



SAN FRANCISCO PLANNING DEPARTMENT

October 24, 2014

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

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**Re: Transmittal of Planning Department Case Number 2014.1414T:
Amending the 3rd Street Alcohol Restricted Use District
Board File No. 140875
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Cohen,

On October 23, 2014, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Section 249.62, introduced by Supervisor Cohen. At the hearing the Planning Commission recommended approval with modification.

The proposed modification was to request that the Board of Supervisors consider the requirement of Conditional Use Authorization for Small Beer Manufacturing use (ABC License Type 23) within the Third Street Alcohol Restricted Use District.

The proposed amendments have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378.

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

Please find attached documents relating to the actions of the 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 "Aaron Starr", written over a white background.

Aaron Starr
Acting Manager of Legislative Affairs

cc:

Andrea Ruiz Esquide, Deputy City Attorney
Mawuli Tugbenyoh, Aide to Supervisor Cohen
Andrea Ausberry, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution 19266

HEARING DATE OCTOBER 23, 2014

Project Name: Amending the Third Street Alcohol Restricted Special Use District
Case Number: 2014.1414T [Board File No. 140875]
Initiated by: Supervisor Cohen / Introduced July 29, 2014
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Acting Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 249.62 TO ALLOW ALCOHOLIC BEVERAGE CONTROL TYPE 23, "SMALL BEER MANUFACTURER" LICENSES; 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 July 29, 2014, Supervisors Cohen introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 140875, which would amend Section 249.62 of the Planning Code to allow Alcoholic Beverage Control Type 23, "Small Beer Manufacturer" licenses;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 23, 2014; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15080(c)(2) 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 modification** the proposed ordinance.

The Commission recommended modification was to request that the Board of Supervisors consider requiring Conditional Use Authorization for Small Beer Manufacturing uses (ABC License Type 23) within the Third Street Alcohol Restricted Use District.

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 Third Street Alcohol Restricted Use District (RUD) was adopted in 2003 to address concerns around the negative impacts of the overconcentration and proliferation of off-sale liquor establishments, including liquor stores, along the Third Street Corridor in the Bayview neighborhood.
2. The RUD has been amended repeatedly to accommodate establishments that sell alcohol but that do not produce the negative impacts upon the surrounding community, such as drug dealing, loitering, prostitution and vandalism, as is experienced with liquor stores.
3. In 2007 the RUD was amended to allow off-sale liquor licenses at grocery stores to facilitate the establishment of grocery stores and similar uses where alcohol sales are accessory to the primary product offering of the store and do not have the negative impacts upon the surrounding community as do liquor stores.
4. In 2013 the RUD was amended to allow Alcoholic Beverage Control (ABC) Type 2 Winery Licenses. This amendment afforded the privilege of selling wine and brandy for off-site consumption as well as for on-site wine and brandy tasting, and was recognized as a minor change to the RUD that would not exacerbate the issues that the RUD is intended to address.
5. The growth in micro- or craft beer production is a promising economic trend, affording small business ownership opportunities as well as employment to workers of all skill levels.
6. The Bayview neighborhood, with its ample supply of land zoned for light industrial activity, is uniquely positioned to capture the growth in micro- or craft beer production. It is also a neighborhood where an expansion in economic activity is greatly desired given current conditions.
7. **General Plan Compliance.** The proposed amendments to the Planning Code are not addressed in the General Plan; the Commission finds that the proposed Ordinance is not inconsistent with the 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 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to 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 attract new commercial activity to the Third Street corridor by allowing smaller scale beer manufacturing within the Third Street Alcohol Restricted Use District. Given the growth of interest in craft brewing, allowing the expansion of such activity will contribute favorably to the social and cultural climate in San Francisco, thereby furthering San Francisco's status as a leading locale for artisanal food and beverages and enhancing its attractiveness as a firm location.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The proposed Ordinance will allow the establishment of beer manufacturers along the Third Street corridor and will provide expanded employment opportunities for unskilled and semi-skilled workers.

OBJECTIVE 4

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

Policy 4.1

Maintain and enhance a favorable business climate in the city.

Policy 4.2

Promote and attract those economic activities with potential benefit to the City.

Policy 4.6

Assist in the provision of available land for site expansion.

The proposed Ordinance enhances the business climate in San Francisco by creating new areas where small beer manufacturing may occur in the southeast sector of the City. Relaxing and rationalizing existing restrictions on light manufacturing uses signals to the business community that San Francisco is an amenable jurisdiction in which to locate. This promotes and attracts new business activity to the City.

BAYVIEW HUNTERS POINT AREA PLAN

OBJECTIVE 1

STIMULATE BUSINESS, EMPLOYMENT, AND HOUSING GROWTH WITHIN THE EXISTING GENERAL LAND USE PATTERN BY RESOLVING CONFLICTS BETWEEN ADJACENT INDUSTRIAL AND RESIDENTIAL AREAS.

Policy 1.4

Encourage development of the South Basin area west of Third Street as a light industrial activity center.

The proposed Ordinance would allow beer manufacturing to locate in the South Basin area west of Third Street, within the Third Street Restricted Alcohol Use District.

OBJECTIVE 7

ENCOURAGE HEALTHY RETAIL REUSE IN THE EXISTING COMMERCIAL CORE OF THIRD STREET AND COMPLEMENTARY GROWTH IN ADJACENT SECTIONS.

Policy 7.1

Make the commercial blocks on Third Street between Kirkwood Avenue to the north and Thomas and Thornton Avenues to the south the core of new commercial growth.

The proposed Ordinance would allow a new commercial activity, beer manufacturing, to locate on Third Street between Kirkwood Avenue to the north and Thomas and Thornton Avenues to the south, within the Third Street Restricted Alcohol Use District.

OBJECTIVE 9

IMPROVE LINKAGES BETWEEN GROWTH IN BAYVIEW'S INDUSTRIAL AREAS AND THE EMPLOYMENT AND BUSINESS NEEDS OF THE BAYVIEW HUNTERS POINT COMMUNITY.

Policy 9.1

Increase employment in local industries.

The proposed Ordinance will create employment opportunities in small beer manufacturing establishments within the Third Street Restricted Alcohol Use District.

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 Ordinance would 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 Ordinance would not have a negative effect on housing or neighborhood character. By allowing a light industrial activity to locate within areas of the City zoned for such uses, the proposed Ordinance conserves and protects existing neighborhood character and preserves economic diversity.

3. 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.

4. 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.

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 Ordinance will help the City maintain a diverse economic base by allowing new light industrial activity to locate in an area where such activity was prohibited. The proposed Ordinance will also expand future opportunities for resident employment or ownership in the light industrial sector.

6. 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.

7. That the landmarks and historic buildings be preserved;

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

8. 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.

- 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 October 23, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Fong, Hillis, Johnson, Richards, Wu

NOES:

ABSENT: Commissioner Moore

ADOPTED: October 23, 2014



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: OCTOBER 23, 2014

Project Name: **Amending the Third Street Alcohol Restricted Special Use District**
Case Number: 2014.1414T [Board File No. 140875]
Initiated by: Supervisor Cohen / Introduced July 29, 2014
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Acting Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Third Street Alcohol Restricted Use District (RUD) to allow Alcoholic Beverage Control (ABC) Type 23, "Small Beer Manufacturer" licenses

The Way It Is Now:

Planning Code Section 249.62 established the RUD for the purpose of addressing potential negative impacts from the proliferation of alcoholic beverage licenses within the Bayview neighborhood.¹ To achieve this goal, the RUD prohibits establishments from securing many new on-sale and off-sale alcoholic beverage licenses.² A Small Beer Manufacturer license, because it allows the sale of beer to consumers for consumption on- or off the premises, is currently prohibited.

The Way It Would Be:

The proposed Ordinance would allow Small Beer Manufacturer licenses to locate within the RUD. The privileges allowed a Small Beer Manufacturer license include the production of up to 60,000 barrels of beer per year, the tasting of beer produced on-site and the sale of beer for both on- and off-site consumption.

¹ BF 021338 established the RUD in 2003. Exhibit C provides a map of the RUD.

² The RUD defines an on-sale alcoholic beverage license as a type 40 (On-Sale, Beer), a type 42 (On-Sale, Beer and Wine), a type 48 (On-Sale General- Public Premises) and a type 57 (Special On-Sale General). These licenses are typically issued to bars, taverns or nightclubs. The RUD defines an off-sale alcoholic beverage license as a type 20 (Off-Sale Beer and Wine) or a type 21 (Off-Sale General). These are typically issued to liquor/package stores.

ISSUES AND CONSIDERATIONS

- A principal concern motivating the adoption of the RUD in 2003 was the overconcentration of liquor stores around the Third Street Corridor in the Bayview neighborhood and their contribution to street-oriented misconduct. In light of the drug dealing, loitering and prostitution in the vicinity of liquor stores, the RUD expressly prohibited off-sale liquor licenses.
- In 2007 the RUD was amended to allow off-sale liquor licenses at grocery stores.³ This was done to facilitate the establishment of grocery stores and similar uses where alcohol sales are accessory to the primary product offering of the store and do not have the negative impacts upon the surrounding community as do liquor stores.
- In 2013 the RUD was amended to allow winery licenses.⁴ Winery licenses afford the privilege of selling wine and brandy for off-site consumption as well as for on-site wine and brandy tasting. This amendment was recognized as a minor change to the RUD and one that would not exacerbate the issues that the RUD is intended to address.
- The holder of a Small Beer Manufacturer license is allowed a number of privileges including the production of up to 60,000 barrels of beer per year, the tasting of beer produced on-site, the sale of beer for on- and off-site consumption and the sale of beer and wine at an on-site restaurant. Minors are allowed on the premises.
- A Zoning Administrator Interpretation (August 2005; revised January 2014) allows for the tasting of wine or beer as an accessory use under the following conditions: any tasting would (1) occur entirely during regular operating hours only, (2) take place no more than twice each week for no more than four hours each occurrence and on a further occasional appointment-only basis, (3) not occur on a premises on which any type of permit from the Entertainment Commission is held, (4) not occur in an area physically separated from the main liquor store retail area by full-height partitions or partitions that otherwise prevent clear visual access to and from the main retail area and (5) be limited to one ounce servings and three servings per individual customer per day. Unless an establishment adheres to each of these five conditions it would be considered as operating as a bar under the Planning Code. It is highly likely that the establishments holding a Small Beer Manufacturer's license would not adhere to all five of the aforementioned conditions.
- The production of micro- or craft beer and the number of small breweries in the US has grown tremendously since the 1970's.⁵ The growth in this light industrial activity is a promising economic trend, affording small business ownership opportunities as well as employment to workers of all skill levels.

³ BF 070617 removes grocery and specialty grocery stores from the prohibitions in the RUD on the sale of alcohol for off-site consumption.

⁴ BF131121 exempts the sale of wine and brandy, pursuant to an ABC License Type 2, Winegrower (Winery), from the prohibitions in the RUD.

⁵ http://www.huffingtonpost.com/2012/12/13/craft-beer-breweries_n_2287906.html

- The public input that Planning Department Staff received regarding the proposed Ordinance requests that either a project specific Special Use District be created to allow for one particular operator or that the proposed Ordinance be modified to require Conditional Use Authorization for the small scale manufacture of beer (pursuant to an ABC Type 23 license) within the 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* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The RUD's principal focus is restricting the proliferation of retail liquor stores found within the Third Street Corridor because of their negative impacts on the health, safety and general welfare of the surrounding community, The proposed Ordinance does not allow for the proliferation of the retail liquor stores that motivated the adoption of the RUD, but rather facilitates the establishment of a light industrial activity with ancillary retail uses.

When the RUD was originally conceived a secondary emphasis was placed on the regulation of on-site consumption of alcohol. However, the RUD does allow for multiple types of establishments to sell alcohol for on-site consumption, irrespective of food service. These establishments include restaurants, social/athletic clubs, veteran's clubs, hotel/motels and brewpubs. In this context, the Department finds expressly permitting a Small Beer Manufacturer consistent with the intentions and spirit of the RUD.

While public input received to date indicates a desire for either the creation of a project specific Special Use District or the imposition of a Conditional Use Authorization requirement for Small Beer Manufacturing licenses within the RUD, Planning Department Staff believes this would create an unnecessary layer of additional regulation on large swaths of land zoned for this type of light industrial use that is otherwise principally permitted but for RUD.

The proposed Ordinance seeks to augment the San Francisco manufacturing base while capitalizing on the growth in interest in locally produced food and beverages.

The proposed Ordinance will facilitate the expansion of commercial opportunities and employment for workers of all skill levels in the Bayview neighborhood.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Section 249.62, Third Street Alcohol Restricted Use District would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Sections 15080(c)(2) and 15378 of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received two letters in regard to the proposed Ordinance. The comments supported the amendment to the RUD that would allow Small Beer Manufacturing either through a Special Use District or through Conditional Use Authorization.

RECOMMENDATION:	Recommendation of Approval
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 140875
- Exhibit C: Map of the Third Street Alcohol Restricted Use District
- Exhibit D: Letters from the Public