



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: SEPTEMBER 22, 2011

Project Name: **Amendments to the Mission Alcohol SUD**
Case Number: 2011.0710T [Board File No. 11-0767]
Initiated by: Supervisor Kim / Introduced June 21, 2011
Staff Contact: Sophie Hayward, Legislative Affairs
sophie.hayward@sfgov.org, 415-558-6372
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Recommend Approval with Minor Modification**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Mission Alcoholic Beverage Special Use Subdistrict (SUD) Planning Code Section 781.8 (recently amended by Board File 2011-0482 to be renumbered as Planning Code Section as 249.60) to permit bowling alleys to serve alcoholic beverages along with any full-service restaurant, large fast-food restaurant, or small self-service restaurant that is integrated with the bowling alley¹.

The Way It Is Now:

The Mission Alcohol SUD, which was established in 1996, prohibits new establishments from distributing – including selling or serving – alcohol within the geographic area of the SUD, which is bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez Street, Potrero Avenue and Fourteenth Street. The SUD also prohibits the expansion of existing establishments that sell or serve alcohol. Establishments such as liquor stores or bars that were in legal operation prior to the establishment of the SUD may continue to operate with two specific caveats:

1. An establishment may not cease to operate for a period longer than 30 days. If a business ceases operations for any period longer than thirty days, the use will be considered abandoned; and
2. There may be no substantial change to the character of an existing business that sells alcohol, including a physical expansion of the area devoted to the sale of alcohol, nor a change in the type of retail liquor license under which the business operates.

Currently, Planning Code Section 249.60 provides two specific exceptions from the prohibition: bona fide restaurants and non-profit theaters (with live performers) may sell and/or serve alcoholic beverages.

The Way It Would Be:

The proposed Ordinance would add a third exception from the prohibition on selling or serving alcoholic beverages within the Mission Alcohol SUD. If adopted, the proposed Ordinance would allow bowling

¹ Ordinance 140-11, renumbering Planning Code Section 781.8 as [249.60](#) became effective August 4, 2011.

alleys to serve alcoholic beverages along with a full service restaurant that is integrated within the bowling alley.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The modification recommended by the Department is minor and is technical in nature:

- Refer to Planning Code Section 249.60 for the Mission Alcohol Special Use District. The Code Section was moved from Section 781.8 to 249.60 with Ordinance 140-11, Board File 2011-0482, that became effective on August 4, 2011.

BASIS FOR RECOMMENDATION

The Mission Alcohol Special Use District was created in 1996 as a way to combat problems within the geographic area that included loitering, littering, drug trafficking, prostitution, public drunkenness, defacement, pedestrian obstructions, and traffic circulation, parking, and noise problems on public streets.

The proposed Ordinance would preserve the intent of the Special Use District, while permitting a specific business type to move into the geographic area of the SUD. The proposal would permit bowling alleys to serve alcohol only in the context of a restaurant that is functionally and/or physically integrated with the bowling alley. This stipulation would ensure that the serving of alcohol would be secondary to the primary entertainment and dining uses, and would minimize any disruptive nuisance to the surrounding neighborhood.

The Department believes that the proposed amendment to the existing Mission Alcohol SUD will facilitate the addition of businesses that provide recreation and entertainment in a manner that is consistent with the neighborhood character and will not contribute to the deterioration of the neighborhood. Although the proposed Ordinance would permit bowling alleys to serve alcohol as-of-right, any change of use to a bowling alley that includes a restaurant would be subject to neighborhood notification as applicable in the underlying zoning district as well as the licensing requirements set forth in State Law.

The Mission Alcohol SUD was the first and most restrictive of the five established Alcohol Special Use Districts identified in the Planning Code, and is the only Alcohol SUD that provides no means of transferring liquor licenses from one location to another within the SUD, nor does it provide a means to add conditions of approval to existing establishments that are permitted to sell and serve alcohol.² The

² There are five additional Alcohol Special Use Districts established in the Planning Code: the 3rd Street Alcohol SUD (Planning Code Section 249.62, established in 2003), the Haight Street Alcohol SUD (Planning Code 781.9, established in 1999), the Divisadero

Department would encourage an expanded effort in the future to consider a more broad review of the controls in the Mission Alcohol Special Use District in order to make the specific controls more consistent with other Alcohol SUDs and to more effectively monitor and condition existing businesses that sell alcohol within the district. While the proposed Ordinance is minor in scope, the Department would encourage an effort to conduct further outreach and to consider broader changes in the future.

The Department's proposed modification is minor. On August 4, 2011 (after the proposed Ordinance was introduced by Supervisor Kim), Planning Code Section 781.8, which defined the Mission Alcohol Special Use District, was moved from Article 7 to Article 2 of the Planning Code. The Mission Alcohol Special Use District is now described, defined, and outlined in Planning Code Section 249.60.

In sum, the Department supports the proposed Ordinance to permit bowling alleys to serve alcohol, provided the alcohol is served as part of a full-service, large fast-food, or a small self-service restaurant that is functionally and/or physically integrated with the bowling alley.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Section 781.8 (now Section 249.60) is not considered a project under CEQA Guidelines Section 15378, and was issued an exemption based on CEQA Section 15060(c)(3) on July 7, 2011.

PUBLIC COMMENT

The Planning Department received one letter regarding the proposed Ordinance. The letter was from George Rush, an attorney representing the owners of the Roxie Movie Theater, requesting that an additional exception be included in the proposed Ordinance to allow single-screen movie theaters to sell alcohol within the Mission Alcoholic Beverages Subdistrict. The letter was received by Staff three days prior to distribution of case reports; therefore, the Department does not feel that there has been sufficient internal review of the request to make a recommendation to the Planning Commission at this time. However, the letter has been included in your packets and the Planning Commission may opt to include a recommendation on the request in its resolution that is transmitted to the Board of Supervisors for its review.

RECOMMENDATION:	Recommendation of Approval with Modifications
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 11-0767
- Exhibit C: Letter from the Law Office of George M. Rush, dated September 1, 2011

Street Alcohol SUD (Planning Code Section 783, established in 2004), the Lower Haight Alcohol SUD (Planning Code Section 784, established in 2007), and the Excelsior Alcohol SUD (Planning Code Section 785, established in 2008).



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution

HEARING DATE: SEPTEMBER 22, 2011

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH A MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND SECTION 781.8 (NOW SECTION 249.60) OF THE SAN FRANCISCO PLANNING CODE TO PERMIT BOWLING ALLEYS IN THE MISSION ALCOHOLIC BEVERAGE SPECIAL USE DISTRICT TO SERVE ALCOHOLIC BEVERAGES;

PREAMBLE

Whereas, on June 21, 2011, Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 11-0767 which would amend Planning Code Section 781.8 (now Planning Code Section 249.60, as amended August 4, 2011), the "Mission Alcoholic Beverage Special Use District" to allow bowling alleys within the geographic boundaries of the Special Use District to serve alcoholic beverages along with any full-service, large fast-food, or small self-service restaurant that is functionally and/or physically integrated with the bowling alley; and

Whereas, on September 22, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined not to be a project the California Environmental Quality Act Section 15378 and 15060(c)(3); and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed Ordinance with a modification* and adopts the attached Draft Resolution to that effect.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Planning Code currently prohibits new establishments, or expanded existing establishments, from distributing alcohol within the geographic area of the Mission Alcoholic Beverage Special Use District (SUD), which is bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez Street, Potrero Avenue and Fourteenth Street;
2. Existing establishments that were in legal operation when the SUD was established may continue to operate provided that they do not cease to operate for a period longer than thirty days and that they neither expand the physical area devoted to the sale of alcohol nor change the character of the operation;
3. Currently, Planning Code Section 249.60 provides two exceptions for the prohibition, which are for bona fide restaurants and non-profit theaters;
4. The Commission believes that the proposed amendment is appropriate for thriving, neighborhood-serving commercial districts;
5. The Commission believes that the proposed amendment to the existing Mission Alcoholic Beverage SUD will facilitate the addition of businesses that provide recreation and entertainment in a manner that is consistent with the neighborhood character and will not contribute to the deterioration of the neighborhood;
6. The Commission notes that although the proposed ordinance would permit bowling alleys to serve alcohol, any change of use to a bowling alley would be subject to neighborhood notification as applicable in the underlying zoning district;
7. The Commission recommends that the Board of Supervisors adopt the proposed Ordinance with a minor technical amendment to change the Planning Code Section that will be amended from 781.8 to Planning Code Section 249.60.
8. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

GOALS

THE THREE GOALS OF THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN RELATE TO CONTINUED ECONOMIC VITALITY, SOCIAL EQUITY, AND ENVIRONMENTAL QUALITY.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

POLICY 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

POLICY 6.10

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

The proposed Ordinance would preserve the intent of the Mission Alcoholic Beverage Special Use District while permitting a specific business type to move into the geographic area of the SUD. The proposal would permit bowling alleys to serve alcohol only in the context of a restaurant that is functionally and/or physically integrated with the bowling alley. This stipulation would ensure that the serving of alcohol would be secondary to the primary entertainment and dining uses, and would minimize any disruptive nuisance to the surrounding neighborhood. The proposed Ordinance will facilitate the addition of businesses that provide recreation and entertainment in a manner that is consistent with the neighborhood character and that will not contribute to the deterioration of the neighborhood.

9. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will encourage neighborhood-serving retail uses and opportunities for employment in or ownership of such businesses by allowing bowling alleys to serve alcohol in conjunction with restaurants. The intent is to provide for economic growth that will support the neighborhood without causing the deterioration of the neighborhood. The proposed Ordinance will encourage and foster economic growth by helping to attract and retain customers.

B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed amendment to allow restaurants in bowling alleys to serve alcohol is intended to provide a means for appropriate businesses that combine recreation, entertainment, and to be located within the Mission Alcoholic Beverages SUD. The proposed Ordinance would not negatively impact the existing housing and neighborhood character of the district.

- C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

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

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendment. Any new construction or alteration associated with a project would be executed in compliance with all applicable construction and safety measures.

- G) That landmark and historic buildings will be preserved:

Landmarks and historic buildings would be unaffected by the proposed amendment. The proposed amendment would not result in a physical impact to historic structures, and any proposed project would be reviewed under the Department's existing preservation policies.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

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

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on September 22, 2011.

Resolution No.
Hearing Date: September 22, 2011

CASE NO. 2011.0710
Mission Alcohol SUD Amendment

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: September 22, 2011

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

June 30, 2011

Planning Commission
Attn: Linda Avery
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On June 21, 2011, Supervisor Kim introduced the following proposed legislation:

File No. 110767

Ordinance amending the San Francisco Planning Code Section 781.8 to: 1) permit bowling alleys in the Mission Alcoholic Beverage Special Use Subdistrict to serve alcoholic beverages; and 2) making 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 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 that reads "Alisa Somera".

By: Alisa Somera, Committee Clerk
Land Use & Economic Development Committee

Attachment

- c: John Rahaim, Director of Planning
- Scott Sanchez, Zoning Administrator
- Bill Wycko, Chief, Major Environmental Analysis
- AnMarie Rodgers, Legislative Affairs
- Nannie Turrell, Major Environmental Analysis
- Brett Bollinger, Major Environmental Analysis

1 [Planning Code - Alcoholic Beverages in Bowling Alleys in the Mission Alcoholic Beverage
2 Special Use Subdistrict]

3 **Ordinance amending the San Francisco Planning Code Section 781.8 to: 1) permit**
4 **bowling alleys in the Mission Alcoholic Beverage Special Use Subdistrict to serve**
5 **alcoholic beverages; and 2) making environmental findings, Planning Code Section 302**
6 **findings, and findings of consistency with the General Plan and the Priority Policies of**
7 **Planning Code Section 101.1.**

8
9 NOTE: Additions are *single-underline italics Times New Roman*;
10 deletions are ~~*strike-through italics Times New Roman*~~.
11 Board amendment additions are double-underlined;
12 Board amendment deletions are ~~strikethrough normal~~.

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

14 Section 1. Findings.

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

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

24 (c) This Board finds that these Planning Code amendments are consistent with the
25 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set

1 forth in Planning Commission Resolution No. _____ and the Board hereby
2 incorporates such reasons herein by reference.

3

4 Section 2. The San Francisco Planning Code is hereby amended by amending Section
5 781.8, to read as follows:

6 **SEC. 781.8. MISSION ALCOHOLIC BEVERAGE SPECIAL USE SUBDISTRICT.**

7 There is an unusually large number of establishments dispensing alcoholic beverages,
8 including beer and wine, for both on-site and off-site consumption in this area. The existence
9 of this many alcoholic beverage establishments appears to contribute directly to numerous
10 peace, health, safety and general welfare problems in the area, including loitering, littering,
11 drug trafficking, prostitution, public drunkenness, defacement and damaging of structures,
12 pedestrian obstructions, as well as traffic circulation, parking and noise problems on public
13 streets and neighborhood lots. The existence of such problems creates serious impacts on
14 the health, safety and welfare of residents of nearby single- and multiple-family areas,
15 including fear for the safety of children, elderly residents and of visitors to the area. The
16 problems also contribute to the deterioration of the neighborhood and concomitant
17 devaluation of property and destruction of community values and quality of life. The number
18 of establishments selling alcoholic beverages and the associated problems discourage more
19 desirable and needed commercial uses in the area. In order to preserve the residential
20 character and the neighborhood-serving commercial uses of the area, there shall be a Mission
21 Alcoholic Beverage Special Use Subdistrict to prohibit new establishments, or expansion of
22 existing establishments, selling alcoholic beverages for the property in the area generally
23 bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez
24 Street, Potrero Avenue and Fourteenth Street as designated on Sectional Map Numbers 7SU
25 and 8SU.

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The following restrictions shall apply within such district:

(a) **Prohibition of New Establishments Selling Alcoholic Beverages.** No new establishment where alcoholic beverages are sold, served or given away for on-site or off-site consumption, shall be established in this special use district as set forth below:

(1) No new bar, as defined in Planning Code Section 790.22, shall be permitted in this special use district;

(2) No new off-sale liquor establishment shall be permitted in the special use district. An "off-sale liquor establishment" shall mean any establishment that is defined in Section 790.55 of this Code.

(b) **Prohibition of Expansion of Existing Establishments Selling Alcoholic Beverages.** Any establishment selling alcoholic beverages lawfully existing prior to the effective date of this resolution and licensed by the State of California for the retail sale of alcoholic beverages for on-site and off-site consumption, so long as otherwise lawful, may continue in existence, provided such establishment remains in use, as follows:

(1) In the event that any such establishment ceases to operate or discontinues operation for 30 days or longer as set forth in State law, such use shall be deemed abandoned;

(2) No establishment selling alcoholic beverages may substantially change the mode or character of operation of the establishment, nor may it expand the square footage devoted exclusively to the sale of alcoholic beverages, significantly increase the percentage of alcoholic beverage sales as a portion of total sales, or change its type of retail liquor license within a license classification.

(c) **Exception~~s~~.** *for*

1 (1) Bona Fide Restaurant. A bona fide restaurant shall be permitted to serve
2 alcoholic beverages in this special use district. A "bona fide restaurant" shall mean a place
3 which is regularly used and kept open for the service of meals to guests for compensation and
4 which has (1) suitable kitchen facilities for the cooking of an assortment of foods which may
5 be required for meals, (2) a primary use of sit-down service to patrons, (3) adequate seating
6 arrangements for sit-down patrons provided on the premises, (4) take-out service that is only
7 incidental to the primary sit-down use, (5) alcoholic beverages which are sold or dispensed for
8 consumption on the premises only when served at tables or sit-down counters by employees
9 of the restaurant, and (6) a minimum of 51 percent of the restaurant's gross receipts shall be
10 from the sale of meals. A "bona fide restaurant" does not include any billiard or pool hall,
11 bowling alley, or adult entertainment business as defined in Planning Code Section 790.36.

12 ~~(d)~~ (2) Exception for Non-Profit Theaters. A non-profit theater shall be permitted to
13 serve alcoholic beverages in this special use district. A "non-profit theater" shall mean a
14 building or part of a building intended to be used for the specific purposes of presenting any
15 act, play, revue, pantomime, scene, song, dance act, or song and dance act, conducted or
16 participated in by one or more persons, whether or not such person or persons are
17 compensated for such performance, and which is exempted from payment of income tax
18 under Section 23701d of the California Revenue and Taxation Code and Section 501(c)(3) of
19 the Internal Revenue Code of the United States. A "non-profit theater" does not include any
20 dance hall as defined in Section 1060 of the San Francisco Police Code, billiard parlor, pool
21 hall, bowling alley, or adult entertainment business as defined in Planning Code Section
22 790.36.

23 (3) Bowling Alleys. *In this special use district, a bowling alley shall be permitted to serve*
24 *alcoholic beverages along with any full-service restaurant, large fast-food restaurant, or small self-*
25 *service restaurant which is functionally and/or physically integrated with such bowling alley.*

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

5
6 Section 3. Effective Date. This ordinance shall become effective 30 days from the
7 date of passage.

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

10 By: _____
11 JUDITH A. BOYAJIAN
12 Deputy City Attorney

LEGISLATIVE DIGEST

[Planning Code - Alcoholic Beverages in Bowling Alleys in the Mission Alcoholic Beverage Special Use Subdistrict]

Ordinance amending the San Francisco Planning Code Section 781.8 to: 1) permit bowling alleys in the Mission Alcoholic Beverage Special Use Subdistrict to serve alcoholic beverages; and 2) making 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.

Existing Law

Section 781.8 establishes the Mission Alcoholic Beverage Special Use Subdistrict. It prohibits new establishments or the expansion of existing establishments selling alcoholic beverages. It makes exceptions for bona fide restaurants and non-profit theaters. Bona fide restaurants and non-profit theaters are defined as not including a bowling alley.

Amendments to Current Law

The proposed legislation adds a new exception. In the special use district, a bowling alley will be permitted to serve alcoholic beverages along with any full-service restaurant, large fast-food restaurant, or small self-service restaurant which is functionally and/or physically integrated with the bowling alley.

**LAW OFFICES
OF
GEORGE M. RUSH**

RECEIVED

SEP 03 2011

CITY & COUNTY OF S.F.
DEPT. OF PLANNING
ADMINISTRATION

September 1, 2011

Planning Commission
Attn: Linda Avery
1660 Mission Street, 5th Floor
San Francisco, CA 94103

**RE: FILE NO. 110767: ORDINANCE AMENDING THE SAN FRANCISCO
PLANNING CODE SECTION 781.8**

Dear Ms. Avery,

I am writing you on behalf of the Roxie Theater, as its legal representative, to ask that you please expand the proposed ordinance (File No. 110767) amending the San Francisco Planning Code Section 781.8 to include single-screen movie theaters. The ordinance, presented by Supervisor Kim on June 21, 2011, will permit bowling alleys in the Mission Alcoholic Beverage Special Use Subdistrict to serve alcoholic beverages. We respectfully ask that San Francisco Planning Code Section 781.8(c)(3) be redrafted to state, "In this special use district, a bowling alley *and a single-screen movie theater* shall be permitted to serve alcoholic beverages..."

The Roxie is a California non profit corporation and has 501 (c) 3 status. Over the past year, the Roxie has used its non-profit status to obtain day use permits for on-site alcohol sales, and the response was so positive that we would like to make it permanent. During this time, none of the Roxie's neighbors or anybody else within the subdistrict has complained about loitering, public drunkenness, or any other problems related to the consumption of alcohol. Rather, the sale of beer has brought in much needed funds to the non-profit theater that has been serving San Francisco for over a century.

Most of San Francisco's neighborhood movie theaters opened between 1910 and 1930 as new neighborhoods blossomed along streetcar lines that radiated out from the center of the city. Many of the oldest theaters were built in the inner neighborhoods and were small, gem-sized theatres like the like the Roxie.

In San Francisco, Market Street was once known as the "great white way" because of the number of theater marquees lighting the street. In the 1940s, at the height of the theater age, San Francisco had over a hundred movie houses. As people began acquiring televisions and movie to the suburbs in the '50s, theaters became unprofitable and began to close. The glory of many of the Market Street theaters began to fade and it would not be long before these theaters ceased to operate as film venues. Many neighborhood theaters held on, sometimes shifting to first-run programming or to screening foreign films. As the multiplex craze began to hit the country, a number of

neighborhood theaters were twinned or tri-plexed in an effort to keep them competitive with more modern, multi-screen suburban complexes.

Fortunately, the population density of San Francisco provided many neighborhood theaters with large audiences long after similar theaters in other cities had closed their doors. The lack of available land in the City also contributed to the ability of many neighborhood theaters to survive. There was simply no place to develop competing multi-screen theater complexes within the City. As a result, while the city has lost dozens of neighborhood theatres over the last 30 years, it has also managed to hold on to a small, but vital network of neighborhood theaters.

With a hand full of theaters still operating, San Francisco is one of only a couple of American cities that retains a critical mass of neighborhood movie theaters. In other cities isolated landmark theaters remain, but the networks of neighborhood theaters have been abandoned - lost treasures of more neighborhood-focused eras. Most of the theaters that remain continue to thrive as focal points of neighborhood commercial streets and offer a wonderful amenity to San Franciscans who can still walk to the movies.

It is a growing concern in San Francisco and the Bay Area at large that single-screen theaters are dying, failing to keep going in a world of the mega theaters with many screens, most of which show the current blockbusters. The Roxie seeks to give the little picture or the films and documentaries that help educate the public about various issues a chance. We want to keep being able to do this, and the sale of beer helps greatly.

The impetus for reducing the number of establishments within the subdistrict that may have an alcohol license, according to Section 781.8, was “the existence of this many alcoholic beverage establishments appears to contribute directly to numerous peace, health, safety and general welfare problems in the area, including loitering, littering... public drunkenness,” etc. As previously explained, the Roxie has received no complaints from serving alcohol in the past, and unlike with a bar, people do not come to movie as way to abuse alcohol consumption and/or create a nuisance. Indeed, according to the BAC (blood alcohol content) Charts from Virginia Tech, the ingestion of two beers in a person ranging in weight from 120-200 would bring approximate blood alcohol percentage to 0.04 - 0.08, still under the legal driving limit. First and foremost our patrons are at the Roxie to see movies and will be, on average, in the theater for two hours. We estimate our costumers will be drinking two beers at most.

The subdistrict legislation already allows Non-Profit Theaters under Section 781.8(c)(2) to obtain alcohol licenses, thus establishing the value of letting non-profit theaters get such licenses in order to gain much needed income to stay operational. The Roxie Theater is also a non-profit theater, but rather than presenting “any act, play, revue, pantomime, scene, song, dance act,” etc., the Roxie presents movies. That is the only difference that keeps the Roxie from getting a liquor license while other non-profit theaters are obtaining ones.

The Roxie is a beloved San Francisco institution, opening its doors to the film going public 102 years ago. Unlike the other non-profit theaters in the subdistrict, the

Roxie is open seven days a week and is by far the largest and busiest theater. If one walks up and down the streets of the Mission, it becomes clear that the only independent movie theater still standing there is the Roxie. The Roxie loves serving both its local community and the larger community of San Francisco and wants to keep doing so. The Roxie does not want to close its doors as other similar theaters recently have had to, such as Haight Ashbury's Red Vic. In order to avoid this, the Roxie requires the ability to bring in much needed funds, funds that would be easily raised through the selling of beer at movie screenings.

The Roxie and I please request that you amend the proposed ordinance to Section 781.8 and have Section 781.8(c)(3) include both Bowling Alleys and Single-Screen Movie Theaters.

Sincerely,



George Rush
Attorney at Law

Cc: Supervisor Jane Kim
Mayor Ed Lee

220 MONTGOMERY STREET, SUITE 411 • SAN FRANCISCO, CA •
94104

PHONE: 415 303 8005 • FAX: 415 202 9021