



Planning Commission Staff Report

August 31, 2016

Item 6.b.

SUBJECT: P16-1418

APPLICANT: City of Pleasanton

PROPERTY OWNER: City-wide

PURPOSE: Work session to consider an amendment to the Pleasanton Municipal Code to: update and simplify the list of permitted and conditionally permitted land uses; establish a Minor Conditional Use Permit process for routine uses; reflect current practices; modify review procedures; replace out-of-date references; and undertake other changes to make the Code more user-friendly.

GENERAL PLAN: Various

ZONING: Various

LOCATION: City-wide

EXHIBITS: A. [Work Session Discussion Points](#)
B. [Draft Amendment to the Pleasanton Municipal Code](#)

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review the proposed amendment to the Zoning Code (which is part of the Pleasanton Municipal Code) and provide feedback.

EXECUTIVE SUMMARY

The proposed update to the Zoning Code is intended primarily to: (1) simplify and update the list of permitted and conditionally permitted land uses; (2) establish a Minor Conditional Use Permit process that would allow staff to administer discretion over uses that are more routine in nature, but still require an evaluation of potential impacts, such as parking, noise, odor, and land use compatibility; and (3) undertake other changes to reflect current practice/law and increase the usability of the document. A key objective is to make the regulations in the Zoning Code easier for members of the community to interpret and use.

Prior to presenting the Zoning Code update to the Planning Commission for a recommendation on approval to City Council, staff is presenting it to the Planning Commission as a Work Session item. Other outreach efforts include review and discussion with the Economic Vitality

Committee, the Downtown Vitality Committee, the Pleasanton Downtown Association, and the Chamber of Commerce.

BACKGROUND/HISTORY

The City Council has identified an update of the Zoning Code for purposes of establishing a Minor Conditional Use Permit process and simplifying the development review process as a Council priority. Staff has been working on this update over the last several months, as part of a broader effort to make the City's development regulations more transparent and easier to navigate.

The Zoning Code divides the City into various zoning or use districts, each of which has its own list of permitted and conditionally permitted land uses and development regulations (e.g., limitations on building height, building setbacks, and overall square footage), along with a purpose (e.g., to provide appropriately located areas for commercial facilities). The Zoning Code currently contains three chapters pertinent to Office, Commercial, and Industrial zoning districts – Chapters 18.40, 18.44, and 18.48 – which include nine different use districts.

Currently, the Zoning Code lists permitted and conditionally permitted uses for the Office and Industrial districts in Chapters 18.40 and 18.48, respectively, and identifies permitted and conditionally permitted uses for the Commercial districts in a table format in Chapter 18.44 (Table 18.44.090), where caveats for particular uses are listed within the table itself. The key objectives of this code modification include: (1) simplify and update the list of permitted and conditionally permitted uses, including simplifying Table 18.44.090; (2) establish a Minor Conditional Use Permit process that would allow staff to administer discretion over uses that are more routine in nature, but still require an evaluation of potential impacts, such as those related to parking, noise, odor, and land use compatibility; and (3) undertake other changes to reflect current practice/law and increase the usability of the document.

PROJECT DESCRIPTION AND DISCUSSION

The purpose of simplifying and updating the list of permitted and conditionally permitted uses is to allow that information to be more easily digested and understood. Currently, Table 18.44.090 contains a long list of often-redundant and outdated land uses, making it difficult for community members to ascertain whether a specific use is permitted or conditionally permitted, and sometimes requiring a visit to City Hall to seek a staff interpretation. Additionally, information that is currently noted in the body of the table identifying permitted and conditionally permitted uses is proposed to be footnoted. This, in addition to formatting changes, is intended to make the table easier to read and understand. Summarized below are proposed deletions from the code, new definitions, and new land use categories, in addition to an explanation of how the use table is now organized. A discussion on the proposed Minor Conditional Use Permit process, the existing Administrative Conditional Use Permit process, and determinations regarding uses that are not expressly identified in the code is also provided below.

Deletions

In keeping with the objective of modernizing and simplifying the code, staff proposes to delete two zoning districts (which do not apply to specific properties) and specific uses that are outdated and do not logically fit into one of the existing or proposed land use categories.

The two zoning districts proposed for deletion include the Automobile Commercial (C-A) District and the Light Industrial (L-I) District. One of the purposes of the C-A district is to provide an opportunity for automobile dealers and closely related businesses to benefit from the proximity and high design standards possible in an automotive district. The City's automobile dealerships and related businesses are located in Planned Unit Developments (PUDs) and are evaluated on a case-by-case basis, and since there are no properties currently zoned C-A (or PUDs that reference the C-A District), staff believes it is appropriate to delete the C-A District. Similarly, the main purpose of the L-I District is to provide locations for industries that are more restrictive in terms of use than the I-G District and can operate in relatively close proximity to commercial and residential uses with a minimum of adverse effects. There are no properties zoned L-I District, and there are no PUDs that reference the L-I District. Since the I-P District has a similar objective in providing locations for industries that can operate in close proximity to commercial and residential land uses with minimal adverse impacts, and since there are no properties currently zoned L-I District, the L-I District is proposed to be deleted. The deletion of the C-A and L-I districts would not limit the ability of the City to attract desired automotive and industrial uses, and would allow for further simplification of the Zoning Code.

In reviewing the list of existing land uses proposed for deletion, staff found that some uses are antiquated (e.g., blacksmiths), others are not actual land uses (e.g. office *buildings*), and others are not frequently used or relevant to current business practices, or could be encompassed within a smaller number of broader and more easily-understood land use categories.

New Use Categories

The proposed Zoning Code update includes new use categories that are not currently identified and that are needed to respond to the evolving nature of the local economy (including the need to accommodate change in the future). Examples of new use categories include: art and craft studios, farmer's markets, mobile food trucks, transportation dispatch facilities, and governmental facilities. In addition, thematic use categories (e.g., Retail, Outdoor Uses, Cultural and Entertainment, Educational) have been used to organize the permitted and conditionally permitted use table in order to help users better navigate the use restrictions and to accommodate appropriate future uses that aren't currently anticipated. These are discussed further in the Organization and Footnotes section, below.

The "retail" category is divided into two categories by square footage (up to 60,000 square feet and greater than 60,000 square feet), and represents a substantial consolidation of uses in existing Table 18.44.090, resulting in a simplification of the use table. Instead of treating every different retail use differently, retail uses up to 60,000 square feet are permitted in all Commercial Districts, and retail uses greater than 60,000 square feet are conditionally permitted in all Commercial Districts with the exception of the C-N District, where retail uses greater than 60,000 square feet are not permitted. In general, staff believes that retail uses exceeding 60,000 square feet have operational characteristics (e.g., traffic, parking, overall activity patterns) that require special consideration, and thus warrant different treatment in the use table. Table 1 illustrates the size of a representative group of retail uses in the City.

Table 1: Approximate Square Footage of Existing Retail Venues

Store	Address	Approximate Square Footage
Walmart	4501 Rosewood Drive	126,000
Home Depot	6000 Johnson Drive	100,000
Raley’s (Oak Hills Shopping Center)	5420 Sunol Boulevard	60,000
Safeway (Pleasanton Gateway)	6790 Bernal Avenue	58,000
Safeway (Amador Center)	1701 Santa Rita Road	58,000
Macy’s Furniture Store (Rose Pavilion)	4255 Rosewood Drive	55,500
Lucky (Val Vista Center)	6155 W. Las Positas Boulevard	50,000
99 Ranch Market	4299 Rosewood Drive	45,000
Walmart Neighborhood Market	3112 Santa Rita Road	35,000
Former CVS (Rose Pavilion)	4225 Rosewood Drive	28,500
Smart and Final	5775 Johnson Drive	25,000
Gene’s Fine Foods	2803 Hopyard Road	20,500
New Leaf Community Market	3550 Bernal Avenue	19,000

Examples of uses that have been combined into this single “retail” category include: antique stores, bicycle shops, candy stores, clothing, shoe, and accessory stores, department stores, dry goods stores, gift shops, hobby shops, music stores, second hand stores, shoe stores, stamp and coin stores, stationary stores, tobacco stores, toy stores, variety stores, etc. In combining these uses, the districts within which land uses are permitted or conditionally permitted remain largely the same as currently in the Zoning Code. This reclassification and consolidation of retail uses is based on the principal that the impacts from a retail use in an existing tenant space or building are largely the same, irrespective of whether the store sells shoes, stamps, or stationary, and thus combining the land use categories lends to greater simplicity and ease of use by both the public and staff.

As another example, the “restaurants and catering establishments” category combines the following existing categories: catering establishments, delicatessen stores, ice cream sales, and restaurants and soda fountain food establishments, with and without take-out. The new definition of restaurants also includes specialty coffee establishments and tea rooms, which makes explicit the current practice of classifying these restaurant-like uses as restaurants for zoning purposes (no change is proposed to the definition of “bar,” which indicates that a restaurant which sells alcoholic beverages any time after 11:00 p.m. and before 6:00 a.m. is classified as a bar). As with the retail category, there are uses that become permitted in districts where they are not permitted currently, and uses that become conditionally permitted where they are permitted currently. In this example, catering establishments are currently permitted in the C-S District. However, with the proposed Code modifications, catering establishments would be conditionally permitted in the C-S District to align with the way

restaurants are classified. However, catering establishments are not currently permitted or conditionally permitted in the I-P District, but would become conditionally permitted with this proposal to align with the way restaurants are classified. Further, delicatessen stores and ice cream sales are not permitted or conditionally permitted in the C-S, C-F, I-P, or I-G district, but combining these uses into a single category results in these uses becoming permitted in the C-F District and conditionally permitted in the C-S, I-P, and I-G districts. As mentioned above, combining these land use categories leads to differences in which districts permit and conditionally permit certain land uses, but this flexibility is balanced by improved simplicity and ease of use, and a minimized potential for unanticipated impacts (because most restaurant uses of a certain size would tend to have similar effects on parking, noise, and overall activity levels). And finally, the new category omits the distinction between “drive-ins” and “take-out food establishments” the Code currently makes (although please reference the drive-through footnote discussed below).

Overall, staff finds that the benefit of combining uses into fewer categories (when they are similar in scope and land use impact) outweighs the potential problems associated with employing a more permissive approach to a handful of retail uses.

A. Discussion Point: Does the Planning Commission find the proposed land use categories acceptable?

New Definitions

Chapter 18.08 provides a list of definitions that are common to planning and land use practice. While this list is extensive, staff has found that it lacks definitions for certain common uses (e.g. restaurant and medical office). Also, definitions for new, proposed land uses have also been incorporated. Definitions for the following uses are proposed: community facility, financial institution, governmental facility, industrial (heavy), industrial (light), mixed-use development, office (general), office (medical), personal service, restaurant, retail, and winery.

B. Discussion Point: Does the Planning Commission find the proposed definitions acceptable?

Organization and Footnotes

Uses for the Commercial District are currently identified in Table 18.44.090 of the Zoning Code, and uses for the Office and Industrial Districts are identified in Chapters 18.40 and 18.48, respectively. Since many of the permitted and conditionally permitted uses between these zoning districts overlap, and for simplification, staff is proposing to include permitted and conditionally permitted uses for the Office and Industrial Districts in the same table. Additionally, headings have been added to uses to organize them into subcategories (e.g. retail, personal and general service, office and business service, outdoor uses, etc.) to assist with navigation and to capture compatible uses that may be proposed in the future but that are not explicitly identified in the table.

As mentioned previously in this report, footnotes have been added to the table of uses that reference particular requirements. These footnotes are intended to reduce the need to cross-reference multiple sections of the Zoning Code in order to ascertain the performance standards or other requirements that apply to a specific use. Many of the footnotes reflect requirements that are currently in the Code (e.g., that massage establishments must meet the requirements of Chapter 6.24). There are also footnotes that propose new standards. For example, a footnote proposes that any use that includes a drive-through is subject to a

Conditional Use Permit. As currently drafted, a new footnote also requires that a non-retail/non-restaurant ground floor use along Main Street shall be subject to a Minor Conditional Use Permit process (discussed in further detail below).

Minor Conditional Use Permit Process

Currently the Zoning Code identifies uses that are either permitted or conditionally permitted, with all Conditional Use Permits requiring review and approval by the Planning Commission. One of the main purposes of the current update to the Zoning Code is to establish a Minor Conditional Use Permit process for uses that currently require Conditional Use Permit approval, but are often approved on the consent calendar and do not necessarily warrant Planning Commission review. However, the Minor Conditional Use Permit process would still allow the Zoning Administrator to effectively analyze potential land use, parking, noise, and other factors for uses that are less routine than permitted uses, and these impacts are similar to those that the Planning Commission evaluates. In addition, the Planning Commission and City Council would have the ability to review any Minor Conditional Use Permits issued by the Zoning Administrator.

The proposed Minor Conditional Use Permit process is outlined in Chapter 18.124 of the revised Zoning Code. As written, the submittal requirements are similar to those required for Conditional Use Permits. However, instead of undergoing Planning Commission review, the Zoning Administrator would grant or deny an application for a Minor Conditional Use Permit subsequent to a 10-day notification period to neighbors within a 300-foot radius of the project site. The decision by the Zoning Administrator is subject to the appeal process currently outlined in Chapter 18.144. Also, the fee schedule adopted by City Council in 2015 identifies a significantly lower fee for the Minor Conditional Use Permit process (\$750 versus the \$3,000 fee for Conditional Use Permits reviewed by Planning Commission).

In an effort to provide applicants with guidance regarding the criteria that will be used to evaluate the appropriateness of the Minor Conditional Use Permit application, staff is proposing to establish performance standards that include the following:

1. The facility shall adhere to all occupancy, Americans with Disabilities Act (ADA), California Building Code, and exiting requirements;
2. Adequate parking is available for the use, and the proposal has an effective traffic circulation system including pick-up and drop-off for business patrons;
3. The use meets the City noise ordinance; and
4. Where applicable, the proposed use does not compromise the retail character of Main Street.

The proposed language also indicates that the Zoning Administrator may request a traffic study, noise study, or other professional study in order to determine whether the proposed use meets the above performance standards.

Similar to the Conditional Use Permit process, the Zoning Administrator would make findings indicating that the proposed use is consistent with the purpose of the subject zoning district; that the use would not be detrimental to public health, safety, or welfare; and that the use would comply with applicable provisions of the Code.

The types of uses that are proposed to be subject to the Minor Conditional Use Permit process include:

- a non-retail/non-restaurant first floor use along Main Street;
- the following uses with more than 20 students at one time: art and craft studios, music and dance facilities, indoor recreation and sports facilities, and schools and colleges; and
- A personal service or indoor recreation and sports facility use that is not in conjunction with a medical use and includes massage service of four or more technicians at any one time.

As mentioned in this report, requiring non-retail/non-restaurant uses along Main Street to secure a Minor Conditional Use Permit is a new concept and will be further vetted as part of outreach on the Zoning Code update as well as upcoming work on the Downtown Specific Plan Update. The motivation for introducing this new requirement is to protect the retail and pedestrian-friendly character of Main Street while still allowing property owners the ability to fill vacant first floor spaces with non-retail uses with the new streamlined Minor Conditional Use Permit process. The second and third bullet points above represent uses that currently require Planning Commission review, but that would benefit from a more streamlined review process because the uses are routine and are subject to standard conditions.

C. Discussion Point: Does the Planning Commission find the proposed Minor Conditional Use Permit process acceptable?

Administrative Conditional Use Permit

Chapter 9.22 of the Code prescribes the City's regulations and procedural requirements related to recycling facilities (defined as "a center for the collection and/or processing of recyclable materials"). Both recycling *collection* facilities and recycling *processing* facilities are distinguished by size, and depending on size, are currently subject to either an Administrative Conditional Use Permit process, or a Conditional Use Permit process. The Administrative Conditional Use Permit is unique to this chapter of the Code and applies only to recycling facilities. Such facilities are typically mailbox- or larger-sized bins where people can deposit recyclable materials and are typically located in parking lots. The Zoning Administrator is responsible for reviewing and making a decision for Administrative Conditional Use Permits, and the Code stipulates that, if granted, they are valid for a period of 12 months from the date of approval (approval for another 12-month term requires a new request). Since the Administrative Conditional Use Permit is unique to this chapter of the Code, and with the objective of reducing redundancies within the Code, staff is proposing to delete the Administrative Conditional Use Permit process for recycling facilities and replace it with the Temporary Conditional Use process instead. Temporary Conditional Uses are detailed in Chapter 18.124 of the Code, and function similarly to Administrative Conditional Use Permits in that they are subject to review and approval by the Zoning Administrator. Section 9.22.040, which specifies that approval for recycling facilities is valid for a 12-month period, is not proposed for revision. Therefore, the removal of the Administrative Conditional Use Permit process from the Code would not substantively affect the City's review and permitting of recycling facilities.

Determinations as to Uses Not Listed

Chapter 18.128 of the Code prescribes the process for making a determination regarding uses that are not specifically listed as permitted or conditionally permitted uses. Specifically, the

Planning Commission is charged with the responsibility for making the determination for such uses on the basis of similarity to uses that are specifically listed. Since business types and proposals change often (and the use categories in the Zoning Code change infrequently), the Planning Division occasionally receives requests from prospective business owners to open a business type which is not specifically identified in the Zoning Code as a permitted or conditionally permitted use. In practice, the new use is often sufficiently similar (or dissimilar) in activity patterns and other characteristics to an already-identified use that the Zoning Administrator makes a determination as to whether the use is permitted, conditionally permitted, or not allowed. With the objective of making such a process easier for prospective business owners and to reflect current practice, Chapter 18.128 is proposed to be modified so that the Zoning Administrator may make a use determination. These use determinations would be facilitated by the new use definitions added to the Zoning Code. If the Zoning Administrator finds it necessary, the use determination can be referred to the Planning Commission.

Modifications Specific to Downtown

There are several proposed amendments to the C-C District, and since most commercial properties in the Downtown have a C-C zoning designation, these modifications are specific to Downtown Pleasanton (while a select number of properties are zoned C-C outside of the Downtown area, the proposed text below is most applicable to properties Downtown). The proposed change to the special purpose of the C-C District emphasizes pedestrian scale since this is an important design feature for Downtown, and modifies the term “central business district” to say, “Downtown Revitalization district” since the extent of the Downtown Revitalization District is more in keeping with this specific purpose. For residential uses, the proposed modifications to the Zoning Code are intended to identify mixed-use as a permitted type of development (to bring the Zoning Code in compliance with the Downtown Specific Plan, which encourages mixed-use projects in central commercial areas of the Downtown). Please reference Sections 18.44.030 and 18.44.090 of the enclosure to this memo. Also, please reference the discussion above regarding non-retail/non-restaurant uses along Main Street being subject to a Minor Conditional Use Permit.

D. Discussion Point: Does the Planning Commission find the proposed modifications specific to Downtown appropriate, or would it like to defer any of them until the Downtown Specific Plan process is complete?

PUBLIC COMMENT

Notice of this public hearing was published in *The Valley Times*, was noted in the Pleasanton Weekly, and was shared on the City’s social media accounts (e.g., Twitter). Staff has not received any comments as of the publication of this report, and will forward to the Commission any public comments received after publication of this report. As part of the outreach efforts related to the Zoning Code Update, staff will present the draft code update to the Economic Vitality Committee, Economic Development & Government Relations Committee, Downtown Vitality Committee, the Pleasanton Downtown Association, Chamber of Commerce, and possibly other groups.

ENVIRONMENTAL ASSESSMENT

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), as it has been determined that the Municipal Code amendment will not cause a significant negative effect on the environment.

CONCLUSION

The proposed Municipal Code update is intended to simplify the existing code language and streamline the code's overall organization. Additionally, the Minor Conditional Use Permit process is intended to provide a more streamlined alternative to the Conditional Use Permit process so that more routine uses do not have to go through the expense (monetary and time) associated with the Conditional Use Permit process. Although a substantial reorganization of the code has been undertaken, staff does not believe that this code update will change the pattern of land uses in the City or introduce a new potential for land use incompatibilities. Staff is requesting the Planning Commission's feedback regarding the proposed updates.

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