File No. 120773

Committee Item No. 4
Board Item No. 1

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Economic Development **Date** September 17, 2012

Board of Supervisors Meeting **Date** October 2, 2012

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Completed by: Alisa Miller **Date** September 13, 2012
Completed by: Alisa Miller **Date** September 100, 2012

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Planning Code - Reinstating Liquor License Controls and Establishing Conditional Use Requirement for Limited Restaurants - Union Street Neighborhood Commercial District]

Ordinance amending the San Francisco Planning Code Section 725.1 to: 1) reinstate controls to prohibit liquor license types 47 and 49 in the Union Street Neighborhood Commercial District; and 2) requiring conditional use authorization for Limited Restaurants; and making environmental findings and findings of consistency with the General Plan.

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

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

Section 1. Findings.

(a) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 18695, and incorporates such reasons herein by reference. A copy of said Planning Commission Resolution is on file with the Clerk of the Board of Supervisors in File No. 120773.

(b) The Board of Supervisors finds that this ordinance is in conformity with the General Plan, and the Priority Policies of Planning Code Section 101.1 for the reasons set forth in Planning Commission Resolution No. 18695, and hereby incorporates those reasons by reference.

(c) The Planning Department has determined that the actions contemplated in this ordinance are in compliance with the California Environmental Quality Act (California Public

Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 120773 and is incorporated herein by reference.

Section 2. The San Francisco Planning Code is hereby amended by amending Section 725.1, to read as follows:

SEC. 725.1. UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

The Union Street Commercial District is located in northern San Francisco between the Marina and Pacific Heights neighborhoods. The district lies along Union Street between Van Ness Avenue and Steiner, including an arm extending north on Fillmore Street to Lombard. The shopping area provides limited convenience goods for the residents of sections of the Cow Hollow, Golden Gate Valley, and Pacific Heights neighborhoods immediately surrounding the street. Important aspects of Union Street's business activity are eating and drinking establishments and specialty shops whose clientele comes from a wide trade area. There are also a significant number of professional, realty, and business offices. Many restaurants and bars as well as the district's two movie theaters are open into the evening hours, and on weekends the street's clothing, antique stores and galleries do a vigorous business.

The Union Street District controls are designed to provide sufficient growth opportunities for commercial development that is in keeping with the existing scale and character, promote continuous retail frontage, and protect adjacent residential livability. Small-scale buildings and neighborhood-serving uses are promoted, and rear yards above the ground story and at all residential levels are protected. Most commercial development is permitted at the first two stories of new buildings, while retail service uses are monitored at the third story and above. Controls are necessary to preserve the remaining convenience businesses and to reduce the cumulative impacts which the growth of certain uses have on neighborhood residents. Such controls prohibit additional drinking establishments and limit

additional eating establishments, entertainment, and financial service uses. Most automobile and drive-up uses are prohibited in order to maintain continuous retail frontage and minimize further traffic congestion.

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

SEC. 725. UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

			Union Street
No.	Zoning Category	§ References	**Controls**
BUILDING STANDARDS			
725.10	Height and Bulk Limit	§§ 102.12, 105, 106, 250 - 252, 260, 261.1, 270, 271	40-X Height Sculpting on Alleys: § 261.1
725.11	Lot Size *[Per Development]*	§§ 121.1, 790.56	P, up to 4,999 sq. ft. C 5,000 sq. ft. & above § 121.1
725.12	Rear Yard	§§ 130, 134, 136	Required at the second story and above and at all residential levels § 134(a) (e)
725.13	Street Frontage	*§145.1*	Required

			§ 145.1
725.14	Awning	§ 790.20	P § 136.1(a)
725.15	Canopy	§ 790.26	P § 136.1(b)
725.16	Marquee	§ 790.58	P § 136.1(c)
725.17	Street Trees		Required § 138.1
COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
725.20	Floor Area Ratio	§§ 102.9, 102.11, 123	3.0 to 1 § 124(a) (b)
725.21	Use Size *[Non-Residential]*	§ 790.130	P up to 2,499 sq. ft.; C 2,500 sq. ft. & above § 121.2
725.22	Off-Street Parking, Commercial/Institutional	§§ 150, 153 - 157, 159 - 160, 204.5	Generally, none required if occupied floor area is less than 5,000 sq. ft. §§ 151, 161(g)
725.23	Off-Street Freight Loading	§§ 150, 153 - 155, 204.5	Generally, none required if gross floor

			area is less than 10,000 sq. ft. §§ 152, 161(b)
725.24	Outdoor Activity Area	§ 790.70	P if located in front; C if located elsewhere § 145.2(a)
725.25	Drive-Up Facility	§ 790.30	
725.26	Walk-Up Facility	§ 790.140	P if recessed 3 ft.; C if not recessed § 145.2(b)
725.27	Hours of Operation	§ 790.48	P 6 a.m. - 2 a.m. C 2 a.m. - 6 a.m.
725.30	General Advertising Sign	§§ 262, 602 - 604, 608, 609	
725.31	Business Sign	§§ 262, 602 - 604, 608, 609	P § 607.1(f)(2)
725.32	Other Signs	§§ 262, 602 - 604, 608, 609	P § 607.1(c) (d) (g)

No.	Zoning Category	§ References	Union Street		
			Controls by Story		
		§ 790.118			

			1st	2nd	3rd+
725.38	Residential Conversion	§ 790.84	P	C	C
725.39	Residential Demolition	§ 790.86	P	C	C
Retail Sales and Services					
725.40	Other Retail Sales and Services *[Not Listed Below]*	§ 790.102	P	P	
725.41	Bar	§ 790.22			
725.43	Limited-Restaurant	§ 790.90	~~P~~C#		
725.44	Restaurant	§ 790.91	C#		
725.45	Liquor Store	§ 790.55	C		
725.46	Movie Theater	§ 790.64	P		
725.47	Adult Entertainment	§ 790.36			
725.48	Other Entertainment	§ 790.38	C		

725.49	Financial Service	§ 790.110	C	C	
725.50	Limited Financial Service	§ 790.112	P		
725.51	Medical Service	§ 790.114	P	P	C
725.52	Personal Service	§ 790.116	P	P	C
725.53	Business or Professional Service	§ 790.108	P	P	C
725.54	Massage Establishment	§ 790.60, § 1900 Health Code			
725.55	Tourist Hotel	§ 790.46	C	C	C
725.56	Automobile Parking	§§ 156, 160, 790.8	C	C	C
725.57	Automotive Gas Station	§ 790.14			
725.58	Automotive Service Station	§ 790.17			

725.59	Automotive Repair	§ 790.15			
725.60	Automotive Wash	§ 790.18			
725.61	Automobile Sale or Rental	§ 790.12			
725.62	Animal Hospital	§ 790.6	C		
725.63	Ambulance Service	§ 790.2			
725.64	Mortuary	§ 790.62			
725.65	Trade Shop	§ 790.124	P	C	
725.66	Storage	§ 790.117			
725.68	Fringe Financial Service	§ 790.111			
725.69	Tobacco Paraphernalia Establishments	§ 790.123	C		
725.69B	Amusement Game Arcade (Mechanical Amusement Devices)	§ 790.04			
725.69C	Neighborhood Agriculture	§ 102.35(a)	P	P	P

725.69D	Large-Scale Urban Agriculture	§ 102.35(b)	C	C	C
Institutions and Non-Retail Sales and Services					
725.70	Administrative Service	§ 790.106			
725.80	Hospital or Medical Center	§ 790.44			
725.81	Other Institutions, Large	§ 790.50	P	C	C
725.82	Other Institutions, Small	§ 790.51	P	P	P
725.83	Public Use	§ 790.80	C	C	C
725.84	Medical Cannabis Dispensary	§ 790.141	P		
RESIDENTIAL STANDARDS AND USES					
725.90	Residential Use	§ 790.88	P	P	P
725.91	Residential Density, Dwelling Units	§§ 207, 207.1, 790.88(a)	Generally, 1 unit per 600 sq. ft. lot area § 207.4		

725.92	Residential Density, Group Housing	§§ 207.1, 790.88(b)	Generally, 1 bedroom per 210 sq. ft. lot area § 208
725.93	Usable Open Space *[Per Residential Unit]*	§§ 135, 136	Generally, either 80 sq. ft if private, or 100 sq. ft. if common § 135(d)
725.94	Off-Street Parking, Residential	§§ 150, 153 - 157, 159 - 160, 204.5	Generally, 1 space for each dwelling unit §§ 151, 161(a) (g)
725.95	Community Residential Parking	§ 790.10	

SPECIFIC PROVISIONS FOR THE UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT

Section	Other Code Section	Zoning Controls
§ 725.44	§ 790.91	UNION STREET RESTAURANTS **Boundaries:** Applicable to the Union Street

		Neighborhood Commercial District **Applicability:** The following controls apply to new uses as well to significant alterations, modifications, and intensifications of existing uses pursuant to § 178(c) of the Planning Code. **Controls:** The Planning Commission may approve a ~~R~~restaurant if, in addition to meeting the criteria set forth in Section 303, *(1)* the use ~~(1)~~ is located on the ground floor, and (2) the Planning Commission finds that an additional ~~R~~restaurant would not result in a net total of more than 44 restaurants in the Union Street Neighborhood Commercial District. The Planning Department shall apply Article 7 zoning controls for Union Street ~~Full-Service~~ ~~R~~restaurants to conditional use authorizations required by Planning Code § 178, including but not limited to significant alterations, modifications, and intensifications of use. *No new alcoholic beverage license type 47 or 49 shall be permitted in the Union Street NCD. Transfer of an existing license type 47 or 49 from an existing Restaurant* ~~or Limited~~

		~~Restaurant~~ *located within the Union Street NCD to another Restaurant* ~~or Limited Restaurant~~, *new or existing, located within the Union Street NCD is permitted with Conditional Use authorization, consistent with the requirements of Planning Code Section 303.*
§ 725.68	§ 249.35	FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD) **Boundaries:** The FFSRUD and its 1/4 mile buffer includes, but is not limited to, the Union Street Neighborhood Commercial District. **Controls:** Within the FFSRUD and its 1/4 mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its 1/4 mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).

Section 3. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,

punctuation, charts, diagrams, or any other constituent part of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

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

By: _____
KATE HERRMANN STACY
Deputy City Attorney

FILE NO. 120773

LEGISLATIVE DIGEST

[Planning Code - Reinstating Liquor License Controls and Establishing Conditional Use Requirement for Limited Restaurants - Union Street Neighborhood Commercial District]

Ordinance amending the San Francisco Planning Code Section 725.1 to: 1) reinstate controls to prohibit liquor license types 47 and 49 in the Union Street Neighborhood Commercial District; and 2) requiring conditional use authorization for Limited Restaurants; and making environmental findings and findings of consistency with the General Plan.

Existing Law

Currently, there is no prohibition on new liquor license type 47 and 49 and no conditional use permit requirement for liquor license transfers in the Union Street Neighborhood Commercial District. Limited Restaurants are permitted as principally permitted uses in the District.

Amendments to Current Law

This legislation prohibits new liquor license types 47 and 49 in the Union Street Neighborhood Commercial District and requires conditional use authorization for any transfers of liquor license types 47 and 49 in the District. Limited Restaurants would be permitted as conditional uses in the Union Street Neighborhood Commercial District.

Background Information

Ordinance No. 75-12 amended sections of the Planning Code to simplify definitions of eating and drinking establishments, which resulted in allowing certain kinds of restaurants in the Union Street Neighborhood Commercial District to apply for alcoholic beverage licenses. The intent of this legislation is to reinstate the alcoholic beverage license and restaurant controls that existed in the Union Street Neighborhood Commercial District before Ordinance No. 75-12 was enacted.

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

July 23, 2012

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

Dear Commissioners:

On July 17, 2012, Supervisor Farrell introduced the following proposed legislation:

File No. 120773

Ordinance amending the San Francisco Planning Code Section 725.1 to: 1) reinstate controls to prohibit liquor license types 47 and 49 in the Union Street Neighborhood Commercial District; and 2) requiring conditional use authorization for Limited Restaurants; and making environmental 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

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

Non-physical exemption
CEQA Section 15060(c)(2)
July 25, 2012
JOY NAVARRETE

SAN FRANCISCO
PLANNING DEPARTMENT

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

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September 13, 2012

Ms. Angela Calvillo, Clerk
Honorable Supervisor Mark Farrell
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2012.0947T:**
Reinstate Union Street Liquor License Controls
Board File No. 12-0773
Planning Commission Recommendation: ***Approval with Modifications***

Dear Ms. Calvillo and Supervisor Farrell,

On September 9, 2012, the San Francisco Planning Commission conducted a duly noticed public hearing at regularly scheduled meetings to consider the proposed amendments to Planning Code Section 725.1 to reinstate liquor license controls and to require Conditional Use authorization for Limited-Restaurants in the Union Street Neighborhood Commercial District introduced by Supervisor Mark Farrell. At the hearing, the Planning Commission recommended approval with modifications.

The modifications proposed by the Planning Commission are as follows (underlined text is language proposed in the Ordinance, strike through text is proposed for removal by the Planning Commission):

No new alcoholic beverage license type 47 or 49 shall be permitted in the Union Street NCD. Transfer of an existing license type 47 or 49 from an existing Restaurant ~~or Limited Restaurant~~ located within the Union Street NCD to another Restaurant ~~or Limited Restaurant~~, new or existing, located within the Union Street NCD is permitted with Conditional Use authorization, consistent with the requirements of Planning Code Section303.

The proposed amendments have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commissions.

Please find attached documents relating to the actions of both Commissions. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

cc:
Supervisor Mark Farrell
Kate Stacy, City Attorney

Attachments (one copy of the following):
Planning Commission Resolution
Planning Department Executive Summary

SAN FRANCISCO
PLANNING DEPARTMENT

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

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Planning Commission Resolution No. 18695

HEARING DATE SEPTEMBER 6, 2012

Project Name:	**Reinstate Union Street Liquor License Controls**
Case Number:	2012.0947T [Board File No. 12-0773]
Initiated by:	Supervisor Farrell
Introduced on:	July 17, 2012
Staff Contact:	Aaron Starr, Legislative Affairs aaron.starr@sfgov.org, 415-558-6362
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE SAN FRANCISCO PLANNING CODE BY AMENDING PLANNING CODE SECTION 725.1 TO REINSTATE CONTROLS TO PROHIBIT LIQUOR LICENSE TYPES 47 AND 49 IN THE UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND BY REQUIRING CONDITIONAL USE AUTHORIZATION FOR LIMITED RESTAURANTS.

WHEREAS, on July 17, 2012, Supervisors Farrell introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-0773, which would amend the San Francisco Planning Code by amending Planning Code section 725.1 to reinstate controls to prohibit liquor license types 47 and 49 in the Union Street Neighborhood Commercial District and by requiring Conditional Use authorization for Limited Restaurants; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 6, 2012; 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. Specifically, the Commission recommends the following modifications:

Modify the proposed Ordinance in the following manner (underlined text is language proposed in the Ordinance, strike through text is proposed for removal by the Planning Department):

No new alcoholic beverage license type 47 or 49 shall be permitted in the Union Street NCD. Transfer of an existing license type 47 or 49 from an existing Restaurant ~~or Limited Restaurant~~ located within the Union Street NCD to another Restaurant ~~or Limited Restaurant~~, new or existing, located within the Union Street NCD is permitted with Conditional Use authorization, consistent with the requirements of Planning Code Section303.

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. Planning Department and Commission intended to preserve as many existing tailored controls for neighborhood commercial districts in the Restaurant Ordinance as possible.

2. While the Commission finds that Limited-Restaurants are a less impactful use and do not warrant Conditional Use authorization in most neighborhoods, the Commission recognizes that some neighborhoods may have an overconcentration and there appears to be neighborhood consensus on Union Street for requiring Conditional Use authorization for Limited-Restaurants.

3. By definition, Limited-Restaurants cannot have a License Type 47 or 49; the language that the Commission is recommending be deleted from the Ordinance is unnecessary and contradicts the definition of a Limited-Restaurant.

4. **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 seeks to limit the number of eating and drinking establishments within the Union Street Neighborhood Commercial District to help preserve a diversity of uses including neighborhood serving businesses.

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 seeks to limit the number of eating and drinking establishments within the Union Street Neighborhood Commercial District to help preserve a diversity of uses including neighborhood serving businesses.

   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 will help preserve existing neighborhood character by ensuring that one type of use, mainly eating and drinking uses, do not over saturate the district.

   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 with the modification outlined above.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 6, 2012.

Linda D. Avery
Commission Secretary

AYES: Commissioners Moore, Antonini, Fong, Wu, Hillis and Borden

NOES: Commissioner Sugaya

ABSENT: None

ADOPTED: September 6, 2012

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Planning Code Text Change
HEARING DATE: SEPTEMBER 6, 2012

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Project Name:	**Reinstate Union Street Liquor License Controls**
Case Number:	2012.0947T [Board File No. 12-0773]
Initiated by:	Supervisor Farrell
Introduced on:	July 17, 2012
Staff Contact:	Aaron Starr, Legislative Affairs aaron.starr@sfgov.org, 415-558-6362
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Planning Code by amending Planning Code Section 725.1 to reinstate controls to prohibit liquor license types 47 and 49 in the Union Street Neighborhood Commercial District and by requiring Conditional Use authorization for Limited-Restaurants.

The Way It Is Now:

A Restaurant, as defined by the Planning Code, is permitted to obtain a license type 47[1] or 49[2] so long as it operates as a bona fide eating establishment (at least 51% of their gross receipts come from the sale of food). Limited-Restaurants, as defined by the Planning Code, are permitted as of right in the Union Street NCD and by definition are not permitted to have onsite alcohol consumption.

The Way It Would Be:

No new license type 47 or 49 would be permitted in the Union Street NCD but existing licenses could be transferred within the District and Limited-Restaurants would require Conditional Use authorization.

---

[1] **ABC License Type 47: On-Sale General for Bona Fide Public Eating Place (Restaurant)** - Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

[2] **ABC License Type 49: On-Sale General for Seasonal Businesses** - Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.

ISSUES AND CONSIDERATIONS

Alcohol Controls

Prior to the adoption of the Restaurant Ordinance[3], the Planning Department categorized a restaurant with a license type 47 or 49 as both a restaurant and a bar. Therefore, if bars were prohibited in a particular Neighborhood Commercial District (NCD), a restaurant could not obtain new ABC license type 47 or 49. With the adoption of the Restaurant Ordinance, Restaurants can now have a full liquor license without being considered a bar as long as they operated as a bona fide eating establishment (at least 51% of gross receipts come from food service).

The Union Street neighborhood crafted their eating and drinking controls with the intention of prohibiting any new license type 47 and 49 in the Union Street NCD simply by prohibiting new bars. This worked prior to the adoption of the Restaurant Ordinance, but not under the new rules.

Limited Restaurant Controls

When the Planning Department proposed the new restaurant controls it provided two options for how the new uses would be entitled. The option that the Planning Commission adopted made all Limited-Restaurants principally permitted in each Neighborhood Commercial District. This was the Department's preferred option because it allowed the least impactful use as of right, and it removed additional process. However, we also realized that some NCDs would want Limited-Restaurants to require Conditional Use or prohibit them outright if there was an over concentration. We anticipated that these changes would be made by individual Supervisors either when the legislation went to the Board, or in trailing legislation once there was a consensus in the neighborhood that such a change was desired, as is the case with this legislation.

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 modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Modify the proposed ordinance in the following manner (underlined text is language proposed in the Ordinance, strike through text is proposed for removal by the Planning Department):

No new alcoholic beverage license type 47 or 49 shall be permitted in the Union Street NCD. Transfer of an existing license type 47 or 49 from an existing Restaurant ~~or Limited Restaurant~~ located within the Union Street NCD to another Restaurant ~~or Limited Restaurant~~, new or existing, located within the Union Street NCD is permitted with Conditional Use authorization, consistent with the requirements of Planning Code Section303.

[3] BF 120084, Ord. 0075-12 passed by the Planning Commission on November 17, 2011 and effective on May 24, 2012.

BASIS FOR RECOMMENDATION

- Planning Department intended to preserve as many existing tailored controls for NCDs in the Restaurant Ordinance as possible.
- While the Department believes that Limited-Restaurants are a less impactful use and do not warrant Conditional Use authorization in most NCDs, we recognize that some neighborhoods may have an overconcentration and there appears to be neighborhood consensus on Union Street for requiring Conditional Use authorization for Limited-Restaurants.
- By definition, Limited-Restaurants cannot have a License Type 47 or 49; the language that the Department is recommending be deleted from the Ordinance is unnecessary and contradicts the definition of a Limited-Restaurant.

ENVIRONMENTAL REVIEW

The Department determined that the proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

The Department has received no public comment on this proposal.

RECOMMENDATION:	**Recommendation of Approval with Modifications**

Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Draft Board of Supervisors Ordinance [Board File No. 12-0773]

SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

September 12, 2012

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

File No. 120773 [Planning Code - Reinstating Liquor License Controls and Establishing Conditional Use Requirement for Limited Restaurants - Union Street Neighborhood Commercial District]

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On September 10, 2012 the Small Business Commission met and voted 6-0 to recommend approval of BOS File No. 120773.

This ordinance proposes to accomplish two changes to the planning code as it relates to the Union Street Neighborhood Commercial District:

1) Returns controls for Type 47 and 49 liquor licenses to the status that they held prior to the April 2012 Restaurant Consolidation Ordinance.

The Commission recognizes that with complex legislation such as the Restaurant Consolidation Ordinance, that trailing legislation is sometimes required to correct unintended consequences. Since this part of the legislation only reverts back to the prior controls, the Commission is supportive of this section.

2) Requires Conditional Use Authorization for Limited Restaurants in the NCD.

The Commission supported the policy decision to make Limited Restaurants a permitted by right use in a majority of NCD's and believes that this less intensive use should generally be permitted by right throughout the City. Commissioners however, are cognizant that each NCD has its own characteristics and that the NCD controls were put in place to allow for the customization of controls in each individual neighborhood. Based on the consistent feedback from neighbors and merchants, the Commission supports requiring a Conditional Use Authorization for Limited Restaurants in the NCD and commends the Supervisor for working with stakeholders to modify the controls.

SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Supervisor Farrell, Mar, Wiener, Cohen
Jason Elliott, Mayor's Office
Aaron Starr, Planning Department

SMALL BUSINESS ASSISTANCE CENTER/ SMALL BUSINESS COMMISSION
1 DR. CARLTON B. GOODLETT PLACE, ROOM 110 SAN FRANCISCO, CALIFORNIA 94102-4681
(415) 554-6481

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☒ 1. For reference to Committee: Land Use & Economic Development

An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee:

☐ 4. Request for letter beginning "Supervisor _____ inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. _____ from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No.

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☒ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

Supervisor Mark E. Farrell, Wiener

Subject:

Reinstating liquor license controls and establishing conditional use requirement for Limited Restaurants in the Union Street NCD

The text is listed below or attached:

Signature of Sponsoring Supervisor: Mark E. Farrell

For Clerk's Use Only:

120773