



SAN FRANCISCO PLANNING DEPARTMENT

February 21, 2017

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

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

**Re: Transmittal of Planning Department Case Number 2017-000471PCA MAP:
Calle 24 Special Use District
Board File No. 170028
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo, Mayor Lee and Supervisor Ronen,

On February 9, 2017, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend the Planning Code to create the Calle 24 Special Use District, introduced by Mayor Lee and Supervisor Ronen. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

Exempt existing Limited-Restaurants proposing a change of use to a Restaurant from the concentration analysis in Subsection 249.59(d)(1). The modification would read as follows:

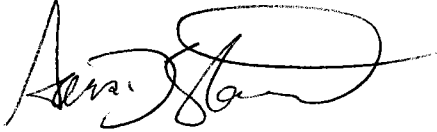
(1) Eating and Drinking Establishments. In addition to other prohibitions on such uses found within this Code, new Restaurant use, new Limited-Restaurant use, new Bar use, or the physical expansion of any such existing use shall be prohibited where the concentration of those uses exceeds, or would exceed with the proposed use or physical expansion of an existing use, 35% of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purpose of calculating the concentration of commercial frontage, the "immediate area" shall mean all properties located within 300 feet of the subject property within the Calle 24 Special Use District and in a zoning district that is not Residential or Public Use. Any project for which a development application, as defined in Section 401, was submitted by March 31, 2017 or any change of use from an existing Limited-Restaurant use to a Restaurant use shall be exempt from the requirements of this Section 249.59(d)(1).

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) because they do not result in a physical change in the environment.

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

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Starr", with a large, sweeping flourish extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Marlena Byrne, Deputy City Attorney
Diana Ponce De Leon, Mayor's Office of Workforce and Economic Development
Sheila Chung-Hagen, Aide to Supervisor Ronen
Alisa Somera, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19851 HEARING DATE FEBRUARY 9, 2017

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: Calle 24 Special Use District
Case Number: 2017-000471PCA MAP [Board File No. 170028]
Initiated by: Mayor Lee, Supervisor Ronen / Introduced January 10, 2017
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CREATE THE CALLE 24 SPECIAL USE DISTRICT AND REVISE THE ZONING MAP TO REFLECT THE CALLE 24 SPECIAL USE DISTRICT GENERALLY BOUNDED BY 22ND STREET, POTRERO AVENUE, CESAR CHAVEZ STREET, AND CAPP STREET, AS WELL AS 24TH STREET TO BARTLETT, AND AS MORE SPECIFICALLY DEFINED IN THE ORDINANCE; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on January 10, 2017 Mayor Edwin Lee and Supervisor Ronen introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 170028, which would amend the Planning Code to create the Calle 24 Special Use District, and revise the Zoning Map to reflect the Calle 24 Special Use District generally bounded by 22nd Street, Potrero Avenue, Cesar Chavez Street and Capp Street, as well as 24th Street to Bartlett Street, and as more specifically defined in the Ordinance;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 9, 2017; 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.

The modifications include:

Exempt existing Limited-Restaurants proposing a change of use to a Restaurant from the concentration analysis in Subsection 249.59(d)(1). The modification would read as follows:

(1) Eating and Drinking Establishments. In addition to other prohibitions on such uses found within this Code, new Restaurant use, new Limited-Restaurant use, new Bar use, or the physical expansion of any such existing use shall be prohibited where the concentration of those uses exceeds, or would exceed with the proposed use or physical expansion of an existing use, 35% of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purpose of calculating the concentration of commercial frontage, the "immediate area" shall mean all properties located within 300 feet of the subject property within the Calle 24 Special Use District and in a zoning district that is not Residential or Public Use. Any project for which a development application, as defined in Section 401, was submitted by March 31, 2017 or any change of use from an existing Limited-Restaurant use to a Restaurant use shall be exempt from the requirements of this Section 249.59(d)(1).

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 Ordinance is the product of a multiyear, City-community partnership aimed at documenting existing conditions and facilitating community inspired solutions. The proposed controls build on existing Planning Department practices for managing the growth, change and viability of Neighborhood Commercial districts.
2. The Ordinance also proposes novel controls for retaining Legacy Businesses and innovative compatibility measures. The Legacy Business controls respond to Citywide policies and community input recognizing the contributions of these establishments. They also recognize the strain to corridor character that their loss would engender. The compatibility measures aim to assure that new uses are successfully woven into the existing community fabric. The Special Use District recognizes that in certain instances the assistance of sister agencies, such as the Mayor's Office of Economic and Workforce Development (MOEWD), will be required to realize its specific purposes.
3. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

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

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 will establish regulations encouraging new uses that are compatible with the Calle 24 Special Use District. This will help provide substantial net benefits and minimize undesirable consequences.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Policy 2.3

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

The proposed Ordinance establishes land use controls that encourage the retention of character defining businesses. This helps maintain a favorable social and cultural climate and can attract other compatible commercial activity to the Calle 24 Special Use District.

OBJECTIVE 3

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

Policy 3.2

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

Policy 3.3

Emphasize job training and retraining programs that will impart skills necessary for participation in the San Francisco labor market.

The proposed Ordinance establishes compatibility findings for new Conditional Uses that can help increase the number of jobs held by San Francisco residents as well as provide job training programs.

OBJECTIVE 6

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

Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

The proposed Ordinance requires Conditional Use authorization for the merging of ground floor commercial storefronts in to spaces larger than 799 gross square feet and establishes compatibility findings for all new Conditional Uses. These controls can help retain the provision of neighborhood-serving goods and services within the Calle 24 Special Use District.

MISSION AREA PLAN

OBJECTIVE 1.1

STRENGTHEN THE MISSION'S EXISTING MIXED USE CHARACTER, WHILE MAINTAINING THE NEIGHBORHOOD AS A PLACE TO LIVE AND WORK.

Policy 1.1.3

Maintain the successful Mission Street, 24th Street, and Valencia Street Neighborhood Commercial districts; recognize the proximity to good transit service by eliminating residential density limits and minimum parking requirements.

The proposed Ordinance will establish regulations encouraging new uses that are compatible with the existing, distinctive character of 24th Street.

OBJECTIVE 1.8

MAINTAIN AND STRENGTHEN THE MISSION'S NEIGHBORHOOD COMMERCIAL AREAS

Policy 1.8.2

Ensure that the Mission's neighborhood commercial districts continue to serve the needs of residents, including immigrant and low-income households.

The proposed Ordinance will establish compatibility findings for new Conditional Uses that can help ensure that the 24th Street corridor continues to serve the needs of residents, including immigrant and low-income households.

OBJECTIVE 7.3

REINFORCE THE IMPORTANCE OF THE MISSION AS THE CENTER OF LATINO LIFE IN SAN FRANCISCO.

Policy 7.3.1

Support efforts to preserve and enhance social and cultural institutions.

Policy 7.3.3

Protect and support Latino and other culturally significant local business, structures, property and institutions in the Mission.

The proposed Ordinance will establish regulations encouraging the retention of long standing social and cultural institutions as well as other culturally significant businesses within the Calle 24 Special Use District.

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

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

The proposed Ordinance would have a beneficial effect on neighborhood serving retail uses and will have a beneficial effect on opportunities for resident employment in neighborhood-serving retail as a result of the compatibility findings for new Conditional Uses that the Ordinance proposes.

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

The proposed Ordinance would have a positive effect on neighborhood character as it requires new uses and development requiring Conditional Use authorization to be found compatible with the distinctive character of the Calle 24 district.

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

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

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

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

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

The proposed Ordinance 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 would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

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

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

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

5. **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 described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 9, 2017.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Johnson, Koppel, Melgar, Moore, Richards

NOES: None

ABSENT: Fong

ADOPTED: February 9, 2017



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text & Zoning Map Amendment

HEARING DATE: FEBRUARY 9, 2017

EXPIRATION DATE: APRIL 17, 2017

Project Name: Calle 24 Special Use District
Case Number: 2017-000471PCA MAP [Board File No. 170028]
Initiated by: Mayor Lee, Supervisor Ronen / Introduced January 10, 2017
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to create the Calle 24 Special Use District. It would also revise the Zoning Map to reflect the Calle 24 Special Use District, which is generally bounded by 22nd Street, Potrero Avenue, Cesar Chavez Street, and Capp Street, as well 24th Street to Bartlett Street.

The Way It Is Now:

There is no special use district established exclusively within the area generally bounded by 22nd Street, Potrero Avenue, Cesar Chavez Street, and Capp Street, as well 24th Street to Bartlett Street. Existing zoning controls that apply outside of this area regulate land use activities within this area. These zoning controls include:

- Standard concentration guidelines for Eating and Drinking uses;
- Conditional Use authorization is typically required for mergers of commercial spaces resulting in a commercial space 2,500 gross square feet or larger;
- New non-residential uses are not required to seek Conditional Use authorization to occupy a space last occupied by a Legacy Business solely because the last use occupying that space was a Legacy Business;
- New Medical Service Uses are principally permitted; and
- New commercial uses subject to Conditional Use authorization are not required to comply with compatibility findings particular to the area. There are no adopted design guidelines for the area.

The Way It Would Be:

The Planning Code would be amended to establish the Calle 24 Special Use District (C24SUD). The C24SUD would be bounded by 22nd Street, Potrero Avenue, Cesar Chavez Street, and Capp Street, as well 24th Street to Bartlett Street. The C24SUD would:

- Indicate the purposes for establishing the C24SUD;
- Define terms particular to the C24SUD;

- Establish concentration controls specific to the C24SUD for Eating and Drinking uses;
- Require Conditional Use Authorization for the following:
 - Ground floor Commercial Space Mergers where the merger would result in a ground floor commercial space greater than 799 gross square feet;
 - Any new non-residential use where the immediately prior use was a Legacy Business and where the property has been vacant for less than three years;
 - Medical Service Uses; and
- Require new commercial uses subject to Conditional Use authorization to make compatibility findings with any adopted Calle 24 Design Guidelines and with four of the six purposes for establishing the C24SUD.

BACKGROUND

In May 2014 Resolution 168-14 established the Calle 24 Latino Cultural District (C24LCD).¹ The Resolution was a collaboration between the San Francisco Latino Historical Society, San Francisco Heritage, the Calle 24 community organization, Mayor Edwin Lee, and Supervisor David Campos. The C24LCD is bounded by 22nd Street, Potrero Avenue, Cesar Chavez Street, Mission Street, and includes the 24th Street commercial corridor from Potrero Avenue to Bartlett Street.

The Resolution traces the Latino influence upon San Francisco back to the 1820's and documents the subsequent waves of immigration to the City. Consequently, the C24LCD is home to a large number of individuals identifying as Latino. In conjunction with this, the C24LCD also enjoys a high concentration of Latino cultural landmarks, businesses, institutions, festivals and festival routes in San Francisco. Of note, these include a number of long established bakeries, restaurants, grocers, gift shops, community based service providers, arts institutions and murals.

The Resolution also states that the collaboration is an effort to address the displacement of Latino oriented businesses and residents from the C24LCD. This is to help preserve 24th Street as the center of Latino culture and commerce in San Francisco² and ensure it remains a special place for City residents and tourists. To this end, the Resolution envisioned amending the Planning Code, including creating a special use district.

Since then the Mayor's Office, Supervisor Campos' and Supervisor Ronen's Office have been engaged with the Calle 24 community in a planning process to develop new land use controls for the C24LCD. This has entailed periodic meetings with stakeholders as well as working retreats and public community input meetings. In August 2015, interim controls prohibiting the merger of commercial storefronts into

¹ Resolution 168-14:

<https://sfgov.legistar.com/View.ashx?M=F&ID=3110129&GUID=655A1200-371D-4029-8C63-C1717F7741C6>

Resolution 201-14 amended the boundaries outlined in Resolution 168-14:

<https://sfgov.legistar.com/View.ashx?M=F&ID=3135747&GUID=92A7054D-11B4-44EA-8B6E-D116821CE079>

² This is in alignment with Objective 7.3 of the Mission Area Plan: Reinforce the Importance of the Mission as the Center of Latino Life in San Francisco.

spaces in excess of 800 square feet were enacted.³ This was done to preserve smaller, affordable commercial spaces that lend the 24th Street corridor much of its character and provide entrepreneurial opportunities. Larger community meetings occurred in October 2015 and November 2016. These were held to present work accomplished to date and to solicit further community input on potential land use controls. A retail study on the 24th Street corridor, intended to further inform forthcoming land use controls, was completed in December 2016. A February 4th, 2017 community meeting is scheduled as another opportunity to meet with the public about the proposed Planning Code amendments.

ISSUES AND CONSIDERATIONS

Functions of a Neighborhood Commercial Corridor

San Francisco is often characterized as a city of neighborhoods, each with a neighborhood commercial corridor serving surrounding residences. These neighborhood commercial corridors tend to reflect the surrounding neighborhood's social character and its physical scale. Residents often rely on the neighborhood commercial corridor to provide a breadth of basic goods and services. Shoppers from around the City may also look to these corridors for unique or special offerings found in few other locations. The success of a commercial corridor depends on a mix of resident and visitor patronage, which is achieved by providing a diversity of unique goods and services.

The 24th Street commercial corridor follows this pattern. Its vibrancy is, in large part, a result of a retail mix that successfully serves nearby residents while also offering special goods and services sought by a wider market. This commercial corridor enjoys a distinct mix of Latino oriented restaurants and grocers as well as a number of arts and cultural destinations. As stated in the Description and Purpose Statement for the 24th Street/Mission Neighborhood Commercial Transit (NCT) District, special controls are necessary to preserve the unique mix of convenience and specialty commercial uses found there.⁴

Neighborhood Commercial Character and Retail Mix

As mentioned, a successful neighborhood serving commercial corridor is one offering a diversity of uses and where no one use dominates. Requiring Conditional Use authorization to help maintain a balance and diversity of uses is one often utilized tool. To this end, many Neighborhood Commercial (NC) Districts require Conditional Use authorization (CU) for restaurants serving alcohol while principally permitting those that do not. The CU process is used as a means to assure general compatibility of the proposed restaurant. This is currently the case in the 24th Street/Mission NCT District.

While the CU process requires a concentration analysis, it does not consider an overconcentration of eating and drinking uses within a corridor as a whole. The additional CU findings set a generic concentration threshold for every neighborhood commercial corridor without considering existing

³ Ordinance 133-15

<https://sfgov.legistar.com/View.ashx?M=F&ID=3900145&GUID=E4AED534-914E-46A3-9A7A-F7BA44587A96>

This interim control was extended by Ordinances 199-15 and 182-16.

⁴ Planning Code Section 727, Description and Purpose Statement.

corridor conditions.⁵ These nonspecific controls can prove an ill fit for certain neighborhood commercial corridors, including the 24th Street/Mission NCT District.

Another tool used to help maintain a balance and diversity of uses within an NC is a numerical cap on allowed new restaurants serving alcohol.⁶ This limits the total number of restaurants serving alcohol in a particular NC to a set number. However it does not directly address concentration concerns at the block level. It allows a new restaurant to locate on a block where there is already an overconcentration of eating and drinking establishments within the NC. This can prevent other neighborhood serving uses from locating in needed locations along the corridor and prove detrimental to the corridor's functioning and character.

Controls accounting for a corridor's existing eating and drinking concentration as a whole while also addressing concentration at the block level would be ideal. This would assure that no one block is monopolized by eating and drinking uses. It would also disperse eating and drinking uses throughout the commercial corridor at the prevailing corridor concentration. This would help maintain a diverse offering of goods and services, including those needed by surrounding residents.

The 24th/Mission NCT District, and the other NCs in the C24LCD in general, would benefit from such a control. Presently, eating and drinking uses occupy approximately a third of all commercial frontage in the 24th Street/Mission NCT District. This concentration provides a number of eating and drinking options yet also affords space for other needed retail and institutional uses. This threshold should be used for each block and in concentration analyses for forthcoming eating and drinking proposals.

The vibrancy of a commercial corridor also depends upon the pedestrian activity its retail uses generate. Retail uses allowing patrons to contribute to around-the-clock pedestrian activity provide "eyes on the street." This improves perceived comfort and safety and enhances the allure and desirability of the commercial corridor. Conversely, uses that typically close by early evening, restrict their operating hours or that see customers by appointment only, such as medical uses, may lessen activity on the street. The introduction of these uses should be carefully considered. The NCs in the C24LCD, including the 24th Street/Mission NCT, currently allow over the counter approvals for medical service uses. Zoning controls, such as CU, can provide an additional level of general analysis for this purpose.

Neighborhood Commercial Character and Legacy Businesses

A neighborhood commercial corridor's character is greatly influenced by its longtime retailers and institutions. These establishments play a key role in developing and defining corridor identity because they serve as anchors or landmarks. They also help provide a sense of place and tie the neighborhood to

⁵ Planning Code Section 303(o) establishes a generic 25% concentration threshold

⁶ The Haight Street NC (Planning Code §719.44#) does not allow more than three new Restaurants; the Union Street NCD (Planning Code §725.44#) does not allow more than 44 Restaurants in the NCD.

its historic past. As the General Plan indicates, losing these establishments can be detrimental to a corridor's distinctive character.⁷

In recognition of the value of longstanding community retailers and institutions to San Francisco, the City created the Legacy Business Registry (Registry).⁸ The Registry is a list of businesses, nominated by either the Mayor or a member of the Board of Supervisors, which have operated in San Francisco for, typically, three decades. Inclusion on the Registry requires Historic Preservation Commission review and for the Small Business Commission to find that the business has significantly contributed to a neighborhood's history and/or identity. Inclusion is also one tool to assist the ongoing operation and wellbeing of these businesses. The Office of Small Business (OSB), in conjunction with local community development financial institutions, offers this assistance. OSB will be launching a marketing and promotional effort for Legacy Businesses, as well.

To bolster this program, San Francisco voters approved Proposition J in November 2015.⁹ Proposition J created grant programs for Legacy Businesses and for landlords of properties housing Legacy Businesses. The grant programs aid Legacy Businesses by awarding a \$500 grant for each full time equivalent employee employed. The grant program also incentivizes landlords to retain Legacy Businesses as tenants by providing grants based on the size of space leased to a Legacy Business. The leases must have a minimum ten year term.

These City policies recognize the importance of Legacy Businesses to the City's neighborhoods as well as the significance of their loss. Adding land use controls would expand the City's efforts to retain and deter displacement of Legacy Businesses. The proposed ordinance does this by requiring CU authorization for replacing a Legacy Business with another business.

Neighborhood Commercial Character and Storefront Size

A neighborhood commercial corridor's character is also influenced by the size and scale of its retail and institutional establishments. Smaller, fine grained storefronts lead to more retail or institutional offerings and help provide a sense of scale and place. More, and diverse, offerings as well as a human scaled environment can attract increased pedestrian activity from the neighborhood and from afar.

Smaller storefronts also tend to have lower total lease rates, since commercial lease rates are typically based on cost per square foot. This affords small entrepreneurs a lower barrier to entry. Smaller storefronts also tend to be less attractive to larger or formula retailers.¹⁰ Given that formula retail has a

⁷ Commerce and Industry Element, Policy 6.1: Ensure and Encourage the Retention and Provision of Neighborhood-Serving Goods and Services in the City's Neighborhood Commercial Districts, while Recognizing and Encouraging Diversity among the Districts.

⁸ Ordinance 29-15 <https://sfgov.legistar.com/View.ashx?M=F&ID=3675421&GUID=76048692-98DF-4225-BE79-0A75393B3E64>

⁹ Text of Proposition J:
http://sfgov2.org/ftp/uploadedfiles/elections/candidates/Nov2015/LegacyBusiness_Text.pdf

¹⁰ Calle 24 Retail Study. Prepared for the Mayor's Office of Economic and Workforce Development. Strategic Economics. December 30, 2016.

homogenizing effect on the City's NCs,¹¹ smaller storefronts also work to preserve the uniqueness of each corridor.

The NC districts in the C24LCD display this condition. There are multiple properties in the C24LCD that have smaller storefront sizes and that are occupied by independent, character contributing businesses. Requiring CU for losing these storefronts through mergers would go far in sustaining the distinctive character found in the C24LCD.

Assuring Compatibility of New Uses and Development

New uses and development should complement and improve a corridor's character, identity and vibrancy. Required findings under a CU are one tool to accomplish this.

The standard CU findings first require a new use to be found necessary and desirable for, and compatible with, the neighborhood or community into which it will locate. They continue on to assure health and safety of persons, compliance with the Planning Code and General Plan and conformity with the stated purposes of the Use District.¹²

While the standard CU findings may suffice in most neighborhoods, for areas with a particular defined neighborhood identity, these findings would be insufficient. Additional findings would be needed for the Commission to consider when approving Conditional Use authorization. For example, the Japantown Special Use District includes findings that require the use to be found compatible with the cultural and historic integrity, neighborhood character, development pattern, and design aesthetic of the Japantown Special Use District.¹³ It also requires such uses to demonstrate how they support one or more of the purposes for establishing the Japantown Special Use District. These purposes include:

- Preserving and developing Japantown as a viable neighborhood by revitalizing its commercial, recreational, cultural, and spiritual identity as a local, regional, statewide, national, and international resource;
- Enhancing the distinctive image and unique character of Japantown to passing motorists, transit riders, and pedestrians through architectural design, streetscape enhancements, signage, and other elements of the built environment;
- Strengthening and supporting Japantown's identity through recognition of its planning subdistricts including the Geary Boulevard corridor; Japantown Center; Post Street commercial core; Sutter Street community/cultural core; Buchanan Mall; Fillmore Street corridor; and surrounding residential districts; and
- Encouraging the representational expression of Japanese architectural design and aesthetic for commercial, cultural, and institutional uses.

¹¹ Planning Code Section 303.1(a)

¹² Planning Code Section 303(c)

¹³ Planning Code Section 249.31

Findings with similar intentions can be tailored to fit other neighborhoods with distinct character and identity, including the C24LCD. There it would make sense to add findings that address the compatibility of new uses and development or to determine how they support the following goals:

- Preserving or enhancing the character of the C24LCD through contextual physical improvements
- Supporting arts activities and arts production or offerings
- Preserving the contribution of Legacy Businesses to the C24LCD's history and identity
- Providing neighborhood serving goods and services accessible to a wide range of residents
- Forming partnerships with local businesses and institutions; and
- Enhancing employment and workforce training opportunities for local residents

As with most findings, the Planning Department takes the lead on their implementation and enforcement. This is the case with findings relating to the physical use or alteration of spaces. Findings relating to workforce hiring goals, for example, will require the aid of other City Agencies, including the Mayor's Office on Economic and Workforce Development. Overall, these additional findings can improve the compatibility of new uses and development with the distinct neighborhood character that exists in the C24LCD.

Area specific design guidelines are another tool to assure new development is compatible with the existing neighborhood scale. One community that has adopted its own design guidelines is Bernal Heights. These were developed in response to community members' concerns over a wave of boxy, oversized and out of scale housing developments. The Bernal Heights Design Guidelines steer new development toward greater compatibility with the neighborhood scale and topography.

Similar design guidelines could be developed for C24SUD. These would address the compatibility of residential and commercial developments and alterations with the existing character while allowing for new development and expansion. At present C24SUD-specific design guidelines are yet to be fully developed. For the Planning Department to enforce these guidelines, the Planning Commission would need to adopt them at a future hearing.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The Department is in support of the Ordinance because it proposes controls helping maintain the commercial corridors in the C24LCD as vibrant, neighborhood serving corridors. The Ordinance is the product of a multiyear, City-community partnership aimed at documenting existing conditions and facilitating community inspired solutions. The proposed controls build on existing Planning Department practices for managing the growth, change and viability of NC districts. This is evidenced in the proposed application of CU for retail uses or nonresidential use sizes identified as concerns.

The Ordinance also proposes novel controls for retaining Legacy Businesses and aspirational compatibility findings. The Legacy Business controls respond to Citywide policies and community input recognizing the contributions of these establishments. They also recognize the strain to corridor character that their loss would engender. The compatibility measures aim to assure that new uses are successfully

woven into the existing community fabric. The C24SUD recognizes that in certain instances the assistance of sister agencies, such as the Mayor's Office of Economic and Workforce Development (MOEWD), will be required to realize its specific purposes.

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.

IMPLEMENTATION

The Department determined that this Ordinance will impact current implementation procedures in the following ways:

Conditional Use Authorization Requirement for Replacement of Legacy Business

The proposed Legacy Business controls would obligate the Department to require Conditional Use authorization in two instances:

1. Where a new non-residential use occupies a space last used by a Legacy Business of a different use type; and
2. Where a non-residential use occupies a space last used by a Legacy Business of the same use type.¹⁴

An example of the first instance is where the new non-residential use type is a different retail or institutional use type than the replaced Legacy Business. This would be considered a change of use. This is routinely handled by the Department and does not represent a change in current implementation procedures.

The second instance would require changes to the Department's implementation procedures. The Department does not regularly review changes in tenancy when the subsequent user of the subject non-residential space is of the same use type as the former use type. The two exceptions include:

1. Change in tenancy involving Formula Retailers
2. Zoning Referrals from sister City Agencies (e.g. Department of Public Health, the Police Department and the Entertainment Commission)

Excluding Formula Retailers, the Department does not require an entitlement or building permit application for a proposed a change in tenancy when there is no change in use. Many applicants are also aware that these changes in tenancies do not require entitlements or building permit applications. To resolve this, the Department would have to coordinate with the Small Business Commission to periodically secure an updated list of Legacy Businesses within the proposed C24SUD. With this list the Department would be need to augment its Property Information Map (PIM) database to alert Department staff and the public of the special circumstances.

Yet even with this information in the PIM, the Department would not be able to catch every time a Legacy Business was being replaced. As one example, when an apparel/accessories store changes tenancy, the Department is not necessarily alerted. This change needs neither a Zoning Referral nor a building permit

¹⁴ In both instances the proposed C24SUD makes an exception to the Condition Use authorization requirement when the subject space has been vacant for three or more years.

application. In this case it is plausible that a tenancy could change without the Department knowing until a Planning Code violation is reported by a community member.

Requiring and assuring an authorized Conditional Use Supports the C24SUD Purposes

The proposed C24SUD would require any use seeking CU to demonstrate that it aligns with at least four of the six purposes for establishing the C24SUD. Certain purposes easily lend themselves to Planning Department enforcement. For example, a proposed Conditional Use could commit to preserving significant elements of a façade, thereby meeting the first purpose. Or it could provide space for an arts activity use, satisfying the second purpose of the C24SUD.

However, other purposes do not readily lend themselves to Planning Department enforcement. The Planning Department does not have purview over hiring practices (C24SUD purpose no. 6) or cannot guarantee that new businesses maintain partnerships with existing local businesses (C24SUD purpose no. 5). These may also result in Planning Code violations being reported by the public when, for example, a Conditional Use no longer maintains a business partnership. In these cases, the Planning Department would need to coordinate with the MOEWD to resolve any difficulties with commitments.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received multiple telephone calls from the public about the boundaries of the C24SUD, the nature of the controls, the purpose for the controls and if these types of controls exist anywhere else in the San Francisco.

RECOMMENDATION:	Recommendation of Approval
------------------------	-----------------------------------

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Map of the Proposed C24SUD
- Exhibit C: Board of Supervisors File No. 170028 (*Substitute Ordinance to be introduced February 7, 2017*)
- Exhibit D: Board of Supervisors File No. 170028