

BOARD of SUPERVISORS



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March 28, 2014

File No. 140236

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

Dear Ms. Jones:

On March 11, 2014, Supervisor Campos introduced the following legislation:

File No. 140236

Ordinance amending the Planning Code, Mission Alcoholic Beverage Special Use District, to allow mini-golf courses functionally and/or physically integrated with a restaurant use to obtain liquor licenses; and making environmental findings, Planning Code, Section 302 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, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Nannie Turrell, Environmental Planning
Jeanie Poling, Environmental Planning

*Not a project under CEQA
Guidelines Sections 15060(c)
and 15378 because there is
no direct or indirect physical
change in the environment.
Nannie Turrell
March 31, 2014*

1 [Planning Code - Mission Alcoholic Beverage Special Use District]

2
3 **Ordinance amending the Planning Code, Mission Alcoholic Beverage Special Use**
4 **District, to allow mini-golf courses functionally and/or physically integrated with a**
5 **restaurant use to obtain liquor licenses; and making environmental findings, Planning**
6 **Code, Section 302 findings, and findings of consistency with the General Plan, and the**
7 **eight priority policies of Planning Code, Section 101.1.**

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

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

16 Section 1. Findings.

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

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

1 (c) On _____, the Planning Commission, in Resolution No. _____, adopted
2 findings that the actions contemplated in this ordinance are consistent, on balance, with the
3 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
4 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
5 Board of Supervisors in File No. _____, and is incorporated herein by reference.
6

7 Section 2. The Planning Code is hereby amended by revising Section 249.60, to read
8 as follows:

9 **SEC. 249.60. MISSION ALCOHOLIC BEVERAGE SPECIAL USE DISTRICT.**

10 The Mission Alcoholic Beverage Special Use District (SUD) applies to the area
11 generally bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street,
12 Cesar Chavez Street, Potrero Avenue and Fourteenth Street, as designated on Sectional
13 Maps 7SU and 8SU of the Zoning Map of the City and County of San Francisco. The controls
14 apply only within the boundaries of the SUD. There is a large number of establishments
15 dispensing alcoholic beverages, including beer and wine, for both on-site and off-site
16 consumption in this area. Bars and Restaurants are concentrated on the commercial corridors
17 of Valencia Street, Mission Street, and 24th Street. Liquor Stores selling off-site liquor are
18 distributed throughout this area. This concentration of alcoholic beverage establishments has
19 contributed to numerous peace, health, safety and general welfare problems in the area.

20 The SUD, which has been in effect since 1987, was established to prohibit new
21 establishments, or expansion of existing establishments, selling alcoholic beverages within
22 the area and prohibited the transfer of liquor licenses. This has resulted in a freezing of
23 entitlements that have less rigorous required operating conditions than are required today.
24 While a net increase in Liquor Stores will continue to be prohibited, the transfer of a liquor
25 license is permissible if the operating conditions currently in effect in the City and County of

1 San Francisco are imposed on the transferee. The area would also benefit from new Grocery
2 Stores of any size that may incidentally sell alcoholic beverages.

3 The following restrictions shall apply within such district:

4 (a) Prohibition of New Liquor Stores. No new Liquor Store, as defined in Section
5 790.55 of this Code, shall be permitted in the SUD, except that an existing Liquor Store may
6 relocate pursuant to subsection (d) below.

7 (b) Allowed Alcohol-related Uses. Certain uses which are not likely to generate
8 negative impacts on the surrounding area shall be allowed within the SUD as set forth below:

9 (1) The following uses shall be eligible for liquor licenses transferred from within
10 the SUD as well as licenses transferred from outside the SUD:

11 (A) Bona Fide Eating Places. A Restaurant Use, as defined in Section 790.91 of
12 this Code, operating as a Bona Fide Eating Place, as defined in Section 790.142, shall be
13 permitted to serve alcoholic beverages in this SUD.

14 (B) Non-Profit Theaters. A non-profit theater shall be permitted to serve
15 alcoholic beverages in this SUD. A "non-profit theater" shall mean a building or part of a
16 building intended to be used for the specific purposes of presenting any act, play, revue,
17 pantomime, scene, song, dance act, or song and dance act, conducted or participated in by
18 one or more persons, whether or not such person or persons are compensated for such
19 performance, and which is exempted from payment of income tax under Section 23701d of
20 the California Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue
21 Code of the United States. A "non-profit theater" shall not include any dance hall, as defined
22 in Section 1022 of the San Francisco Police Code, a billiard parlor, pool hall, bowling alley, or
23 adult entertainment business as defined in Section 790.36 of this Code.

1 (C) Bowling Alleys and Mini-Golf Courses. A bowling alley or a mini-golf course
2 shall be permitted to serve alcoholic beverages along with any Restaurant use which is
3 functionally and/or physically integrated with such bowling alley or mini-golf course.

4 (D) Single Screen Movie Theaters. A single screen movie theater shall be
5 permitted to serve alcoholic beverages, provided that (i) such use is defined as a movie
6 theater in Section 790.64 of this Code and contains only a single screen and auditorium, (ii)
7 only beer and wine are offered for consumption, and (iii) such beer and wine are: (aa) only
8 consumed on the premises and primarily in the main theater auditorium, (bb) only sold and
9 consumed by ticketholders and only immediately before and during performances, and (cc)
10 only offered in conjunction with the screening of films and not as an independent element of
11 the establishment that is unrelated to the viewing of films.

12 (2) The following uses shall be eligible for liquor licenses transferred from within
13 the district:

14 (A) General Groceries as defined in Section 790.102 (a) of this Code or
15 Specialty Groceries, as defined in Section 790.102 (b) that are 5,000 square feet or smaller so
16 long as the percentage of gross square footage devoted to alcohol sales is consistent with the
17 limits set forth in Section 703.2(b)(1)(C)(vi). Such use shall require a Conditional Use
18 authorization and shall be limited to a Type 20 Liquor License for Specialty Groceries and
19 General Groceries, except that such use shall not sell a single beer or malt beverage in a
20 container size of 24 oz. or smaller, or sell any malt beverage with an alcohol content greater
21 than 5.7% by volume; or any wine in a container size less than 375 ml or with an alcohol
22 content of greater than 15% by volume, except for "dinner wines" that have been aged two
23 years or more and maintained in a corked bottle.

24 (B) General Groceries as defined in Section 790.102 (a) of this Code or
25 Specialty Groceries, as defined in Section 790.102 (b) that are greater than 5,000 square feet.

1 (d) Good Neighbor Policies. The operating conditions established in Section 703.5
2 of this Code shall apply to all liquor establishments in this SUD in order to maintain the safety
3 and cleanliness of the premises and vicinity. In addition, all new, relocated, or expanded liquor
4 establishments, and any liquor establishment with a license referred for review to the Planning
5 Department by the State of California Department of Alcohol Beverage Control, shall comply
6 with the requirements set forth below. Liquor establishment shall have the meaning set forth in
7 subsection (c) above.

8 (1) The liquor establishment shall provide outside lighting in a manner sufficient to
9 illuminate street and sidewalk areas and any adjacent parking, as appropriate to maintain
10 security, without disturbing area residences.

11 (2) No more than 33 percent of the square footage of the windows and clear doors
12 of the liquor establishment shall bear advertising or signage of any sort, and all advertising
13 and signage shall be placed and maintained in a manner than ensures that law enforcement
14 personnel have a clear and unobstructed view of the interior of the premises from the exterior
15 public sidewalk or entrance to the premises. This requirement shall not apply to premises
16 where there are no windows, or where existing windows are located at a height that precludes
17 a view of the interior of the premises to a person standing outside the premises. Street facing
18 facades shall maintain at least 50 percent clear and visually-permeable glazing.

19 For any use authorized pursuant to a Conditional Use authorization after the
20 effective date of Ordinance No. _____ repeated violations of the Good Neighbor Policies set
21 forth in this Section, of the operating conditions set forth in Section 703.5 of this Code, or of
22 any conditions associated with a Condition of Approval shall require a hearing at the Planning
23 Commission to consider revocation of the Conditional Use authorization.

24 (e) Fringe Financial Services. In addition to all other applicable controls set forth in
25 this Code, properties in the Mission Alcoholic Beverage Special Use Subdistrict are within the

1 Such use shall require a Conditional Use authorization and shall be subject to the limitations
2 set forth in Section 790.55 of this Code.

3 (C) A new or relocated Bar, as defined in Section 790.22, shall be considered
4 pursuant to the underlying zoning, except that such authorization shall be as a Conditional
5 Use. A new Bar shall use a liquor license transferred from another Bar from within the SUD.

6 (c) Existing Liquor Establishments. For purposes of this subsection, "liquor
7 establishment" shall mean any establishment licensed by the State of California to sell
8 alcoholic beverages except for those uses listed in subsection (b)(1)-(2) above. Any liquor
9 establishment lawfully existing prior to the effective date of this Ordinance No. 180-13 and
10 licensed by the State of California for the retail sale of alcoholic beverages, so long as
11 otherwise lawful, is considered a nonconforming use pursuant to Section 180 , and is subject
12 to the restrictions of Sections 181 and 183 with the following exceptions:

13 (1) Renovation and Repair. Temporary closure of an existing liquor establishment
14 for not more than 120 days for repair, renovation or remodeling is allowed so long as such
15 repair, renovation, or remodeling brings the existing use into closer conformity with the
16 controls of this SUD, with the underlying zoning, or with urban design principles found
17 elsewhere in this Code for active ground floor commercial spaces.

18 (2) Relocation. Relocation of an existing liquor establishment in this SUD to
19 another location within this SUD may be allowed with Conditional Use authorization from the
20 Planning Commission.

21 (3) Expansion. An existing liquor establishment may expand its use with
22 Conditional Use authorization from the Planning Commission. In reviewing the application for
23 such expansion, the Commission shall consider the establishment's prior operating
24 conditions.

1 Fringe Financial Service Restricted Use District established by Section 249.35 and are subject
2 o the controls and exemptions set forth in Section 249.35.

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

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 ANDREA RUIZ-ESQUIDE
12 Deputy City Attorney

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