



SAN FRANCISCO PLANNING DEPARTMENT

March 18, 2013

Ms. Angela Calvillo, Clerk
Honorable Supervisor David Chiu
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:
415.558.6378

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415.558.6409

Planning
Information:
415.558.6377

**Re: Transmittal of Planning Department Case Number 2012.1411TZ:
Polk Street Alcohol and Tobacco Paraphernalia Restrictions
Board File No. 12-1065
Planning Commission Recommendation: Approval with Modifications**

Dear Ms. Calvillo and Supervisor Chiu,

On March 14, 2013, the San Francisco Planning Commission (hereinafter, the "Planning Commission") conducted a duly noticed public hearing at its regularly scheduled meeting to consider the proposed amendments to Planning Code Section 723 (Polk Street Neighborhood Commercial District) and the proposed addition of Planning Code Section 788 (the Lower Polk Alcohol Restricted Use District) introduced by Supervisor David Chiu. At the hearing, the Planning Commission recommended approval with modifications.

The proposed amendments have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2). Pursuant to San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-page Documents", the Department is sending electronic documents and one hard copy. Additional hard copies may be requested by contacting Sophie Hayward at 558-6372.

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

Please find attached documents relating to the action taken by the Planning 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 "AnMarie Rodgers".

AnMarie Rodgers
Manager of Legislative Affairs

cc:

Supervisor David Chiu

Kate Stacy, Deputy City Attorney

Jason Elliot, Mayor's Director of Legislative & Government Affairs

Attachments (two hard copies of the following):

Planning Commission Resolution 18823

Draft Ordinance

Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18823

HEARING DATE MARCH 14, 2013

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Project Name: **Amendment to Planning Code Section 723 (Polk Street NCD) and the establishment of new Section 788 to establish the Lower Polk Alcohol Restricted Use District, including amendment to Zoning Map Sheet ZN-02**

Case Number: 2012.1411TZ [Board File No. 12-1065]

Initiated by: Supervisor Chiu / Introduced October 30, 2012

Staff Contact: Sophie Hayward, Legislative Affairs
sophie.hayward@sfgov.org, 415-558-6257

Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

Recommendation: **Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 723 TO EXTEND THE RESTRICTION ON TOBACCO PARAPHERNALIA ESTABLISHMENTS IN THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND ADD PLANNING CODE SECTION 788 TO ESTABLISH THE LOWER POLK STREET ALCOHOL RESTRICTED USE DISTRICT, AND AMEND SECTIONAL MAP SHEET ZN02 TO ADD THE LOWER POLK ALCOHOL RESTRICTED USE DISTRICT; 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 October 30, 2012, Supervisor Chiu introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-1065, which would amend Section 723, which describes the Polk Street Neighborhood Commercial District (NCD) and add Section 788 and amend the San Francisco Planning Code Sectional Map Sheet ZN02 to create the Lower Polk Alcohol Restricted Use District (RUD);

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on March 14, 2013; and,

WHEREAS, the proposed Ordinance has been determined to be a non-physical project, and therefore subject to a categorical exemption under Section 15060(c)(2) of the CEQA Guidelines; 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 modifications** the proposed ordinance. Specifically, the Commission recommends the following modifications:

1. Remove the Tobacco Paraphernalia restriction from the Polk Street NCD; and
2. Modify the controls within the proposed Lower Polk Alcohol RUD as follows:
 - a. Prohibit new bars and liquor stores uses when located on a parcel within 100' of a parcel on which an existing bar or liquor store is located; and
 - b. New bar and liquor store uses may be permitted with Conditional Use authorization from the Planning Commission unless they are located on a parcel within 100' of a parcel with an existing bar or liquor store; and
 - c. Require that new Restaurants with Type 47 ABC licenses obtain Conditional Use authorization; and
 - d. Remove the requirement that Restaurants with Type 47 or 49 liquor licenses close by midnight; and
 - e. Require that restaurants continue food service until closing; and
 - f. Modify the proposed abandonment period for existing liquor establishments such that liquor establishments are considered an abandoned use if the use has been discontinued 3 years or more; and
 - g. Add an emphasis on enforcement of existing problem operators; and
 - h. Add a sunset provision for the proposed Lower Polk Alcohol Restricted Use District so that the provisions of the district would expire after three years.

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. Tobacco Paraphernalia Establishments are prohibited within the Polk Street NCD. This prohibition was repealed on January 15, 2013, three years after its initial effective date of January 15, 2010;
2. Tobacco Paraphernalia Establishments are considered a distinct land use (defined in Planning Code Section 790.123); however, it is in reality difficult to distinguish this use from any other retail space. Because of this, enforcement of Tobacco Paraphernalia Establishments and response to complaints and violations is unusually challenging;
3. The area that would become the Lower Polk Street Alcohol Restricted Use District currently contains the following zoning districts: Polk Street Neighborhood Commercial District, Neighborhood Commercial-3, and Residential Commercial-4. The proposed new Lower Polk Alcohol Restricted Use District would overlay portions of all three of these zoning districts;

4. The proposed new Lower Polk Alcohol Restricted Use District would extend along Polk Street from California Street to the north, and to O'Farrell Street to the south, without including the lots that front on California and O'Farrell Streets, and would also extend west to Van Ness Avenue, excluding the lots that front on Van Ness, and east to Larkin Street, excluding the lots that front on Larkin Street;
5. The proposed modifications will require that the Department and the Commission consider proximity of existing bars when reviewing new applications;
6. That the standard three years is an appropriate length of time after which an existing use – including as a liquor establishment – is considered discontinued, and is consistent with the timeline defined in Planning Code Section 183;
7. That Restaurants that are Bona Fide Eating Establishments be allowed to remain open past midnight as one method to reduce concerns including loitering, littering, and public drunkenness, by keeping eyes on the street and providing an alternative to liquor by way of serving food; and
8. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are 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 create the Lower Polk Alcohol Restricted Use District in order to address concerns including loitering, littering, public drunkenness, parking, and noise problems. The proposal would provide close oversight for new liquor licenses within a specific and limited geographic area, while minimizing disruptive nuisance to the surrounding neighborhood by adding a requirement that new entertainment permits obtain Conditional Use Authorization in order to be approved. With the proposed modifications, the proposed Ordinance will allow new liquor establishments to open in areas within the Lower Polk Neighborhood that are not currently over-saturated with existing bars and in a manner that is consistent with the neighborhood character and that will not contribute to the deterioration of the neighborhood.

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 amendments will 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 amendments will help preserve existing neighborhood character by allowing carefully monitoring new liquor establishments within the Polk NCD and the proposed Lower Polk Street Alcohol Restricted Use District.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed amendments will have no 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 amendments will 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 amendments would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

Any new construction or building alterations would be subject to all current building and safety codes, therefore improving the City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

Landmarks and historic buildings would not be negatively impacted by the proposed amendments.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

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

- 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 and in the proposed Ordinance with the modifications outlined above.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on March 14, 2013.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Hillis, Moore, Sugaya, and Wu

NOES: None

ABSENT: None

ADOPTED: March 14, 2013



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code and Zoning Map Amendments

HEARING DATE: MARCH 14, 2013

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Project Name: **Amendment to Planning Code Section 723 (Polk Street NCD) and the establishment of new Section 788 to establish the Lower Polk Alcohol Restricted Use District, including amendment to Zoning Map Sheet ZN-02**

Case Number: 2012.1411TZ [Board File No. 12-1065]

Initiated by: Supervisor Chiu / Introduced October 30, 2012

Staff Contact: Sophie Hayward, Legislative Affairs
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Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

Recommendation: **Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code by: 1) amending Section 723 to extend the restriction on Tobacco Paraphernalia Establishments in the Polk Street Neighborhood Commercial District (NCD) for an additional three years and apply it to an area within one-quarter mile of the boundaries of the NCD; 2) add Section 788 to establish the Lower Polk Street Alcohol Restricted Use District for the properties located on Polk Street between California and O'Farrell Streets, and Polk Street's side streets between California Street, Larkin Street, O'Farrell Street and Van Ness Avenue; 3) amend the Zoning Map to designate the Lower Polk Street Alcohol Restricted Use District on Map Sheet ZN-02.

The Way It Is Now:

Section 723 of the Planning Code defines specific provisions for the Polk Street NCD, and includes Section 723.69, which prohibits Tobacco Paraphernalia Establishments within the NCD. This prohibition was to be repealed on January 15, 2013, three years after its initial effective date of January 15, 2010. The 2012 Code Corrections Ordinance [BF 130062] includes an amendment to repeal this expired provision.

The area that would become the Lower Polk Street Alcohol Restricted Use District currently contains the following zoning districts: Polk Street Neighborhood Commercial District, Neighborhood Commercial-3, and Residential Commercial-4.

The Polk Street Neighborhood Commercial District (hereinafter "Polk NCD") extends along Polk Street from Filbert Street to the north, to Post Street to the south, and includes a short stretch of Larkin Street between Sacramento and Post Streets, and California Street between Van Ness Avenue and Hyde Street. The Polk Street NCD governs alcohol-related uses as follows: liquor stores, bars, and restaurants require Conditional Use Authorization pursuant to Planning Code Section 303. In addition to the Section 303 findings, the Planning Commission must also find that restaurants operate as a Bona Fide Eating Establishment pursuant to Section 790.142.

The **Neighborhood Commercial-3 Zoning District** (hereinafter “NC-3”) governs alcohol-related uses as follows: liquor stores are not permitted at the ground floor, while bars, limited restaurants, and restaurants are permitted at the ground floor.

The **Residential Commercial-4 Zoning District** (hereinafter “RC-4”) governs alcohol-related uses as follows; liquor stores are permitted at the ground level, and bars, limited restaurants, and restaurants are permitted at the ground level because they are permitted at the ground level within NC-3 districts.

The Way It Would Be:

Section 723 would be amended to extend the restriction on Tobacco Paraphernalia Establishments within the Polk Street NCD for three additional years, until 2016. Further, the restriction would apply to areas within ¼ mile of the boundaries of the Polk Street NCD.

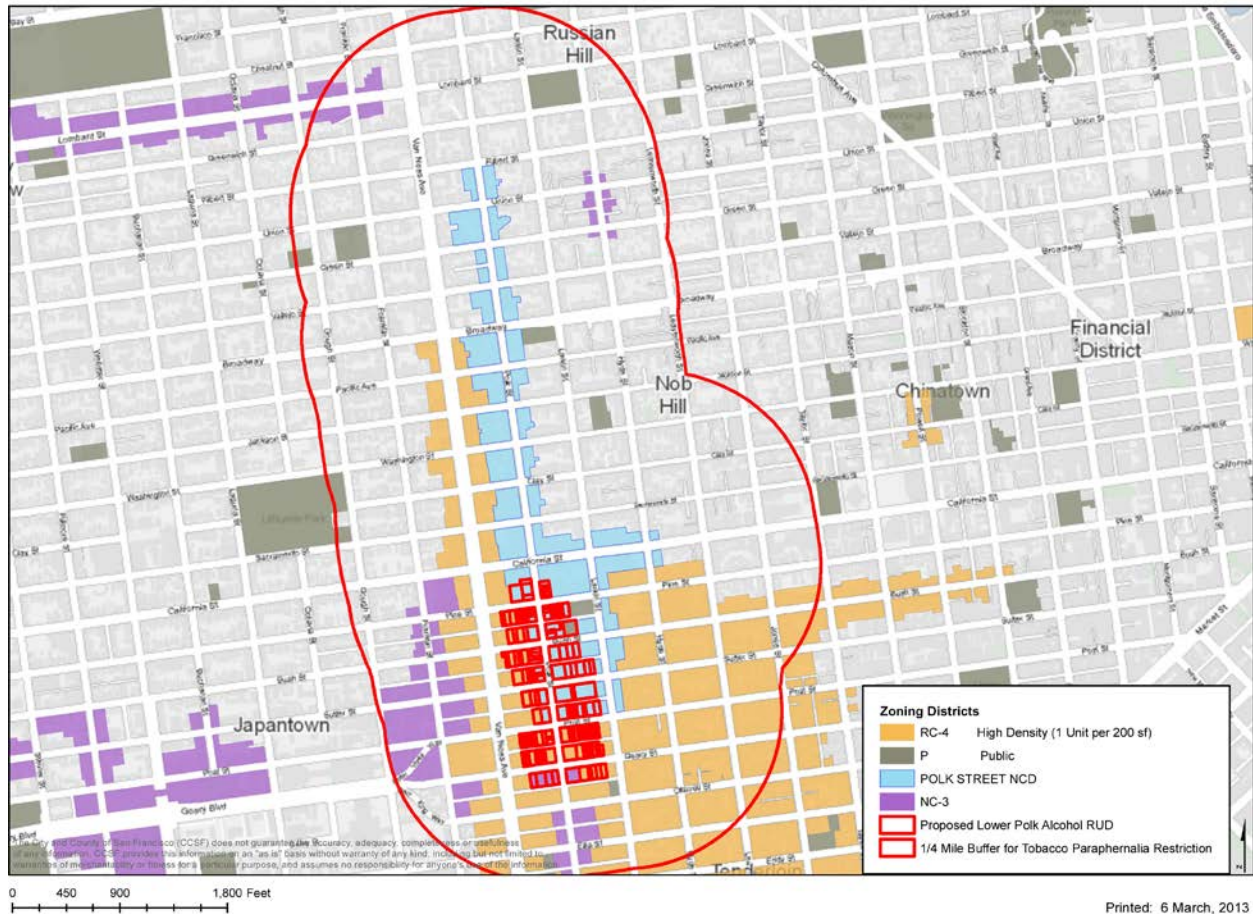
Section 788 would be added to create a Lower Polk Street Alcohol Restricted Use District (RUD). This district would extend along Polk Street from California Street to the north, to O’Farrell Street to the south, without including the lots that front on California and O’Farrell Streets, and would also extend west to Van Ness Avenue, excluding the lots that front on Van Ness, and east to Larkin Street, excluding the lots that front on Larkin. The proposed new Lower Polk Alcohol Restricted Use District would overlap with the existing Polk Street NCD, RC-4, and NC-3 Zoning Districts.

Within the new Polk Street Alcohol RUD, the following controls would apply:

1. No new on-sale or off-sale liquor establishment may be approved. Liquor licenses may be transferred within the Polk Street Alcohol RUD, provided that no new liquor licenses are transferred into the district from outside of the district. Transfers within the proposed district would require Conditional Use Authorization. Bona Fide Eating Establishments, as defined in Section 790.142, are not subject to the prohibition;
2. Liquor establishments are considered an abandoned use if the use has been discontinued for 180 days or more;
3. New entertainment permits require a Conditional Use Authorization within the Lower Polk Alcohol RUD; however, Limited Live Performance permits are principally permitted for Restaurants and Limited Restaurants; and
4. New restaurants with Types 47 or 49 liquor licenses may not be open after midnight.

The existing zoning districts as well as the proposed new Tobacco Paraphernalia restriction and the proposed Lower Polk Alcohol RUD are shown in the map below.

Existing Zoning Districts and Proposed Lower Polk Alcohol RUD



This zoning map shows the existing zoning in the area, with an overlay that indicates the extent of the proposed new restriction on Tobacco Paraphernalia Establishments and the proposed new Lower Polk Alcohol 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 with modifications* of the proposed Ordinance to the Board of Supervisors and adopt the attached Draft Resolution to that effect. The recommended modifications include:

1. Remove the Tobacco Paraphernalia restriction from the Polk Street NCD; and
2. Modify the controls within the proposed Lower Polk Alcohol RUD to allow for new liquor licenses only with Conditional Use Authorization by the Planning Commission as follows:
 - A. Amend Section 303 of the Planning Code to include a separate finding regarding the concentration of existing bars. This finding would be made by the Commission when granting Conditional Use Authorization for a new liquor license within the proposed

Lower Polk Street Alcohol RUD. Specifically, the finding should indicate whether the newly proposed bar use is within 100' of a parcel on which an existing bar is located;

- B. Adopt a Planning Commission policy that the Department recommendation would be disapproval for bars proposed within 100' of existing bars within the Lower Polk Alcohol RUD;
- C. Modify the proposed abandonment period for existing liquor establishments such that liquor establishments are considered an abandoned use if the use has been discontinued 3 years or more;
- D. Remove the requirement that restaurants with Type 47 or 49 liquor licenses close by midnight.

BASIS FOR RECOMMENDATION TO THE BOARD OF SUPERVISORS

The following discussion reviews important issues and describes the basis for the Department's position.

1. Tobacco Paraphernalia Restriction

The Department's recommendation is that the Planning Commission recommend to the Board that the restriction of Tobacco Paraphernalia Establishments be allowed to expire.

Tobacco Paraphernalia Establishments are considered a distinct land use (defined in Planning Code Section 790.123); however, it is, in reality, difficult for the Department to distinguish this use from any other retail space. Because of this, the Department struggles with enforcement of Tobacco Paraphernalia Establishments and response to complaints and violations is unusually challenging. The reason for this difficulty is two-fold.

First, the use is typically determined by either the percentage of floor area dedicated to Tobacco Paraphernalia (any amount greater than 10 percent of the occupied floor area), or the linear feet of display area dedicated to Tobacco Paraphernalia (any amount greater than ten linear feet). This definition is reliant on how the shelves are stocked from day to day. What is a Tobacco Paraphernalia Establishment today can easily be a less restricted retail space the next day. For the purposes of the Polk Street NCD, the distinction between a store and a Tobacco Paraphernalia Establishment is even more narrow: the presence of *any* Tobacco Paraphernalia within a retail use is prohibited within the Polk Street NCD.¹ For all intents and purposes within the Polk NCD, a retail establishment (permitted at the ground floor) becomes a Tobacco Paraphernalia Establishment (not permitted within the District) with the addition of a single pipe to the store's inventory.

Second, this definition was established in 2008, and therefore any store that had any quantity of space dedicated to Tobacco Paraphernalia prior to that date would be allowed to continue operation within the Polk Street NCD; proving what was (or was not) on the shelves in 2008 is next to impossible.

¹ The Polk Street NCD defines Tobacco Paraphernalia Establishment as a retail establishment that sells any quantity of Tobacco Paraphernalia, whereas in other zoning districts, a retail establishment may sell a small amount of Tobacco Paraphernalia, under specific thresholds, and be permitted as a retail use. Please see Planning Code Section 790.123 for the full definition. Section 790.123 is available online here:

[http://www.amlegal.com/nxt/gateway.dll/California/planning/planningcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://www.amlegal.com/nxt/gateway.dll/California/planning/planningcode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1) (March 3, 2013).

Conversely, Medical Cannabis Dispensaries (MCD's), as defined in Planning Code Section 790.141, are more straightforward to regulate from a land use perspective, as they require a specific state-license to operate. Were Tobacco Paraphernalia Establishments required to seek a permit or license from the Department of Public Health, for example, the restriction would be more accurately monitored and enforced.

2. Controls for New Alcohol-Serving Establishments in the Proposed Lower Polk Alcohol RUD

The Department recommends that the controls for the proposed Lower Polk Alcohol RUD be modified in a manner that addresses concerns about safety and concentration, while allowing flexibility with oversight.

A. Conditional Use Authorization with Specific Findings for the Proposed RUD

First, rather than prohibit new on-sale or off-sale liquor establishments within the geographic area defined in the proposed Ordinance, the Department recommends that new on-sale and off-sale liquor establishments controlled in the proposed Ordinance be required to obtain a Conditional Use Authorization by the Planning Commission. Further, the Department recommends that the Commission recommend adding a new Planning Code Section 303(q) that outlines specific findings required for approving new liquor establishments within the proposed Alcohol RUD. Specifically, the Department recommends adding the following language:

(q) Liquor Establishments within the Lower Polk Alcohol Restricted Use District

(1) Conditional Use Criteria. With regard to a Conditional Use Authorization application for a liquor establishment, as defined in Section 788(c)(1), the Planning Commission shall consider, in addition to the criteria set forth in Subsection (c) above:

(A) The existing concentration of liquor establishments within the Lower Polk Alcohol Restricted Use District, and whether there is another liquor establishment on a parcel within 100 feet from the parcel on which the new establishment is proposed.

B. Planning Commission Policy of Denial for Over Concentration

In addition, the Department recommends that the Commission adopt a policy that when a new liquor establishment is proposed on a parcel within 100 feet of a parcel with an existing liquor establishment, the Department's preliminary recommendation will be to deny the request for Conditional Use Authorization. This approach will trigger a close examination and analysis of the concentration of bars within the proposed Alcohol Restricted Use District, but allows for the considered approval by the Planning Commission of new establishments in areas that are not currently saturated and may be appropriate locations for new businesses.

C. Use the Universal Abandonment Period of 3 years rather than 180 Days

The draft Ordinance includes a provision for the proposed Lower Polk Alcohol RUD that would consider a closure for 180 days or more a "discontinued use" for liquor establishments. The Department's recommendation is that the standard three years be used as a period after which a use is considered discontinued or abandoned, as outlined in Planning Code Section 183.

D. Remove the Required Mid-Night Closure of Permitted Restaurants

The findings of the proposed Ordinance cite concerns such as "loitering, littering, public drunkenness [...], parking and noise problems on public streets" as a result of the large number

of liquor establishments within the Lower Polk area. The Department's recommendation is that the proposed requirement that Restaurants – which must be Bona Fide Eating Establishments in order to get approval – close at midnight be removed. The Department believes that by remaining open at the same time as bars, Bona Fide Eating Establishments reduce the concerns outlined above by keeping eyes on the street, and by providing an alternative to liquor by way of serving food.

Bona Fide Eating Establishments, as defined in Section 790.142, require Conditional Use Authorization within the existing Polk Street NCD; therefore, in the portions of the proposed Lower Polk Alcohol Restricted Use District that overlap with the existing Polk Street NCD, new Restaurants require Conditional Use Authorization – a significant level of review by the Planning Commission. The Department does not feel that the additional restriction of a mid-night closure will serve to limit noise or public drunkenness; rather, the Department recommends that restaurants that are open late may relieve some of the crowding at existing bars.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Sections 723 (Polk Street NCD), and to create Section 788 (Lower Polk Alcohol RUD), and amending Sectional Map Sheet ZN02 is a non-physical project, and therefore subject to a categorical exemption under Section 15060(c)(2) of the CEQA Guidelines. This determination was made on November 9, 2012.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received one phone call in opposition to the proposed Ordinance. The Small Business Commission considered the proposed Ordinance at their February 11, 2013 public hearing, and voted to support the proposal with modifications that included considering proximity controls for new liquor establishments rather than a full prohibition for new licenses. The Small Business Commission transmittal to the Clerk of the Board is attached to this case report.

RECOMMENDATION: Recommendation of Approval with Modifications

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No 12-1065
- Exhibit C: Small Business Commission Transmittal Regarding BOS File No 121065