



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

January 3, 2017

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

Site Address:	1823 Union Street
Assessor's Block/Lot:	0543/033
Zoning District:	Union Street NCD (Neighborhood Commercial District)
Staff Contact:	Laura Ajello, (415) 575-9142 or laura.ajello@sfgov.org
Record Number:	2016-015452ZAD

Dear Mr. Shortes:

This letter is in response to your request for a Letter of Determination regarding the property at 1823 Union Street. The subject property is located within and Union Street NCD (Neighborhood Commercial District) Zoning District and 40-X Height and Bulk District. The inquiry has two parts: 1) requesting verification of the legality of the existing use at the ground floor level; and 2) whether a proposed new Medical Service use (d.b.a. One Medical Group) is a permitted use in the subject commercial space. The subject parcel is located on the south side of Union Street between Laguna and Octavia Streets.

BACKGROUND

Based upon information provided in your request, the existing use of the ground floor commercial space at 1823 Union Street has been Retail Sales since 2007 (d.b.a BCBGMAXAZARIA, a Formula Retail Use). No physical expansion or exterior changes are proposed by One Medical Group.

Retail Sales and Services is a permitted use pursuant to Planning Code Sections 725.40 and 790.102. Department of Building Inspection records show an approved tenant improvement permit for BCBG in 2006 (BPA No. 2006.0627.5168, issued 9/11/2006, completed 4/20/2007). This permit appears to have been limited to improvements of the existing tenant space and did not include any expansion of the tenant space. The subject use also received approval for a sign permit in 2007 (BPA No. 2007.0109.1291). Formula Retail use currently requires Conditional Use Authorization approval.

The City initiated formula retail regulations in 2004. In 2007, San Francisco voters passed Proposition G, which expanded the controls by requiring Conditional Use Authorization for all formula retail establishments within all Neighborhood Commercial Districts. Per building permit records, the existing Formula Retail store was established prior to this requirement; however, at the time the use was

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established, neighborhood notification pursuant to Planning Code Section 312 was required and, based upon available information, it does not appear that the subject use underwent the required neighborhood notification.

Planning Code Section 725.51 lists Medical Services as a permitted ground floor use within the Union Street NCD. Medical Services is listed as a distinct use category in the Union Street NCD Zoning Control Table (Section 725) and is thus not considered to be an Other Retail Sales and Services use (Section 725.40) as stated in your request letter. The conversion from retail to medical is considered a change of use. However, Section 312 does not require public notification for new Medical Services. Further, Section 303.1 does not consider Medical Services to be a Formula Retail Use.

Use sizes of 2,500 square feet and above in the Union Street NCD also require Conditional Use Authorization per Section 725.21 of the Planning Code. While no record of Conditional Use Authorization approval was found for the subject property, a Planning Code interpretation regarding use size in the NC Districts, effective October 1993, states that per Section 121.2, "a conforming use which was over the threshold but which predated the use size limit requirement could change to a different use occupying the same floor area without a conditional use authorization as long as there was no significant increase in the floor area." Based upon available information, it appears that the current use size of the subject property was legally established according to the applicable zoning and building laws of the time and predated the current use size controls. Given these facts, the proposed change of use at the subject property would not require Conditional Use Approval for Use Size over 2,499 square feet.

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
Laura Ajello, Planner