

BOARD of SUPERVISORS



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February 16, 2017

File No. 170028

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On February 7, 2017, Mayor Lee introduced the following substitute legislation:

File No. 170028

Ordinance amending the Planning Code to create the Calle 24 Special Use District, and revising 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 this Ordinance; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This substitute legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By:  Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

1 [Planning Code, Zoning Map - Calle 24 Special Use District]

2
3 **Ordinance amending the Planning Code to create the Calle 24 Special Use District, and**
4 **revising the Zoning Map to reflect the Calle 24 Special Use District generally bounded**
5 **by 22nd Street, Potrero Avenue, Cesar Chavez Street, and Capp Street, as well as 24th**
6 **Street to Bartlett Street, and as more specifically defined in this Ordinance; affirming**
7 **the Planning Department’s determination under the California Environmental Quality**
8 **Act; and making findings of consistency with the General Plan, and the eight priority**
9 **policies of Planning Code, Section 101.1.**

10 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in ~~italics Times New Roman font~~.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

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

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. 170028 and is incorporated herein by reference. The Board affirms
23 this determination.

24 (b) On _____, the Planning Commission, in Resolution No. _____,
25 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. 170028 and is incorporated herein by reference.

3 (c) The Board of Supervisors wishes to establish the Calle 24 Special Use District
4 along and adjacent to the 24th Street corridor in the Mission District to balance preservation of
5 the neighborhood character of the Calle 24 Latino Cultural District with accommodating new
6 uses and recognizing the contributions of the Latino community to the neighborhood and San
7 Francisco as a whole. The mix of businesses and uses, including Legacy Businesses, murals,
8 festivals and architectural neighborhood design and character in the Calle 24 Special Use
9 District contribute to a strong sense of neighborhood and a unifying identity. The variety of
10 goods and services offered within the Calle 24 Special Use District serves the local needs of
11 residents and visitors alike. Many of the businesses have been owned and operated by the
12 same family for generations and have continued to serve the local needs of the community
13 with their services, whether they be bakeries, butcher shops, grocery stores, salons, non-profit
14 institutions, or restaurants. Currently there are at least 22 businesses and institutions on 24th
15 Street that have been in operation for 30 years or more.

16 (d) 24th Street has retained much of its distinctive character and reputation as the
17 cultural heart of the Mission, thanks to the corridor's unique mix of arts and cultural
18 destinations, institutions, and murals and other public art. Moreover, the retail and restaurants
19 in this neighborhood benefit from the visitors attracted by the arts and cultural institutions,
20 murals, and public art along the corridor.

21 (e) As set forth in the Strategic Economics Calle 24 Retail Study (December 2016),
22 while some of the arts and cultural organizations on the corridor serve a citywide or even
23 regional constituency, the groceries, restaurants, and other retail establishments have
24 historically served a primarily local customer base. Many restaurants, cafés, grocery stores,
25 salons, and other businesses remain affordable and continue to serve the daily needs of

1 residents from the Mission District and adjacent neighborhoods, even as the corridor attracts
2 more visitors.

3 (f) Additionally, and as discussed the Strategic Economics Calle 24 Retail Study,
4 the Calle 24 Special Use District area generally has smaller, narrower retail spaces than other
5 parts of the Mission neighborhood, particularly compared to Mission Street. Smaller spaces
6 tend to be more affordable overall than larger spaces and can serve both new, independent
7 businesses with lower profit margins as well as more established businesses that do not
8 require much space. At the same time, the small storefronts that are generally available on
9 Calle 24 make the corridor a less attractive location for upscale or formula retailers and
10 restaurants that require larger spaces to display their inventory or provide extensive seating
11 for diners.

12 (g) Supporting these smaller, neighborhood-serving non-residential uses, including
13 Legacy Businesses, and the cultural, arts, and institutional uses found in the Calle 24 corridor
14 furthers the Planning Code Section 101.1(b) priority policy goals that “existing neighborhood-
15 serving retail uses be preserved and enhanced and future opportunities for resident
16 employment in and ownership of such businesses enhanced” and that “existing housing and
17 neighborhood character be conserved and protected in order to preserve the cultural and
18 economic diversity of our neighborhoods.”

19 (h) According to a September 2014 report by San Francisco Architectural Heritage
20 entitled "Sustaining San Francisco's Living History: 9 Strategies for Conserving Cultural
21 Heritage Assets," long-operating businesses foster civic engagement and pride as
22 neighborhood gathering spots and contribute to the City's cultural identity. Additionally, the
23 report found that many otherwise successful long-standing businesses are at risk of
24 displacement, despite continued value and a record of success, due to San Francisco's
25 current economic climate.

1 (i) San Francisco has established the Legacy Business Registry, maintained by the
2 Office of Small Business, to recognize that these long-standing, community-serving
3 businesses are a valuable cultural asset to the City. The controls included in the Calle 24
4 Special Use District will further recognize and protect these important economic and cultural
5 assets.

6
7 Section 2. The Planning Code is hereby amended by adding Section 249.59 to read as
8 follows:

9 **SEC. 249.59. CALLE 24 SPECIAL USE DISTRICT.**

10 (a) General. A Special Use District entitled the Calle 24 Special Use District, the
11 boundaries of which are shown on Sectional Maps SU07 and SU08 of the Zoning Map, is hereby
12 established for the purposes set forth below.

13 (b) Purpose. The Calle 24 Special Use District is intended to preserve the prevailing
14 neighborhood character of the Calle 24 Latino Cultural District while accommodating new uses and
15 recognizing the contributions of the Latino community to the neighborhood and San Francisco.
16 Realizing the purpose of the Calle 24 Special Use District will require the participation and
17 coordination of residents, businesses, public agencies, and other community stakeholders. City
18 agencies, including the Office of Economic and Workforce Development, will actively engage with new
19 commercial uses to help achieve the purposes of the Calle 24 Special Use District. Such City agencies
20 may act as resource for residents, businesses, and other community stakeholders when realizing and
21 promoting the purposes of the Calle 24 Special Use District, including coordinating business
22 partnerships, product offerings, and employment commitments.

23 Specifically, the Calle 24 Special Use District is established to:
24
25

1 (1) Preserve and enhance the unique character of the Calle 24 Special Use District
2 and recognize Latino cultural heritage through contextual architectural design, storefront size,
3 signage, streetscape enhancements, artwork, and other elements of the built environment;

4 (2) Support the production or offerings of local or Latino artwork, arts activities,
5 and crafts by retaining, developing, promoting, or offering these within the Calle 24 Special Use
6 District;

7 (3) Preserve the contributions of Legacy Businesses to the history and identity of the
8 Special Use District and the Calle 24 Latino Cultural District by preserving a Legacy Business;

9 (4) Retain, enhance and promote neighborhood serving businesses and institutions
10 that serve a variety of households by making services and products available and accessible to
11 residents, including immigrant and low-income and moderate-income households;

12 (5) Retain, enhance, and promote neighborhood-serving businesses and institutions
13 that strengthen economic opportunities for local residents by developing partnerships amongst existing
14 and new local businesses, institutions, vendors, and micro entrepreneurs; and

15 (6) Retain, enhance and promote neighborhood-serving businesses and institutions
16 that enhance economic and workforce opportunities for local residents by coordinating with the Office
17 of Economic and Workforce Development to engage with the City's workforce system to provide
18 employment opportunities, career trainings, and formal partnerships to identify and address both
19 business and community workforce needs.

20 (c) Definitions. Whenever used in this Section 249.59, the following words and phrases
21 shall have the definitions provided here:

22 "Calle 24 Latino Cultural District" shall refer to that area as established by Board of
23 Supervisors Resolution No. 201-14;

24 "Cultural Heritage" shall refer to those elements, both tangible and intangible, that
25 help define the beliefs, customs and practices of a particular community. Tangible elements may

1 include land, buildings, public spaces, or artwork. Intangible elements may include organizations and
2 institutions, businesses, and cultural activities and events. These elements are rooted in the
3 community's history and are important in maintaining its identity.

4 "Legacy Business" shall refer to a business as defined under the Administrative Code
5 Section 2A.242 and included in the Legacy Business Registry.

6 (d) Controls. The following provisions, in addition to all other applicable provisions of the
7 Planning Code, shall apply within the Calle 24 Special Use District:

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

18 (2) Conditional Use Authorization. The following, if not otherwise prohibited, shall
19 require Conditional Use authorization from the Planning Commission pursuant to Section 303:

20 (A) First Story Commercial Use Space Mergers. Any merger of first story
21 commercial use space where the merger would result in first story commercial use space greater than
22 799 gross square feet.

23 (B) Legacy Business. Any new non-residential use where the immediately
24 prior use was a Legacy Business. This requirement shall not apply:

1 (i) where the subject non-residential space has had no occupant and has
2 not been open to the public for three or more years from the date the application for the new use is
3 filed; or

4 (ii) where the Legacy Business has removed itself or otherwise been
5 removed from the Legacy Business Registry.

6 (C) First Story Medical Service Use as defined in Section 790.114.

7 (3) Compatibility of Uses. For any commercial use that is subject to Conditional
8 Use authorization under this Section 249.59 or any other section of the Planning Code, the Planning
9 Commission shall make the following additional findings:

10 (A) Any physical improvements associated with the proposed use are, on
11 balance, in conformity with any Calle 24 Design Guidelines adopted by the Planning Commission; and

12 (B) The use supports at least four of the purposes for establishing the Calle
13 24 Special District set forth in Section 249.59(b) above.

14
15 Section 3. The Planning Code is hereby amended by revising Sectional Maps SU07
16 and SU08 of the Zoning Maps of the City and County of San Francisco as follows:

17 The Calle 24 Special Use District ("Calle 24 SUD") is bounded by the following streets:

- 18 (a) To the north, all lots fronting the southern side of 22nd Street from Mission
19 Street to Potrero Avenue;
- 20 (b) To the east, all lots fronting the western side of Potrero Avenue from 22nd Street
21 to Cesar Chavez Street;
- 22 (c) To the south, all lots fronting the northern side of Cesar Chavez Street, from
23 Potrero Avenue to Capp Street;
- 24 (d) To the west, all lots fronting the western side of Capp Street from Cesar Chavez
25 to 24th Street, then all lots fronting both sides of 24th Street to the eastern side of Bartlett

1 Street, then all lots fronting the western side of Capp Street from 24th Street to 22nd Street;
2 and

3 (e) The Calle 24 SUD additionally includes the following lots adjacent to the above
4 boundaries: Lots 019D and 046A in Assessor's Block 3637; Lots 005 and 017A in Assessor's
5 Block 6517; Lot 035 in Assessor's Block 6528; and Lot 003A in Assessor's Block 6570.
6

7 Section 4. No less than five years and no more than six years from the effective date
8 of this ordinance, the Office of Economic and Workforce Development and the Planning
9 Department shall review Planning Code Section 249.59 and shall make a report to the Board
10 of Supervisors on that section's effectiveness in serving the purposes of the Calle 24 Special
11 Use District as set forth therein, which report may include recommendations for including
12 suggesting any recommended amendments.
13

14 Section 5. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor's veto of the ordinance.
18

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

21
22 By:


23 MARLENA BYRNE
24 Deputy City Attorney
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LEGISLATIVE DIGEST
(Substituted, February 7, 2017)

[Planning Code, Zoning Map - Calle 24 Special Use District]

Ordinance amending the Planning Code to create the Calle 24 Special Use District and revising the Zoning Map to reflect the Calle 24 Special Use District as 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 this Ordinance; affirming the Planning Department’s determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

The geographic area encompassed by the proposed Calle 24 Special Use District (Calle 24 SUD) is currently a mix of residential and neighborhood commercial zoning districts. Although commercial uses are generally prohibited in the areas zoned residential, the existing neighborhood commercial districts—which include, among others, the 24th Street-Mission Neighborhood Commercial Transit District and the Mission Street Neighborhood Commercial Transit District—allow commercial uses, and mergers of commercial storefronts, as of right up to a certain size and then through the conditional use permit process for larger commercial uses and mergers.

Although there are currently no “concentration controls” for restaurant or bar uses in this area, new bar uses are generally prohibited along the 24th Street corridor and the Mission Alcoholic Beverage Special Use District, Planning Code Section 249.60, limits certain alcohol-related uses within part of the proposed Calle 24 SUD.

Medical Service Uses are generally permitted on the ground floor and require conditional use authorization on the second floor along the 24th Street corridor.

Administrative Code Section 2A.242 creates a Legacy Business Registry.

Amendments to Current Law

The proposed legislation would create a new Calle 24 Special Use District (Calle 24 SUD), generally bounded by: the southern side of 22nd Street from Mission Street to Potrero Avenue; the western side of Potrero Avenue from 22nd Street to Cesar Chavez Street; the northern side of Cesar Chavez Street, from Potrero Avenue to Capp Street; and the western side of Capp Street from Cesar Chavez to 24th Street, then both sides of 24th Street to the eastern side of Bartlett Street, and the western side of Capp Street from 24th Street to 22nd Street; along with a few additional adjacent lots (specifically, Lots 019D and 046A in

Assessor's Block 3637; Lots 005 and 017A in Assessor's Block 6517; Lot 035 in Assessor's Block 6528; and Lot 003A in Assessor's Block 6570.)

The purposes of the Calle 24 SUD, as more fully described in the proposed legislation, are to preserve and enhance the unique character of the area and recognize Latino cultural heritage through architectural design, storefront size, signage, streetscape enhancements, artwork, and other elements of the built environment; support local or Latino artwork, arts activities, and crafts; preserve the Legacy Businesses; retain, enhance and promote neighborhood serving businesses and institutions; and develop partnerships amongst existing and new local businesses, institutions, vendors, and micro entrepreneurs and coordinate with the Office of Economic and Workforce Development.

The proposed legislation would impose concentration controls on new restaurant and bar use, and on the physical expansion of existing restaurant and bar uses, to limit such uses to less than 35% of commercial storefronts in any given 300-foot area.

The proposed legislation would require conditional use authorization under Planning Code Section 303 for mergers of groundfloor commercial uses where the new commercial space would be greater than 799 gross square feet. Conditional use authorization would also be required whenever a new non-residential use would replace a Legacy Business within the SUD and for any new, first story, Medical Service Use, as defined in Planning Code Section 790.114.

Whenever a conditional use authorization is required for any use in the Calle 24 SUD, either under existing law or this proposed legislation, the Planning Commission would be required to find that any physical improvements associated with the proposed use are, on balance, in conformity with any adopted Calle 24 Design Guidelines and that the supports the purposes of the Calle 24 SUD.

Background Information

On July 28, 2015, this Board adopted Ordinance No. 133-15 to place a temporary prohibition within the proposed Calle 24 SUD on any merger of groundfloor commercial use space where the merger would result in groundfloor commercial use space greater than 799 gross square feet, subject to specified exemptions. On November 3, 2015, the Board of Supervisors adopted Ordinance No. 199-15, which retroactively extended the prohibition for an additional 10 months and 15 days from the date the original 45-day prohibition expired. Finally, on September 13, 2016, the Board of Supervisors adopted Ordinance No. 182-16, which again retroactively extended the prohibition for an additional 12 months from the date the prior 10-month and 15-day prohibition expired.

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