

File No. 140236

Committee Item No. 6

Board Item No. 48

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date June 16, 2014

Board of Supervisors Meeting Date JUNE 24, 2014

Cmte Board

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Completed by: Andrea Ausberry Date June 12, 2014

Completed by: *AS* Date 6.19.14

[Planning Code – Amending the Mission Alcoholic Beverage Special Use District]

1
2 **Ordinance amending the Planning Code to amend the Mission Alcoholic Beverage**
3 **Special Use District to allow mini-golf courses functionally and/or physically integrated**
4 **with a restaurant use to obtain liquor licenses; and making environmental findings,**
5 **Section 302 findings, and findings of consistency with the General Plan and the eight**
6 **priority policies of Planning Code Section 101.1.**

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

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

15 Section 1. Findings.

16 (a) The Planning Department has determined that the actions contemplated in this
17 ordinance comply with the California Environmental Quality Act (California Public Resources
18 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
19 Supervisors in File No. 140236 and is incorporated herein by reference.

20 (b) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
21 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
22 in Planning Commission Resolution No. 19158 and the Board incorporates such reasons
23 herein by reference. A copy of Planning Commission Resolution No. 19158 is on file with the
24 Clerk of the Board of Supervisors in File No. 140236.
25

1 (c) On May 22, 2014, the Planning Commission, in Resolution No. 19158, adopted
2 findings that the actions contemplated in this ordinance are consistent, on balance, with the
3 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
4 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
5 Board of Supervisors in File No.140236, and is incorporated herein by reference.

6
7 Section 2. The Planning Code is hereby amended by revising Section 249.60, to read
8 as follows:

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

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

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

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

3 The following restrictions shall apply within such district:

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

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

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

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

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

24 (C) Bowling Alleys and Mini-Golf Courses. A bowling alley or a mini-golf course
25 shall be permitted to serve alcoholic beverages along with any Restaurant use which is

1 functionally and/or physically integrated with such bowling alley or mini-golf course. Other
2 Entertainment uses, as defined in Section 790.38, but excluding those uses that require a
3 Place of Entertainment permit, shall be permitted to serve alcoholic beverages along with any
4 Restaurant use which is functionally and/or physically integrated with such Other
5 Entertainment use.

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

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

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

1 (B) General Groceries as defined in Section 790.102 (a) of this Code or
2 Specialty Groceries, as defined in Section 790.102 (b) that are greater than 5,000 square feet.
3 Such use shall require a Conditional Use authorization and shall be subject to the limitations
4 set forth in Section 790.55 of this Code.

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

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

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

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

23 (3) Expansion. An existing liquor establishment may expand its use with
24 Conditional Use authorization from the Planning Commission. In reviewing the application for
25

1 such expansion, the Commission shall consider the establishment's prior operating
2 conditions.

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

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

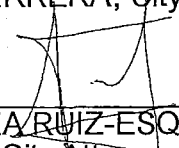
13 (2) No more than 33 percent of the square footage of the windows and clear doors
14 of the liquor establishment shall bear advertising or signage of any sort, and all advertising
15 and signage shall be placed and maintained in a manner than ensures that law enforcement
16 personnel have a clear and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

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

1 (e) Fringe Financial Services. In addition to all other applicable controls set forth in
2 this Code, properties in the Mission Alcoholic Beverage Special Use Subdistrict are within the
3 Fringe Financial Service Restricted Use District established by Section 249.35 and are subject
4 o the controls and exemptions set forth in Section 249.35.

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

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: 
13 ANDREA RUIZ-ESQUIDE
14 Deputy City Attorney

15 n:\legana\as2014\1400302\00933663.doc

REVISED LEGISLATIVE DIGEST
(6/9/2014, Amended in Committee)

[Planning Code – Amending the Mission Alcoholic Beverage Special Use District]

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

Existing Law

The Planning Code establishes several Alcohol Restricted Districts. These are areas of the City where new establishments that sell alcohol (whether for consumption on- or off- the premises) are limited or prohibited. These restrictions are usually created in order to preserve the character of the different neighborhoods, and to address the numerous peace, health, safety and general welfare problems associated with the existence of a large concentration of establishments that sell alcohol. (See, e.g., Section 249.60 [Mission Alcoholic Beverage Special Use District]; Section 249.62 [Third Street Alcohol Restricted Use District]; Section 783 [Divisadero Street Alcohol Restricted Use District]; and Section 784 [Lower Haight Street Alcohol Restricted Use District].)

Amendments to Current Law

This Ordinance would amend the Mission Alcoholic Beverage Special Use District to create a narrow exception, to allow mini-golf courses to serve alcoholic beverages, if they are functionally and/or physically integrated with a restaurant use. Bowling alleys currently enjoy a similar exception.

At its June 9, 2014 meeting, the Land Use Committee amended this Ordinance to broaden this exception to also encompass other entertainment uses that do not require an entertainment permit, if they are functionally and/or physically integrated with a restaurant use. These uses would also be allowed to serve alcohol.

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SAN FRANCISCO PLANNING DEPARTMENT

May 27, 2014

Ms. Angela Calvillo, Clerk
Honorable Supervisor Campos
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

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415.558.6377

Re: Transmittal of Planning Department Case Number 2014.0509T
Amendments to the Mission Alcoholic Beverage Special Use District
Board File No. 14-0236
Planning Commission Recommendation: Approval with Modifications

Dear Ms. Calvillo and Supervisor Campos,

On May 22, 2014, the Planning Commission conducted a duly noticed public hearing at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Section 249.60, the Mission Alcoholic Beverage Special Use District, to allow mini-golf courses functionally and/or physically integrated with a Restaurant use to obtain liquor licenses introduced by Supervisor Campos. At the hearing, the Planning Commission recommended approval with modifications.

The proposed modifications include:

- Modifying subsection (b)(1)(C) so that the uses "bowling alleys" and "mini-golf courses" are replaced with "Other Entertainment uses that do not require a Place of Entertainment Permit."
- Clarifying that the uses listed under subsection (b)(1), which includes bona-fide eating establishments, are allowed new, original ABC licenses.

The proposed amendments to the Planning Code have been reviewed and found exempt from CEQA per Sections 15060(c) and 15378.

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

Please find attached documents relating to the actions of the Planning Commission. If you have any questions or require further information please do not hesitate to contact me.

Transmittal Materials

CASE NO. 2014.0509T
Mission Alcoholic Beverage Special Use District

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Starr", with a long horizontal line extending to the right.

Aaron Starr
Acting Manager of Legislative Affairs

cc:

Andrea Ruiz-Esquide, Deputy City Attorney
Laura Lane, Aide to Supervisor Campos
Alisa Miller, Office of the Clerk of the Board

Attachments

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19158

HEARING DATE MAY 22, 2014

1650 Mission St.
Suite 400
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Project Name: Amendments to the Mission Alcoholic Beverage Special Use District
Case Number: 2014.0509T [Board File No. 140236]
Initiated by: Supervisor Campos / Introduced March 11, 2014
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Acting Manager Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD 1) AMEND PLANNING CODE SECTION 249.60 TO ALLOW SPECIFIED OTHER ENTERTAINMENT USES FUNCTIONALLY AND/OR PHYSICALLY INTEGRATED WITH A RESTAURANT USE TO OBTAIN A LIQUOR LICENSE AND 2) 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 March 11, 2014, Supervisors Campos introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 140236, which would amend Planning Code Section 249.60 of the Planning Code to allow mini-golf courses functionally and/or physically integrated with a Restaurant use to obtain liquor licenses;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 22, 2014; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c) and 15378; 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 and adopts the Draft Resolution to that effect.

The Commission recommended modifications would allow specified Other Entertainment uses to obtain liquor licenses and clarify that those uses currently allowed transfers from within and outside the Special Use District are allowed original ABC licenses.

Specifically, the Commission recommends

- Modification to subsection (b)(1)(C) as follows:
Other Entertainment uses, as defined in Section 790.38, but excluding those uses that require a Place of Entertainment permit, shall be permitted to serve alcoholic beverages along with any Restaurant use which is functionally and/or physically integrated with such Other Entertainment use.
- Modification to subsection (b)(1) as follows:
The following uses shall be eligible for liquor licenses transferred from within the SUD as well as licenses transferred from outside the SUD or original licenses from the California Department of Alcoholic Beverage Control.

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 Mission Alcoholic Beverage Special Use District, Planning Code Section 249.60, applies to the area generally bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez Street, Potrero Avenue and Fourteenth Street.
2. The Mission Alcoholic Beverage Special Use District regulates alcohol related uses including liquor stores, eating and drinking uses and other retail uses.
3. The Mission Alcoholic Beverage Special Use District allows specified alcohol related uses which are not likely to generate negative impacts on the surrounding area to obtain liquor licenses from within and outside of the Special Use District.
4. The proposed Ordinance, with the proposed modifications, will allow specified Other Entertainment uses to transfer liquor licenses from within and outside of the Mission Alcoholic Beverage Special Use District. These specified Other Entertainment uses are ones that are not likely to generate negative impacts on the surrounding area and will be required to be functionally and/or physically integrated with a Restaurant use.
5. The proposed Ordinance, with the proposed modifications, will clarify that those uses that currently enjoy the right to transfer liquor licenses from within and outside of the Mission Alcoholic Beverage Special Use District also enjoy the right to obtain original licenses from the California Department of Alcoholic Beverage Control, in conformance with current practice.

6. The proposed Ordinance, with the proposed modifications, will minimize the need for continual amendment of the Special Use District.
7. The Commission believes that the proposed Ordinance, with the proposed modifications, will facilitate the addition of businesses that provide commercial recreational activities in a manner that is consistent with the neighborhood character, that is appropriate for thriving neighborhood serving commercial districts and that will not contribute to the deterioration of the surrounding neighborhood.
8. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance will help maintain a favorable social and cultural climate in San Francisco as it enhances the cultural and recreational activities available to the employees of existing and future firms.

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 will allow small business enterprises involved in commercial recreational activities to obtain liquor licenses in conjunction with a Restaurant use. This flexibility will allow such small businesses to maintain a diverse and unique retail experience within local neighborhoods and shopping areas and allows these small businesses the ability to respond and adapt to the changes in consumer demands.

9. **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:

- a. 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 Ordinance will have a positive impact on neighborhood-serving retail uses. The proposed Ordinance will allow neighborhood-serving retail uses to expand the universe of goods offered and enrich the customer experience. The proposed Ordinance will not impact opportunities for resident employment in, and ownership of, neighborhood-serving retail.

- b. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance will not have a negative effect on housing as it concerns itself the operation of retail establishments. The neighborhood character will not be adversely affected by the proposed Ordinance as it seeks to enrich the diversity of available cultural and economic activities.

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

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing as the proposed Ordinance is focused on retail uses.

- d. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- e. 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 Ordinance would not cause displacement of the industrial or service sectors due to office development as the proposed Ordinance affects only retail uses. Future opportunities for resident employment or ownership in these sectors would not be impaired by the proposed Ordinance.

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

The proposed Ordinance would not have an impact on City's preparedness against injury and loss of life in an earthquake.

- g. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an impact on the City's Landmarks and historic buildings.

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

The proposed Ordinance would not have an impact on the City's parks and open space and their access to sunlight and vistas as the proposed Ordinance deals with the operational restrictions on retail uses.

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.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 22, 2014.

Jonas P. Ionin
Commission Secretary

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

NOES:

ABSENT:

ADOPTED: May 22, 2014



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: MAY 22, 2014

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Project Name: Amendments to the Mission Alcoholic Beverage Special Use District
Case Number: 2014.0509T [Board File No. 140236]
Initiated by: Supervisor Campos / Introduced March 11, 2014
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Acting Manager Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: Approval with Modifications

PLANNING CODE AMENDMENT

The proposed Ordinance would 1) amend the Mission Alcoholic Beverage Special Use District (Planning Code Section 249.60) to allow mini-golf courses functionally and/or physically integrated with a Restaurant use to obtain liquor licenses from within the Special Use District (hereinafter SUD) as well as from outside the Special Use District and 2) make 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 Way It Is Now:

The Mission Alcoholic Beverage SUD outlines the alcohol-related uses that may obtain liquor licenses from within the SUD and/or from outside the SUD. Uses permitted to transfer alcohol licenses from both inside and outside the district include restaurants operating as a bona-fide eating place, non-profit theaters, bowling alleys and single screen movie theaters. Uses allowed to transfer an alcohol license only from within the district include general grocery stores, specialty grocery stores, and bars. Mini-golf courses, irrespective of their integration with a restaurant use, are not a use that is allowed to obtain a liquor license within the SUD.

The Way It Would Be:

The proposed Ordinance would modify subsection (b)(1)(C) of the Mission Alcoholic Beverage SUD to allow mini-golf courses that are functionally and/or physically integrated with a Restaurant use to obtain liquor licenses from within the SUD as well as from outside the SUD.

ISSUES AND CONSIDERATIONS

- The Mission Alcoholic Beverage SUD applies to the area generally bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez Street, Potrero Avenue and Fourteenth Street, (See Exhibit B for a map of the Special Use District). The SUD was established because of a large number of establishments dispensing alcoholic beverages within the SUD for

both on-site and off-site consumption. This concentration of alcoholic beverage establishments has contributed to numerous peace, health, safety and general welfare problems in the area.

- **Continual modification of subsection (b)(1)(C).** Since 2011 the SUD has had two substantive modifications. The first modification (Board File 110767), effective in 2011, added bowling alleys and single screen movie theaters as uses that are allowed to serve alcoholic beverages. The second modification (Board File 130459), effective in 2013, was a major reorganization of the SUD that eased restrictions on the types of grocery stores that can sell alcoholic beverages, loosened controls on the temporary closure and expansion or relocation of existing alcohol serving establishments and added "good neighbor" operating policies among other modifications. The proposed Ordinance would constitute a third substantive change since 2011.
- **The addition of undefined uses to the Planning Code.** Currently four uses may transfer liquor licenses from within and outside the SUD. Of these uses, one (bowling alleys) is not defined in the Planning Code. The proposed Ordinance, in its current form, would add another undefined use (mini-golf courses). Undefined uses potentially create uncertainty regarding the extent of allowed activities given that no detailed and clear definition exists. This is in contrast to defined uses, where the scope of allowed activities is codified.

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* to the proposed Ordinance. Department Staff recommends the following modifications:

1. Modify subsection (b)(1)(C) so that the uses "bowling alleys" and "mini-golf courses" are replaced with Other Entertainment uses that do not require a Place of Entertainment Permit. The proposed language is as follows:

Other Entertainment uses, as defined in Section 790.38, but excluding those uses that require a Place of Entertainment permit, shall be permitted to serve alcoholic beverages along with any Restaurant use which is functionally and/or physically integrated with such Other Entertainment use.

2. Clarify that the uses listed under subsection (b)(1), which includes bona-fide eating establishments, are allowed new, original ABC licenses. The proposed text is as follows:

The following uses shall be eligible for liquor licenses transferred from within the SUD as well as licenses transferred from outside the SUD or original licenses from the California Department of Alcoholic Beverage Control.

BASIS FOR RECOMMENDATION

The Department is in general support of the proposed Ordinance as the proposed Ordinance follows an established practice within the Planning Code of allowing the on-site consumption of alcohol in conjunction with a Restaurant use. The Department is also in general support of the proposed Ordinance because it will contribute to neighborhood vitality by spurring new economic activity, facilitating the emergence of businesses employing innovative operating models within underutilized buildings.

Recommendation 1

Rather than amending the Planning Code for each new type of entertainment use proposed within the SUD, the Department recommends amending the proposed Ordinance so that a variety of entertainment uses, not just mini-golf, would be permitted. The proposed modification would allow a variety of recreational activities, including but not limited to, bowling alleys, billiard parlors, skating rinks and mini-golf courses, to transfer liquor licenses from within and outside of the SUD when functionally and/or physically integrated with a Restaurant use. Further, the Department's recommendation utilizes an existing defined use in the Planning Code, maintaining consistency and clarity within the Code.

The Department's proposed modification excludes live performance activities, including, but not limited to, plays, song and dance acts, poetry recitation, the playing or use of any instrument capable of producing or used to produce musical or percussion sounds and fashion or style shows. Current practice is to generally exclude these uses from transferring liquor licenses when not conducted by a non-profit theater entity.

Recommendation 2

This proposed modification clarifies that those uses that currently enjoy the right to transfer liquor licenses from within and outside the SUD also may obtain new, original ABC licenses. This is in conformance with current Planning Department practice.

ENVIRONMENTAL REVIEW

The proposed amendments to the Planning Code have been reviewed and found exempt from the California Environmental Quality Act ("CEQA") per Sections 15060(c) and 15378.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any input from the public regarding the proposed Ordinance.

RECOMMENDATION: Approval with Modifications

Attachments:

- Draft Planning Commission Resolution
- Draft Board of Supervisors Ordinance [File No. 140236]
- Map of the Mission Alcoholic Beverage Special Use District

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

March 28, 2014

File No. 140236

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

Dear Ms. Jones:

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

File No. 140236

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

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "A. Ausberry".

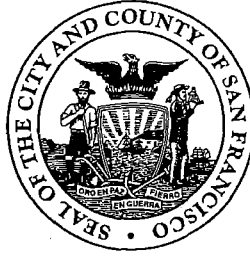
By: Andrea Ausberry, Committee Clerk
Land Use & Economic Development Committee

Attachment

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

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

BOARD of SUPERVISORS



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San Francisco 94102-4689
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Fax No. 554-5163
TDD/TTY No. 554-5227

March 28, 2014

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

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

File No. 140236

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

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Jeanie Polling, Environmental Planning
Nannie Turrell, Environmental Planning



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



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

April 15, 2014

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File No. 140236 [Planning Code - Mission Alcoholic Beverage Special Use District]

Small Business Commission Recommendation: Recommend Approval as Drafted or with Subsequent Amendments to Permit "Other Entertainment" Uses as Defined in Planning Code Section 790.38

Dear Ms. Calvillo:

At its meeting of April 14, 2014, the Small Business Commission heard Board of Supervisors (BOS) File No. 140236 [Planning Code - Mission Alcoholic Beverage Special Use District]. The Commission moved to recommend approval of the proposal as drafted. Its motion also included a recommendation to approve the proposal should it be subsequently amended to additionally permit by-right not only bowling alley and miniature golf uses, but also "other entertainment" uses as defined in Planning Code Section 790.38.

The Commission recognized the ability of select alcohol-serving entertainment uses, with properly integrated restaurant uses, to improve the vitality and character of neighborhoods. In particular, the Commission cited the experience of Mission Bowling Club and its positive contribution to 17th Street.

Thank you for considering the Small Business Commission's comments on this legislation. Please feel free to contact me should you have any questions.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

cc: Jason Elliot, Mayor's Office
Laura Lane, Office of Supervisor David Campos
Andrea Ausberry, Office of the Clerk of the Board

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

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Christian Murdock, Commission Secretary
Small Business Commission, City Hall, Room 448

FROM: Andrea Ausberry, Clerk, Land Use and Economic Development
Committee Board of Supervisors

DATE: March 28, 2014

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 140236

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

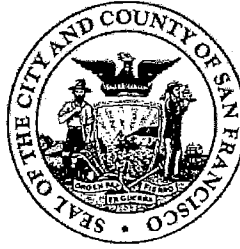
Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

- No Comment
- Recommendation Attached

Chairperson, Small Business Commission

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

MEMORANDUM

TO: Greg Suhr, Chief, Police Department

FROM: Andrea Ausberry, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: March 28, 2014

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Campos on March 11, 2014:

File No. 140236

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

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Christine Fountain, Police Department
John Monroe, Police Department
Nelly Gordon, Police Department
Joseph Fong, Police Department
Richard VanKoll, Police Department



Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An Ordinance, Resolution, Motion, or Charter Amendment.
- 2. Request for next printed agenda Without Reference to Committee or as Special Order at Board.
- 3. Request for hearing on a subject matter at Committee or as Special Order at Board.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Reactivate File No. []
- 11. Board to Sit as A Committee of the Whole.
- 12. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Campos

Subject:

Planning Code - Amending the Mission Alcoholic Beverage Special Use District

The text is listed below or attached:

[Empty box for text listing]

Signature of Sponsoring Supervisor: David Campos

For Clerk's Use Only:

