



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



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

February 20, 2013

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

File No. 121065 [Planning Code - Polk Street Alcohol and Tobacco Paraphernalia Restrictions]

Small Business Commission Recommendation: **Approval with modification**

Dear Ms. Calvillo:

On February 11, 2013 the Small Business Commission (SBC) voted 7-0 to recommend approval of BOS File No. 121065 with modifications.

The SBC recognizes alcohol related concerns in the Lower Polk Street area and agrees with Supervisor Chiu that steps are necessary to address the concentration of liquor licenses in the geographic area proposed in the Restricted Use District (RUD.) Alcohol RUD's place significant restrictions on businesses and thoughtful consideration and deliberation was undertaken by the Commission when reviewing the proposal. After receiving input from neighborhood and business stakeholders, the Commission makes the following recommendations, which it believes will allow the new RUD to meet its objectives, while reducing the impacts to small businesses.

The SBC finds that a total ban for Type 48 licenses (Bars) within the RUD is not necessary and recommends that in place of a ban, that proximity controls be put in place to require a buffer distance around existing bars. These proximity controls, recommended to be a 100 foot buffer (not to exceed 150 feet) around existing bars will address the concerns surrounding concentration of liquor establishments adjacent to each other. Noise, loitering, and crime are a legitimate concern when too many licensed establishments are close by to each other. Providing a buffer however, will spread these establishments apart and reduce impacts. It should be noted that maps prepared by the Planning Department indicated that a buffer of as little as 100 feet will essentially ban new bars along a three block stretch of Polk Street, between Post and Pine Street. This is the area of highest concentration of on-sale licenses. While it would restrict new licenses in this area, proximity controls provide enough flexibility that areas off Polk and in the Southern part of the RUD will be able to apply and go through the conditional use process.

The proposed ordinance, as drafted, affirmatively states that Limited-Live Performance (LLP) Locales, as defined in Section 1060 of the Planning Code shall be principally permitted in Restaurants and Limited-Restaurants. Absent is an affirmation that Bars and other venues, such as art galleries will be permitted to obtain a LLP permit. The Commission request that the City Attorney review the legislation and if necessary, clarify that all business types permitted to obtain an LLP be permitted to obtain this permit, without and land use limitation, inside the RUD.



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Other RUD's established over the past decade include a provision adding an exemption the controls for businesses that have an active application for a liquor license on record with the California Department of Alcohol and Beverage Control as of the date the ordinance becomes effective. The Commission recommends that the following language be added to exemptions in this ordinance:

“Establishment of a Liquor Establishment if application for such Liquor Establishment is on file with the California Department of Alcoholic Beverage Control prior to the effective date of legislation establishing the Lower Polk Street Alcohol Restricted Use District.”

This language is necessary to protect businesses that have previously applied for licenses. The entitlement process, including approvals from the Planning Department, Board of Supervisors, and the ABC can take six months or more to receive approvals and businesses that have made investments in pending spaces or business models should be exempted.

The conditions that warrant the creation of the RUD will change in the upcoming years. This neighborhood is currently a night life “hot spot” bringing in thousands of individuals to the neighborhood on weekends. This will inevitably change over the upcoming years and special controls may no longer be necessary. Additionally, it is conceivable that licensed establishments will close over time and may re-locate outside of the RUD. Therefore, the Commission recommends a three to five year sunset provision be put in place. This will require the Board of Supervisors and stakeholders to review the neighborhood conditions in a specified amount of time, in which case the Board, at its discretion may extend the RUD for another period of time. This is consistent with other RUD's that have been passed over the last decade.

Again, RUD's place significant restrictions on businesses and often can have unintended consequences. For instance, a neighborhood may want restrictions placed on liquor stores, but welcome a boutique wine shop, which, under the Planning Code is considered a liquor store. In addition, the values of alcohol license and commercial spaces can be affected by a RUD. In reviewing the Lower Polk Alcohol RUD however, with the above amendments, the Commission has determined that the proposal merits support in order to address issues with concentration of alcohol licenses in this geographic area. The Commission appreciates the collaboration that Supervisor Chiu and his office have had with SBC staff and also thanks Sophie Hayward of the Planning Department for her mapping and technical assistance.

Sincerely,

A handwritten signature in black ink that reads 'Regina Dick-Endrizzi'.

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Jason Elliott, Mayor's Office
Supervisor Chiu
Sophie Hayward, Planning Department