

SAN FRANCISCO  
PLANNING COMMISSION  
RESOLUTION NO. 17540

**ADOPTING FINDINGS RELATING TO AMENDMENTS TO THE PLANNING CODE BY ADDING SECTION 785 TO CREATE AN EXCELSIOR ALCOHOL RESTRICTED USE DISTRICT PROHIBITING NEW OFF-SALE LIQUOR ESTABLISHMENTS AND PROVIDING FOR A FIVE-YEAR SUNSET PROVISION; ADDING SECTION 786 TO CREATE A NORTH BEACH ALCOHOL RESTRICTED USE DISTRICT PROHIBITING NEW ON AND OFF SALE LIQUOR ESTABLISHMENTS; AMENDING SECTIONAL MAPS SU11 AND SU12 OF THE ZONING MAP OF THE CITY AND COUNTY OF SAN FRANCISCO TO ESTABLISH THE BOUNDARIES OF THE EXCELSIOR ALCOHOL RESTRICTED USE DISTRICT, WHICH GENERALLY CONSIST OF THE BLOCKS FRONTING BOTH SIDES OF MISSION STREET FROM SILVER AVENUE TO THE DALY CITY BORDER; AMENDING SECTIONAL MAP SU01 TO ESTABLISH THE BOUNDARIES OF THE NORTH BEACH ALCOHOL RESTRICTED USE DISTRICT, WHICH ARE CO-TERMINOUS WITH THE NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1 AND THE GENERAL PLAN.**

WHEREAS, on November 20, 2007, Supervisors Peskin and Sandoval introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 07-1464 which would amend Planning Code by adding Sections 785 and 786 creating the Excelsior Alcohol Restricted Use District and the North Beach Alcohol Restricted Use District. In particular, it would amend the Planning Code by adding Section 785 to create the Excelsior Alcohol Restricted Use District ("Excelsior Alcohol RUD") prohibiting new off-sale liquor establishments and providing a five-year sunset provision and amending Sectional Maps SU 11 and SU 12 of the Zoning Map to establish the boundaries of the Excelsior Alcohol Restricted Use District; and adding Section 786 to create the North Beach Alcohol Restricted Use District ("North Beach Alcohol RUD") prohibiting new on-sale and off-sale liquor establishments and providing a five-year sunset provision, and amending Section Map SU 01 of the Zoning Map to establish the boundaries of the North Beach Alcohol Restricted Use District.

The proposed zoning changes have been determined to be subject to a General Rule Exclusion (GRE) under CEQA Guidelines Section 15060(c)(2) (Non-physical Exemption).

The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on January 24, 2008.

While the Planning Department reviews all local applications for consistency with the Planning Code (i.e., use and location), liquor licenses are ultimately issued by the California Department of Alcoholic Beverage Control (ABC). Licenses fit into two broad categories: on-sale, which are generally for bars and restaurants, and off-sale, typically for liquor and grocery stores (including small corner stores) which sell alcohol for consumption off-site. Currently, the Planning Code contains five other alcohol restricted use districts designed to restrict alcohol sales.

Excelsior:

In the proposed Excelsior Alcohol RUD there are approximately 13 establishments holding off-sale liquor licenses. The San Francisco Police Department has indicated that there may be a correlation between liquor stores and crime – they have noted that liquor stores can attract loitering and graffiti. Neighborhood activists

and others suggest that nuisance issues associated with numerous off-sale establishments contribute to substantial neighborhood problems. A review of the success of similar land use controls demonstrates that the restriction of off-sale liquor licenses has a positive effect on neighborhood character and overall quality of life, including a reduction loitering, public drunkenness, and other negative activities.

It is expected that similar restrictions applied to the Excelsior district would have positive effects on neighborhood character. Few negative impacts are likely to result from the proposed Ordinance, as all existing off-sale establishments will be permitted to continue operating. Lastly, the 13 existing off-sale establishments located within the proposed alcohol restricted use district are more than adequate to serve the needs of the neighborhood.

North Beach:

In the proposed North Beach Alcohol RUD, there are approximately 10 establishments holding off-sale liquor licenses, and 103 that hold on-sale liquor licenses. While the proposed controls directly concern liquor licenses, it will have an impact on the eating and drinking uses, since alcoholic sales are often an integral part of the viability and success of these establishments.<sup>1</sup> In a report prepared for the Golden Gate Restaurant Association in May 2005, median alcohol sales constituted 30% of the total sales of restaurant revenues.<sup>2</sup> San Francisco is known for its vibrant restaurant industry, and it is a large draw for the tourism industry.

The formal North Beach NCD was established in 1987, and has been credited with helping protect the neighborhood's identity and vibrancy. The Planning Code's controls limit the number of eating and drinking establishments by requiring conditional use authorizations for most uses, including bars, full service restaurants, and small self-service restaurants.<sup>3</sup> Since the establishment of the North Beach NCD, where the proposed alcohol restricted use district is proposed, surveys indicate that there has been an increase in eating and drinking establishments by 11%.<sup>4</sup> Three surveys were conducted in the North Beach NCD over a 20-year period: 1986, 1999, and 2007. In 1987, there were 57 full-service restaurants, 70 in 1999 and 73 today. For small self-service restaurants, there were 21 in 1987, 31 in 1999, and 34 today. As for bars, there was 1 in 1987, no data in 1999, and 16 today.

The Ordinance as proposed is overly broad and far-reaching. While it is acknowledged that the North Beach NCD has a high concentration of eating and drinking establishments, it has managed to preserve its essential character – a neighborhood with a diversity of land uses. Some restrictions on liquor licenses may be appropriate, but they should be more closely tailored to the conditions of the district.

Accordingly, the Commission recommends that the proposal to prohibit on-sale liquor licenses be amended. First, placing a numerical "cap" on off-sale liquor licenses will allow for a fixed number to remain but not permit an increase in licenses. It will allow turnover of establishments, common in the eating and drinking industry, to occur without a net loss. It will create certainty to both the industry as well as to the Department. There are 103 on-sale liquor licenses on record with ABC – this could serve as the total "cap" for the five year period. Second, the Commission recommends that the "continuous operation" clause be amended. As proposed, the period that an establishment with an existing legal liquor license can temporarily remain closed for repair, renovation, or remodeling without losing its legal status is 30 days. This does not appear to be a realistic time frame, and the Commission recommends that it be extended to 18 months so that it is in conformity with other like provisions in the North Beach NCD.

Lastly, the Commission recommends that the proposed North Beach Alcohol RUD permit the transfer of liquor

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<sup>1</sup> Sims, Kent. *Economics of the San Francisco Restaurant Industry 2005*. Report prepared for Golden Gate Restaurant Association, May 2005, pg. 3 – 7, 3 – 8. <http://www.ggra.org/upload/images/Ec%20Study%202005/Ec%20Study%2005.pdf>.

<sup>2</sup> Ibid.

<sup>3</sup> See Section 722.41, 722.42, and 722.44.

<sup>4</sup> Data extracted from *North Beach Neighborhood Commercial District Controls at 20 – A Survey of Changes*, by May Lipian and Nancy Shanahan, Co-Chairs, Telegraph Hill Dwellers Planning and Zoning, published Summer 2007.

licenses within the district. With the exception of the Mission Alcohol RUD, it is typical for liquor licenses to be transferred to another location if approved by the Planning Commission through a conditional use authorization. This will enable prospective eating and drinking establishments to obtain a liquor license and locate in the North Beach NCD.

The proposed amendments to the Planning Code are generally consistent with the following provisions of the General Plan. Staff discussion is in italics.

**Commerce and Industry Element:**

**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.

*Excelsior: The proposed Ordinance will discourage development of establishments with off-sale liquor licenses, which tend to create undesirable consequences.*

*North Beach: The proposed Ordinance will control the issuance of liquor licenses in the North Beach neighborhood, preventing the increase in number of establishments that create undesirable consequences. However the proposed Ordinance may have a negative impact on new development, particularly of the restaurant industry, which is a vibrant industry in San Francisco.*

**Objective 2:** Maintain and enhance a sound and diverse economic base and fiscal structure for the City.

- Policy 2.3: Maintain a favorable social and cultural climate in the City in order to enhance its attractiveness as a firm location.

*Excelsior: The proposed Ordinance will prevent new establishments with off-sale liquor licenses, which may impose an unfavorable social and cultural climate in the Excelsior neighborhood. Limiting these uses will enhance its attractiveness.*

*North Beach: The Ordinance as proposed may diminish the North Beach neighborhood as a social and cultural destination in San Francisco by limiting the ability of eating and drinking establishments from locating there.*

**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.

*Excelsior: The proposed Ordinance will promote small businesses to locate in the neighborhood by preventing incompatible uses with negative impacts from locating there, such as those with off-sale liquor licenses.*

*North Beach: While it is acknowledged that the North Beach neighborhood has a high concentration of eating and drinking establishments, there is still a diversity of other neighborhood-serving uses. The*

*Ordinance as proposed may limit small businesses from locating there, and may exasperate vacancies by preventing several eating and drinking uses from locating there.*

**Commerce and Industry Guidelines for Specific Uses:**

**Eating and Drinking Establishments:**

- Except in districts with an established pattern of service to a broad market, such as North Beach, such [eating & drinking establishments] should not occupy more than 25% of the total commercially-occupied frontage in a district.

*North Beach was explicitly noted as being a district with a pattern of eating and drinking establishments that catered city-wide. Part of the neighborhood's character is the concentration of these uses. The Ordinance as proposed seeks to limit this use by preventing and restricting liquor licenses, which is contrary to the intent of the General Plan.*

**Urban Design Element:**

**Objective 4:** Improvement of the neighborhood environment to increase personal safety, comfort, pride and opportunity.

Furthermore, the proposed Planning Code and Zoning Map amendments are consistent with the eight priority planning policies established by Planning Code Section 101.1 as follows:

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 would not affect the viability of existing neighborhood serving retail uses. It may reduce negative impacts resulting from a concentration of off-sale liquor establishments, helping to achieve a better balance of uses.*

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

*Excelsior: The proposed Ordinance would support the neighborhood's character in that it could be used to help establish a neighborhood environment and image more conducive to families and elderly residents.*

*North Beach: The proposed Ordinance may negatively impact the neighborhood's character by reducing character-defining eating and drinking uses. However, the proposed Ordinance may also help protect other retail uses by limiting the expansion of these uses into spaces that may house traditional neighborhood-serving uses.*

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

*The City's supply of affordable housing would be unaffected by the proposed Code amendments, which are aimed primarily toward existing commercial spaces.*

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

*The proposed Ordinance will not generate new commuter traffic or impediments to MUNI service, street circulation, or parking resources. Furthermore, the proposal could discourage loitering and drunkenness which could interfere with pedestrians and spill over into the street vehicular lanes.*

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;

*No industrial establishment would be displaced by the proposed Ordinance.*

6. That the City 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 would be unaffected by the proposed Ordinance.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not affect landmarks or historic buildings as it addresses uses within buildings rather than building structure.*

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

*The proposed Ordinance does not address building envelopes or open space encroachment.*

Therefore, the Commission recommends the following:

- Proposed Excelsior Alcohol RUD: Approval as proposed.
- Proposed North Beach Alcohol RUD: After much discussion, the Commission did not adopt any recommendation but encourages the Board of Supervisors to work with the community and business groups on this portion of the proposed Ordinance.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with amendments as described in this Resolution and as set forth in the aforementioned Board file.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on January 24, 2008.

Linda Avery  
Commission Secretary

Excelsior Alcohol Restricted Use District:

AYES: Alexander, Olague, Antonini, B. Lee, S. Lee, Moore, Suguya

NOES:

**PLANNING COMMISSION**  
Hearing on January 24, 2008

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ABSENT:

North Beach Alcohol Restricted Use District:

AYES: Alexander, Olague, Antonini, B. Lee, S. Lee, Moore, Suguya

NOES:

ABSENT:

ADOPTED: January 24, 2008