivate the nonconforming commercial use of the subject property, permitted uses would be limited to those that are permitted in all of the following: 1) the NC-1 (Neighborhood Commercial Cluster); 2) any Individual Area Neighborhood Commercial District within ¼ mile of the subject property; and 3) any Restricted Use Subdistrict within ¼ mile of the subject property.

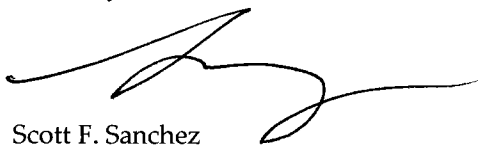
Medical Service, as defined in Planning Code Section 790.114, is a permitted use on the ground floor in both the NC-1 and the Union Street NCD Zoning Districts. The subject property is not located within ¼ mile of any other Individual Area Neighborhood Commercial District or Restricted Use Subdistrict; therefore, Medical Service would be a permitted use on the ground floor of the subject property upon reactivation of the nonconforming commercial use.

The change of use will also be subject to Planning Code Section 311 neighborhood notification. A Building Permit application for the change of use should be submitted in tandem with the Conditional Use authorization application.

**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: William Tookoian, Property Owner  
Neighborhood Groups  
Wayne Farrrens, Planner