



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: JULY 18, 2013

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Project Name: **Amendments to the Mission Alcohol SUD and to the Valencia Street NCT.**

Case Number: 2013.0724T [Board File No. 130459]

Initiated by: Supervisors Campos and Wiener / Introduced May 31st, 2013

Staff Contact: Sophie Hayward, Legislative Affairs
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Recommendation: **Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Mission Alcoholic Beverage Special Use District (Mission Alcohol SUD), Planning Code Section 249.60, to allow the transfer of liquor licenses under specified circumstances and to amend the controls for alcohol-serving establishments, and to amend the Valencia Street Neighborhood Commercial Transit District control table, Section 726.44, to restrict the conversion of ground floor retail uses to restaurants.

The Way It Is Now:

Planning Code Section 249.60 establishes and defines the Mission Alcohol SUD. The Mission Alcohol SUD is an overlay that includes the following underlying zoning districts: 24th and Mission NCT, Mission Street NCT, Valencia Street NCT, NC-1, 2, and 3, PDR-1-G, Public, RTO-Mission, RH-2, RH-3, RM-1, 2, and 3, and Urban-Mixed-Use districts.

The Mission Alcohol SUD was established in 1996 and 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 four specific exceptions from the prohibition: bona fide eating establishments, non-profit theaters (with live performers), bowling alleys, and single-screen movie theaters may sell and/or serve alcoholic beverages under certain circumstances.

Planning Code Section 726.1 defines the Valencia Street Neighborhood Commercial Transit District, and Planning Code Section 726.44 notes that Restaurants, as defined in Section 790.91, are permitted at the ground story.

The Way It Would Be:

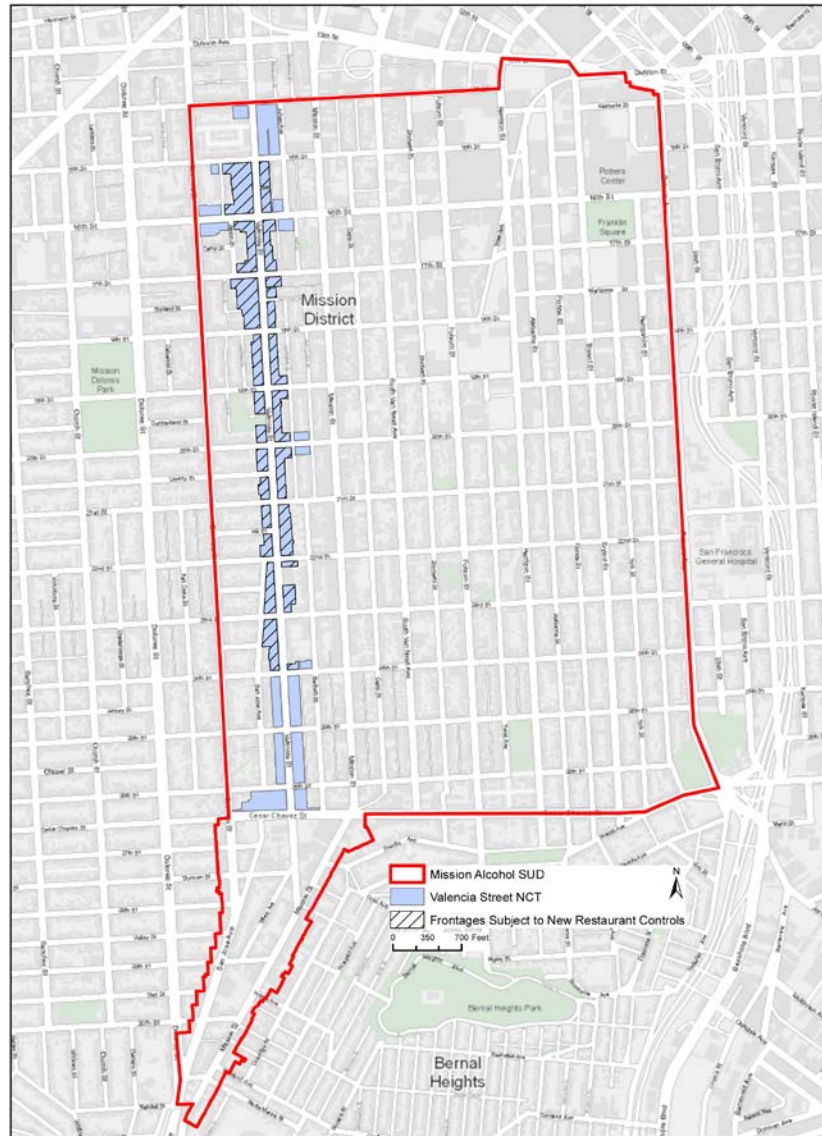
The proposed Ordinance would amend the Mission Alcohol SUD to:

- Allow alcohol-serving uses including bona fide eating establishments, non-profit theaters, bowling alleys, and single-screen movie theaters to be established with a liquor license that has been transferred from another business located within, or outside, of the District;
- Allow the relocation of an existing liquor establishment from a location within the Mission Alcohol SUD to another location with the SUD, with Conditional Use authorization;
- Allow the transfer of liquor licenses from **within** the district to new alcohol-serving uses including:
 1. New General Grocery Stores (as defined in Section 790.102(a)), and Specialty Grocery Stores (as defined in Section 790.102(b)), provided that no more than 15% of the publically accessible square footage is devoted to the display of alcohol, established with Conditional Use authorization, and limited to a Type 20 Liquor License;
 2. Any retail use (defined in Section 790.104) established with Conditional Use authorization, where the principal use is a cooking or drink-making teaching facility;
 3. New or relocated bars, authorized by Conditional Use, and considered pursuant to the underlying zoning district.¹
- Allow existing alcohol-serving establishments to close for up to 120 days, provided that the closure is to repair, renovate, or remodel in a manner that brings the establishment into closer conformity with the controls of the Mission Alcohol SUD, with the underlying zoning district, or with other design guidelines referenced in the Planning Code;
- Allow existing alcohol-serving establishments to expand with Conditional Use authorization.
- Establish “Good Neighbor Policies” to augment the operating conditions outlined in Section 703.5, including exterior lighting requirements, glazing requirements and signage restrictions, and an explicit statement that violations of the Good Neighbor Policies outlined in the Code would trigger a Planning Commission hearing to revoke the Conditional Use authorization.

The proposed Ordinance would amend the Valencia Street Neighborhood Commercial Transit District such that while Restaurants, as defined in Section 790.91, would remain as permitted uses at the ground story, conversions of retail spaces to Restaurants would require Conditional Use authorization if proposed for Valencia Street between 15th Street and 24th Street.²

¹ Bars are prohibited in the RH-2, RH-3, RM-1, 2, and 3, RTO-Mission, NC-1, and the 24th Street-Mission NCT Zoning Districts. The draft Ordinance would not remove or alter that prohibition.

² This restriction would apply to retail spaces that have been occupied as such anytime within the three years prior to the filing of the change of use building permit.



This zoning map shows the boundary of the Mission Alcoholic Beverage SUD, and highlights both the existing Valencia Street NCT and the area within that district that would be subject to a CU when retail uses would be converted to restaurant uses.

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. There four modifications recommended by the Department, as detailed below.

BASIS FOR RECOMMENDATION

Overall, the Department is supportive of the proposed amendments to both the Mission Alcohol SUD and to the restaurant controls for the Valencia Street NCT, as a timely update that responds to contemporary issues. The Mission Alcoholic Beverage 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. While in some areas those specific concerns remain, the proposed Ordinance addresses the changing landscape of the area within the boundaries of the SUD, as well as lessons learned through the implementation of alcohol restrictions in other areas of the City: the addition of new grocery stores – even those that sell limited amounts of alcohol – provide a valuable neighborhood service, and allowing transfers of existing liquor licenses would add operating conditions to ensure that liquor establishments contribute to the order, cleanliness, and vibrancy of the district.

The Mission Alcohol SUD was the first and most restrictive of the six established Alcohol Restricted Use Districts identified in the Planning Code, and is the only Alcohol SUD that neither provides a means to transfer liquor licenses from one location to another within the SUD, nor a means to add conditions of approval to existing establishments that are permitted to sell and serve alcohol.³ The Department is supportive of changes to make the controls both more consistent with other Alcohol SUDs and more effective at monitoring and conditioning existing businesses that sell alcohol within the district.

The existing controls have resulted in a “freezing” of entitlements that have less restrictive operating conditions than those that are currently required, such as the requirements for eating and drinking establishments which were added to the Planning Code (Section 703.5) in 2012, and the Department’s standard Conditions of Approval that are required as part of any Conditional Use authorization granted by the Planning Commission.⁴

The recommended modifications are intended to simplify and to clarify the application of the alcohol-related controls within the Mission Alcohol SUD, as follows:

1. Simplify Sections 249.60(b)(2) and (3), which allows certain transfers of licenses within the SUD:

- Explicitly state that there are two uses that are eligible for liquor licenses transferred from establishments located within the SUD: 1) grocery stores (both General Groceries as defined in Section 790.102(a) and Specialty Groceries as defined in Section 790.102(b), and 2) all bar uses, as defined in Section 790.22. Bars include uses where the principal use is “drink-making teaching

³ There are six additional Alcohol Restricted Use Districts established in the Planning Code: the North of Market Residential Special Use District (Planning Code Section 249.5, established in 1985 with alcohol controls added in 1999), 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 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).

⁴ Specific operating conditions that apply to eating and drinking establishments are detailed in Planning Code Section 703.5, and include maintaining the entrance and all sidewalks, in compliance with Department of Public Works Street and Sidewalk Standards, sound proofing consistent with the San Francisco Noise Ordinance, odor control, and appropriate screening for garbage, compost, and recycling containers. (Available online at: [http://www.amlegal.com/nxt/gateway.dll/California/planning/planningcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://www.amlegal.com/nxt/gateway.dll/California/planning/planningcode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1) (July 9, 2013)).

facility.” Grocery stores are eligible for the transfer of a license from any liquor-serving establishment, while bars must use a transfer from an existing legal bar use.

- Delete the size restrictions for permitted sale of liquor within grocery stores that are eligible for license transfers, and replace the restrictions with a reference to the size limits detailed for accessory retail liquor sales in Planning Code Section 703.2(b)(1)(C)(vi).
- Remove the reference in Section 249.60(b)(2)(B) to retail uses with a principal use as a “cooking [...] teaching facility,” as there is no existing Planning Code definition for a cooking school (Page 5, Line 15). Instead, cooking schools will be treated as “Restaurants,” and are eligible for transfers from within the district or from outside the district.
- Remove the reference in Section 249.60(b)(2)(B) to “drink-making teaching facility,” as there is no existing Planning Code definition of a cocktail- or drink-making school. Instead, cocktail schools will be treated as bars, which are also eligible for liquor licenses transferred from an existing bar in the SUD.
- Remove Section 249.60(b)(3), which details the circumstances in which new bars may open with a license transferred from an existing bar in the SUD, and relocate it to subsection (2).
- With the proposed modifications listed above, Section 249.60(b)(2) would read:

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

*(A) Notwithstanding the provisions of Section 790.55, **General Groceries** as defined in Section 790.102(a) of this Code or **Specialty Groceries**, as defined in Section 790.102(b,) regardless of size, so long as ~~not more than 15 percent of its publically accessible square footage is devoted to the display and/or sale of alcoholic beverages~~ as the percentage of gross square footage devoted to alcohol sales is consistent with the limits set forth in Section 703.2(b)(1)(C)(vi). Such use shall require a Conditional Use authorization and shall be limited to a Type 20 Liquor License, except that such use shall not sell a single beer or malt beverage in a container size of 24 oz. or smaller, or sell any malt beverage with an alcohol content greater than 5.7% by volume; or any wine in a container size less than 375 ml or with an alcohol content of greater than 15% by volume, except for “dinner wines” that have been aged two years or more and maintained in a corked bottle.*

(B) ~~Any retail use as defined Section 790.104 authorized by Conditional Use where the principal use is a cooking or drink making teaching facility.~~

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

2. Clarify abandonment, continuation, and expansion of nonconforming alcohol-related uses in Section 249.60(c):

- Insert a line that explicitly states that existing liquor establishments are considered nonconforming uses, subject to Sections 180, 181, and 183, with exceptions for temporary closures, relocation, and expansion as enumerated in the draft Ordinance. Abandonment is the consequence for changes not explicitly allowed in the SUD. With the proposed modifications listed above, Section 249.60(c) would read:

(c) Prohibition of Expansion of Existing Liquor Establishments Selling Alcoholic Beverages. For purposes of this subsection (d) “liquor establishment” shall mean any establishment licensed by the State of California to sell alcoholic beverages except for those uses listed in subsection (b)(1-

2) above. Any liquor establishment ~~selling alcoholic beverages~~ lawfully existing prior to the effective date of this resolution Ordinance No. 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, is considered a nonconforming use pursuant to Section 180, and is subject to the restrictions of Sections 181 and 183 with the following exceptions: and may continue in existence, provided such establishment remains in use, as set forth below. For purposes of this subsection (d) "liquor establishment" shall mean any establishment licensed by the State of California to sell alcoholic beverages except for those uses listed in subsection (c)(1-2) above.

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

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

(3) Expansion. An existing liquor establishment may expand its use with Conditional Use authorization from the Planning Commission. In reviewing the application for such expansion, the Commission shall consider the establishment's prior operating conditions.

3. Require that the "Good Neighbor" operating conditions be applicable to all liquor license referrals in Section 249.60(d):

- Amend subsection (d) to apply the "Good Neighbor" operating conditions to establishments with liquor licenses referred to the Planning Department for review by the State of California Department of Alcoholic Beverage Control. With the proposed modification, Section 249.60(d) would read:

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

4. Correct Miscellaneous Typos:

- **Section 249.60(c), Page 5, Line 25:** The reference to "this subsection (d) "liquor establishment"" should refer to subsection (c).
- **Section 249.60(c), Page 6, Line 2:** The reference to "subsection (c)(1-2) above" should be to subsection (b)(1-2).
- **Section 249.60(d), Page 6, Line 17:** The reference to "subsection (d) above," should be to subsection (c).
- **Section 790.55:** The existing definition of "Liquor Store" exempts large grocery stores that sell alcohol from the restrictions of the SUD. The reference to the Mission Alcohol SUD should be updated from referring to 781.8, to 249.60, which is the Section that now defines the SUD.

ISSUES AND CONSIDERATIONS

Ensuring that establishments with liquor licenses improve operations without increasing in quantity within the Mission Alcoholic Beverage Special Use District

As proposed, the draft Ordinance provides three ways to legally establish new liquor establishments that would trigger updated operating conditions, while maintaining the net number establishments that provide alcohol for off-site consumption:

1. Existing establishments may relocate or expand (with Conditional Use authorization), or renovate (including a temporary closure for up to 120 days). Any of these changes would trigger the application of the “Good Neighbor” operating procedures to the establishment;
2. Specific new uses that include on- and off-site consumption of alcohol may be established with Conditional Use authorization by transferring an existing liquor license from an operator within the SUD. These uses include grocery and specialty grocery stores that sell small quantities alcohol for off-site consumption (no more than 15% of the accessible floor area in the store may be dedicated to the display of alcohol), or new cooking schools or drink-making teaching facilities. New bars may also be established, provided that liquor license is obtained from another bar within the SUD. These new conditionally permitted uses would be subject to the “Good Neighbor” policies.
3. As is currently the case within the SUD, certain institutional or arts-oriented uses that are beneficial and contribute to the vibrancy of the area, and may serve alcohol, can also be established within the district by utilizing a liquor license that has been transferred from another business inside or outside of the SUD. These are uses that currently are exempt from the alcohol restrictions in the district: bona fide eating establishments, non-profit theaters, bowling alleys, and single-screen theaters. With the proposed Ordinance, these new uses would also be subject to the “Good Neighbor” operating conditions.

Currently, large grocery stores (measuring over 5,000 square feet) that sell alcohol as an accessory use are exempt from the alcohol restrictions of the Mission Alcohol SUD, while smaller grocery stores that sell alcohol are prohibited.⁵ The existing controls unfairly favor large grocery operators (which are, in many cases formula retailers) over smaller, independent businesses that may better fit within the overall character and scale of much of the SUD. The Department is supportive of efforts to allow grocery stores of any size to operate within the SUD. However, it appears that that as proposed, the draft Ordinance may not go far enough to support a greater number of fresh food retailers in the area: there are only 20 Type 20 liquor licenses within the SUD. A potential new grocery store would have to first identify a Type 20 license-holder willing to give up the license for the transfer, and then apply for and obtain Conditional Use authorization. The proposed Ordinance may be a good first step to increasing the number of fresh food retailers in the SUD, but additional incentives may need to be considered in the future in order to attract more grocery stores to the district.

⁵ Planning Code Section 790.55 defines “Liquor Stores,” and for the purposes of several specific zoning districts, including the Mission Alcohol SUD, exempts grocery stores over 5,000 square feet that sell alcohol as an accessory use from the alcohol-related controls. (Available online at: [http://www.amlegal.com/nxt/gateway.dll/California/planning/planningcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://www.amlegal.com/nxt/gateway.dll/California/planning/planningcode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1) (July 2, 2013))

The Department believes that the proposed amendment to the existing Mission Alcohol SUD will facilitate the addition of businesses that provide neighborhood-serving grocery needs, as well as recreation and entertainment in a manner that is consistent with the neighborhood character without contributing to the deterioration of the neighborhood. Further, the Department believes that by allowing the transfer of licenses and the explicit establishment of good neighbor policies, so-called “bad” operators will be encouraged to release their “frozen” liquor licenses and will be replaced, over time, with businesses that work to improve the safety and cleanliness of the district.

Restaurants and Retail in the Valencia Street Neighborhood Commercial Transit District

The proposed amendments would apply to new restaurants proposed in locations that are currently classified as retail space (pursuant to Planning Code Sections 790.102 and 790.104) on Valencia Street between 15th Street and 24th Street, a defined geographic area that has seen a striking increase in the number of new restaurants that have opened within the last five years.

A field survey of land uses within existing Neighborhood Commercial Transit Districts conducted by Planning Department interns during the summer of 2012 indicates that there are approximately 86 existing retail spaces on Valencia Street between 15th Street and 24th Street, and 71 existing eating establishments.⁶ Of the surveyed eating establishments, it appears that approximately 55 opened within the last five years, according to information from the Office of the Treasurer.⁷

The proposed amendments to the Valencia Street NCT respond to the influx of eating establishments along the Valencia Street corridor in a manner that protects the fine grain, and historically retail-oriented character of the area. The amendments would provide a layer of oversight over the loss of retail space to new restaurants, yet without invoking a ban or a prohibition – an approach that the Department favors given the changing and evolving needs and pressures in the City’s neighborhood commercial districts.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Sections 249.60 and 726.1 is was issued a Categorical Exemption for non-physical projects pursuant to CEQA Section 15060(c)(2) on June 7, 2013.

PUBLIC COMMENT

Planning staff attended a meeting of the California Music and Culture Foundation (CMAC) on June 19, 2013. In addition, the Small Business Commission considered the proposed Ordinance at their regularly scheduled meeting on July 8, 2013, and passed (unanimously) a resolution of in support of the amendments.

⁶ Information culled from the data collected during field surveys in the summer of 2012. Field data was categorized into the now out-of-date land use categories that include “small self-service restaurant,” “retail coffee shop,” “full service restaurant,” “large fast food restaurant,” and “self-service specialty food,” therefore, for the purposes of this report, the more general term “eating establishment” is used. Eating establishments include both Restaurants and Limited Restaurants as defined in the Planning Code.

⁷ Information from Office of the Treasure reports the total number of eating establishments, including Restaurants, as defined in Planning Code Section 790.91, and Limited Restaurants, as defined in Planning Code Section 790.90.

RECOMMENDATION: Recommendation of Approval with Modifications

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 130459



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE: JULY 18, 2013

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Project Name: **Amendments to the Mission Alcohol SUD and to the Valencia Street NCT.**

Case Number: 2013.0724T [Board File No. 130459]

Initiated by: Supervisors Campos and Wiener / Introduced May 31, 2013

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 Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 249.60, THE MISSION ALCOHOLIC BEVERAGE SPECIAL USE DISTRICT CONTROLS, TO ALLOW THE TRANSFER OF LIQUOR LICENSES AND RELOCATION OF USES UNDER SPECIFIED CIRCUMSTANCES, TO RESTRICT THE SALE OF ALCOHOL FOR OFF-SITE CONSUMPTION, AND TO EXEMPT FROM THE CONTROLS GROCERY STORES AND CERTAIN INSTITUTIONAL, ARTS, AND OTHER USES; ESTABLISHING OPERATING CONDITIONS FOR CERTAIN ESTABLISHMENTS WITH A LIQUOR LICENSE; AMENDING PLANNING CODE SECTION 726.44, THE VALENCIA STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT CONTROLS, TO RESTRICT THE CONVERSION OF EXISTING GROUND FLOOR RETAIL USES TO RESTAURANTS; ADOPTING FINDINGS, INCLUDING 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.

WHEREAS, on May 14, 2013, Supervisors Campos and Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 13-0459, which would amend Section 249.60 of the Planning Code (the Mission Alcohol Special Use District), and Section 726.44 of the Planning Code (the Valencia Street Neighborhood Commercial Transit District); and,

WHEREAS, on June 25, 2013, substitute legislation was introduced with minor amendments to the draft Ordinance; and,

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 18, 2013; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); 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, with the following modifications:

1. Simplify Sections 249.60(b)(2) and (3), which allows certain transfers of licenses within the SUD:

- Explicitly state that there are two uses that are eligible for liquor licenses transferred from establishments located within the SUD: 1) grocery stores (both General Groceries as defined in Section 790.102(a) and Specialty Groceries as defined in Section 790.102(b), and 2) all bar uses, as defined in Section 790.22. Bars include uses where the principal use is “drink-making teaching facility.” Grocery stores are eligible for the transfer of a license from any liquor-serving establishment, while bars must use a transfer from an existing legal bar use.
- Delete the size restrictions for permitted sale of liquor within grocery stores that are eligible for license transfers, and replace the restrictions with a reference to the size limits detailed for accessory retail liquor sales in Planning Code Section 703.2(b)(1)(C)(vi).
- Remove the reference in Section 249.60(b)(2)(B) to retail uses with a principal use as a “cooking [...] teaching facility,” as there is no existing Planning Code definition for a cooking school (Page 5, Line 15). Instead, cooking schools will be treated as “Restaurants,” and are eligible for transfers from within the district or from outside the district.
- Remove the reference in Section 249.60(b)(2)(B) to “drink-making teaching facility,” as there is no existing Planning Code definition of a cocktail- or drink-making school. Instead, cocktail schools will be treated as bars, which are also eligible for liquor licenses transferred from an existing bar in the SUD.
- Remove Section 249.60(b)(3), which details the circumstances in which new bars may open with a license transferred from an existing bar in the SUD, and relocate it to subsection (2).
- With the proposed modifications listed above, Section 249.60(b)(2) would read:

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

*(A) Notwithstanding the provisions of Section 790.55, **General Groceries** as defined in Section 790.102(a) of this Code or **Specialty Groceries**, as defined in Section 790.102(b,) regardless of size, so long as ~~not more than 15 percent of its publically accessible square footage is devoted to the display and/or sale of alcoholic beverages~~ as the percentage of gross square footage devoted to alcohol sales is consistent with the limits set forth in Section 703.2(b)(1)(C)(vi). Such use shall require a Conditional Use authorization and shall be limited to a Type 20 Liquor License, except that such use shall not sell a single beer or malt beverage in a container size of 24 oz. or smaller, or sell any malt beverage with an alcohol content greater than 5.7% by volume; or any wine in a container size less than 375 ml or with an*

alcohol content of greater than 15% by volume, except for "dinner wines" that have been aged two years or more and maintained in a corked bottle.

(B) ~~Any retail use as defined Section 790.104 authorized by Conditional Use where the principal use is a cooking or drink making teaching facility.~~

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

2. Clarify abandonment, continuation, and expansion of nonconforming alcohol-related uses in Section 249.60(c):

- Insert a line that explicitly states that existing liquor establishments are considered nonconforming uses, subject to Sections 180, 181, and 183, with exceptions for temporary closures, relocation, and expansion as enumerated in the draft Ordinance. Abandonment is the consequence for changes not explicitly allowed in the SUD. With the proposed modifications listed above, Section 249.60(c) would read:

(c) Prohibition of Expansion of Existing Liquor Establishments Selling Alcoholic Beverages. For purposes of this subsection (d) "liquor establishment" shall mean any establishment licensed by the State of California to sell alcoholic beverages except for those uses listed in subsection (b)(1-2) above. Any liquor establishment ~~selling alcoholic beverages~~ lawfully existing prior to the effective date of this resolution Ordinance No. 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, is considered a nonconforming use pursuant to Section 180, and is subject to the restrictions of Sections 181 and 183 with the following exceptions: and may continue in existence, provided such establishment remains in use, as set forth below. ~~For purposes of this subsection (d) "liquor establishment" shall mean any establishment licensed by the State of California to sell alcoholic beverages except for those uses listed in subsection (c)(1-2) above.~~

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

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

(3) Expansion. An existing liquor establishment may expand its use with Conditional Use authorization from the Planning Commission. In reviewing the application for such expansion, the Commission shall consider the establishment's prior operating conditions.

3. Require that the "Good Neighbor" operating conditions be applicable to all liquor license referrals in Section 249.60(d):

- Amend subsection (d) to apply the "Good Neighbor" operating conditions to establishments with liquor licenses referred to the Planning Department for review by the State of California Department of Alcoholic Beverage Control. With the proposed modification, Section 249.60(d) would read:

(d) Good Neighbor Policies. The operating conditions established in Section 703.5 of this Code shall apply to all liquor establishments in this SUD in order to maintain the safety and

cleanliness of the premises and vicinity. In addition, all new, relocated, or expanded liquor establishments, and any liquor establishment with a license referred for review to the Planning Department by the State of California Department of Alcoholic Beverage Control, shall comply with the requirements set forth below. Liquor establishment shall have the meaning set forth in subsection (d) above.

4. Correct Miscellaneous Typos:

- **Section 249.60(c), Page 5, Line 25:** The reference to “this subsection (d) “liquor establishment”” should refer to subsection (c).
- **Section 249.60(c), Page 6, Line 2:** The reference to “subsection (c)(1-2) above” should be to subsection (b)(1-2).
- **Section 249.60(d), Page 6, Line 17:** The reference to “subsection (d) above,” should be to subsection (c).
- **Section 790.55:** The existing definition of “Liquor Store” exempts large grocery stores that sell alcohol from the restrictions of the SUD. The reference to the Mission Alcohol SUD should be updated from referring to 781.8, to 249.60, which is the Section that now defines the SUD.

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 was created 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; and
2. The proposed Ordinance addresses the changing landscape of the area within the boundaries of the SUD, as well as lessons learned through the implementation of alcohol restrictions in other areas of the City; and
3. The addition of new grocery stores – even those that sell limited amounts of alcohol – provide a valuable neighborhood service, and allowing transfers of existing liquor licenses would add operating conditions to ensure that liquor establishments contribute to the order, cleanliness, and vibrancy of the district; and
4. The Mission Alcohol SUD was the first and most restrictive of the six established Alcohol Restricted Use Districts identified in the Planning Code, and is the only Alcohol SUD that neither provides a means to transfer liquor licenses from one location to another within the SUD, nor a means to add conditions of approval to existing establishments that are permitted to sell and serve alcohol; and,

5. The Department is supportive of changes to make the controls both more consistent with other Alcohol SUDs and more effective at monitoring and conditioning existing businesses that sell alcohol within the district; and
6. The proposed amendments would apply to new restaurants in locations that are currently classified as retail space on Valencia Street between 15th Street and 24th Street, a defined geographic area that has seen a striking increase in the number of new restaurants that have opened within the last five years; and,
7. The proposed amendments to the Valencia Street NCT respond to the influx of eating establishments along the Valencia Street corridor in a manner that protects the fine grain, and historically retail-oriented character of the area.
8. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

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

GOALS

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

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.0

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The proposed Ordinance will modify and update the existing Mission Alcohol SUD, which serves to limit establishments with off-sale liquor licenses. Such establishments may be associated with neighborhood nuisance problems such as litter and graffiti. In addition, the proposed Ordinance will manage the influx of new restaurants within the Valencia Street Neighborhood Commercial Transit District.

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 existing Mission Alcohol Special Use District, which has served to limit and minimize identified problems such as loitering and litter. The existing Ordinance will provide oversight of new businesses, and may open opportunities for the addition of businesses that are consistent with the neighborhood character and that will not contribute to the deterioration of the neighborhood.

8. Planning Code Section 101 Findings. The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed amendment will preserve the existing Mission Alcohol SUD and the Valencia Street NCT, which exist in order to preserve and enhance the existing neighborhood character.

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 amendment will help preserve existing neighborhood character by allowing the existing Mission Alcohol SUD to continue. The amendment will not impact existing housing.

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

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

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

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

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed amendment would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

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

The proposed ordinance will not impact the City's preparedness against injury and loss of life in an earthquake.

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

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

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

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

8. Planning Code Section 302 Findings. The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution and in the proposed Ordinance.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 18, 2013.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED:

1 [Planning Code - Mission Alcoholic Beverage Special Use District and Valencia Street
2 Neighborhood Commercial Transit District]

3 **Ordinance amending the Planning Code, Mission Alcoholic Beverage Special Use**
4 **District controls, to allow the transfer of liquor licenses and relocation of uses under**
5 **specified circumstances, to restrict the sale of alcohol for off-site consumption, and to**
6 **exempt from the controls grocery stores and certain institutional, arts, and other uses;**
7 **establishing operating conditions for certain establishments with a liquor license;**
8 **amending the Valencia Street Neighborhood Commercial Transit District controls to**
9 **restrict the conversion of existing ground floor retail uses to restaurants; and making**
10 **environmental findings, Planning Code Section 302, findings, and findings of**
11 **consistency with the General Plan and the Priority Policies of Planning Code, Section**
12 **101.1.**

13 NOTE: Additions are *single-underline italics Times New Roman*;
14 deletions are ~~*strike-through italics Times New Roman*~~.
15 Board amendment additions are double-underlined;
16 Board amendment deletions are ~~strikethrough normal~~.
17 Ellipses indicate text that is omitted but unchanged.

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

19 Section 1. Findings.

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

24 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
25 amendments will serve the public necessity, convenience and welfare for the reasons set forth
in Planning Commission Resolution No. _____ and the Board hereby incorporates such

1 reasons herein by reference. A copy of Planning Commission Resolution No. _____ is on file
2 with the Clerk of the Board of Supervisors in File No. _____.

3 (c) This Board finds that these Planning Code amendments are consistent with the
4 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set
5 forth in Planning Commission Resolution No. _____, and the Board hereby incorporates
6 those reasons herein by reference.

7 Section 2. The Planning Code is hereby amended by amending Sections 249.60 and
8 726, to read 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 generally
11 bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez Street,
12 Potrero Avenue and Fourteenth Street, as designated on Sectional Maps 7SU and 8SU of the Zoning
13 Map of the City and County of San Francisco. There is ~~an unusually a~~ large number of
14 establishments dispensing alcoholic beverages, including beer and wine, for both on-site and
15 off-site consumption in this area. Bars and Restaurants are concentrated on the commercial
16 corridors of Valencia Street, Mission Street, and 24th Street. Liquor Stores selling off-site liquor are
17 distributed throughout this area. ~~The existence of this many~~ This concentration of alcoholic beverage
18 establishments ~~appears to~~ has contributed directly to numerous peace, health, safety and
19 general welfare problems in the area. ~~including loitering, littering, drug trafficking, prostitution,~~
20 ~~public drunkenness, defacement and damaging of structures, pedestrian obstructions, as well as traffic~~
21 ~~circulation, parking and noise problems on public streets and neighborhood lots. The existence of such~~
22 ~~problems creates serious impacts on the health, safety and welfare of residents of nearby single and~~
23 ~~multiple family areas, including fear for the safety of children, elderly residents and of visitors to the~~
24 ~~area. The problems also contribute to the deterioration of the neighborhood, and concomitant~~
25 ~~devaluation of property and destruction of community values and quality of life. The number of~~

1 ~~establishments selling alcoholic beverages and the associated problems discourage more desirable and~~
2 ~~needed commercial uses in the area.~~

3 The SUD, which has been in effect since 1987, was established to prohibit new establishments,
4 or expansion of existing establishments, selling alcoholic beverages within the area and prohibited the
5 transfer of liquor licenses. This has resulted in a freezing of entitlements that have less rigorous
6 required operating conditions than are required today. While a net increase in Liquor Stores will
7 continue to be prohibited, the transfer of a liquor license is permissible if the operating conditions
8 currently in effect in the City and County of San Francisco are imposed on the transferee. The area
9 would also benefit from new Grocery Stores of any size that may incidentally sell alcoholic beverages.
10 ~~In order to preserve the residential character and the neighborhood-serving commercial uses of the~~
11 ~~area, there shall be a Mission Alcoholic Beverage Special Use Subdistrict to prohibit new~~
12 ~~establishments, or expansion of existing establishments, selling alcoholic beverages for the property in~~
13 ~~the area generally bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar~~
14 ~~Chavez Street, Potrero Avenue and Fourteenth Street as designated on Sectional Map Numbers 7SU~~
15 ~~and 8SU.~~

16 The following restrictions shall apply within such district:

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

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

22 (2) ~~No new off-sale liquor establishment Liquor Store, as defined in Section 790.55 of~~
23 ~~this Code, shall be permitted in the SUD, special-use district except that an existing Liquor Store~~
24 ~~may relocate pursuant to subsection (d) below. An "off-sale liquor establishment" shall mean any~~
25 ~~establishment that is defined in Section 790.55 of this Code.~~

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

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

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

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

17 *(C) Bowling Alleys. A bowling alley shall be permitted to serve alcoholic*
18 *beverages along with any Restaurant use which is functionally and/or physically integrated with such*
19 *bowling alley.*

20 *(D) Single Screen Movie Theaters. A single screen movie theater shall be*
21 *permitted to serve alcoholic beverages, provided that (i) such use is defined as a movie theater in*
22 *Section 790.64 of this Code and contains only a single screen and auditorium, (ii) only beer and wine*
23 *are offered for consumption, and (iii) such beer and wine are: (aa) only consumed on the premises and*
24 *primarily in the main theater auditorium, (bb) only sold and consumed by ticketholders and only*

1 immediately before and during performances, and (cc) only offered in conjunction with the screening of
2 films and not as an independent element of the establishment that is unrelated to the viewing of films.

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

5 (A) Notwithstanding the provisions of Section 790.55, **General Groceries** as
6 defined in Section 790.102(a) of this Code or **Specialty Groceries**, as defined in Section 790.102(b,)
7 regardless of size, so long as not more than 15 percent of its publically accessible square footage is
8 devoted to the display and/or sale of alcoholic beverages. Such use shall require a Conditional Use
9 authorization and shall be limited to a Type 20 Liquor License, except that such use shall not sell a
10 single beer or malt beverage in a container size of 24 oz. or smaller, or sell any malt beverage with an
11 alcohol content greater than 5.7% by volume; or any wine in a container size less than 375 ml or with
12 an alcohol content of greater than 15% by volume, except for “dinner wines” that have been aged two
13 years or more and maintained in a corked bottle.

14 (B) Any retail use as defined Section 790.104 authorized by Conditional Use
15 where the principal use is a cooking or drink-making teaching facility.

16 (3) **All Bar Uses.** A new or relocated Bar shall be considered pursuant to the underlying
17 zoning, except that such authorization shall be as a Conditional Use. A new Bar shall use a liquor
18 license transferred from another Bar from within the SUD. A relocated Bar shall be from within the
19 SUD.

20 (b) (c) ~~Prohibition of Expansion of Existing **Liquor** Establishments Selling Alcoholic~~
21 ~~Beverages.~~ Any liquor establishment ~~selling alcoholic beverages~~ lawfully existing prior to the
22 effective date of this ~~resolution~~ Ordinance No. _____ and licensed by the State of California for
23 the retail sale of alcoholic beverages ~~for on-site and off-site consumption~~, so long as otherwise
24 lawful, may continue in existence, provided such establishment remains in use, as set forth
25 ~~below. follows:-~~For purposes of this subsection (d)” liquor establishment” shall mean any

1 establishment licensed by the State of California to sell alcoholic beverages except for those uses listed
2 in subsection (c)(1-2) above.

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

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

10 (3) An existing liquor establishment may expand its use with Conditional Use
11 authorization from the Planning Commission. In reviewing the application for such expansion, the
12 Commission shall consider the establishment's prior operating conditions.

13 (d) **Good Neighbor Policies.** The operating conditions established in Section 703.5 of this Code
14 shall apply to all liquor establishments in this SUD in order to maintain the safety and cleanliness of
15 the premises and vicinity. In addition, all new, relocated, or expanded liquor establishments shall
16 comply with the requirements set forth below. Liquor establishment shall have the meaning set forth in
17 subsection (d) above.

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

21 (2) No more than 33 percent of the square footage of the windows and clear doors of
22 the liquor establishment shall bear advertising or signage of any sort, and all advertising and signage
23 shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear
24 and unobstructed view of the interior of the premises from the exterior public sidewalk or entrance to
25 the premises. This requirement shall not apply to premises where there are no windows, or where

1 existing windows are located at a height that precludes a view of the interior of the premises to a
2 person standing outside the premises. Street facing facades shall maintain at least 50 percent clear and
3 visually-permeable glazing.

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

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

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

15 ~~(c) **Exceptions.**~~

16 ~~(1) **Bona Fide Eating Place.** A Restaurant Use, as defined in Section 790.91, operating as a~~
17 ~~Bona Fide Eating Place, as defined in Section 790.142, shall be permitted to serve alcoholic beverages~~
18 ~~in this special use district.~~

19 ~~(2) **Non-Profit Theaters.** A non-profit theater shall be permitted to serve alcoholic beverages in~~
20 ~~this special use district. A "non-profit theater" shall mean a building or part of a building intended to~~
21 ~~be used for the specific purposes of presenting any act, play, revue, pantomime, scene, song, dance act,~~
22 ~~or song and dance act, conducted or participated in by one or more persons, whether or not such~~
23 ~~person or persons are compensated for such performance, and which is exempted from payment of~~
24 ~~income tax under Section 23701d of the California Revenue and Taxation Code and Section 501(e)(3)~~
25 ~~of the Internal Revenue Code of the United States. A "non-profit theater" does not include any dance~~

1 ~~hall as defined in Section 1022 of the San Francisco Police Code, billiard parlor, pool hall, bowling~~
 2 ~~alley, or adult entertainment business as defined in Planning Code Section 790.36.~~

3 ~~(3) **Bowling Alleys.** A bowling alley shall be permitted to serve alcoholic beverages along with~~
 4 ~~any Restaurant use which is functionally and/or physically integrated with such bowling alley.~~

5 ~~(4) **Single Screen Movie Theatres.** A single screen movie theatre shall be permitted to serve~~
 6 ~~alcoholic beverages, provided that (1) such use is defined as a movie theater in Planning Code Section~~
 7 ~~790.64 and contains only a single screen and auditorium, (2) only beer and wine are offered for~~
 8 ~~consumption, and (3) such beer and wine are: (i) only consumed on the premises and primarily in the~~
 9 ~~main theater auditorium, (ii) only sold to and consumed by ticketholders and only immediately before~~
 10 ~~and during performances, and (iii) only offered in conjunction with the screening of films and not as an~~
 11 ~~independent element of the establishment that is unrelated to the viewing of films.~~

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

16 **SEC. 726.1 VALENCIA STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**
 17 **ZONING CONTROL TABLE**

...	No.	Zoning Category	§ References	Valencia Street Transit		
				Controls by Story		
			§ 790.118	1st	2nd	3rd+
	726.37	Residential Conversion	§§ 207.7, 790.84,	C		
	726.38	Residential Demolition	§§ 207.7, 790.86	C	C	C

1	726.39	Residential Division	§ 207.8	P	P	P
2	Retail Sales and Services					
3	726.40	Other Retail Sales and Services <i>[Not Listed Below]</i>	§ 790.102	P	C	
4						
5						
6						
7	726.41	Bar	§ 790.22	C		
8						
9	726.43	Limited-Restaurant	§ 790.90	P		
10						
11	726.44	Restaurant	§790.91	P#		
12	...					

**SPECIFIC PROVISIONS FOR THE VALENCIA STREET *TRANSIT*
NEIGHBORHOOD COMMERCIAL *TRANSIT* DISTRICT**

15	Article 7	Other Code	Zoning Controls
16	Code Section	Section	
17	§ 726.54	§ 790.60, § 1900 Health Code	<p>18 MASSAGE ESTABLISHMENT</p> <p>19 Controls: Massage shall generally be subject</p> <p>20 to Conditional Use authorization. Certain</p> <p>21 exceptions to the Conditional Use</p> <p>22 requirement for massage are described in</p> <p>23 Section 790.60(c). When considering an</p> <p>24 application for a conditional use permit</p> <p>25 pursuant to this subsection, the Planning</p>

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		<p>Commission shall consider, in addition to the criteria listed in Section 303(c), the additional criteria described in Section 303(o).</p>
<p>§ 726.68</p>	<p>§ 249.35</p>	<p>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)</p> <p>Boundaries: The FFSRUD and its ¼ mile buffer includes, but is not limited to, the Valencia Street Neighborhood Commercial <i>Transit</i> District.</p> <p>Controls: Within the FFSRUD and its ¼ mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its ¼ mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).</p>
		<p><u>GROUND FLOOR CONVERSION OF RETAIL TO RESTAURANTS RESTRICTED</u></p> <p><u>Boundaries:</u> <i>Valencia Street from 15th Street to 24th Street.</i></p> <p><u>Controls:</u> <i>Conversion of existing ground floor retail uses or of ground floor spaces occupied as retail uses at any point within a period of three years prior to submission of a building permit application to Restaurant (Section 790.91)</i></p>

		<i>requires a Conditional Use authorization.</i>
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Section 3. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 4. This section is uncodified. In enacting this ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

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

By: _____
JUDITH A. BOYAJIAN
Deputy City Attorney

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