



PLANNING DEPARTMENT REPORT

Date: January 22, 2025
Report Name: Interim Zoning Controls - Health Services and Social Services in Upper Market Street NCT and Castro Street NCD
Case Number: 2024-007191PCA
Board File: 240683
Staff Contact: Veronica Flores Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

Statement of Purpose

This report was prepared in response to a resolution (BF 240683), introduced by Supervisor Peskin on June 11, 2024, and enacted into law on July 26, 2024 (enactment number 405-24). The resolution imposed interim zoning controls for an 18-month period for parcels within the Upper Market Street Neighborhood Commercial Transit District (NCT) and the Castro Street Neighborhood Commercial District (NCD). The interim controls require a Conditional Use Authorization (CUA) and specified findings for a change of use from a Health Services Use or a Social Services Use. These interim controls will be in effect until January 26, 2026, at which point they may be extended for an additional six months, or until the adoption of permanent controls requiring CUAs for Health Services or Social Services Uses in these districts, whichever occurs first.

The resolution directs the Planning Department to submit a written report to the Clerk of the Board six months after the effective date, and every six months thereafter the resolution is in effect. The report should describe the measures taken to alleviate the conditions that led to the adoption of resolution 405-24. Upon receipt of the report, a hearing is required pursuant to Planning Code Section 306.7(i) for the Land Use and Transportation Committee to consider this report.

Background

According to the adopted resolution, the proposed interim controls were put into effect due to the challenges faced by organizations and individuals providing mental and behavioral health services in the Castro and Upper Market neighborhoods. These providers have been threatened with eviction as landlords attempt to dramatically increase rents in the aftermath of the pandemic. Currently, only a handful of queer-focused health facilities are left in the Castro, and those that provide care at low to no cost are even more

rare. The adopting resolution also emphasizes that the LGBTQ community has a unique need for affordable, culturally competent, and accessible mental, medical, and behavioral health services. It highlights the disparities the LGBTQ community faces in accessing these services within close proximity to the Castro neighborhood and the Castro LGBTQ Cultural District.

Existing Controls Within the Castro and Upper Market Neighborhood

Depending on the services being provided, mental and behavioral health services fall under either Health Service or Social Service or Philanthropic Facility. Health Service uses are principally permitted on the first and second floors and conditionally permitted on the third floor and above within the Upper Market NCT and Castro Street NCD. Additionally, Social Service or Philanthropic Facility uses are principally permitted on all floors in these same districts.

Planning Code Section 102 defines Health Service and Social Service as follows:

Service, Health. *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, Sole Practitioner massage therapists as defined in Section 29.5 of the Health Code, or any other health-care professionals when licensed by a State-sanctioned Board overseeing the provision of medically oriented services. It includes, without limitation, a clinic, primarily providing outpatient care in medical, psychiatric, or other health services, and not part of a Hospital or medical center, as defined by this Section of the Code, and Sole Practitioner Massage Establishments as defined in Section 29.5 of the Health Code, but does not include other Massage Establishments, which are defined elsewhere in this Code.*

Social Service or Philanthropic Facility. *An Institutional Community Use that provides programs and/or services of a charitable or public service nature, including but not limited to arts, education, financial or housing assistance, training, and advocacy. In addition to providing their services on site, such uses may also conduct their administrative activities on site as a Principal Use.*

Affected Projects

The interim controls were put forward in response to the possible eviction of Queer LifeSpace (QLS) in May 2024. QLS was founded in 2011 and located at 2275 Market Street within the Upper Market NCT. It is a nonprofit counseling agency that provides affordable, evidence-based mental health and substance abuse services to the LGBTQIA+ community in the Bay Area. The Department understands that QLS is still operating at the site and has not been evicted. Additionally, the Department has not received any CUA applications triggered by these interim controls.

Environmental Review

This Report was determined not to be a project per State CEQA Guidelines, Sections 15378 and 15060(c)(2), because it does not result in a physical change to the environment.

Report Conclusion

There are at least two other provisions in the Planning Code that require CUA for replacing an existing use: one for replacing movie theaters and the other for grocery stores. However, the Department's experience has shown that this type of land use control is often ineffective in achieving its long-term goals. This is because the city cannot mandate that a business remain operational. These CUA requirements are designed to disincentivize landlords from evicting tenants or demolishing buildings with these uses, aiming to preserve such businesses. Nevertheless, these businesses frequently close because they are no longer economically viable. Once a business ceases operations, the CUA requirement often discourages new tenants from occupying the space, resulting in vacancies that can persist for years or indefinitely. A similar issue arose with the CUA requirement for the removal of gas stations, which was ultimately repealed under the Constraints Reduction Ordinance.

The interim controls under discussion were initially adopted in response to mental and behavioral health service organizations in the Castro and Upper Market neighborhoods facing the threat of eviction due to significant rent increases sought by landlords. As of this report's date, QLS, the one organization known to have been at risk of displacement, continues to operate at its site and has not been evicted. While it is unclear whether these interim controls directly prevented QLS's eviction, it is possible that the CUA requirement played a role in deterring such an outcome; moreover, the Department's understanding is that the outstanding issues between the tenant and landlord have not yet been resolved.

As a long-term solution, the Department does not recommend making these interim controls permanent. The most effective land use approach to encourage and support these uses in any neighborhood is to permit them outright, with minimal regulatory barriers. Other than the CUA requirement for Health Services on the third floor and above, there are no Planning Code restrictions preventing the establishment of Health Service or Social Service uses in these districts. However, implementing permanent controls that require CUA for the replacement of these uses could unintentionally discourage landlords from leasing new spaces to such businesses or organizations.

Health Service and Social Service uses are vital to the city and particularly important to the Castro and Upper Market neighborhoods. Nevertheless, the city should explore alternative, non-land use strategies to retain and attract these critical services in the Castro neighborhood. Such approaches could prove more effective and sustainable in supporting these uses over the long term.

Required Board Action

The Board may approve or disapprove this report.