

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Todd Rufo, Director, Office of Economic and Workforce Development
John Updike, Director, Real Estate

FROM: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

DATE: July 19, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following the legislation, introduced by Mayor Lee on July 12, 2016:

File No. 160788

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.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: andrea.ausberry@sfgov.org.

cc: Ken Rich, Office of Economic and Workforce Development
Lisa Pagan, Office of Economic and Workforce Development

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

3 **Urgency Ordinance approving an extension of the interim prohibition on commercial**
4 **storefront mergers of greater than 799 gross square feet in the proposed Calle 24**
5 **Special Use District, which generally includes all lots bounded by 22nd Street, Potrero**
6 **Avenue, Cesar Chavez Street, Capp Street, and both sides of 24th Street from Capp**
7 **Street to Bartlett Street, as well as certain additional adjacent lots, for an additional 12**
8 **months in accordance with California Government Code, Sections 65858 et seq.;**
9 **affirming the Planning Department's determination under the California Environmental**
10 **Quality Act; and making findings of consistency with the General Plan, and the eight**
11 **priority policies of Planning Code, Section 101.1.**

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

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

20 Section 1. Findings.

21 (a) General Findings.

22 (1) The proposed Calle 24 Special Use District ("Calle 24 SUD") is bounded by
23 the following streets:

24 (a) To the north, all lots fronting the southern side of 22nd Street from
25 Mission Street to Potrero Avenue;

1 (b) To the east, all lots fronting the western side of Potrero Avenue from
2 22nd Street to Cesar Chavez Street;

3 (c) To the south, all lots fronting the northern side of Cesar Chavez
4 Street, from Potrero Avenue to Capp Street; and

5 (d) To the west, all lots fronting the western side of Capp Street from
6 Cesar Chavez to 24th Street, then all lots fronting both sides of 24th Street to the eastern side
7 of Bartlett Street, then all lots fronting the western side of Capp Street from 24th Street to
8 22nd Street.

9 The proposed Calle 24 SUD additionally includes the following lots adjacent to the
10 above boundaries: Lots 019D and 046A in Assessor's Block 3637; Lots 005 and 017A in
11 Assessor's Block 6517; Lot 035 in Assessor's Block 6528; and Lot 003A in Assessor's Block
12 6570.

13 (2) The Mayor's Office, the District 9 Supervisor's Office, and the public are
14 currently engaged in a planning process to develop a comprehensive set of zoning and design
15 controls for this area. This planning process follows the Board of Supervisors unanimous
16 passage of Board Resolution No. 168-14, establishing the Calle 24 (pronounced
17 "Veinticuatro") Latino Cultural District in May 2014. The stated purposes of establishing the
18 Calle 24 Latino Cultural District were to recognize the importance of Calle 24 as a center of
19 Latino culture and commerce and enhance the unique nature of Calle 24 as a special place
20 for San Francisco's residents and tourists.

21 (3) In response to the creation of the Calle 24 Latino Cultural District, the City
22 awarded a grant to the Brava Theater and the Lower 24th Street Neighbors and Merchants
23 Association to facilitate community input in developing a Latino Cultural District Plan. A
24 council comprised of residents, businesses, and other neighborhood stakeholders met
25 monthly and brings together residents, workers, artists, and business owners. After a year's

1 worth of meetings, as well as several retreats and public community input sessions, this work
2 resulted in the Calle 24 Latino Cultural District Report, which can be found in Board File No.
3 140421. As a result of this engagement, including but not exclusive to the report, a prohibition
4 on storefront mergers was identified as a strategy to retain affordable retail spaces and the
5 character of the corridor, which includes many small retail spaces. These small retail spaces
6 enable many businesses to operate and contribute to the diverse commercial fabric along
7 24th Street.

8 (4) During the current economic boom cycle, small neighborhood-serving retail
9 uses in the Calle 24 neighborhood have been particularly susceptible to displacement and
10 closure.

11 (5) In response to these changes and in order to stabilize the displacement of
12 these small neighborhood-serving businesses while the City and interested stakeholders have
13 an opportunity to work collaboratively on a community planning process that may result in the
14 designation of the proposed SUD or other amendments to the Planning Code, on July 28,
15 2015, this Board adopted Ordinance No. 133-15 to place a 45-day prohibition on any merger
16 of groundfloor commercial use space where the merger would result in groundfloor
17 commercial use space greater than 799 gross square feet, subject to specified exemptions, in
18 order to provide time for the City to determine if permanent zoning changes could be
19 formulated that minimize the disruption associated with such mergers. A copy of this
20 ordinance is on file with the Clerk of the Board in File No. 150584 and is available on the
21 Board's website.

22 (6) Following adoption by Motion No. M15-155 of a written report describing the
23 measures taken to alleviate the conditions that led to the adoption of the original 45-day
24 prohibition, on November 3, 2015, the Board of Supervisors adopted Ordinance No. 199-15,
25 extending for an additional 10 months and 15 days the prohibition on the merger of

1 groundfloor commercial use space in the proposed Calle 24 Special Use District, in order to
2 provide additional time for the City to determine if permanent zoning changes could be
3 formulated that minimize the disruption associated with such mergers. A copy of this
4 ordinance is on file with the Clerk of the Board in File No. 150972 and is available on the
5 Board's website.

6 (7) Ordinance No. 199-15 and the State law on the adoption of interim
7 moratoria, California Government Code Sections 65858 et seq., require the Board of
8 Supervisors to adopt an additional written report describing the measures taken to alleviate
9 the conditions that led to the adoption of the ordinance if the Board wishes to further extend
10 the prohibition. Accordingly, the Planning Department prepared such a report and submitted it
11 to the Clerk of the Board of Supervisors on June 21, 2016, for the Board's consideration. A
12 copy of said report is on file with the Clerk of the Board of Supervisors in File No. 150972.

13 (8) On July 19, 2016, the Board of Supervisors adopted Motion No.
14 _____, to approve the report that the Planning Department prepared on possible
15 methods to address the zoning concerns identified in Ordinance Nos. 133-15 and 199-15. A
16 copy of this Motion is on file with the Clerk of the Board of Supervisors in File No.
17 _____ and is available on the Board's website, and is incorporated herein by
18 reference.

19 (9) The conditions that led the Board of Supervisors to adopt Ordinance Nos.
20 133-15 and 199-15 continue to exist. These interim controls are intended to provide stability to
21 the neighborhood during the time that the proposed Calle 24 SUD, and any other proposed
22 Planning Code amendments, are under development and public review. In developing the
23 controls for the proposed SUD, the Board urges the Planning Department to balance the need
24 for retaining neighborhood-serving retail and service uses and a vibrant small business
25 community.

1 (b) Findings Related to Imposition of an Interim Prohibition.

2 (1) Planning Code Section 306.7 provides for the imposition of interim zoning
3 controls to accomplish several objectives, including preservation of historic and architecturally
4 significant buildings and areas; preservation of residential neighborhoods; preservation of
5 neighborhoods and areas of mixed residential and commercial uses in order to preserve the
6 existing character of such neighborhoods and areas; and development and conservation of
7 the City's commerce and industry to maintain the City's economic vitality, provide its citizens
8 with adequate jobs and business opportunities, and maintain adequate services for its
9 residents, visitors, businesses, and institutions.

10 (2) These controls are intended and designed to address problems and
11 conditions associated with mergers of small commercial storefronts while the proposed Calle
12 24 SUD planning process is pending so that the City can continue to preserve neighborhoods
13 and areas of mixed residential and commercial uses in order to maintain the existing
14 character of such neighborhoods and areas and develop and conserve the City's commerce
15 for the reasons specified above in Subsection (a).

16 (3) This Board has considered the impact on the public health, safety, peace,
17 and general welfare if the interim controls proposed herein were not imposed.

18 (4) This Board has determined that the public interest will be best served by
19 imposition of these interim controls at this time in order to ensure that the legislative scheme
20 that may be ultimately adopted is not undermined during the planning and legislative process
21 for permanent controls, which process shall be conducted within a reasonable time.

22 (c) Planning Code Section 101.1 Findings.

23 This interim zoning prohibition advances and is consistent with: Priority Policy 1 in that
24 the controls will preserve and enhance existing neighborhood-serving retail uses and enhance
25 future opportunities for resident employment in and ownership of such businesses; Priority

1 Policy 2 in that the controls will conserve and protect existing neighborhood character in order
2 to preserve the cultural and economic diversity of this neighborhood; and Priority Policy 5 in
3 that the controls will maintain a diverse economic base by protecting our neighborhood
4 service sector from displacement due to larger mergers and commercial office development
5 and will enhance future opportunities for resident employment and ownership in this sector.
6 With respect to Priority Policies 3, 4, 6, 7, and 8, the Board finds that the interim zoning
7 prohibition does not, at this time, have an effect upon these policies, and thus, will not conflict
8 with said policies.

9 (d) Environmental Findings. The Planning Department has determined that the
10 actions contemplated in this Ordinance are in compliance with the California Environmental
11 Quality Act (California Public Resources Code sections 21000 et seq.). The Board of
12 Supervisors hereby affirms this determination. A copy of said determination is on file with the
13 Clerk of the Board of Supervisors in File No. _____ and incorporated herein by
14 reference.

15
16 Section 2. The following interim zoning prohibition shall be adopted as an Urgency
17 Ordinance:

18 (a) The proposed Calle 24 Special Use District area ("Calle 24 SUD") shall be
19 bounded by the following streets:

20 (1) To the north, all lots fronting the southern side of 22nd Street from Mission
21 Street to Potrero Avenue;

22 (2) To the east, all lots fronting the western side of Potrero Avenue from 22nd
23 Street to Cesar Chavez Street;

24 (3) To the south, all lots fronting the northern side of Cesar Chavez Street, from
25 Potrero Avenue to Capp Street; and

1 (4) To the west, all lots fronting the western side of Capp Street from Cesar
2 Chavez to 24th Street, then all lots fronting both sides of 24th Street to the eastern side of
3 Bartlett Street, then all lots fronting the western side of Capp Street from 24th Street to 22nd
4 Street.

5 The proposed Calle 24 SUD additionally includes the following lots outside the above
6 boundaries: Lots 019D and 046A in Assessor's Block 3637; Lots 005 and 017A in Assessor's
7 Block 6517; Lot 035 in Assessor's Block 6528; and Lot 003A in Assessor's Block 6570.

8 (b) In the proposed Calle 24 SUD, neither the Planning Department nor the Planning
9 Commission shall issue an approval or authorization for any merger of groundfloor
10 commercial use space where the merger would result in groundfloor commercial use space
11 greater than 799 gross square feet.

12 (c) The following districts, uses, and projects are exempt from these controls:

13 (1) Projects subject to a development agreement under Administrative Code
14 Chapter 56 and California Government Code Sections 65864 et seq.;

15 (2) Projects that have submitted an environmental evaluation case to the
16 Planning Department on or before June 2, 2015; and

17 (3) Projects that received a Planning Commission approval on or before June 2,
18 2015.

19 (d) This interim zoning prohibition shall remain in effect for 12 months from the
20 termination date of Ordinance No. 199-15 or until the date that permanent controls are
21 adopted to address commercial mergers in this area, whichever first occurs.

22 (e) If application of this ordinance would have the effect of denying approvals needed
23 for development of any multifamily housing portion of a project specified in California
24 Government Code Section 65858(c) and (h), this prohibition shall not apply to that use.
25

1 Section 3. Effective Date. This urgency ordinance shall become effective immediately
2 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns
3 the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the
4 Board of Supervisors overrides the Mayor's veto of the ordinance by a 4/5ths vote.

5
6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8
9 By: 
10 MARLENA BYRNE
11 Deputy City Attorney

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