



# SAN FRANCISCO PLANNING DEPARTMENT

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August 17, 2015

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

**Re: Transmittal of Planning Department Report in Response to Board File 150284:  
Interim Prohibition on Commercial Mergers in the Proposed Calle 24 Special  
Use District**

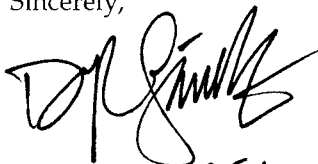
Dear Ms. Calvillo and Supervisor Campos,

On August 4, 2015 Mayor Edwin M. Lee signed Ordinance No. 133-15, enacting the Urgency Ordinance approving an 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.

Section 3 of Ordinance No. 133-15 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. 133-15. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



**AARON D. STARR FOR:**

Aaron D. Starr  
Manager of Legislative Affairs

1650 Mission St.  
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San Francisco,  
CA 94103-2479

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**Transmittal Materials**

**CASE NO. 2014.1425U  
Interim Prohibition on Commercial Mergers in the  
Proposed Calle 24 Special Use District**

cc:

Marlena Byrne, Deputy City Attorney  
Hillary Ronen, Aide to Supervisor Campos  
Andrea Ausberry, Office of the Clerk of the Board

Attachments:

Planning Department Report



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Department Report

*Date:* August 17, 2015  
*Report Name:* Interim Prohibition 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 150584]  
*Staff Contact:* Diego R Sánchez, Legislative Analyst  
(415) 575-9082 [diego.sanchez@sfgov.org](mailto:diego.sanchez@sfgov.org)  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
[Aaron.Starr@sfgov.org](mailto:Aaron.Starr@sfgov.org)

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### STATEMENT OF PURPOSE

This report was prepared in response to an Ordinance (BF 150584), introduced by Mayor Edwin M. Lee and Supervisor David Campos on June 2, 2015, and passed into law on August 4, 2015 (Enactment No. 133-15). This Ordinance established 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 prohibition is in effect for 45 days from that date that the Ordinance was enacted.

The proposed Calle 24 SUD encompasses the area bounded by all lots fronting the southern side of 22<sup>nd</sup> Street from Mission Street to Potrero Avenue; all lots fronting the western side of Potrero Avenue from 22<sup>nd</sup> 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 24<sup>th</sup> Street, then all lots fronting both sides of 24<sup>th</sup> Street to the eastern side of Bartlett Street, then all lots fronting the western side of Capp Street from 24<sup>th</sup> Street to 22<sup>nd</sup> 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 within 25 days of the Board's adoption of the Ordinance describing 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 24<sup>th</sup> 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 24<sup>th</sup> Street

corridor, broadly defined as the area encompassed by Cesar Chavez Street to the south, 22<sup>nd</sup> Street to the north, Potrero Avenue to the east and Capp Street to the west, as the center of Latino culture and commerce, and 24<sup>th</sup> 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 24<sup>th</sup> 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 24<sup>th</sup> 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 24<sup>th</sup> 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 the subject Ordinance, which is intended to provide stability to the neighborhood while long term land use strategies are developed through the Calle 24 planning process.

During the 45-day prohibition, neither the Planning Department nor the Planning Commission can issue 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.

#### **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 24<sup>th</sup> 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
- Relaxed regulation on food processing uses along 24<sup>th</sup> Street

Much like the short term controls in the subject Ordinance, the long term strategies will also 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.

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

**Urgency Ordinance approving an 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 45 days in accordance with California Government Code Sections 65858 et seq.; and 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.**

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

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

Section 1. Findings.

(a) General Findings.

(1) The proposed Calle 24 Special Use District (“Calle 24 SUD”) is bounded by the following streets:

(a) To the north, all lots fronting the southern side of 22nd Street from 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) ~~As part of the planning process for~~ In response to the creation of the Calle  
22 24 Latino Cultural District ~~and the proposed Calle 24 SUD~~, the City awarded a grant to the  
23 Brava Theater and the Lower 24th Street Neighbors and Merchants Association to facilitate  
24 community input in developing a Latino Cultural District Plan. A council comprised of  
25 residents, businesses, and other neighborhood stakeholders meets monthly and brings

1 together residents, workers, artists, and business owners. After a year's worth of meetings, as  
2 well as several retreats and public community input sessions, this work resulted in the Calle  
3 24 Latino Cultural District Report, which can be found in Board File No. 140421. As a result of  
4 this engagement, including but not exclusive to the report, a prohibition on storefront mergers  
5 was identified as a strategy to retain affordable retail spaces and the character of the corridor,  
6 which includes many small retail spaces. These small retail spaces enable many businesses  
7 to operate and contribute to the diverse commercial fabric along 24th Street. The report  
8 identified the merger of smaller storefronts as a leading cause of neighborhood-serving  
9 business displacement in the neighborhood.

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

13 (5) In response to these changes and in order to stabilize the displacement of  
14 these small neighborhood-serving businesses while the City and interested stakeholders have  
15 an opportunity to work collaboratively on a community planning process that may result in the  
16 designation of the propose SUD or other amendments to the Planning Code, this Board  
17 intends to place a temporary prohibition, also referred to as an interim zoning moratorium  
18 prohibition, on commercial storefront mergers over a certain size.

19 (6) These interim controls are intended to provide stability to the neighborhood  
20 during the time that the proposed Calle 24 SUD, and any other proposed Planning Code  
21 amendments, are under development and public review. In developing the controls for the  
22 proposed SUD, the Board urges the Planning Department to balance the needs for retaining  
23 neighborhood-serving retail and service uses ~~with the desire to have more affordable housing~~  
24 and a vibrant small business community.

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



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

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

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

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

21 (c) Planning Code Section 101.1 Findings.

22 This interim zoning ~~moratorium~~ prohibition advances and is consistent with: Priority  
23 Policy 1 in that the controls will preserve and enhance existing neighborhood-serving retail  
24 uses and enhance future opportunities for resident employment in and ownership of such  
25 businesses; Priority Policy 2 in that the controls will conserve and protect existing

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

8 (d) Environmental Findings. The Planning Department has determined that the  
9 actions contemplated in this Ordinance are in compliance with the California Environmental  
10 Quality Act (California Public Resources Code sections 21000 et seq.). The Board of  
11 Supervisors hereby affirms this determination. A copy of said determination is on file with the  
12 Clerk of the Board of Supervisors in File No. 150584 and incorporated herein by reference.

13  
14 Section 2. The following interim zoning ~~moratorium~~ prohibition shall be adopted as an  
15 Urgency Ordinance:

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

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

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

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

24 (4) To the west, all lots fronting the western side of Capp Street from Cesar  
25 Chavez to 24th Street, then all lots fronting both sides of 24th Street to the eastern side of

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

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

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

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

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

15 (3) Projects that received a Planning Commission approval on or before June 2,  
16 2015.

17 (d) This interim zoning moratorium prohibition shall remain in effect for 45 days unless  
18 extended in accordance with California Government Code Section 65858 or permanent  
19 controls are adopted to address commercial mergers and new restaurant uses in this area,  
20 whichever first occurs.

21 (e) If application of this ordinance would have the effect of denying approvals needed  
22 for development of any multifamily housing portion of a project specified in California  
23  
24  
25

1 Government Code Section 65858(c) and (h), this moratorium prohibition shall not apply to that  
2 use.

3  
4 Section 3. Within 25 days of the Board's adoption of this ordinance, the Planning  
5 Department shall submit to the Clerk of the Board a written report describing the measures  
6 taken to alleviate the conditions that led to the adoption of the ordinance. Upon receipt of the  
7 report, the Clerk shall calendar a motion for the full Board to consider and approve said report.  
8 Said hearing and the action taken thereon shall be no later than 35 days after this ordinance  
9 is effective.

10  
11 Section 4. Effective Date. This urgency ordinance shall become effective immediately  
12 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns  
13 the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the  
14 Board of Supervisors overrides the Mayor's veto of the ordinance by a 4/5ths vote.

15  
16 APPROVED AS TO FORM:  
17 DENNIS J. HERRERA, City Attorney

18  
19 By:

  
20 MARLENA BYRNE  
Deputy City Attorney

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23  
24  
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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:** 150584

**Date Passed:** July 28, 2015

Urgency Ordinance approving an 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 45 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.

July 13, 2015 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 13, 2015 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

July 28, 2015 Board of Supervisors - FINALLY PASSED

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

Noes: 1 - Wiener

File No. 150584

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/28/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

  
Mayor

8/4/15  
Date Approved