



SAN FRANCISCO PLANNING DEPARTMENT

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

**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,

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

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

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

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415.558.6377



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**

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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
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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
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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).