



SAN FRANCISCO PLANNING DEPARTMENT

June 21, 2016

Ms. Angela Calvillo, Clerk
Honorable Supervisor David Campos
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.
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CA 94103-2479

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415.558.6377

**Re: Transmittal of Planning Department Report in Response to Board File 150972:
Interim Prohibition Extension on Commercial Mergers in the Proposed Calle 24
Special Use District**

Dear Ms. Calvillo and Supervisor Campos,

On November 10, 2015 Mayor Edwin M. Lee signed Ordinance No. 199-15, enacting the Urgency Ordinance approving an interim prohibition extension 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.

Section 3 of Ordinance No. 199-15 requires the Planning Department to submit to the Clerk of the Board of Supervisors a written report describing the measures taken to alleviate the conditions that led to the adoption of the ordinance.

Please find the attached Planning Department Report, in response to Section 3 of Ordinance No. 199-15. 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 D. Starr".

Aaron D. Starr
Manager of Legislative Affairs

cc:

Marlena Byrne, Deputy City Attorney

Hillary Ronen, Aide to Supervisor Campos

Andrea Ausberry, Office of the Clerk of the Board

Diana Ponce de Leon, Mayor's Office on Economic and Workforce Development

Attachments:

Planning Department Report

Ordinance 199-15



SAN FRANCISCO PLANNING DEPARTMENT

Planning Department Report

Date: June 21, 2016
Report Name: Interim Prohibition Extension on Commercial Mergers in the Proposed Calle 24 Special Use District
Case No.: 2014.1425U
Initiated by: Mayor Edwin M. Lee and Supervisor David Campos [Board File 150972]
Staff Contact: Diego R Sánchez, Legislative Analyst
(415) 575-9082 diego.sanchez@sfgov.org
Reviewed by: Aaron Starr, Manager of Legislative Affairs
Aaron.Starr@sfgov.org

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STATEMENT OF PURPOSE

This report was prepared in response to an Ordinance (BF 150972) introduced by Mayor Edwin M. Lee and Supervisor David Campos on September 29, 2015 and enacted into law on November 10, 2015 (Ordinance No. 199-15). This Ordinance extended interim zoning controls that prohibit the Planning Department or the Planning Commission from issuing an approval or authorization of any merger of ground floor commercial use space where the merger would result in ground floor commercial use space greater than 799 gross square feet in the proposed Calle 24 Special Use District (Calle 24 SUD). This extended prohibition is in effect until August 2, 2016, which is 10 months and 15 days from the termination date of the original prohibition (Ordinance No. 133-15).

The proposed Calle 24 SUD encompasses the area bounded by all lots fronting the southern side of 22nd Street from Mission Street to Potrero Avenue; all lots fronting the western side of Potrero Avenue from 22nd Street to Cesar Chavez Street; all lots fronting the northern side of Cesar Chavez Street, from Potrero Avenue to Capp Street; all lots fronting the western side of Capp Street from Cesar Chavez to 24th Street, then all lots fronting both sides of 24th Street to the eastern side of Bartlett Street, then all lots fronting the western side of Capp Street from 24th Street to 22nd Street. The Calle 24 SUD also includes the following lots outside of the boundaries listed above: 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 Ordinance directs the Planning Department to submit a written report to the Clerk of the Board no later than July 18, 2016. The report should describe the measures taken to alleviate the conditions that led to the adoption of the ordinance. Upon receipt of the report, the Ordinance directs the Clerk of the Board to calendar a motion for the full Board of Supervisors (Board) to consider and approve this report.

BACKGROUND

This Ordinance was introduced as part of the Calle 24 planning process underway within the Mission District's 24th Street commercial corridor. In May 2014 the Board of Supervisors unanimously approved establishment of the Calle 24 Latino Cultural District (Board Resolution

No. 168-14). One aim of the Calle 24 Latino Cultural District is to recognize the 24th Street corridor, broadly defined as the area encompassed by Cesar Chavez Street to the south, 22nd Street to the north, Potrero Avenue to the east and Capp Street to the west, as the center of Latino culture and commerce, and 24th Street as a special place for the City's residents and tourists worthy of enhancement. The Calle 24 Latino Cultural District also envisioned a forthcoming Calle 24 SUD encompassing the 24th Street corridor.

As part of the Calle 24 Latino Cultural District effort, the City awarded a grant to two community groups, the Brava Theater and the Lower 24th Street Neighbors and Merchants Association, to lead a community planning process. The process focused on gathering community input regarding current concerns about the 24th Street corridor. It also sought to define the corridor's boundaries and develop land use, economic development and community development strategies to stabilize and enhance the corridor's businesses and overall character.

The planning process identified the corridor's boundaries as being very similar to those found in the Calle 24 Latino Cultural District. It also envisioned a special use district as a means to address land use concerns within the corridor.

The planning process found the loss of small, affordable retail spaces as a salient concern in the corridor. These retail spaces serve many functions. They provide financially accessible spaces for local entrepreneurs and relevant goods and services to neighborhood residents. These spaces also create a diverse commercial offering, lending character and appeal to the 24th Street corridor.

Existing land use controls allow the merger of multiple commercial spaces, including these smaller retail spaces, into larger and fewer spaces. In the context of an economic boom, and given said controls on commercial space mergers, these smaller retail spaces were found to be particularly susceptible to loss. To address this, Supervisor Campos and the Mayor's Office introduced Ordinance 133-15, a 45-day prohibition preventing the Planning Department or the Planning Commission from issuing an approval or authorization for the merger of ground floor commercial use space where the merger would result in ground floor commercial use space greater than 799 gross square feet in the Calle 24 SUD. The following projects are exempt from the prohibition:

- (1) Projects subject to a development agreement under Administrative Code Chapter 56 and California Government Code Sections 65864 et seq.;
- (2) Projects that have submitted an environmental evaluation case to the Planning Department on or before June 2, 2015; and
- (3) Projects that received a Planning Commission approval on or before June 2, 2015.

The prohibition intends to provide stability to the neighborhood while long term land use strategies are developed through the Calle 24 planning process. However, the 45 day period was recognized as too short a duration to allow for the development of long term strategies. Ordinance 199-15 was enacted to extend the prohibition an additional 10 months and 15 days from the termination of the original Ordinance. This extended time period allows for the proper development of land use strategies through the Calle 24 planning process.

REQUIRED BOARD ACTION

The Board may approve or disapprove this report.

ENVIRONMENTAL REVIEW

This Report was determined not to be a project per State CEQA Guidelines, Sections 15378 and 15060(c)(2), because it does not result in a physical change to the environment.

RECOMMENDATION

The Planning Department is recommending that the issues outlined in the subject Ordinance be addressed through the ongoing Calle 24 planning process.

BASIS FOR RECOMMENDATION

The Calle 24 planning process represents the best means to achieve Ordinance's intentions given the past and continued involvement of a wide array of stakeholders. Since its inception, the Calle 24 planning process has involved 24th Street merchants, neighborhood residents and City staff in the identification of corridor concerns. The short term controls in the Ordinance were developed from months of collaboration and outreach between various community stakeholders and City staff, including the Offices of the Mayor and Supervisor Campos.

As envisioned in subject Ordinance, the Calle 24 planning process has begun formulating long term land use regulations, economic development strategies and community development initiatives that best address identified corridor concerns. With respect to land use controls, the following strategies are under consideration:

- Development of a Calle 24 Special Use District
- Conditional Use authorization for changes in use and/or replacement of Legacy Businesses
- Heightened regulation on the concentration of eating and drinking establishments
- Revised height controls for alterations and new construction

Much like the short term controls in the subject Ordinance, the long term strategies will continue to be vetted through a community stakeholder process. Further, the long term land use strategies will require review and recommendation from the Planning Commission and the Board of Supervisor's Land Use and Transportation Committee prior to consideration at the Board of Supervisors. Taken together, this affords a robust process and assures the Ordinance's intentions are realized.

1 [Zoning - Interim Prohibition Extension 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 10 months and**
8 **15 days in accordance with California Government Code, Sections 65858, et seq.; and**
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 ~~strikethrough italics Times New Roman font.~~**
15 **Board amendment additions are in double-underlined Arial font.**
16 **Board amendment deletions are in ~~strikethrough 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 meets
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, this Board
15 adopted Ordinance No. 133-15 to place a temporary prohibition on any merger of groundfloor
16 commercial use space where the merger would result in groundfloor commercial use space
17 greater than 799 gross square feet, subject to specified exemptions, in order to provide time
18 for the City to determine if permanent zoning changes could be formulated that minimize the
19 disruption associated with such mergers. A copy of this ordinance is on file with the Clerk of
20 the Board in File No. 150584 and is available on the Board's website.

21 (6) On September 29, 2015, the Board of Supervisors adopted Motion No. M15-
22 155, to approve a report that the Planning Department prepared on possible methods to
23 address the zoning concerns identified in Ordinance No. 133-15. A copy of the Motion is on
24 file with the Clerk of the Board of Supervisors in File No. 150972 and is available on the
25 Board's website, and is incorporated herein by reference.

1 (7) The conditions that led the Board of Supervisors to adopt Ordinance No.
2 133-15 continue to exist. These interim controls are intended to provide stability to the
3 neighborhood during the time that the proposed Calle 24 SUD, and any other proposed
4 Planning Code amendments, are under development and public review. In developing the
5 controls for the proposed SUD, the Board urges the Planning Department to balance the need
6 for retaining neighborhood-serving retail and service uses and a vibrant small business
7 community.

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

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

17 (2) These controls are intended and designed to address problems and
18 conditions associated with mergers of small commercial storefronts while the proposed Calle
19 24 SUD planning process is pending so that the City can continue to preserve neighborhoods
20 and areas of mixed residential and commercial uses in order to maintain the existing
21 character of such neighborhoods and areas and develop and conserve the City's commerce
22 for the reasons specified above in Subsection (a).

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

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

5 (c) Planning Code Section 101.1 Findings.

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

17 (d) Environmental Findings. The Planning Department has determined that the
18 actions contemplated in this Ordinance are in compliance with the California Environmental
19 Quality Act (California Public Resources Code sections 21000 et seq.). The Board of
20 Supervisors hereby affirms this determination. A copy of said determination is on file with the
21 Clerk of the Board of Supervisors in File No. 150972 and incorporated herein by reference.

22
23 Section 2. The following interim zoning prohibition shall be adopted as an Urgency
24 Ordinance:
25

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

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

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

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

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

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

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

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

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

23 (2) Projects that have submitted an environmental evaluation case to the
24 Planning Department on or before June 2, 2015; and
25

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

3 (d) This interim zoning prohibition shall remain in effect for 10 months and 15 days
4 from the termination date of Ordinance No. 133-15 or until the date that permanent controls
5 are adopted to address commercial mergers in this area, whichever first occurs.


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

9
10 Section 3. No later than July 18, 2016, the Planning Department shall submit to the
11 Clerk of the Board a written report describing the measures taken to alleviate the conditions
12 that led to the adoption of this ordinance. Upon receipt of the report, the Clerk shall calendar a
13 motion for the full Board to consider and approve said report. Said hearing and the action
14 taken thereon shall be at least 10 days prior to the expiration of this ordinance.

15
16 Section 4. Effective Date. This urgency ordinance shall become effective immediately
17 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns
18 the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the
19 Board of Supervisors overrides the Mayor's veto of the ordinance by a 4/5ths vote.

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

23
24 By:


25 _____
MARLENA BYRNE
Deputy City Attorney

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City and County of San Francisco

Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 150972

Date Passed: November 03, 2015

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 10 months and 15 days 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.

October 19, 2015 Land Use and Transportation Committee - RECOMMENDED

October 27, 2015 Board of Supervisors - CONTINUED


Ayes: 9 - Breed, Campos, Christensen, Cohen, Farrell, Kim, Tang, Wiener and Yee
Excused: 2 - Avalos and Mar

November 03, 2015 Board of Supervisors - FINALLY PASSED

Ayes: 10 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang and Yee
Noes: 1 - Wiener

File No. 150972

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 11/3/2015 by the Board of Supervisors of the City and County of San Francisco.


Angela Calvillo
Clerk of the Board


Mayor

11/10/15
Date Approved