

SAN FRANCISCO

PLANNING COMMISSION

RESOLUTION NO. ~~17485~~ 17548

**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND SECTIONS 249.5, 781.8, 781.9, 782, AND 783 AND ADDING SECTION 249.35 TO THE SAN FRANCISCO PLANNING CODE TO CREATE A NONCONTIGUOUS FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT PROHIBITING NEW FRINGE FINANCIAL SERVICES, AS DEFINED, WITH CERTAIN EXCEPTIONS; AMENDING SAN FRANCISCO PLANNING CODE SECTION 312 TO REQUIRE CERTAIN NOTICE IN NEIGHBORHOOD COMMERCIAL DISTRICTS; AMENDING SAN FRANCISCO PLANNING CODE SECTION 227 TO ADD FRINGE FINANCIAL SERVICE USE TO THE COMMERCIAL DISTRICT ZONING CONTROL TABLE; AMENDING SAN FRANCISCO PLANNING CODE SECTIONS 702.4 AND 710 THROUGH 730 TO ADD FRINGE FINANCIAL SERVICE USE TO THE NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLES; ADDING SECTION 790.111 AND 890.113 TO THE SAN FRANCISCO PLANNING CODE TO DEFINE A FRINGE FINANCIAL SERVICE USE; AMENDING SAN FRANCISCO PLANNING CODE SECTIONS 790.110, 790.112, 890.110, AND 890.112 TO REQUIRE THAT USE APPLICATIONS FOR FINANCIAL SERVICES AND LIMITED FINANCIAL SERVICES INCLUDE A COPY OF ANY STATE ISSUED LICENSE; AMENDING SAN FRANCISCO PLANNING CODE SECTIONS 803.2, 810, 811, AND 812 TO ADD FRINGE FINANCIAL SERVICE USE TO THE CHINATOWN ZONING CONTROL TABLES; AMENDING SAN FRANCISCO PLANNING CODE SECTIONS 814 THROUGH 818 TO ADD FRINGE FINANCIAL SERVICE USE TO CERTAIN ZONING CONTROL TABLES IN THE SOUTH OF MARKET AREA; AMENDING SAN FRANCISCO PLANNING CODE SECTION 827 TO ADD FRINGE FINANCIAL SERVICE USE TO THE RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE DISTRICT ZONING CONTROL TABLE; AMENDING SECTIONS 909, 910, 911, 912, 913, AND 914 TO ADD FRINGE FINANCIAL SERVICE USE TO CERTAIN MISSION BAY ZONING CONTROL TABLES; AMENDING SECTIONAL MAPS NUMBERS 1SU, 2SU, 6SU, 7SU, 8SU, AND 10SU OF ZONING MAP OF THE CITY AND COUNTY OF SAN FRANCISCO TO INDICATE THE BOUNDARIES OF THE FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT, AND MAKING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1 AND THE GENERAL PLAN.**

WHEREAS, On May 15, 2007, Supervisor Ammiano introduced legislation to initiate the process amending San Francisco Planning Code to amend various Planning Code Sections and Sectional Maps of the San Francisco Zoning Map to (1) define fringe financial services (commonly know as “check cashing” or “pay day lenders”), (2) prohibit new fringe financial services from locating within ¼ mile of existing fringe financial services (3) create a noncontiguous Fringe Financial Service Restricted Use District prohibiting new fringe financial services, (4) require public notice in neighborhood commercial districts (5) require new fringe financial services to submit the state-issued license (6) add the new use of fringe financial services to various district control tables.

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 September 20, 2007.

Fringe financial uses are not specifically defined under the Planning Code.

“Check cashing” businesses cash payroll, government, personal, and other types of checks while taking a commission - generally between two and ten percent - off the face-value of a check. These checks could typically be deposited without any charge into a conventional savings or checking account; instead check cashing customers spend approximately \$800 per year on these unnecessary charges. According to a Brookings Institute Study, San Francisco has an estimated 50,000 “un-banked” households, representing nearly 15% of all households in the city. According to the United States General Accounting Office, more than a quarter of all adults in the United States are 'unbanked' and use the services of Check Cashers.

“Pay Day Lender” businesses offer low-value, short-term, unsecured lending to borrowers typically experiencing cash-flow difficulties. (These businesses are also known as 'deferred deposit transaction businesses' and 'advanced pay day lenders.')

In return for a small cash loan - usually less than \$500 – a customer provides a Pay Day Lender with a check for the amount of a loan plus a finance charge. The Pay Day Lender does not cash this check until the customer's next payday. Finance charges can be as high as \$17.50 for every \$100 borrowed. Because such loans are for short periods of time, the cost of borrowing expressed as an annual percentage rate can approach 1000 percent.

People may use fringe financial services due lack of information about alternatives. Immigrants may think they don't have proper identification to open an account. In addition conventional banks may have barriers that prevent individuals from reentering healthy banking patterns such as a previous poor credit record leading to difficulties opening a traditional bank account, difficulties meeting minimum balance requirements or living in areas not serviced by conventional banks.

A 2005 Brookings Institute's Study<sup>1</sup> further found that core providers of fringe financial services are heavily concentrated in San Francisco's poor, Latino neighborhoods. Further, about half of the city's core fringe financial service providers are located in four neighborhoods in the City. Of the cities studied in the report, San Francisco had the second highest concentration in the country of fringe financial services per capita.

A recent San Francisco Chronicle<sup>2</sup> article noted: “In San Francisco, you are nearly five times more likely to find a check-cashing business in a poor area than any other neighborhood. In the Tenderloin, the city's poorest area, there are 10 check-cashing businesses, where the annual percentage rate can top 390 percent. In Pacific Heights, a rich neighborhood, there are none.” These location characteristics demonstrate a clear social value in land use controls for this industry.

Along with the proposed changes, the proposed amendments to the Planning Code are consistent with the following provisions of the Commerce and Industry Element of the General Plan. Staff discussion is in italics.

**Objective 1:** Manage economic growth and change to ensure enhancement of the total city living and working environment.

1. Policy 1.1: 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 prohibits new fringe financial services from locating in areas where these services*

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1 “From Poverty, Opportunity: Putting the Market to Work for Lower-Income Families”, The Brookings Institute, Matt Fellows, 2005.

2 “Poor pay more for services, study says” San Francisco Chronicle, July 18, 2006.

*may be over concentrated.*

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

2. POLICY 2.3: Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

*The proposed Ordinance combined with the City's joint "Bank on San Francisco" initiative; seek to create fair banking opportunities for the San Francisco's "unbanked" population.*

The proposed amendments to the Planning Code are consistent with Section 101.1(b) of the Planning Code in that:

1. The proposed reclassification would preserve and promote neighborhood-serving retail uses and future opportunities for resident employment in and ownership of such businesses because the proposed amendments would prohibit over concentration of fringe financial services. Together with other city efforts this will assist individuals in accumulating wealth.
2. The proposed legislation would not negatively affecting existing residential development, housing or neighborhood character.
3. The City's supply of affordable housing would be unaffected by the proposed Code amendments, which are aimed primarily toward commercial spaces.
4. The scale of the change to commercial districts that may result from the implementation of the proposed Ordinance is such that no new impacts to commuter traffic, MUNI transit service, or streets and neighborhood parking would occur.
5. By protecting neighborhoods from over saturation of fringe financial services and ensuring fair banking options, a diverse economic base and the viability of our service sector, as well as future opportunities for resident employment and ownership in this sector, would be enhanced.
6. Preparedness against injury and loss of life in an earthquake would be unaffected by the proposed amendments.
7. Landmarks and historic buildings would be unaffected by the proposed Ordinance.
8. Parks and open space and their access to sunlight and vistas would be unaffected by the proposed Ordinance.

The Planning Commission **supports the proposed Ordinance** and recommends that the Board of Supervisors **consider a few additional matters** currently not mentioned in the proposed Ordinance. The Commission respectively defers to the Board of Supervisors on how these concerns will be finally resolved.

1. Periodic coordination with state agencies will be necessary to keep the list of fringe financial services current. In the event that the City is unable to garner information from these state agencies, the attached maps will be used to guide the location of fringe financial services until proven inaccurate.
2. It will be important for Department of Building Inspection (DBI) permit review staff to receive training on fringe financial services so that any permit which may include a fringe financial service use is properly routed to the Planning Department for review per this proposed ordinance. An amendment to

the ordinance that acknowledges the role of DBI in effective implementation and specifies the expectations for DBI in the findings section of the ordinance would be helpful.

3. Mission Bay is currently governed by Redevelopment Agency Code and not the San Francisco Planning Code. Therefore the Commission recommends that this text be removed.
4. Accessory use is generally defined by the Planning Code as a related minor use which is either (a) necessary to the operation or enjoyment of a lawful principal use or conditional use, or (b) appropriate, incidental and subordinate to any such use. The legislation as written may leave the opportunity for fringe financial services to locate within in prohibited areas as an "accessory" use to another principally permitted use. If the intent is to prohibit fringe financial services as either a primary or accessory use, the Commission recommends that clarifying text be added.
5. The Commission further recommends that the Fringe Financial Restricted Use District be expanded to include the entire City and County of San Francisco.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance in order to initiate new controls for fringe financial services as described in this Resolution and in the proposed Ordinance with consideration to the five matters described above.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting September 20, 2007.

Linda Avery  
Commission Secretary

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

NOES:

ABSENT:

ADOPTED: September 20, 2007