

File No. 140875

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use & Development

Date Nov. 17, 2014

Board of Supervisors Meeting


Date _____

Cmte Board

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Completed by:  Date 11.13.14
 Completed by: _____ Date _____

1 [Planning Code - Amending the Third Street Alcohol Restricted Use District]

2
3 **Ordinance amending the Planning Code to amend the Third Street Alcohol Restricted**
4 **Use District to allow Alcoholic Beverage Control Type 23, "Small Beer Manufacturer"**
5 **Licenses; and making environmental findings, and findings of consistency with the**
6 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

7 **NOTE: Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

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

15 Section 1.

16 (a) The Planning Department has determined that the actions contemplated in this
17 ordinance comply with the California Environmental Quality Act (California Public Resources
18 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
19 Supervisors in File No. 140875 and is incorporated herein by reference.

20 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
21 amendments will serve the public necessity, convenience, and welfare for the reasons set
22 forth in Planning Commission Resolution No. 19266 and the Board incorporates such reasons
23 herein by reference. A copy of Planning Commission Resolution No. 19266 is on file with the
24 Clerk of the Board of Supervisors in File No. 140875.

25 (c) On October 23, 2014, the Planning Commission, in Resolution No. 19266, adopted
findings that the actions contemplated in this ordinance are consistent, on balance, with the
City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. 140875, and is incorporated herein by reference.

3 Section 2. The Planning Code is hereby amended by revising Section 249.62, to read
4 as follows:

5 **SEC. 249.62. THIRD STREET ALCOHOL RESTRICTED USE DISTRICT.**

6 There is an unusually large number of establishments dispensing alcoholic beverages,
7 including beer and wine, for both on-site and off-site consumption in the Bayview area. The
8 existence of this many alcoholic beverage establishments appears to contribute directly to
9 numerous peace, health, safety and general welfare problems in the area, including loitering,
10 littering, drug trafficking, prostitution, public drunkenness, defacement and damaging of
11 structures, pedestrian obstructions, as well as traffic circulation, parking and noise problems
12 on public streets and neighborhood lots. The existence of such problems creates serious
13 impacts on the health, safety and welfare of residents of nearby single- and multiple-family
14 areas, including fear for the safety of children, elderly residents and of visitors to the area. The
15 problems also contribute to the deterioration of the neighborhood and concomitant
16 devaluation of property and destruction of community values and quality of life. The number of
17 establishments selling alcoholic beverages and the associated problems discourage more
18 desirable and needed commercial uses in the area.

19 (a) In order to preserve the residential character and the neighborhood-serving
20 commercial uses of the area, the Third Street Alcohol Restricted Use District (Third Street
21 Alcohol RUD) is hereby established for the property in the area generally bounded by Islais
22 Creek to the North, Quint Street, Phelps Street, Tampa Street, Bridgeview Drive, Newhall
23 Street, Venus Street and Egbert Avenue to the West, US Highway 101 to the South, and
24 Mendell Street, La Salle Avenue, Keith Street, Palou Street, Jennings Street, and Ingalls
25

1 Street to the East, as designated on Sectional Map numbers 8 and 10. The Third Street
2 Alcohol RUD is designated on Section Map Numbers 8SU and 10SU.

3 (1) No new on-sale or off-sale liquor establishment shall be permitted in the
4 Third Street Alcohol RUD.

5 (2) The prohibition on Liquor Establishments shall not be interpreted to prohibit
6 the following:

7 (A) Temporary uses, as described in Planning Code Section 205.1 or
8 205.3;

9 (B) Establishment of a Liquor Establishment if application for such Liquor
10 Establishment is on file with the California Department of Alcoholic Beverage Control prior to
11 the effective date of legislation establishing the Third Street Alcohol RUD; ~~or~~

12 (C) Sales of wine and brandy pursuant to an Alcohol Beverage Control
13 (ABC) License Type 2; or

14 (D) Sales and manufacturing of beer pursuant to an Alcohol Beverage Control
15 (ABC) License Type 23.

16 (3) Continuation of existing Prohibited Liquor Establishments. In the Third Street
17 Alcohol RUD, any Prohibited Liquor Establishment may continue in accordance with Planning
18 Code Section 180 through 186.2, subject to the following provisions.

19 (A) A Prohibited Liquor Establishment lawfully existing and selling
20 alcoholic beverages as licensed by the State of California prior to the effective date of this
21 legislation, or subsequent legislation prohibiting that type of Liquor Establishment, so long as
22 otherwise lawful, may continue to operate only under the following conditions, as provided by
23 California Business and Professions Code Section 23790:

24 (i) Except as provided by Subsection (B) below, the premises
25 shall retain the same type of retail liquor license within a license classification; and

1 (2ii) Except as provided by Subsection (B) below, the licensed
2 premises shall be operated continuously, without substantial change in mode or character of
3 operation.

4 (B) A break in continuous operation shall not be interpreted to include the
5 following, provided that the location of the establishment does not change, the square footage
6 used for the sale of alcoholic beverages does not increase, and the type of California
7 Department of Alcoholic Beverage Control Liquor License ("ABC" License) does not change
8 except as indicated:

9 (1i) A change in ownership of a Prohibited Liquor Establishment or
10 an owner-to-owner transfer of an ABC License;

11 (2ii) Re-establishment, restoration or repair of an existing
12 Prohibited Liquor Establishment on the same lot after total or partial destruction or damage
13 due to fire, riot, insurrection, toxic accident or act of God; ~~or~~

14 (3iii) Temporary closure of an existing Prohibited Liquor
15 Establishment for not more than ninety (90) days for repair, renovation or remodeling;

16 (4iv) Re-location of an existing Prohibited Liquor Establishment in
17 the Third Street Alcohol RUD to another location within the same Third Street Alcohol RUD
18 with conditional use authorization from the City Planning Commission, provided that the
19 original premises shall not be occupied by a Prohibited Liquor Establishment, unless by
20 another Prohibited Liquor Establishment that is also relocating from within the Third Street
21 Alcohol RUD; or

22 (5v) A change from a Type 21 (off-sale) to a Type 20 (off-sale beer
23 and wine) license or a change from any Alcohol Beverage Control Board License type to a
24 Type 41 (on-sale beer and wine - eating place).

1 (b) The following shall apply to all liquor establishments in the Third Street Alcohol
2 RUD in order to maintain the safety of the premises and vicinity:

3 (1) Liquor establishments shall provide outside lighting in a manner sufficient to
4 illuminate street and sidewalk areas and adjacent parking, as appropriate to maintain security,
5 without disturbing area residences; *and*

6 (2) No more than 33 percent of the square footage of the windows and clear
7 doors of Liquor establishments shall bear advertising or signage of any sort, and all
8 advertising and signage shall be placed and maintained in a manner that ensures that law
9 enforcement personnel have a clear and unobstructed view of the interior of the premises,
10 including the area in which the cash registers are maintained, from the exterior public
11 sidewalk or entrance to the premises. This requirement shall not apply to premises where
12 there are no windows, or where existing windows are located at a height that precludes a view
13 of the interior of the premises to a person standing outside the premises.

14 (c) Definitions.

15 ~~(1)~~ *A* "Liquor establishment" shall mean any enterprise selling alcoholic
16 beverages, as defined by California Business and Professions Code Section 23004 and
17 23025, pursuant to a California Alcoholic Beverage Control Board license.

18 *"Off-sale liquor establishment" shall mean any establishment that is defined in Section*
19 *790.55 of this Code.*

20 ~~(2)~~ *An* "On-sale liquor establishment" shall mean any liquor establishment
21 which has obtained Alcoholic Beverage Control Board license type 40 (on-sale beer), type 42
22 (on-sale beer and wine public premises), type 48 (on-sale general-public premises) or type 57
23 (special on-sale general) selling alcoholic beverages for consumption on the premises.
24 Typical on-sale establishments may include but are not limited to bars serving alcoholic
25 beverages. It shall not include types 41, 47, 51, 52, 59, 60, 61, 67, 70 or 75.

1 ~~(3) An "off-sale liquor establishment" shall mean any establishment that is defined in~~
2 ~~Section 790.55 of this Code.~~

3 (4) A "prohibited liquor establishment" shall mean any establishment selling
4 alcoholic beverages lawfully existing prior to the effective date of the establishment of the
5 Third Street Alcohol RUD and licensed by the State of California for the retail sale of alcoholic
6 beverages for on- or off-site consumption, so long as otherwise lawful.

7 (d) Fringe Financial Services. In addition to all other applicable controls set forth in this
8 Code, properties in the Third Street Alcohol Restricted Use District are within the Fringe
9 Financial Service Restricted Use District established by Section 249.35 and are subject to the
10 controls and exemptions set forth in Section 249.35.

11 Section 3. Effective Date. This ordinance shall become effective 30 days after
12 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
13 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
14 of Supervisors overrides the Mayor's veto of the ordinance.

15 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Planning
18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
19 additions, and Board amendment deletions in accordance with the "Note" that appears under
20 the official title of the ordinance.

21
22 APPROVED AS TO FORM:
23 DENNIS J. HERRERA, City Attorney

24 By:

25 
ANDREA RUIZ-ESQUIDE
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Amending the Third Street Alcohol Restricted Use District]

Ordinance amending the Planning Code to amend the Third Street Alcohol Restricted Use District to allow Alcoholic Beverage Control Type 23, "Small Beer Manufacturer" Licenses; and making environmental findings and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

The Planning Code establishes several Alcohol Restricted Districts. These are areas of the City where new establishments that sell alcohol (whether for consumption on- or off- the premises) are limited or prohibited. These restrictions are usually created in order to preserve the character of the different neighborhoods, and to address the numerous peace, health, safety and general welfare problems associated with the existence of a large concentration of establishments that sell alcohol. (See, e.g., Section 249.60 [Mission Alcoholic Beverage Special Use District]; Section 249.62 [Third Street Alcohol Restricted Use District]; Section 783 [Divisadero Street Alcohol Restricted Use District]; and Section 784 [Lower Haight Street Alcohol Restricted Use District].)

The Third Street Alcohol Restricted Use District is located in the area generally bounded by Islais Creek to the North, Quint Street, Phelps Street, Tampa Street, Bridgeview Drive, Newhall Street, Venus Street and Egbert Avenue to the West, US Highway 101 to the South, and Mendell Street, La Salle Avenue, Keith Street, Palou Street, Jennings Street, and Ingalls Street to the East. In the Third Street Alcohol Restricted Use District new liquor stores and bars, as defined in the Planning Code, are prohibited, with some exceptions.

Amendments to Current Law

This ordinance would amend the Third Street Alcohol Restricted Use District to allow the sale and manufacture of beer, pursuant to an Alcoholic Beverage Control (ABC) License Type 2.

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SAN FRANCISCO PLANNING DEPARTMENT

October 24, 2014

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

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

Reception:
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415.558.6409

Planning
Information:
415.558.6377

Re: **Transmittal of Planning Department Case Number 2014.1414T:
Amending the 3rd Street Alcohol Restricted Use District
Board File No. 140875
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Cohen,

On October 23, 2014, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Section 249.62, introduced by Supervisor Cohen. At the hearing the Planning Commission recommended approval with modification.

The proposed modification was to request that the Board of Supervisors consider the requirement of Conditional Use Authorization for Small Beer Manufacturing use (ABC License Type 23) within the Third Street Alcohol Restricted Use District.

The proposed amendments have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378.

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Starr", written over a horizontal line.

Aaron Starr
Acting Manager of Legislative Affairs

Transmittal Materials

**CASE NO. 2014.1414T
Amendments to the 3rd Street Alcohol Restricted Use District**

cc:

Andrea Ruiz Esquide, Deputy City Attorney
Mawuli Tugbenyoh, Aide to Supervisor Cohen
Andrea Ausberry, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution 19266

HEARING DATE OCTOBER 23, 2014

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

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Project Name: Amending the Third Street Alcohol Restricted Special Use District
Case Number: 2014.1414T [Board File No. 140875]
Initiated by: Supervisor Cohen / Introduced July 29, 2014
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Acting Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 249.62 TO ALLOW ALCOHOLIC BEVERAGE CONTROL TYPE 23, "SMALL BEER MANUFACTURER" LICENSES; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on July 29, 2014, Supervisors Cohen introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 140875, which would amend Section 249.62 of the Planning Code to allow Alcoholic Beverage Control Type 23, "Small Beer Manufacturer" licenses;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 23, 2014; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15080(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 with modification** the proposed ordinance.

The Commission recommended modification was to request that the Board of Supervisors consider requiring Conditional Use Authorization for Small Beer Manufacturing uses (ABC License Type 23) within the Third Street Alcohol Restricted Use District.

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. The Third Street Alcohol Restricted Use District (RUD) was adopted in 2003 to address concerns around the negative impacts of the overconcentration and proliferation of off-sale liquor establishments, including liquor stores, along the Third Street Corridor in the Bayview neighborhood.
2. The RUD has been amended repeatedly to accommodate establishments that sell alcohol but that do not produce the negative impacts upon the surrounding community, such as drug dealing, loitering, prostitution and vandalism, as is experienced with liquor stores.
3. In 2007 the RUD was amended to allow off-sale liquor licenses at grocery stores to facilitate the establishment of grocery stores and similar uses where alcohol sales are accessory to the primary product offering of the store and do not have the negative impacts upon the surrounding community as do liquor stores.
4. In 2013 the RUD was amended to allow Alcoholic Beverage Control (ABC) Type 2 Winery Licenses. This amendment afforded the privilege of selling wine and brandy for off-site consumption as well as for on-site wine and brandy tasting, and was recognized as a minor change to the RUD that would not exacerbate the issues that the RUD is intended to address.
5. The growth in micro- or craft beer production is a promising economic trend, affording small business ownership opportunities as well as employment to workers of all skill levels.
6. The Bayview neighborhood, with its ample supply of land zoned for light industrial activity, is uniquely positioned to capture the growth in micro- or craft beer production. It is also a neighborhood where an expansion in economic activity is greatly desired given current conditions.
7. **General Plan Compliance.** The proposed amendments to the Planning Code are not addressed in the General Plan; the Commission finds that the proposed Ordinance is not inconsistent with the Objectives and Policies of the General Plan.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 2

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.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance will attract new commercial activity to the Third Street corridor by allowing smaller scale beer manufacturing within the Third Street Alcohol Restricted Use District. Given the growth of interest in craft brewing, allowing the expansion of such activity will contribute favorably to the social and cultural climate in San Francisco, thereby furthering San Francisco's status as a leading locale for artisanal food and beverages and enhancing its attractiveness as a firm location.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The proposed Ordinance will allow the establishment of beer manufacturers along the Third Street corridor and will provide expanded employment opportunities for unskilled and semi-skilled workers.

OBJECTIVE 4

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

Policy 4.1

Maintain and enhance a favorable business climate in the city.

Policy 4.2

Promote and attract those economic activities with potential benefit to the City.

Policy 4.6

Assist in the provision of available land for site expansion.

The proposed Ordinance enhances the business climate in San Francisco by creating new areas where small beer manufacturing may occur in the southeast sector of the City. Relaxing and rationalizing existing restrictions on light manufacturing uses signals to the business community that San Francisco is an amenable jurisdiction in which to locate. This promotes and attracts new business activity to the City.

BAYVIEW HUNTERS POINT AREA PLAN

OBJECTIVE 1

STIMULATE BUSINESS, EMPLOYMENT, AND HOUSING GROWTH WITHIN THE EXISTING GENERAL LAND USE PATTERN BY RESOLVING CONFLICTS BETWEEN ADJACENT INDUSTRIAL AND RESIDENTIAL AREAS.

Policy 1.4

Encourage development of the South Basin area west of Third Street as a light industrial activity center.

The proposed Ordinance would allow beer manufacturing to locate in the South Basin area west of Third Street, within the Third Street Restricted Alcohol Use District.

OBJECTIVE 7

ENCOURAGE HEALTHY RETAIL REUSE IN THE EXISTING COMMERCIAL CORE OF THIRD STREET AND COMPLEMENTARY GROWTH IN ADJACENT SECTIONS.

Policy 7.1

Make the commercial blocks on Third Street between Kirkwood Avenue to the north and Thomas and Thornton Avenues to the south the core of new commercial growth.

The proposed Ordinance would allow a new commercial activity, beer manufacturing, to locate on Third Street between Kirkwood Avenue to the north and Thomas and Thornton Avenues to the south, within the Third Street Restricted Alcohol Use District.

OBJECTIVE 9

IMPROVE LINKAGES BETWEEN GROWTH IN BAYVIEW'S INDUSTRIAL AREAS AND THE EMPLOYMENT AND BUSINESS NEEDS OF THE BAYVIEW HUNTERS POINT COMMUNITY.

Policy 9.1

Increase employment in local industries.

The proposed Ordinance will create employment opportunities in small beer manufacturing establishments within the Third Street Restricted Alcohol Use District.

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 would not have a negative impact on neighborhood serving retail uses and will not impact 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. By allowing a light industrial activity to locate within areas of the City zoned for such uses, the proposed Ordinance conserves and protects existing neighborhood character and preserves economic diversity.

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 will help the City maintain a diverse economic base by allowing new light industrial activity to locate in an area where such activity was prohibited. The proposed Ordinance will also expand future opportunities for resident employment or ownership in the light industrial sector.

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 impact 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 impact 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 impact on the City's parks and open space and their access to sunlight and vistas.

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.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 23, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Fong, Hillis, Johnson, Richards, Wu

NOES:

ABSENT: Commissioner Moore

ADOPTED: October 23, 2014



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: OCTOBER 23, 2014

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Project Name: Amending the Third Street Alcohol Restricted Special Use District
Case Number: 2014.1414T [Board File No. 140875]
Initiated by: Supervisor Cohen / Introduced July 29, 2014
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Acting Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Third Street Alcohol Restricted Use District (RUD) to allow Alcoholic Beverage Control (ABC) Type 23, "Small Beer Manufacturer" licenses

The Way It Is Now:

Planning Code Section 249.62 established the RUD for the purpose of addressing potential negative impacts from the proliferation of alcoholic beverage licenses within the Bayview neighborhood.¹ To achieve this goal, the RUD prohibits establishments from securing many new on-sale and off-sale alcoholic beverage licenses.² A Small Beer Manufacturer license, because it allows the sale of beer to consumers for consumption on- or off the premises, is currently prohibited.

The Way It Would Be:

The proposed Ordinance would allow Small Beer Manufacturer licenses to locate within the RUD. The privileges allowed a Small Beer Manufacturer license include the production of up to 60,000 barrels of beer per year, the tasting of beer produced on-site and the sale of beer for both on- and off-site consumption.

¹ BF 021338 established the RUD in 2003. Exhibit C provides a map of the RUD.

² The RUD defines an on-sale alcoholic beverage license as a type 40 (On-Sale, Beer), a type 42 (On-Sale, Beer and Wine), a type 48 (On-Sale General- Public Premises) and a type 57 (Special On-Sale General). These licenses are typically issued to bars, taverns or nightclubs. The RUD defines an off-sale alcoholic beverage license as a type 20 (Off-Sale Beer and Wine) or a type 21 (Off-Sale General). These are typically issued to liquor/package stores.

ISSUES AND CONSIDERATIONS

- A principal concern motivating the adoption of the RUD in 2003 was the overconcentration of liquor stores around the Third Street Corridor in the Bayview neighborhood and their contribution to street-oriented misconduct. In light of the drug dealing, loitering and prostitution in the vicinity of liquor stores, the RUD expressly prohibited off-sale liquor licenses.
- In 2007 the RUD was amended to allow off-sale liquor licenses at grocery stores.³ This was done to facilitate the establishment of grocery stores and similar uses where alcohol sales are accessory to the primary product offering of the store and do not have the negative impacts upon the surrounding community as do liquor stores.
- In 2013 the RUD was amended to allow winery licenses.⁴ Winery licenses afford the privilege of selling wine and brandy for off-site consumption as well as for on-site wine and brandy tasting. This amendment was recognized as a minor change to the RUD and one that would not exacerbate the issues that the RUD is intended to address.
- The holder of a Small Beer Manufacturer license is allowed a number of privileges including the production of up to 60,000 barrels of beer per year, the tasting of beer produced on-site, the sale of beer for on- and off-site consumption and the sale of beer and wine at an on-site restaurant. Minors are allowed on the premises.
- A Zoning Administrator Interpretation (August 2005; revised January 2014) allows for the tasting of wine or beer as an accessory use under the following conditions: any tasting would (1) occur entirely during regular operating hours only, (2) take place no more than twice each week for no more than four hours each occurrence and on a further occasional appointment-only basis, (3) not occur on a premises on which any type of permit from the Entertainment Commission is held, (4) not occur in an area physically separated from the main liquor store retail area by full-height partitions or partitions that otherwise prevent clear visual access to and from the main retail area and (5) be limited to one ounce servings and three servings per individual customer per day. Unless an establishment adheres to each of these five conditions it would be considered as operating as a bar under the Planning Code. It is highly likely that the establishments holding a Small Beer Manufacturer's license would not adhere to all five of the aforementioned conditions.
- The production of micro- or craft beer and the number of small breweries in the US has grown tremendously since the 1970's.⁵ The growth in this light industrial activity is a promising economic trend, affording small business ownership opportunities as well as employment to workers of all skill levels.

³ BF 070617 removes grocery and specialty grocery stores from the prohibitions in the RUD on the sale of alcohol for off-site consumption.

⁴ BF131121 exempts the sale of wine and brandy, pursuant to an ABC License Type 2, Winegrower (Winery), from the prohibitions in the RUD.

⁵ http://www.huffingtonpost.com/2012/12/13/craft-beer-breweries_n_2287906.html

- The public input that Planning Department Staff received regarding the proposed Ordinance requests that either a project specific Special Use District be created to allow for one particular operator or that the proposed Ordinance be modified to require Conditional Use Authorization for the small scale manufacture of beer (pursuant to an ABC Type 23 license) within the RUD.

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

BASIS FOR RECOMMENDATION

The RUD's principal focus is restricting the proliferation of retail liquor stores found within the Third Street Corridor because of their negative impacts on the health, safety and general welfare of the surrounding community. The proposed Ordinance does not allow for the proliferation of the retail liquor stores that motivated the adoption of the RUD, but rather facilitates the establishment of a light industrial activity with ancillary retail uses.

When the RUD was originally conceived a secondary emphasis was placed on the regulation of on-site consumption of alcohol. However, the RUD does allow for multiple types of establishments to sell alcohol for on-site consumption, irrespective of food service. These establishments include restaurants, social/athletic clubs, veteran's clubs, hotel/motels and brewpubs. In this context, the Department finds expressly permitting a Small Beer Manufacturer consistent with the intentions and spirit of the RUD.

While public input received to date indicates a desire for either the creation of a project specific Special Use District or the imposition of a Conditional Use Authorization requirement for Small Beer Manufacturing licenses within the RUD, Planning Department Staff believes this would create an unnecessary layer of additional regulation on large swaths of land zoned for this type of light industrial use that is otherwise principally permitted but for RUD.

The proposed Ordinance seeks to augment the San Francisco manufacturing base while capitalizing on the growth in interest in locally produced food and beverages.

The proposed Ordinance will facilitate the expansion of commercial opportunities and employment for workers of all skill levels in the Bayview neighborhood.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Section 249.62, Third Street Alcohol Restricted Use District would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Sections 15080(c)(2) and 15378 of the CEQA Guidelines.

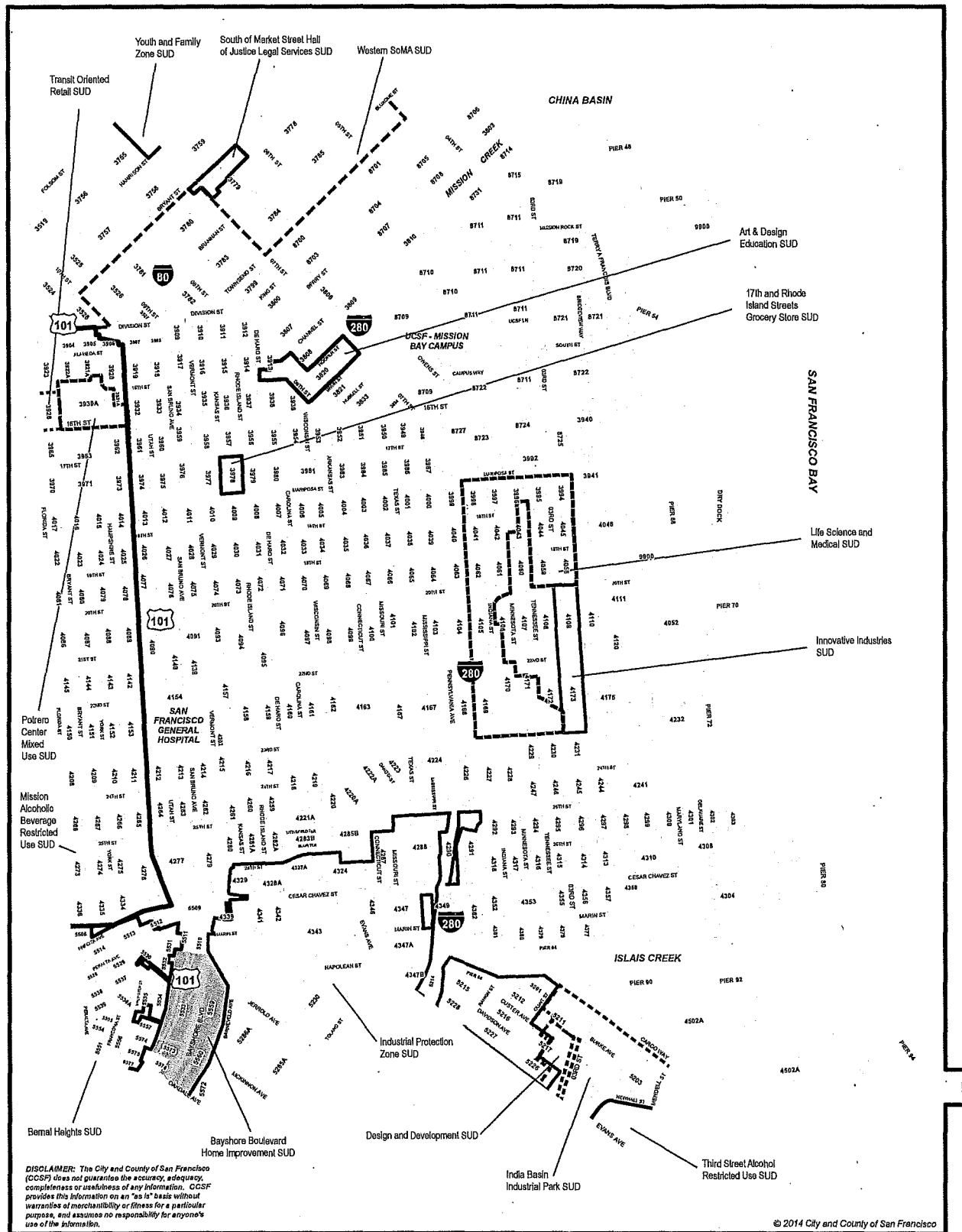
PUBLIC COMMENT

As of the date of this report, the Planning Department has received two letters in regard to the proposed Ordinance. The comments supported the amendment to the RUD that would allow Small Beer Manufacturing either through a Special Use District or through Conditional Use Authorization.

RECOMMENDATION: Recommendation of Approval
--

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 140875
- Exhibit C: Map of the Third Street Alcohol Restricted Use District
- Exhibit D: Letters from the Public



DISCLAIMER: The City and County of San Francisco (CCSF) does not guarantee the accuracy, adequacy, completeness or usefulness of any information. CCSF provides this information on an "as is" basis without warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of the information.

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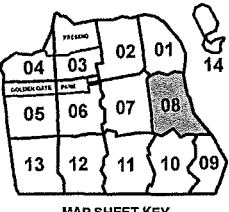
SPECIAL USE DISTRICTS

Included in this Map:

- 17th and Rhode Island Streets Grocery Store SUD
- Art & Design Education SUD
- Bayshore Boulevard Home Improvement SUD
- Bernal Heights SUD
- Design and Development SUD
- India Basin Industrial Park SUD
- Industrial Protection Zone SUD
- Innovative Industries SUD
- Life Science and Medical SUD
- Mission Street Fast Food Restricted Use SUD
- Potrero Center Mixed-Use SUD
- South of Market Street Hall of Justice Legal Services SUD
- Third Street Alcohol Restricted Use SUD
- Transil Oriented Retail SUD
- Western SoMA SUD
- Youth & Family Zone SUD



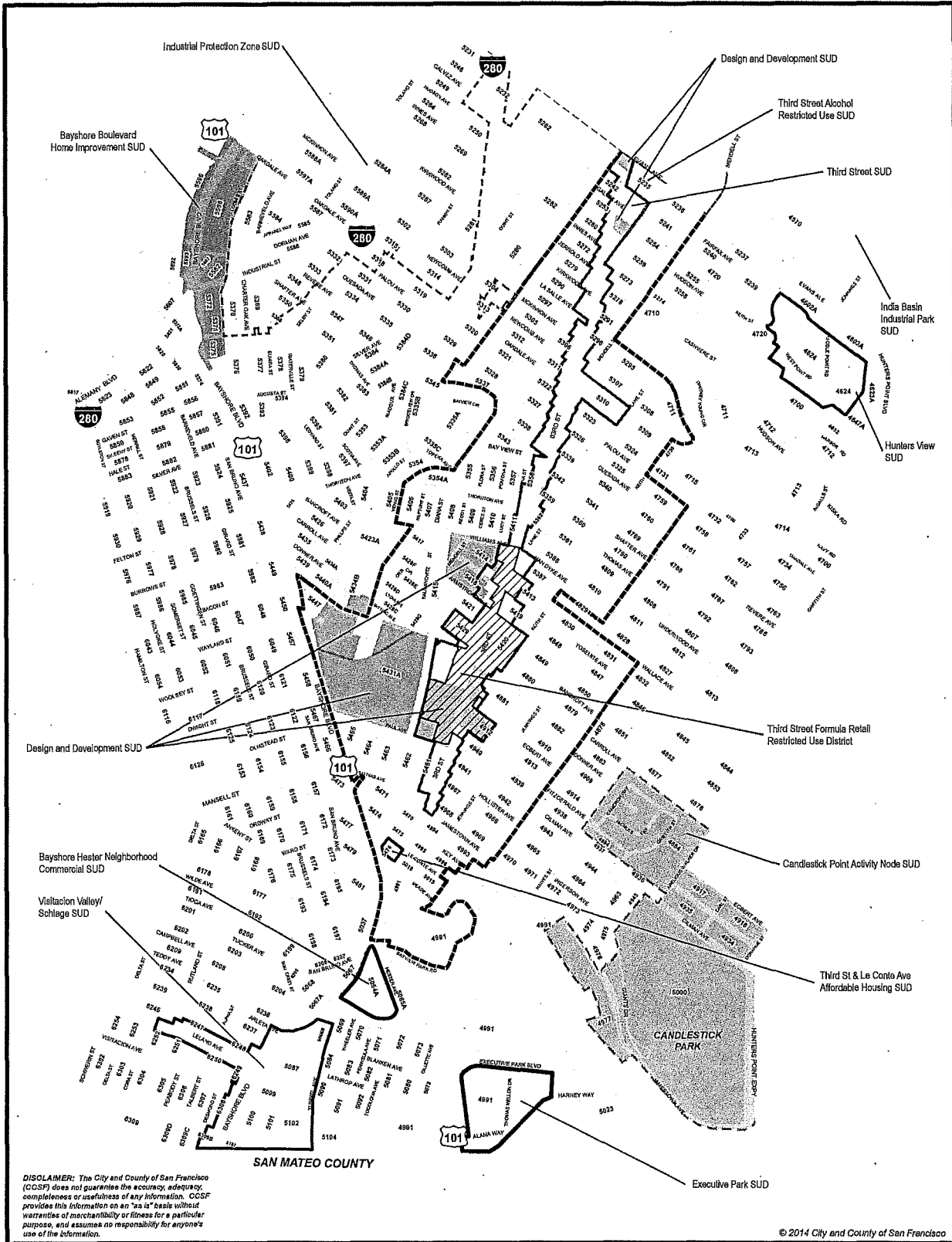
SCALE: 1:14,000



THE ZONING MAP OF THE CITY AND COUNTY OF SAN FRANCISCO IS ESTABLISHED BY SECTIONS 105 AND 108 OF THE PLANNING CODE, A PART OF THE SAN FRANCISCO MUNICIPAL CODE. ZONING USE DISTRICTS ARE ESTABLISHED BY SECTIONS 201, 702, 802 AND 902 OF THE PLANNING CODE. MAP INCORPORATES BOARD OF SUPERVISORS' ORDINANCES ENACTED THROUGH JULY 2014.

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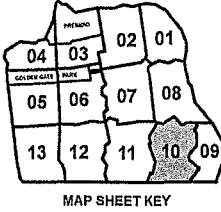
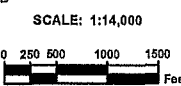
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SPECIAL USE DISTRICTS

Included in this Map:

- Bayshore Blvd Home Improvement SUD
- Bayshore Hester Neighborhood Commercial SUD
- Candlestick Point SUD
- Design and Development SUD
- Executive Park SUD
- Hunters View SUD
- India Basin Industrial Park SUD
- Industrial Protection Zone SUD
- Third Street SUD
- Third Street Alcohol Restricted Use SUD
- Third Street Formula Retail Restricted Use SUD
- Visitation Valley/Schlegle SUD



THE ZONING MAP OF THE CITY AND COUNTY OF SAN FRANCISCO IS ESTABLISHED BY SECTIONS 105 AND 108 OF THE PLANNING CODE, A PART OF THE SAN FRANCISCO MUNICIPAL CODE. ZONING USE DISTRICTS ARE ESTABLISHED BY SECTIONS 201, 702, 802 AND 802 OF THE PLANNING CODE. MAP INCORPORATES BOARD OF SUPERVISORS' ORDINANCES ENACTED THROUGH JAN 2014.

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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

August 19, 2014

File No. 140875

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On July 29, 2014, Supervisor Cohen introduced the following legislation:

File No. 140875

Ordinance amending the Planning Code to amend the Third Street Alcohol Restricted Use District to allow Alcoholic Beverage Control Type 23, "Small Beer Manufacturer" Licenses; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use & Economic Development Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15080(c)(2) because it does not result in a physical change in the environment.

Joy
Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning,
ou=Environmental Planning,
email=joy.navarrete@sfgov.org,
c=US
Date: 2014.09.24 15:30:35 -07'00'

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

MEMORANDUM

TO: Greg Suhr, Chief, Police Department

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development Committee, Board of Supervisors

DATE: August 19, 2014

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Cohen on July 29, 2014:

File No. 140875

Ordinance amending the Planning Code to amend the Third Street Alcohol Restricted Use District to allow Alcoholic Beverage Control Type 23, "Small Beer Manufacturer" Licenses; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Christine Fountain, Police Department
Nelly Gordon, Police Department
Joseph Fong, Police Department
Richard Van Koll, Police Department

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

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development
Committee, Board of Supervisors

DATE: August 19, 2014

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 140875

Ordinance amending the Planning Code to amend the Third Street Alcohol Restricted Use District to allow Alcoholic Beverage Control Type 23, "Small Beer Manufacturer" Licenses; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

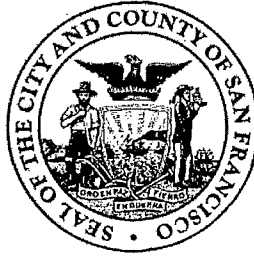
RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

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

August 19, 2014

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On July 29, 2014, Supervisor Cohen introduced the following legislation:

File No. 140875

Ordinance amending the Planning Code to amend the Third Street Alcohol Restricted Use District to allow Alcoholic Beverage Control Type 23, "Small Beer Manufacturer" Licenses; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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 and Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use and Economic Development Committee

- c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
AnMarie Rodgers, Senior Policy Manager
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

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.
An Ordinance, Resolution, Motion, or Charter Amendment.
- 2. Request for next printed agenda Without Reference to Committee or as Special Order at Board.
- 3. Request for hearing on a subject matter at Committee or as Special Order at Board.
- 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. Reactivate File No. []
- 11. Board to Sit as A Committee of the Whole.
- 12. 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 Imperative Form.

Sponsor(s):

Cohen

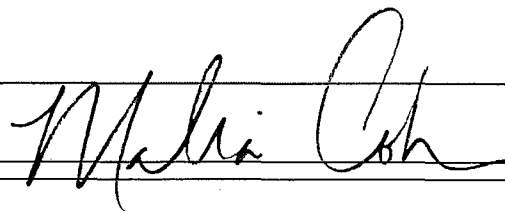
Subject:

Amendment to the Third Street Alcohol Restricted Use District to allow Type 23, "Small Beer Manufacturers" Licenses

The text is listed below or attached:

[]

Signature of Sponsoring Supervisor:



For Clerk's Use Only:

140875