

File No. 110767

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date October 24, 2011

Board of Supervisors Meeting

Date _____

Cmte Board

- | | | |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

(Use back side if additional space is needed)

- | | | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Environmental Review Determination, dtd 9/9/11</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Planning Commission Resolution No. 10446</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Small Business Commission Recommendation</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Completed by: Alisa Miller Date October 14, 2011

Completed by: _____ Date _____

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

1 [Planning Code - Alcoholic Beverages in Bowling Alleys in the Mission Alcoholic Beverage
2 Special Use Subdistrict]

3 **Ordinance amending the San Francisco Planning Code Section 781.8-~~249.60~~ to: 1)**
4 **permit bowling alleys and single screen theatres in the Mission Alcoholic Beverage**
5 **Special Use Subdistrict to serve alcoholic beverages; and 2) making environmental**
6 **findings, Planning Code Section 302 findings, and findings of consistency with the**
7 **General Plan and the Priority Policies of Planning Code Section 101.1.**

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

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

13 Section 1. Findings.

14 (a) The Planning Department has determined that the actions contemplated in this
15 ordinance comply with the California Environmental Quality Act (California Public Resources
16 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of
17 Supervisors in File No. 110767 and is incorporated herein by reference.

18 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
19 amendments will serve the public necessity, convenience, and welfare for the reasons set
20 forth in Planning Commission Resolution No. 18446 and the Board incorporates such reasons
21 herein by reference. A copy of Planning Commission Resolution No. 18446 is on file with the
22 Board of Supervisors in File No. 110767.

23 (c) This Board finds that these Planning Code amendments are consistent with the
24 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set
25

1 forth in Planning Commission Resolution No. 18446 and the Board hereby incorporates such
2 reasons herein by reference.

3 Section 2. The San Francisco Planning Code is hereby amended by amending Section
4 ~~781.8~~ 249.60, to read as follows:

5 **SEC. ~~781.8~~ 249.60. MISSION ALCOHOLIC BEVERAGE SPECIAL USE**
6 **SUBDISTRICT.**

7 There is an unusually large number of establishments dispensing alcoholic beverages,
8 including beer and wine, for both on-site and off-site consumption in this area. The existence
9 of this many alcoholic beverage establishments appears to contribute directly to numerous
10 peace, health, safety and general welfare problems in the area, including loitering, littering,
11 drug trafficking, prostitution, public drunkenness, defacement and damaging of structures,
12 pedestrian obstructions, as well as traffic circulation, parking and noise problems on public
13 streets and neighborhood lots. The existence of such problems creates serious impacts on
14 the health, safety and welfare of residents of nearby single- and multiple-family areas,
15 including fear for the safety of children, elderly residents and of visitors to the area. The
16 problems also contribute to the deterioration of the neighborhood and concomitant
17 devaluation of property and destruction of community values and quality of life. The number
18 of establishments selling alcoholic beverages and the associated problems discourage more
19 desirable and needed commercial uses in the area. In order to preserve the residential
20 character and the neighborhood-serving commercial uses of the area, there shall be a Mission
21 Alcoholic Beverage Special Use Subdistrict to prohibit new establishments, or expansion of
22 existing establishments, selling alcoholic beverages for the property in the area generally
23 bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez
24 Street, Potrero Avenue and Fourteenth Street as designated on Sectional Map Numbers 7SU
25 and 8SU.

1
2 The following restrictions shall apply within such district:

3 (a) **Prohibition of New Establishments Selling Alcoholic Beverages.** No new
4 establishment where alcoholic beverages are sold, served or given away for on-site or off-site
5 consumption, shall be established in this special use district as set forth below:

6 (1) No new bar, as defined in Planning Code Section 790.22, shall be permitted in this
7 special use district;

8 (2) No new off-sale liquor establishment shall be permitted in the special use district.
9 An "off-sale liquor establishment" shall mean any establishment that is defined in Section
10 790.55 of this Code.

11 (b) **Prohibition of Expansion of Existing Establishments Selling Alcoholic**
12 **Beverages.** Any establishment selling alcoholic beverages lawfully existing prior to the
13 effective date of this resolution and licensed by the State of California for the retail sale of
14 alcoholic beverages for on-site and off-site consumption, so long as otherwise lawful, may
15 continue in existence, provided such establishment remains in use, as follows:

16 (1) In the event that any such establishment ceases to operate or discontinues
17 operation for 30 days or longer as set forth in State law, such use shall be deemed
18 abandoned;

19 (2) No establishment selling alcoholic beverages may substantially change the mode
20 or character of operation of the establishment, nor may it expand the square footage devoted
21 exclusively to the sale of alcoholic beverages, significantly increase the percentage of
22 alcoholic beverage sales as a portion of total sales, or change its type of retail liquor license
23 within a license classification.

24 (c) **Exceptions.** *for*

1 **(1) Bona Fide Restaurant.** A bona fide restaurant shall be permitted to serve
2 alcoholic beverages in this special use district. A "bona fide restaurant" shall mean a place
3 which is regularly used and kept open for the service of meals to guests for compensation and
4 which has (1) suitable kitchen facilities for the cooking of an assortment of foods which may
5 be required for meals, (2) a primary use of sit-down service to patrons, (3) adequate seating
6 arrangements for sit-down patrons provided on the premises, (4) take-out service that is only
7 incidental to the primary sit-down use, (5) alcoholic beverages which are sold or dispensed for
8 consumption on the premises only when served at tables or sit-down counters by employees
9 of the restaurant, and (6) a minimum of 51 percent of the restaurant's gross receipts shall be
10 from the sale of meals. A "bona fide restaurant" does not include any billiard or pool hall,
11 bowling alley, or adult entertainment business as defined in Planning Code Section 790.36.

12 ~~(d)~~ **(2) Exception for Non-Profit Theaters.** A non-profit theater shall be permitted to
13 serve alcoholic beverages in this special use district. A "non-profit theater" shall mean a
14 building or part of a building intended to be used for the specific purposes of presenting any
15 act, play, revue, pantomime, scene, song, dance act, or song and dance act, conducted or
16 participated in by one or more persons, whether or not such person or persons are
17 compensated for such performance, and which is exempted from payment of income tax
18 under Section 23701d of the California Revenue and Taxation Code and Section 501(c)(3) of
19 the Internal Revenue Code of the United States. A "non-profit theater" does not include any
20 dance hall as defined in Section 1060 of the San Francisco Police Code, billiard parlor, pool
21 hall, bowling alley, or adult entertainment business as defined in Planning Code Section
22 790.36.

23 **(3) Bowling Alleys.** *A bowling alley shall be permitted to serve alcoholic beverages along with*
24 *any full-service restaurant, large fast-food restaurant, or small self-service restaurant which is*
25 *functionally and/or physically integrated with such bowling alley.*

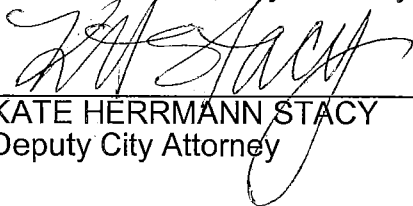
1 (4) Single Screen Movie Theatres. A single screen movie theatre shall be permitted
2 to serve alcoholic beverages, provided that (1) such use is defined as a movie theater in
3 Planning Code Section 790.64 and contains only a single screen and auditorium, (2) only beer
4 and wine are offered for consumption, and (3) such beer and wine are: (i) only consumed on
5 the premises and primarily in the main theater auditorium, (ii) only sold to and consumed by
6 ticketholders and only immediately before and during performances, and (iii) only offered in
7 conjunction with the screening of films and not as an independent element of the
8 establishment that is unrelated to the viewing of films.

9 ~~(e)~~ (d) Fringe Financial Services. In addition to all other applicable controls set forth
10 in this Code, properties in the Mission Alcoholic Beverage Special Use Subdistrict are within
11 the Fringe Financial Service Restricted Use District established by Section 249.35 and are
12 subject to the controls and exemptions set forth in Section 249.35.

13
14 Section 3. Effective Date. This ordinance shall become effective 30 days from the
15 date of passage.

16
17
18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By:


21 KATE HERRMANN STACY
22 Deputy City Attorney
23
24
25

REVISED LEGISLATIVE DIGEST
(Amended in Committee: 10/17/2011)

[Planning Code - Alcoholic Beverages in the Mission Alcoholic Beverage Special Use Subdistrict]

Ordinance amending the San Francisco Planning Code Section 249.60 to: 1) permit bowling alleys and single screen theatres in the Mission Alcoholic Beverage Special Use Subdistrict to serve alcoholic beverages; and 2) making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

Existing Law

Section 249.60 establishes the Mission Alcoholic Beverage Special Use Subdistrict. It prohibits new establishments or the expansion of existing establishments selling alcoholic beverages. It makes exceptions for bona fide restaurants and non-profit theaters. Bona fide restaurants and non-profit theaters do not include a bowling alley or a single screen movie theater if it is not a non-profit theater.

Amendments to Current Law

The proposed legislation adds two new exceptions. In the special use district, a bowling alley will be permitted to serve alcoholic beverages along with any full-service restaurant, large fast-food restaurant, or small self-service restaurant which is functionally and/or physically integrated with the bowling alley. In addition, a single screen movie theater will be permitted to sell beer and wine as long as they are consumed on the premises, primarily in the main theater auditorium, by ticketholders immediately before and during performances, only in conjunction with the screening of films.

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

June 30, 2011

File No. 110767

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

*Not subject to CEQA per
Guidelines Section 15060(c)(2).
Activity will not result in a physical
change in the environment.*

Brett Bollinger 7/07/11
Approved Planning Dept. Brett Bollinger

Dear Mr. Wycko:

On June 21, 2011, Supervisor Kim introduced the following proposed legislation:

File No. 110767

Ordinance amending the San Francisco Planning Code Section 781.8 to: 1) permit bowling alleys in the Mission Alcoholic Beverage Special Use Subdistrict to serve alcoholic beverages; and 2) making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

The legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

Handwritten signature of Alisa Somera in cursive.

By: Alisa Somera, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Nannie Turrell, Major Environmental Analysis
Brett Bollinger, Major Environmental Analysis 2011.0710E



SAN FRANCISCO PLANNING DEPARTMENT

File 11-0767 BOS-11
COB, LU-A/lisa
leg Dep

September 27, 2011

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

650 Mission St.
Suite 400
San Francisco, CA 94103-2479
Reception: 415.558.6378
Fax: 415.558.6409
Planning Information: 415.558.6377

2011 SEP 30 PM 3:17
BB C

**Re: Transmittal of Planning Case Number 2011.0710T
BF No. 11-0767: Amendments to the Mission Alcoholic Beverage SUD**

Recommendation: Approval with Modifications

Dear Supervisor Kim and Ms. Calvillo,

On September 22, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 11-0767.

At the September 22nd hearing, the Commission voted 7-0 to recommend approval with modifications of the proposed Ordinance which would amend the Mission Alcoholic Beverage Special Use Subdistrict to permit bowling alleys to serve alcoholic beverages in conjunction with a full-service, large fast food, or small self-service restaurant that is integrated with the bowling alley. At that hearing, the Commission requested that the proposal be amended to include an additional exception for single-screen movie theaters, allowing these theaters to serve beer and wine. The Commission also recommended that the Ordinance be amended to refer to Planning Code Section 249.60, which is where in the Code the Mission Alcoholic Beverage SUD is now referenced.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission. The attached resolution and exhibit provides more detail about the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

Cc: City Attorneys Cheryl Adams and Judith Boyajian

Attachments (one copy of the following): Planning Commission Resolution No. 18446
Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18446

HEARING DATE: SEPTEMBER 22, 2011

Project Name: Amendments to the Mission Alcoholic Beverage SUD
Case Number: 2011.0710T [Board File No. 11-0767]
Initiated by: Supervisor Kim / Introduced June 21, 2011
Staff Contact: Sophie Hayward, Legislative Affairs
sophie.hayward@sfgov.org, 415-558-6372
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Recommend Approval with Minor Modification**

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH A MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND SECTION 781.8 (NOW SECTION 249.60) OF THE SAN FRANCISCO PLANNING CODE TO PERMIT BOWLING ALLEYS IN THE MISSION ALCOHOLIC BEVERAGE SPECIAL USE DISTRICT TO SERVE ALCOHOLIC BEVERAGES;

PREAMBLE

Whereas, on June 21, 2011, Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 11-0767 which would amend Planning Code Section 781.8 (now Planning Code Section 249.60, as amended August 4, 2011), the "Mission Alcoholic Beverage Special Use District" to allow bowling alleys within the geographic boundaries of the Special Use District to serve alcoholic beverages along with any full-service, large fast-food, or small self-service restaurant that is functionally and/or physically integrated with the bowling alley; and

Whereas, on September 22, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined not to be a project the California Environmental Quality Act Section 15378 and 15060(c)(3); and

Whereas, the 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 the applicant, Department staff, and other interested parties; and

Whereas, the 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 Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed Ordinance with modifications* and adopts the attached Draft Resolution to that effect. The Commission recommends the following modifications:

- That the Ordinance be amended to provide an additional exception for single-screen movie theaters; and
- That the Ordinance refer to Planning Code Section 249.60 for the Mission Alcohol Special Use District. The Code Section was moved from Section 781.8 to 249.60 with Ordinance 140-11, Board File 2011-0482, that became effective on August 4, 2011.

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 Planning Code currently prohibits new establishments, or expanded existing establishments, from distributing alcohol within the geographic area of the Mission Alcoholic Beverage Special Use District (SUD), which is bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez Street, Potrero Avenue and Fourteenth Street;
2. Existing establishments that were in legal operation when the SUD was established may continue to operate provided that they do not cease to operate for a period longer than thirty days and that they neither expand the physical area devoted to the sale of alcohol nor change the character of the operation;
3. Currently, Planning Code Section 249.60 provides two exceptions for the prohibition, which are for bona fide restaurants and non-profit theaters;
4. The Commission believes that the proposed amendment is appropriate for thriving, neighborhood-serving commercial districts;
5. The Commission believes that the proposed amendment to the existing Mission Alcoholic Beverage SUD will facilitate the addition of businesses that provide recreation and entertainment in a manner that is consistent with the neighborhood character and will not contribute to the deterioration of the neighborhood;
6. The Commission notes that although the proposed ordinance would permit bowling alleys to serve alcohol, any change of use to a bowling alley would be subject to neighborhood notification as applicable in the underlying zoning district;
7. The Commission recommends that the Board of Supervisors adopt the proposed Ordinance with a minor technical amendment to change the Planning Code Section that will be amended from 781.8 to Planning Code Section 249.60.

8. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

GOALS

THE THREE GOALS OF THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN RELATE TO CONTINUED ECONOMIC VITALITY, SOCIAL EQUITY, AND ENVIRONMENTAL QUALITY.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

POLICY 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

POLICY 6.10

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

The proposed Ordinance would preserve the intent of the Mission Alcoholic Beverage Special Use District while permitting a specific business type to move into the geographic area of the SUD. The proposal would permit bowling alleys to serve alcohol only in the context of a restaurant that is functionally and/or physically integrated with the bowling alley. This stipulation would ensure that the serving of alcohol would be secondary to the primary entertainment and dining uses, and would minimize any disruptive nuisance to the surrounding neighborhood. The proposed Ordinance will facilitate the addition of businesses that provide recreation and entertainment in a manner that is consistent with the neighborhood character and that will not contribute to the deterioration of the neighborhood.

9. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:
- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will encourage neighborhood-serving retail uses and opportunities for employment in or ownership of such businesses by allowing bowling alleys to serve alcohol in conjunction with restaurants. The intent is to provide for economic growth that will support the neighborhood without causing the deterioration of the neighborhood. The proposed Ordinance will encourage and foster economic growth by helping to attract and retain customers.

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed amendment to allow restaurants in bowling alleys to serve alcohol is intended to provide a means for appropriate businesses that combine recreation, entertainment, and to be located within the Mission Alcoholic Beverages SUD. The proposed Ordinance would not negatively impact the existing housing and neighborhood character of the district.

- C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.

- D) The commuter traffic will 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.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendment. Any new construction or alteration associated with a project would be executed in compliance with all applicable construction and safety measures.

- G) That landmark and historic buildings will be preserved:

Landmarks and historic buildings would be unaffected by the proposed amendment. The proposed amendment would not result in a physical impact to historic structures, and any proposed project would be reviewed under the Department's existing preservation policies.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendment.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on September 22, 2011.

Linda Avery
Commission Secretary

AYES: Antonini, Borden, Fong, Miguel, Moore, Olague, Sugaya,

NAYS: None

ABSENT: None

ADOPTED: September 22, 2011



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: SEPTEMBER 22, 2011

Project Name: Amendments to the Mission Alcohol SUD
Case Number: 2011.0710T [Board File No. 11-0767]
Initiated by: Supervisor Kim / Introduced June 21, 2011
Staff Contact: Sophie Hayward, Legislative Affairs
sophie.hayward@sfgov.org, 415-558-6372
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Recommend Approval with Minor Modification**

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Mission Alcoholic Beverage Special Use Subdistrict (SUD) Planning Code Section 781.8 (recently amended by Board File 2011-0482 to be renumbered as Planning Code Section as 249.60) to permit bowling alleys to serve alcoholic beverages along with any full-service restaurant, large fast-food restaurant, or small self-service restaurant that is integrated with the bowling alley¹.

The Way It Is Now:

The Mission Alcohol SUD, which was established in 1996, prohibits new establishments from distributing – including selling or serving – alcohol within the geographic area of the SUD, which is bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez Street, Potrero Avenue and Fourteenth Street. The SUD also prohibits the expansion of existing establishments that sell or serve alcohol. Establishments such as liquor stores or bars that were in legal operation prior to the establishment of the SUD may continue to operate with two specific caveats:

1. An establishment may not cease to operate for a period longer than 30 days. If a business ceases operations for any period longer than thirty days, the use will be considered abandoned; and
2. There may be no substantial change to the character of an existing business that sells alcohol, including a physical expansion of the area devoted to the sale of alcohol, nor a change in the type of retail liquor license under which the business operates.

Currently, Planning Code Section 249.60 provides two specific exceptions from the prohibition: bona fide restaurants and non-profit theaters (with live performers) may sell and/or serve alcoholic beverages.

The Way It Would Be:

The proposed Ordinance would add a third exception from the prohibition on selling or serving alcoholic beverages within the Mission Alcohol SUD. If adopted, the proposed Ordinance would allow bowling

¹ Ordinance 140-11, renumbering Planning Code Section 781.8 as 249.60 became effective August 4, 2011.

alleys to serve alcoholic beverages along with a full service restaurant that is integrated within the bowling alley.

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. The modification recommended by the Department is minor and is technical in nature:

- Refer to Planning Code Section 249.60 for the Mission Alcohol Special Use District. The Code Section was moved from Section 781.8 to 249.60 with Ordinance 140-11, Board File 2011-0482, that became effective on August 4, 2011.

BASIS FOR RECOMMENDATION

The Mission Alcohol Special Use District was created in 1996 as a way to combat problems within the geographic area that included loitering, littering, drug trafficking, prostitution, public drunkenness, defacement, pedestrian obstructions, and traffic circulation, parking, and noise problems on public streets.

The proposed Ordinance would preserve the intent of the Special Use District, while permitting a specific business type to move into the geographic area of the SUD. The proposal would permit bowling alleys to serve alcohol only in the context of a restaurant that is functionally and/or physically integrated with the bowling alley. This stipulation would ensure that the serving of alcohol would be secondary to the primary entertainment and dining uses, and would minimize any disruptive nuisance to the surrounding neighborhood.

The Department believes that the proposed amendment to the existing Mission Alcohol SUD will facilitate the addition of businesses that provide recreation and entertainment in a manner that is consistent with the neighborhood character and will not contribute to the deterioration of the neighborhood. Although the proposed Ordinance would permit bowling alleys to serve alcohol as-of-right, any change of use to a bowling alley that includes a restaurant would be subject to neighborhood notification as applicable in the underlying zoning district as well as the licensing requirements set forth in State Law.

The Mission Alcohol SUD was the first and most restrictive of the five established Alcohol Special Use Districts identified in the Planning Code, and is the only Alcohol SUD that provides no means of transferring liquor licenses from one location to another within the SUD, nor does it provide a means to add conditions of approval to existing establishments that are permitted to sell and serve alcohol.² The

² There are five additional Alcohol Special Use Districts established in the Planning Code: the 3rd Street Alcohol SUD (Planning Code Section 249.62, established in 2003), the Haight Street Alcohol SUD (Planning Code 781.9, established in 1999), the Divisadero

Department would encourage an expanded effort in the future to consider a more broad review of the controls in the Mission Alcohol Special Use District in order to make the specific controls more consistent with other Alcohol SUDs and to more effectively monitor and condition existing businesses that sell alcohol within the district. While the proposed Ordinance is minor in scope, the Department would encourage an effort to conduct further outreach and to consider broader changes in the future.

The Department's proposed modification is minor. On August 4, 2011 (after the proposed Ordinance was introduced by Supervisor Kim), Planning Code Section 781.8, which defined the Mission Alcohol Special Use District, was moved from Article 7 to Article 2 of the Planning Code. The Mission Alcohol Special Use District is now described, defined, and outlined in Planning Code Section 249.60.

In sum, the Department supports the proposed Ordinance to permit bowling alleys to serve alcohol, provided the alcohol is served as part of a full-service, large fast-food, or a small self-service restaurant that is functionally and/or physically integrated with the bowling alley.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Section 781.8 (now Section 249.60) is not considered a project under CEQA Guidelines Section 15378, and was issued an exemption based on CEQA Section 15060(c)(3) on July 7, 2011.

PUBLIC COMMENT

The Planning Department received one letter regarding the proposed Ordinance. The letter was from George Rush, an attorney representing the owners of the Roxie Movie Theater, requesting that an additional exception be included in the proposed Ordinance to allow single-screen movie theaters to sell alcohol within the Mission Alcoholic Beverages Subdistrict. The letter was received by Staff three days prior to distribution of case reports; therefore, the Department does not feel that there has been sufficient internal review of the request to make a recommendation to the Planning Commission at this time. However, the letter has been included in your packets and the Planning Commission may opt to include a recommendation on the request in its resolution that is transmitted to the Board of Supervisors for its review.

RECOMMENDATION:	Recommendation of Approval with Modifications
------------------------	--

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 11-0767
- Exhibit C: Letter from the Law Office of George M. Rush, dated September 1, 2011

Street Alcohol SUD (Planning Code Section 783, established in 2004), the Lower Haight Alcohol SUD (Planning Code Section 784, established in 2007), and the Excelsior Alcohol SUD (Planning Code Section 785, established in 2008).



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



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

August 11, 2011

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

Re: Board of Supervisors File No. 110767 [Planning Code - Alcoholic Beverages in Bowling Alleys in the Mission Alcoholic Beverage Special Use Subdistrict.]

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On August 8, 2011, the Small Business Commission voted 5-0 to recommend that the Board of Supervisors approve BOS File No. 110767.

The Commission supports the sales of alcohol at bowling alleys with restaurants in the Mission and expresses appreciation to Supervisor Kim and co-sponsor Supervisor Wiener for initiating the necessary steps to ensure that this business model can become a reality.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Supervisors Kim and Wiener
Jason Elliott, Mayor's Office
AnMarie Rogers, Planning Department

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2011 AUG 11 PM 3:20
OIG