

LEGISLATIVE DIGEST

[Zoning - Extension of Interim Prohibition on Commercial Mergers in the Proposed Calle 24 Special Use District]

Urgency Ordinance approving an extension of the interim prohibition on commercial storefront mergers of greater than 799 gross square feet in the proposed Calle 24 Special Use District, which generally includes all lots bounded by 22nd Street, Potrero Avenue, Cesar Chavez Street, Capp Street, and both sides of 24th Street from Capp Street to Bartlett Street, as well as certain additional adjacent lots, for an additional 12 months in accordance with California Government Code, Sections 65858 et seq.; 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.

For example, within the 24th Street-Mission Neighborhood Commercial Transit District, commercial uses are permitted of up to 2,499 square feet and commercial uses equal to or greater than 2,500 square feet may be approved through a conditional use permit. Likewise, within the Mission Street Neighborhood Commercial Transit District, commercial uses are permitted below 5,999 square feet and commercial uses equal to or greater than 6,000 square feet may be approved through a conditional use permit.

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. A copy of this ordinance is on file with the Clerk of the Board in File No. 150584 and is available on the Board’s website. 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.

Amendments to Current Law

The proposed legislation would extend the interim prohibition on commercial mergers adopted by Ordinance No. 199-15 for an additional 12 months.

The proposed legislation defines a proposed “Calle 24 Special Use District” area as an area 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.)

Within the proposed Calle 24 (pronounced “veinticuatro”) SUD, mergers of groundfloor commercial space that would result in a space greater than 799 gross square feet would be prohibited for an additional 12 months from the date Ordinance No. 199-15 expires or until permanent zoning controls are adopted, whichever comes first.

Background Information

Interim zoning controls, including moratoria, are temporary and are designed to allow time for permanent controls to be proposed and adopted through the normal legislative process. The proposed urgency ordinance is an interim zoning moratorium and, therefore, must comply with the requirements of California Government Code Section 65858 et seq. as well as the Planning Code Section 306.7. Some of the applicable requirements include:

- Only the Board of Supervisors may adopt an interim zoning moratorium, and it must do so by urgency ordinance, which requires one reading of the Board.
- Adoption requires a four-fifths vote of the Board of Supervisors (9 votes).
- The Board of Supervisors may initially impose a moratorium for a period not to exceed 45 days.
- These controls do not need to be referred to the Planning Commission because they are not amendments of the Planning Code.
- An interim moratorium ordinance, unlike a typical ordinance, is effective immediately when the Mayor’s signs the ordinance or 10 days after the Mayor receives the legislation. If the Mayor vetoes the legislation, the Board must garner a 4/5 vote to overturn the veto.
- Extension of the initial 45 day period may be for up to a total of 22 months and 15 days, but requires:
 - Issuance of a Board of Supervisors’ report that describes the measures taken to alleviate the conditions which led to the adoption of the controls;

FILE NO. 160788

- Findings for general moratorium and special findings for a moratorium affecting multifamily housing; and
- A 4/5 vote of the Board of Supervisors.

n:\legana\as2015\1500614\01120288.doc