



TOWN OF FAIRFAX

STAFF REPORT

September 7, 2016

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*
Jim Moore, Planning and Building Services Director

SUBJECT: Conduct study session to discuss draft ordinance regarding rezoning parcels in CH (Highway Commercial) to CC (Central Commercial) zoning district and various code amendments to the CC zoning district

NOTE: The Town Council is not being asked to take any formal action this evening, as this item is listed as a study session.

RECOMMENDATION

Conduct Council study session including the review and consideration of the draft ordinance proposed by the Planning Commission, consideration of public comment, and direction to staff regarding follow up issues.

BACKGROUND

Over four years ago, in April 2012, the Town Council adopted the 2010-2030 General Plan. In the land use chapter of the General Plan, the Town determined that it would “rezone all commercial highway (CH) zone to central commercial (CC) zone and revise the CC zone as appropriate.” The rezoning of the CH properties to CC is a key component of the Town’s strategy to plan for its Regional Housing Needs Allocation (RHNA).

In early 2014, the Town considered the rezoning of parcels from CH to CC, as well as other zoning text amendments. However, due to community concerns, the Council decided to “restart” the rezoning process beginning with two Town Forums in 2014 on the General Plan and Housing Element and amendments to the General Plan and Housing Element to correct and clarify issues of concern raised by the community.

In October 2015, the Council conducted a third Town Forum to discuss the conversion of Highway Commercial (CH) zoned properties to Central Commercial (CC). As a result of this Forum, the Council requested that the Planning Commission (PC) further study the issues within the parameters established by the Council.

The Planning Commission has held a series of public meetings to consider how to implement this rezoning action, including any proposed text revisions through the preparation and adoption of a zoning ordinance amendment. Tonight, the Town Council is conducting a study session on the proposed draft ordinance recommended by the PC. The objective of this study session is provide the Council an opportunity to review and “study” this complex zoning issue without having to formally consider the draft ordinance, and to provide the flexibility for the Council to

request additional information or ask that the PC consider or reconsider policy issues related to the ordinance.

DISCUSSION OF GENERAL PLAN POLICIES

Since 2012, one of the aims of the Town has been to bring to fruition the goals and policies adopted in the Town's 2010-2030 General Plan. As memorialized in that document, drafts of the General Plan were reviewed and edited during numerous public meetings in the 20 months leading up to its adoption. These meetings in turn were preceded by some 12 years of public workshops and work by the General Plan Advisory Committee. The final product resulting from this work thus represented considerable public input and consideration.

Among the many objectives set out in the final General Plan adopted by the Council is the rezoning of all parcels currently zoned CH to CC. (See Land Use Program LU-7.1.1.1, cited on page one above.) Noting that "planning and development patterns since 1930 have often given preference to automobile travel over all other forms, minimizing or eliminating other transit options and human-scaled development," the General Plan lauded the efforts of Fairfax residents who had "intuitively resisted these impacts and vigorously fought to save the Town from automotive-centric development patterns, seeking to preserve the Town character as they know it." And, in fact, "preserve community and neighborhood character" is Land Use Element Goal LU-7.

In order to carry out this goal, the Town set as an objective "preserve and enhance the community's small-town scale and character." (Objective LU-7.1.) This, in turn, was directed to be undertaken through the implementation of various programs and policies, including Program LU-7.1.1.1 (re-zone all CH parcels to CC), as well as Policy LU-7.1.2 ("New and/or renewed development in the Town Center Area should preserve and enhance the village character of the Town Center Area in the mix of land uses, architectural styles and ornamentation, materials, colors and textures.")

Planning for the comprehensive future development of the Town would not have been complete without planning for housing needs, as well. The General Plan consists of eight elements, including the Housing Element, which is updated more frequently than other elements per state law. Under the Housing Element adopted with the General Plan in 2012, as well as the most updated Housing Element (adopted in 2015), the Town planned to expand housing opportunities by allowing the development of second-story residential uses without the need for a conditional use permit within the CC district. (See Housing Element Program H-3.1.1.1, which provides "amend CH zone. Rezone all CH zones to CC zones, which will allow housing on second floors without requiring a conditional use permit instead of requiring conditional use permits.")

These General Plan aims exist hand-in-hand with a number of statutory requirements with which the Town, along with all other municipalities in the state, must comply. These include:

- updating the Town land use regulations to treat transitional and supportive housing as residential uses, per Government Code § 65583(a)(5);

- planning for emergency shelter placement, per Government Code § 65583, which the Town has opted to allow in the Public Domain and CC zoning districts (see Table C-1 of the 2015 Housing Element, listing emergency shelters as a residential use permitted by right in the CC zone);
- adopting updated group care homes provisions, as required by a number of state laws, including Welfare & Institutions Code 5116, and Health & Safety Code 1267.8, 1267.9, 1267.16, and 11834.23, among others; and
- facilitating the development of single-room occupancy dwellings, per Government Code 65583(c)(1), which the Town has elected to do by allowing as a principally permitted use in the CC zone (see Housing Element Program H-2.1.6.3).

Some of these modifications to the Town’s zoning ordinance also assist the Town in meeting its regional housing needs assessment, which is “a minimum projection of additional housing units needed to accommodate projected household growth of all income levels by the end of the housing element’s statutory planning period.” The Town’s most recent Housing Element update was certified by the state partially on the basis of the Town’s success in identifying zoning changes that can be implemented to accommodate this allocation. Moreover, under state law, the Town is required to bring its zoning ordinance into conformance with its General Plan. (Government Code § 65860; see also *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541, holding that “[a] zoning ordinance ... that was originally consistent [with its the general plan] but has become inconsistent must be brought into conformity with the general plan.”)

DISCUSSION OF PROPOSED ORDINANCE

The ordinance recommended for approval by the PC seeks to put into practice all of the above policies. It also looks to modernize the Town’s zoning provisions by eliminating the practice of identifying individually enumerated uses that are principally or conditionally permitted and instead adopting a system of ‘use classifications’ that are broader in scope. Thus, instead of permitting “art supply” stores and “clothing stores,” such as are now listed in the CC ‘principal permitted uses and structures’ list (see Town Code §§ 17.100.040(A)(4) and (20)), the proposed zoning ordinance amendment instead allows ‘retail uses.’ This shift allows the Town to more broadly identify the categories of uses it wishes to regulate, and deal with the impacts of those uses, rather than apply a narrower lens, which can result in the Planning Director being tasked with determining whether a proposed use is similar enough to an explicitly regulated use to merit similar treatment. This revision reflects the best practice of modern day zoning codes.

This system of use classifications has been applied to all residential, commercial, community, and industrial uses listed in the proposed ordinance. The Planning Commission spent countless hours considering the proposed use classifications, their definitions and impacts, and the appropriate treatment of each classification. When members of the public participated in meetings and workshops, the Commission listened to their comments and considered whether adjustments should be made. The Planning Commission has held six public meetings since November 2015 to provide a public forum to craft this draft ordinance. The first five are

summarized briefly on pages 1-2 of the July 21, 2016, Planning Commission staff report attached to this staff report. Use classifications that have been the subject of considerable discussion include:

- **Offices.** This classification is broken into two categories: Business and Professional, and separately, Medical. Both types of office uses are proposed to be permitted by right in the CC zone, provided that they are (a) 5,000 square feet or less (anything larger would require a use permit), (b) situated in the rear or second floor of a given building (*Note: occupation of a store frontage would require a conditional use permit, which could not be issued unless the Planning Commission made additional findings for the proposed use*), and (c) conducted wholly indoors. The Council will notice that this is nearly identical to what is currently allowed in the CC (which treats offices as a principally permitted use “when not located on the first floor,” per Town Code § 17.100.040(A)(42) and as a conditionally permitted use “when on the ground floor” per Town Code § 17.100.050(D)).

The only differences are that the new language (a) limits the size of such offices to 5,000 square feet (without a use permit), (b) would allow office uses on the first floor use if in the back of a building, and (c) imposes new findings that would need to be met to allow an office use in a store frontage on the first floor. It would actually be more difficult to place an office use in a store frontage in the CC under the new language than under the existing Code.

- **Service stations.** Service stations are currently a conditionally permitted use in the CH zone (see Town Code § 17.096.050(B)(5)), but are not permitted in the CC zone. In keeping with the stated goals of making the CC zone a pedestrian-friendly, retail zone, the Planning Commission has opted to continue the existing prohibition on this use in the new, expanded CC zone.
- **Vehicle/equipment sales and services.** This category of use classifications includes auto sales, washing, wrecking, and the like. As currently drafted, nearly all such uses would be prohibited in the CC zone. The exceptions are (1) vehicle/equipment repair and (2) vehicle/equipment repair with limited vehicle service, both of which the Planning Commission recommends allowing with a conditional use permit, provided any such use is conducted wholly indoors.

At the July 21, 2016, Planning Commission meeting, some 25 members of the public provided comments on the ordinance. Their input was carefully considered by the Planning Commission in a four and a half hour meeting devoted solely to this subject, and has been used to develop the attached list of questions and answers.

The draft ordinance attached to this report represents the Planning Commission’s final recommendations as to the treatment of each use listed. However, the Planning Commission recognizes that the Town Council will have the chance to hear additional public comment and may believe that changes would be beneficial. More information can be provided on the Commission’s consideration of any particular use classification, if it would be of assistance to

the Council. Also, for your reference, attached is a table comparing the key revisions of the proposed amended CC zoning code to the existing CH and CC zoning code.

CONCLUSION

In conclusion, the draft ordinance before the Council is the result of much work, public input, and goal implementation. During the study session, staff will answer any questions the Council may have about how the ordinance is intended to operate or how individual uses have been accommodated. The next step in the process will be determined by the direction/input staff receives from the Council during the study session. For example, the Council could request a joint study session with the PC to discuss issues or ask the PC to discuss a policy issue not previously considered in the recommended ordinance.

FISCAL IMPACT

N/A

ATTACHMENTS

1. Comparison Table
2. Proposed Ordinance
3. Planning Commission public comment question and answer sheet (July 21, 2016)
4. July 21, 2016, Planning Commission staff report and attachments

COMPARISON OF AMENDED CC ZONES TO EXISTING CH AND CC REGULATIONS

Please note:

- 1) No current business are retroactively impacted or displaced by amended zoning regulations. Current businesses are only impacted if there is a change in the use of their space or they need to apply for a building permit.
- 2) Business uses are regulated in three ways: allowed BY RIGHT, allowed but only with a CONDITIONAL USE PERMIT (CUP), not allowed unless there is a ZONING AMENDMENT
- 3) Language in “bold” across columns denotes no change in the “Amended CC” zone when compared to the “Current CC” and “Current CH” zones.

	Current CC	Current CH	Amended CC
Location Note: maps are being prepared and will available at the Council meeting Note: *approximate	Town center – See Map Total Acres*: 9.35 acres Total Parcels*: 66 parcels	Westside – see map Fair Anselm Plaza – see map Eastside - see map 7-11 on the corner of Park and Bolinas Total Acres*: 13.9 acres Total Parcels*: 36 parcels	CH and CC combined- see map Total Acres*: 23.25 acre Total Parcels*: 102 parcels
Residential uses	Allowed on second floor No size limitations	Second floor residences require CUP No size limitations	Allowed on second floor; Min 150sqft – Max 700 sq. ft. with average not to exceed 500sqft
Max # residences (aka “density”)	No Maximum	No Maximum	4.5 Units per acre
Existing Number of Residences	Approx. 29 2 nd story buildings out of a total of 54 buildings Est. 40-50 existing residential units	Staff in the process of estimating number of 2 nd story units and number of existing residential units	Sets 4.5 units/acre limit in current CC Sets limit on “new” CC to approximately 57 units (e.g. gross acreage x 4.5 units/acre). Note: HE modeled 53 units in new CC area.
State Density Bonus	Applies	Applies	Applies
Permitted	List of allowed or conditional specific uses	List of allowed or conditional specific uses	Creates use classifications instead of a list of specific allowed or conditional uses Easier for staff to regulate and businesses to understand.

			This revision reflects the best practice of modern day zoning codes.
Residential Parking	<p>Commercial space: Must meet requirements for on-site parking (e.g.,)</p> <p>Residential on-site requirement: 1 space for a studio/1bd 2 spaces for anything greater</p>	<p>Commercial space: Must meet requirements for on-site parking (e.g.,)</p> <p>Residential on-site: Residential on-site requirement: 1 space for a studio/1bd 2 spaces for anything greater</p>	<p>Commercial space: Must meet requirements for on-site parking (e.g.,)</p> <p>Residential on-site: If all commercial parking requirements are met and the unit is 500sqft or less, no on-site parking space required.</p> <p>Units over 500 sq. ft. all standard parking requirements would apply.</p>
Size of spaces	No limit	No limit	<p>Over 5,000 sq. ft. requires a use permit.</p> <p>Note: Existing businesses such as Fairfax Market, Good Earth, & Theater allowed to continue to operate.</p>
Formula Businesses (aka "chain stores")	Requires a CUP	Requires a CUP (amended 2015)	Requires a CUP
Automotive Uses (gas stations, repair shops etc.) Example: S&N, Marin Automotive	Not allowed	Requires CUP	<p>Gas stations not allowed</p> <p>Auto repair shops permitted with a CUP.</p> <p>Note: Existing auto repair and gas stations allowed to continue to operate (e.g., "legal non-conforming).</p>
Office Uses (all, medical, administrative etc.) – Example: Casa Manana bldg	<p>Allowed on second floor</p> <p>Anywhere on first floor requires a CUP</p>	Allowed anywhere	<p>Allowed on second floor and in non-street front on first floor.</p> <p>First floor street frontage requires a CUP with increased approval criteria to ensure use is similar to or compliments a retail establishment.</p>
Commercial Parking	Varies by type of business in all zones	Varies by type of business in all zones	Varies by type of business in all zones

Legal non-conforming uses	Allowed	Allowed	Allowed Note: Existing businesses such as a gas station are allowed to remain even if not a permitted use under the amended zoning code.
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PROPOSED ORDINANCE FOR DISCUSSION

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING FAIRFAX TOWN CODE CHAPTER 5.052 ('BUSINESS TAXES, LICENSES, AND REGULATIONS'), CHAPTER 7.008 ('DEFINITIONS'), CHAPTER 17.012 ('ZONE DISTRICTS ESTABLISHED'), CHAPTER 17.020 ('DESIGN REVIEW REGULATIONS'), CHAPTER 17.092 ('CL LIMITED COMMERCIAL ZONE'), CHAPTER 17.096 ('CH HIGHWAY COMMERCIAL ZONE'), AND 17.100 ('CC CENTRAL COMMERCIAL ZONE') IN ACCORDANCE WITH THE MITIGATED NEGATIVE DECLARATION PREPARED FOR THE 2010-2030 FAIRFAX GENERAL PLAN

WHEREAS, all towns and cities within the State of California are required by law to adopt a general plan; and

WHEREAS, in 2012, the Town of Fairfax completed the 2010-2030 Fairfax General Plan, the first revision of its general plan in over 35 years; and

WHEREAS, the potential impacts to the environment associated with the proposed update to the general plan were studied in accordance with the California Environmental Quality Act ('CEQA,' as codified in Public Resources Code 20000, et seq., and as further governed by the CEQA Guidelines, 14 California Code of Regulations 15000, et seq.), and a Mitigated Negative Declaration and Mitigation and Monitoring Plan were prepared for the proposed Fairfax 2010-2030 General Plan (the 'General Plan'); and

WHEREAS, on April 4, 2012, the Town Council of the Town of Fairfax adopted the Mitigated Negative Declaration and Mitigation and Monitoring Plan prepared for the General Plan, and subsequently adopted the General Plan; and

WHEREAS, the General Plan includes Figure LU-1 ('Fairfax General Plan Map') and Figure LU-2 ('Fairfax Zoning'), both of which include a Central Commercial ('CC') zone, and neither of which include the Highway Commercial ('CH') zone; and

WHEREAS, General Plan Land Use Program LU-7.1.1.2 and Housing Element Program H-3.1.1.1 both direct that all properties within the Town zoned as CH will be rezoned to CC; and

WHEREAS, California Government Code Section 65860(c) requires towns and cities to amend their zoning ordinances to conform to their respective general plans; and

WHEREAS, in considering whether to recommend adoption of the Ordinance to the Town Council, the Planning Commission specifically considered the fact that legal uses within the existing CH district that become nonconforming by virtue of the adoption of the Ordinance could continue operating, subject to the legal principles governing the operation of legal nonconforming uses; and

WHEREAS, the Planning Department has prepared this amendment to the Town's zoning ordinance, found at Title 17 of the Fairfax Town Code, in order to implement the General Plan dictates set forth above; and

WHEREAS, on July 21, 2016, the Planning Commission held a duly noticed public hearing, at which it adopted a resolution finding this ordinance to be in conformance with the 2010-2030 General Plan and recommending that the Town Council adopt this ordinance.

NOW THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

SECTION 1. Fairfax Town Code Title 5 ('Business Taxes, Licenses, and Regulations'), Division II ('Specific Business Regulations'), Chapter 5.52 ('Medical Marijuana Dispensaries'), Section 5.52.080 ('Limitation on Location of Dispensary'), Subsection A is hereby amended to read as follows:

"(A) A dispensary shall be located only within a Central Commercial CC or Light Commercial CL area, as designated in the General Plan and zoning map."

SECTION 2. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.008 ('Definitions'), Section 17.008.020 ('Definitions'), is hereby amended to delete only the following definitions:

DAY NURSERY. An agency, organization, or individual providing daytime care of five or more children not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult.

DOG KENNEL or KENNEL. Any premises, except where accessory to a permitted agricultural use, where three or more dogs, ten weeks in age or older, are kept.

FILLING (SERVICE) STATION. Any building or plot of land used or designed to be used for the storage and retail sale of automobile fuels and lubricants and which may include facilities for washing, polishing, greasing, waxing or tire repairing. No vulcanizing or tire recapping or major mechanical repairs shall, however, be included in the operation of a filling station.

GAS FILLING STATION.

(1) Not only the house or building provided for the storage of supplies and the use and shelter of the operatives, but also tanks, pumps, structures and filling stations for business purposes and the supplying of gas and oil for automobiles of the general public.

(2) It also includes, of necessity, suitable exterior stairways and secondary stairways.

GASOLINE STATION. Any building, place or location designed to supply motor vehicles with gasoline, oils, greases, automobile sundries or for the inspection, testing and examination of the motor vehicles, or for the repair or replacement of parts thereof; and shall include gasoline pumps and oil pumps.

KENNEL. Any premises, except where accessory to an agricultural use, where three or more dogs, ten weeks in age or older, are kept.

NURSERY. Any land used to raise trees, shrubs, flowers and other plants for sale or for transplanting.

PROFESSIONAL OFFICE. The office of a person engaged in any occupation, vocation or calling, not purely commercial, mechanical or agricultural, in which a professed knowledge or skill in some department of science or learning is used by its practical application to the affairs of others, either advising or guiding them in serving their interest or welfare through the practice of an act founded thereon.

RESTAURANT WITH DRIVE-IN SERVICE. An establishment designed, in whole or part, to cater to or accommodate the consumption of food and/or beverage in automobiles on the premises of such establishment.

SCHOOL. A place for systematic instruction in any branch or branches of knowledge.

SECTION 3. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.008 ('Definitions'), is hereby amended by adding the following new Section 17.008.030 ('Use Classifications'), which reads as follows:

“§ 17.008.030 USE CLASSIFICATIONS.

(A) Use classifications describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification.

(B) The Director of Planning and Building Services shall determine whether a specific use shall be deemed to be of the same general nature as one of the use classifications or within one or more use classifications or not within any classifications within this title.

Notwithstanding any other provision of the Town Code, any person aggrieved by a decision of the Director of Planning and Building Services with respect to a use determination may appeal such decision to the Planning Commission.

(C) For the purpose of this title, the following use classification definitions shall apply, unless the context clearly indicates or requires a different meaning.

COMMERCIAL USES

ANIMAL SALES AND SERVICES.

ANIMAL HOSPITALS/VETERINARY SERVICES. Establishments where small animals receive medical and/or surgical treatment, shelter, and care on a commercial basis. This classification includes only facilities that are entirely enclosed and soundproofed.

Grooming and boarding of animals is included only if accessory to the hospital use.

ANIMAL RETAIL SALES AND GROOMING. Retail sales of domestic and exotic animals within an entirely enclosed building. This classification includes bathing and trimming services and boarding of domestic and exotic animals (for no more than forty-eight (48) consecutive hours).

HORSE STABLES. Establishments offering horse boarding and which may include instruction in horseback riding. This classification includes rings and exercise areas.

KENNELS. Buildings or other enclosures used to confine, feed, exercise, show or provide shelter, for four (4) or more cats or dogs, ten (10) weeks of age or older, on a commercial basis. Animal hospitals are specifically excluded from this classification.

CATERING SERVICES. Preparation and delivery of food and beverages for off-site consumption without provision for on-site pick-up or consumption, unless permitted by the subject zoning district.

CLEANING SERVICES. Janitorial, diaper cleaning, dry cleaning, self-service laundries and other similar cleaning services that include the use or on-site storage of chemicals, cleaners, or other processes that may pose a health hazard.

EATING AND/OR DRINKING ESTABLISHMENTS. Businesses that primarily serve prepared food or beverages for consumption on or off the premises.

GENERALLY. Eating and drinking establishments with no take-out services, permanent outdoor seating, alcoholic beverage service, or live entertainment or dancing.

WITH TAKE-OUT SERVICES. Eating and drinking establishments that provide prepared food and/or drinks for off-site consumption and either (a) have floor area devoted to takeout and pick-up space or (b) at which twenty percent (20%) or more of the sales are for off-site consumption.

WITH PERMANENT OUTDOOR SEATING. Permanent seating in an open or covered area on the site of a legally established eating and drinking establishment.

WITH FULL ALCOHOLIC BEVERAGE SERVICE. Eating and drinking establishments that are licensed to sell and serve wine, beer, and distilled spirits.

WITH WINE AND BEER SERVICE. Eating and drinking establishments that are licensed to sell and serve wine and beer.

WITH LIVE ENTERTAINMENT OR DANCING. Eating and drinking establishments that offer live entertainment and/or dancing.

FINANCIAL INSTITUTIONS. A financial institution that provides retail banking services to individuals and businesses. This classification includes only those institutions engaged in the on-site circulation of money. This use does not include check-cashing facilities.

GENERALLY. A financial institution without an automated teller machine or drive-up services.

WITH AUTOMATED TELLER MACHINES. Institutions providing automated teller services through a machine.

WITH DRIVE-UP SERVICES. Institutions providing services accessible to persons who remain in their automobiles.

FOOD AND BEVERAGE SALES. Retail sales of food and beverages for off-site preparation and consumption. Typical uses include groceries, liquor stores, convenience markets, delicatessens, bakeries, produce stores, butcher shops, and health food stores.

HEALTH CLUBS. Establishments that may include indoor tennis courts, racquetball courts, gyms, aerobic studios, yoga, dance, weight rooms, fitness machines, indoor swimming pools and accessory uses such as food service and child care.

HOME IMPROVEMENT SALES AND SERVICES. Retail establishments that carry a full line of building materials, appurtenances and decorator items (including hardware, plumbing, electrical, heating, air-conditioning, or building supplies, tools and equipment, plants and garden products, patio furniture, swimming pools, spas, and hot tubs, lighting fixtures and cabinets, paint, carpeting, floor coverings, etc.) to facilitate the improvement, rehabilitation and maintenance of individual dwellings. All merchandise other than plants is kept within an enclosed building or fully screened enclosure and fertilizer, soil, soil amendments are stored and sold in package form only. (See also Lumber and Building Material Yards.)

LUMBER AND BUILDING MATERIAL YARDS. Establishments engaging in the retail or wholesale sales of lumber, finished wood products, or building and landscape material supplies either inside or outside of a structure. This classification includes incidental sales and rental of hardware, plumbing, electrical, garden or painting supplies and equipment.

MAINTENANCE AND REPAIR SERVICES (SMALL EQUIPMENT). Establishments providing on-site repair and accessory sales of supplies for appliances, office machines, home electronic equipment, bicycles, furniture/upholstering, tools, or garden equipment, but not vehicles.

NURSERIES. Establishments providing for the cultivation and sale of ornamental trees, shrubs, and plants, including the sale of garden and landscape materials and equipment. All merchandise, other than plants, is kept within an enclosed building or a fully screened enclosure, and fertilizer, soil, soil amendments and groundcover (other than live plants) of any type is stored and sold in package form only.

OFFICES.

OFFICES, BUSINESS AND PROFESSIONAL. Offices of firms or organizations providing professional, executive, management, or administrative services, such as architectural, computer software consulting, data management, engineering, interior design, graphic design, real estate, title companies, stockbrokers, insurance and legal services. This classification includes laboratories accessory to an office use, but excludes banks and savings and loan associations.

OFFICES, MEDICAL. Offices for a physician, dentist, chiropractor, physical therapist, psychiatrist, psychologist, counseling service, audiologist, optometrist, acupuncturist, and alternative treatment providers. This classification includes medical laboratories accessory to a medical office use.

PERSONAL SERVICES. Provision of recurrently needed services of a personal nature. This classification includes such services as barber and beauty shops, massage, sun tanning, seamstresses, tailors, shoe repair shops, interior decorating, photocopying, photo processing, picture framing, printing, desktop publishing tailoring, travel agencies, , and shipping and mailing services.

RECREATION AND ENTERTAINMENT. Businesses providing participant or spectator recreation, entertainment, or sports activities.

INDOORS. This classification includes movie or live performing arts theaters, bowling alley, billiard parlor, dance hall, ice/roller skating rinks, game center including pinball arcade, coin-operated electronics or mechanical game machines.

OUTDOORS. This classification includes movie or live performing arts theater, sports stadium and arena, commercial golf courses (including private courses where the general public can play for a fee), driving ranges and miniature golf courses.

RETAIL USES. Stores and shops selling many lines of merchandise. Examples of these stores and lines of merchandise include: bicycle sales, service, and rental; bookstores, except adult bookstores; apparel and accessories; furniture, home furnishings and appliances sales, service, and rental; miscellaneous retail (including candy or ice cream stores, drug stores, hobby or craft shops, liquor stores, jewelry stores, newsstands, specialty shops, variety stores, pet stores, or computer stores), and includes repair and service ancillary to the primary retail sales use. This use does not include food and beverage sales.

VEHICLE/EQUIPMENT SALES AND SERVICES.

AUTOMOBILE RENTAL AND LEASING. Rental or leasing of automobiles including storage and incidental maintenance. This classification shall include taxi or limousine service.

AUTOMOBILE SALES/NEW AND USED. Sale of new and used automobiles including storage and incidental maintenance.

AUTOMOBILE WASHING. Washing, waxing, or cleaning of automobiles or similar light vehicles. (For automobile washing on the same site as a service station see Vehicle/Equipment Sales and Services, Service Stations.)

AUTOMOBILE WRECKING. The dismantling or wrecking of used motor vehicles or trailers or the storage of, sale or dumping of, dismantled, partly dismantled, obsolete or wrecked vehicles or their parts.

SERVICE STATION. Business engaged in the retail sale of motor fuels, lubricants, parts and accessories. This classification, which may also be referred to as a 'gasoline station' within this Code, includes incidental maintenance and repair of automobiles and light trucks, but excludes body and fender work or repair of heavy trucks or vehicles. This classification also includes food and beverage sales as an accessory use.

WITH AUTOMOBILE WASHING. A service station in conjunction with automobile washing.

VEHICLE/EQUIPMENT REPAIR. Retail repair of automobiles, trucks, motorcycles, mobile homes, recreational vehicles, or boats, including the sale, installation, and servicing of related equipment and parts. This classification includes tire sales and installation of mufflers, exhaust and suspension systems, auto radio/electronics installation, auto air conditioning/heater service, engine overhauls involving the removal of engine blocks, body and fender work, painting and undercoating, glass replacement, upholstery and convertible top service, vehicle towing, radiator, transmission, wheel and axle repair, but excludes the sale of gasoline and motor fuels, vehicle dismantling or salvage and tire retreading or recapping.

LIMITED VEHICLE SERVICE. Limited retail maintenance and service of automobiles and trucks. This classification includes quick lube and oil changing facilities and smog checking facilities with no on-site repair.

VEHICLE/EQUIPMENT SALES AND RENTALS. Sale or rental of motorcycles, moving vans, trucks, tractors, construction or agricultural equipment, mobile homes, recreational vehicles, and similar equipment, including storage and incidental maintenance.

VEHICLE STORAGE. Storage of operative or inoperative vehicles. This classification includes storage of parking towed vehicles, impound yards, and storage lots for automobiles, trucks, buses and recreation vehicles, but does not include vehicle dismantling.

COMMUNITY USES

CHILDCARE FACILITY. Facilities, other than family day care homes, which provide licensed, nonmedical care, protection and supervision, to children under eighteen (18) years of age, on a less than twenty-four (24) hour basis. This classification includes, but is not limited to, day nurseries, child day care facilities, and preschools.

GOVERNMENT OFFICE. Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles.

INSTITUTION. A non-profit corporation or a non-profit establishment for public use, as defined in Section 17.008.020.

PARK FACILITY. Noncommercial parks, playgrounds, and recreation facilities.

SCHOOL. A public, private, or parochial institution conducting regular academic instruction at kindergarten, elementary, and/or secondary levels.

ELEMENTARY, MIDDLE, SECONDARY. A public or private academic educational institution, including elementary (kindergarten through 5th or 6th grade), middle and junior high schools (6th through 8th grades), and secondary and high schools (9th through 12th grades).

SPECIALTY. A school that provides education and/or training, including vocational training, in limited subjects. Examples of these schools include art schools; ballet and other dance schools; business, secretarial and vocational schools; drama schools; driver education schools; establishments providing courses by mail or electronic; language schools; martial arts; music schools; seminaries/religious ministry training facilities. Does not include pre-schools and child day care facilities (see "Childcare facilities").

YOUTH SERVICES. Facilities that offer supervised programs for youth, including, but not limited to, teen centers. This classification does not include childcare facilities or schools.

INDUSTRIAL USES

LIGHT INDUSTRIAL. Manufacturing of finished parts or products, primarily from previously prepared materials; and provision of industrial services; both within an enclosed building. This classification includes processing, fabrication, assembly, printing, treatment, and packaging, but excludes basic industrial processing from raw materials, food processing, and vehicle/equipment services. Examples include, but are not limited to, large-scale book printing and binding, as well as recycling services. Uses involving a high incidence of truck traffic, and/or outdoor storage of products, material, equipment, or bulk fuel are not included within this classification.

RESIDENTIAL USES

EMERGENCY HOMELESS SHELTER. As described in Section 17.138.010.

FAMILY DAY CARE HOME. A home which regularly provides care, protection, and supervision of children under the age of eighteen (18), in the provider's own home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away.

LARGE FAMILY DAY CARE HOME. A home which provides family day care to seven (7) to twelve (12) children, inclusive, including children under the age of ten (10) years who reside at the home.

SMALL FAMILY DAY CARE HOME. A home which provides family day care to six (6) or fewer children, including children under the age of ten (10) years who reside at the home.

GROUP CARE HOME. A residential care facility licensed or supervised by any federal, state, or local agency which provides housing and nonmedical care for children, elderly persons, or physically and mentally handicapped persons in a family-like environment.

Group care homes includes the following:

An intermediate care facility, developmentally disabled habilitative and intermediate care facility/developmentally disabled-nursing or a congregate living facility as identified in California Health and Safety Code Section 1267.8;

A community care facility as identified in California Health and Safety Code Section 1566.3;

A residential care facility for the elderly as identified in California Health and Safety Code Section 1569.85;

An alcoholism or drug abuse recovery or treatment facility as identified in California Health and Safety Code Section 11834.02;

A home for the care of mentally disordered or otherwise handicapped persons as identified in California Welfare and Institutions Code Section 5116;

A home for the care of dependent and neglected children as identified in the California Welfare and Institutions Code Section 300, but not including wards of the court as identified in the California Welfare and Institutions Code Section 601ff.

Group care home does not include emergency shelters, half-way houses for parolees or convicted persons, or group residential uses as defined in this chapter.

GROUP RESIDENTIAL. Shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes boardinghouses, dormitories, fraternities, sororities, convents, rectories, and private residential clubs but does not include living quarters shared exclusively by a family, as defined in Section 17.008.020. This classification does not include services and facilities licensed by the State of California.

JUNIOR SECOND UNIT. As defined in Section 17.048.230.

SECOND STORY RESIDENTIAL. A structure containing one (1) or more dwelling units sharing common walls or being otherwise attached, including duplexes, triplexes, fourplexes, apartments and single-room occupancy facilities.

SECOND UNIT. A separate complete housekeeping unit with kitchen, sleeping and full bathroom facilities which is a part of, an extension to, or on the same lot as a detached single family unit, consistent with the provisions of Chapter 17.048.

SINGLE-FAMILY RESIDENTIAL. A structure containing one (1) detached dwelling unit located on a single lot. This classification includes mobile homes and manufactured housing.

SINGLE ROOM OCCUPANCY. Any building containing two or more units intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by residents which is their primary residence. The individual units may lack either cooking facilities or individual sanitary facilities, or both, and must meet currently adopted California Building Code R-2 occupancy classification requirements.

SUPPORTIVE HOUSING. Housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community, as defined by California Health & Safety Code Section 50675.14. (Per California Health & Safety Code Section 50675.14, 'target population' means persons, including persons with disabilities, and families who are "homeless," as that term is defined by 42 U.S.C. Section 11302, or who are "homeless youth," as that term is defined by California Government Code Section 11139.3(e)(2).)

TRANSITIONAL HOUSING. Buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, as defined by California Health & Safety Code Section 50675.2.

SECTION 4. Fairfax Town Code Title 17 (Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.010 ('Established') is hereby amended to read as follows:

“In order to classify, regulate, restrict and segregate the uses of land and building; to regulate and restrict the height and bulk of buildings; to regulate the area of yards and other open spaces about buildings; to regulate the percentage of a lot which may be occupied by a building or structure, and to otherwise regulate the use or development of land and premises, the following land use zones are established to be known and designated as:

- (A) RS-7.5 single-family residential zone;
- (B) RS-6 single-family residential zone;
- (C) RD 5.5-7 residential zone;
- (D) RM multiple-family residential zone;
- (E) CL limited commercial zone;
- (F) CC central commercial district zone;
- (G) CS commercial service zone;
- (H) CR commercial recreation zone;
- (I) PDD planned development district;
- (J) SF-RMP single-family residential master plan zone;
- (K) O-A open area zone;
- (L) UR upland residential zone; and
- (M) PD public domain.”

SECTION 5. Fairfax Town Code Title 17 (‘Zoning’), Chapter 17.012 (‘Zone Districts Established’), Section 17.012.030 (‘Discrepancies’) is hereby amended to read as follows:

“In case of any discrepancy between the designation of land on the “zoning map” as lying within a particular zone and the designation of land in §§ 17.012.040 through 17.012.170 as being within the same zone, §§ 17.012.040 through 17.012.170 shall control.”

SECTION 6. Fairfax Town Code Title 17 (Zoning’), Chapter 17.012 (‘Zone Districts Established’), Section 17.012.100 (‘Boundaries, CH Zone’) is hereby amended to read as follows:

“§ 17.012.100 RESERVED.”

SECTION 7. Fairfax Town Code Title 17 (Zoning’), Chapter 17.012 (‘Zone Districts Established’), Section 17.012.110 (‘Boundaries; CC Zone’) is hereby amended to read as follows:

“The boundaries of the CC Zone are shown upon that map designated as the “Zoning Map of the Town of Fairfax,” which map is made a part hereof by reference and is contained in Appendix X of the Fairfax Town Code.”

SECTION 8. Fairfax Town Code Title 17 (Zoning'), Chapter 17.020 ('Design Review Regulations'), Section 17.020.030 ('Applicability'), Subsection (B) is hereby amended to read as follows:

"(B) New construction in Central Commercial (CC) , Limited Commercial (CL), Service Commercial (CS), Multiple-Family Residential (RM), Planned Development District (PDD), Single Family-Residential Master Plan (SF-RMP) zones, duplexes in RD 5.5-7 zones and structures in the Ridgeline Scenic Corridor, as required in Chapter 17.060, and residences which have a distance of more than ten feet from the ground to the lowest point of complete enclosure."

SECTION 9. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.092 ('CL Limited Commercial Zone'), Section 17.092.010 ('Purpose'), Subsection (A) is hereby amended to read as follows:

"(A) The CL limited commercial zone provides a location for uses which may be incompatible with the high density characteristics of the Central Commercial zone."

SECTION 10. Fairfax Town Code Title 17 (Zoning'), Chapter 17.096 ('CH Highway Commercial Zone') is hereby amended to read as follows:

"§ 17.096 RESERVED."

SECTION 11. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), is hereby amended to delete the words 'Article I: Generally' from the chapter.

SECTION 12. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.010 ('Purpose') is hereby amended to read as follows:

"The CC Central Commercial zone is the central business district and the retail commercial heart of the town. It should contain the most valuable land and structures, on a square-foot basis, of any zone in the town. The development of the CC central commercial zone caters to and invites pedestrian traffic. Consequently, store frontages are intended to be continuous and to enhance the village character of the Town. Uses should be scaled such that an automobile is not needed to travel between them. In order to develop and maintain a zone of concentrated and varied retail and commercial activity, driveways, large parking lots, blank walls, and other conflicts with or deterrents to pedestrian traffic are to be minimized. Second-story residential uses provide both a nighttime population that is commercially desirable and living facilities for owners, workers and those without automobiles."

SECTION 13. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.040 ('Principal Permitted Uses and Structures') is hereby renamed 'Uses and Structures' and is amended to read as follows:

"Table 17.100.040-1 establishes the land uses allowed within the Central Commercial zoning district as indicated by the letter designations as follows:

'P' designates permitted use classifications. Unless followed by an applicable Limitation or Additional Regulation that dictates otherwise, any permitted use classification is allowed to operate along the street frontage.

'U' designates use classifications requiring approval of a conditional use permit.

'-' designates a use classification not permitted within this zoning district.

'L' followed by a number designates use classifications subject to certain limitations listed by number following the table.

The "Additional Use Regulations" column includes specific limitations applicable to the use classification or refers to regulations located elsewhere in the Fairfax Town Code.

The uses listed are based on the use classifications set forth in Town Code Section 17.008.030. Use classifications not listed are prohibited. The Director of Planning and Building Services shall determine whether a proposed use shall be deemed to be of the same general nature as one of the use classifications or within one or more use classifications or not within any classifications within this title. Notwithstanding any other provision of the Town Code, any person aggrieved by a decision of the Director of Planning and Building Services with respect to a use determination may appeal such decision to the Planning Commission. Design review for proposed uses shall be required as per Chapter 17.020.

Table	P Permitted U Use Permit Required - Not Permitted		
Use	Status	Limitation	Additional Use Regulations
Commercial Uses			
Animal sales and services			
Animal hospitals / veterinary services	P	L-1	A, B
Animal retail sales and grooming	P	L-1	A, B
Horse stables	-		
Kennels	-		
Catering services	P	L-1, L-2	A, B
Cleaning services	U	L-1, L-2, L-3	B
Eating and drinking establishments			
Generally	P	L-1	A, B
With take-out services	U	L-1	A, B

Table	P Permitted U Use Permit Required - Not Permitted		
With permanent outdoor seating	U	L-1	A, B
With full alcoholic beverage service	U	L-1	A, B
With wine and beer service	P	L-1	A, B
With live entertainment or dancing	U	L-1	A, B
Financial institutions			
Generally	P	L-1	A, B
With automated teller machines	P	L-1	A, B
With drive-up services	U	L-1	B
Food and beverage sales	P	L-1	A, B
Health clubs	U	L-1	A, B
Home improvement sales and services	U	L-1	A, B
Lumber and building material yards	-	L-1	
Maintenance and repair services (small equipment)	U	L-1, L-2, L-3	B
Offices			
Offices, business and professional	P	L-1, L-2, L-5	B
Offices, medical	P	L-1, L-2, L-5	B
Nurseries	U	L-1, L-2, L-3, L-4	B
Personal services	P	L-1	A, B
Recreation and Entertainment			
Indoors	U	L-1	A, B
Retail uses	P	L-1	A, B
Vehicle/equipment sales and services			
Automobile rental and leasing	-		
Automobile sales/new and used	-		
Automobile washing	-		

Table	P Permitted U Use Permit Required - Not Permitted		
Automobile wrecking	-		
Service station	-		
With automobile washing	-		
Vehicle/equipment repair	U	L-1	B
Limited vehicle service	U	L-1	B
Vehicle/equipment sales and rental	-		
Vehicle storage	-		
Industrial Uses			
Light industrial	U	L-1, L-2, L-3	B
Warehouse	-		
Community Uses			
Childcare	U		A
Government offices	P		A, C
Institution	U		A, C
Park facilities	P		A
Schools			
Elementary, Middle, Secondary	-		
Specialty	U	L-1, L-2	A
Youth services	U	L-1, L-2	A, B
Residential Uses			
Emergency homeless shelter	P	L-6	B, C, D, E, See Section 17.138.010
Family day care home			
Small family day care home	P	L-6	B, C, D, E
Large family day care home	P	L-6	B, C, D, E
Group care home			
With six or fewer residents	P	L-6	B, C, D, E

Table	P Permitted U Use Permit Required - Not Permitted		
With seven or more residents	U	L-6	B, C, D, E
Group residential	U	L-6	B, C, D, E
Junior second unit	-		
Second-story residential	P	L-6	B, C, D, E
Second unit	P	L-6	B, C, D, E
Single family residential	-		F
Single room occupancy	P	L-6	B, C, D, E
Supportive housing	P	L-6	B, C, D, E
Transitional housing	P	L-6	B, C, D, E

Table 17.100.040-1 Limitations

L-1	<p>Commercial uses with a gross floor area of 5,000 square feet or less are permitted. Commercial uses that exceed 5,000 square feet in gross floor area are permitted on approval of a Conditional Use Permit. In approving the use permit, the following conditions of approval shall be imposed:</p> <p>Prior to use permit approval, the Planning Commission shall review all proposed exterior changes, including signage, and determine whether the design complies with the goals and policies contained within Town Center Element of the General Plan, and is keeping with the architectural nature of the CC District.</p>
L-2	<p>Permitted in the rear, or conditionally permitted in store frontage with issuance of conditional use permit. In order to grant a conditional use permit for operation along the street frontage, the Planning Commission must make all findings required by Section 17.032.060. These require the Planning Commission to find that:</p> <ul style="list-style-type: none"> (A) the approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment; (B) the development and use of property, as approved under the use permit, shall not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof,

	<p>any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit;</p> <p>(C) approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any master plan, development plan or other plan or policy, officially adopted by the town; and</p> <p>(D) approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that the approval is in the public interest and for the protection or enhancement of the community.</p> <p>In addition to the foregoing, in order to grant a conditional use permit to authorize operation in a store frontage, the Planning Commission must also find that the proposed use:</p> <p>(E) is compatible with the existing character and uses in store frontages of nearby buildings in the area;</p> <p>(F) will not deter pedestrian traffic in the vicinity; and</p> <p>(G) activates the store front uses similar to a retail use.</p>
L-3	In addition to the findings required by L-2, in order to grant a conditional use permit authorizing operation along the street frontage, the Planning Commission must also find that the proposed use will not employ materials or practices that endanger other users or individuals in the area.
L-4	Outdoor storage of materials may be allowed in conjunction with a conditional use permit. In order to grant a conditional use permit for outdoor storage of materials, the Planning Commission must make all findings required by Section 17.032.060, and an additional finding that outdoor storage of materials (1) is compatible with the existing character and uses in the area, and (2) will not deter pedestrian traffic in the vicinity.
L-5	Permitted on the second floor also.
L-6	Permitted on the second floor only.

Table 17.100.040-2 Additional Use Regulations

A	Any use permitted by right on the first floor along the street frontage is also permitted on the second floor.
B	Permitted uses must be conducted wholly indoors, unless otherwise indicated.

C	Residential units shall be a minimum of 150 square feet and a maximum of 700 square feet, with the average unit size per building not to exceed 500 square feet.
D	Notwithstanding any other provision of the Town Code, there shall be no additional residential parking requirement for residential uses within the CC district that are 500 square feet or less, provided the underlying commercial use satisfies its parking requirement. Residential units of greater size shall comply with the parking requirements of Section 17.052.030.
E	The maximum permitted density is 4.5 dwellings per acre.
F	Notwithstanding any other provision of the Town Code, existing single family homes that maintain their residential character as of [EFFECTIVE DATE OF ORDINANCE] are conditionally permitted uses within the CC district and shall be included in any residential density calculation if they are returned to residential use.

SECTION 14. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.050 ('Conditional Uses and Structures') is hereby deleted in its entirety, and the following sections within Chapter 17.100 shall be renumbered accordingly.

SECTION 15. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.055 ('Procedure for Planning Director Use Determination'), Subsection (A) is hereby amended to read as follows:

"Uses not specifically listed in §§ 17.100.040 are specifically prohibited unless a use determination by the Planning Director is made which finds the use not specifically listed is similar to another use permitted or conditionally permitted within the Central Commercial District."

SECTION 16. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.050 ('Accessory Uses and Structures'), Subsections (5) and (6) are hereby deleted.

SECTION 17. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.050 ('Accessory Uses and Structures'), new Subsections (5) is hereby added to read as follows:

"(5) Electric vehicle charging stations."

SECTION 18. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.090 ('Yards') is hereby amended to read as follows:

"No yards are required, except when a lot line of a lot in the CC zone is the boundary of a residential zone, the central commercial lot shall provide yard space or spaces along and adjacent to the boundary line equal to that of the abutting yard space or spaces in the residential zone, except as may be otherwise permitted by a use permit."

SECTION 19. Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.110 ('Off-Street Parking and Loading'), Subsection (B)(1) is hereby amended to read as follows:

"Except as may be otherwise directed in Section 17.100.040, off-street parking and loading facilities shall be as set forth in Chapter 17.052 of this title."

SECTION 20. The Director of Planning and Building Services is hereby directed to make changes to the Zoning Map of the Town of Fairfax as amended by this ordinance.

SECTION 21. CEQA. Pursuant to the California Environmental Quality Act (Pub. Res. Code §§ 21000 et seq.) (CEQA), and the State CEQA Guidelines (14 Cal. Code Regs. §§ 15000 et seq.) the Town has determined that the proposed rezoning does not require environmental review in addition to that previously undertaken in the Mitigated Negative Declaration and Initial Study of the General Plan for the Town of Fairfax (General Plan MND), adopted on February 29, 2012. The requirements of CEQA and the State CEQA Guidelines were satisfied by Town in the General Plan MND, which is sufficiently detailed such that all of the potentially significant environmental effects of the rezoning have been adequately evaluated. Further, the Town has determined none of the conditions set forth in Section 15162 of the CEQA Guidelines calling for the preparation of a subsequent environmental document have occurred. Finally, to the extent that any environmental effect of the rezoning differs from that evaluated in the General Plan MND, it will result in a decrease in those impacts evaluated in the General Plan MND. (*See Citizens for a Sustainable Treasure Island v. City and Cty. of San Francisco* (2014) 227 Cal.App.4th 1036, 1055.) Finally, in the alternative, the proposed rezoning is also exempt from further environmental review pursuant to State CEQA Guidelines sections 15301 and 15303.

SECTION 22. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional, provided, however, that if any decision of a court of competent jurisdiction invalidates the increase of the water service charges set forth in this Ordinance, then the water service charges in effect on the date of adoption shall continue in existence.

SECTION 23. This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women's Club Building, located at 46 Park.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the ____ day of _____, 2016, and duly adopted at the next regular meeting of the Town Council on the ____ day of _____, 2016, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Renee Goddard, Mayor

Attest:

Michele Gardner, Town Clerk

Date

Public Comment
Planning Commission meeting (July 21, 2016)

At the July 21, 2016, Planning Commission meeting, twenty-five members of the public took the podium to share their views, ask questions, and seek clarification on the proposed ordinance. Listed below are some of the recurring themes voiced by speakers at the meeting, reframed as questions and answers.

What will be the impact of this rezone on existing businesses? Will they be allowed to remain? What if they want to sell to another operator who would continue the same business?

Some uses that are currently allowed in the CH district would not be permitted under the new ordinance. For example, gas stations, which are not currently allowed in the CC district, but are allowed in the CH with a conditional use permit, would not be permitted as a new use under the new ordinance. However, if such a use is already in existence at the time the new ordinance is adopted, that use would be considered legal, non-conforming and would be allowed to remain in operation¹

Generally, the owner of a legal, nonconforming use could sell or transfer the use to another operator, who would then step into the previous owner's shoes and enjoy all of the same rights and be subject to all of the same limitations as the previous owner, provided certain criteria were met.

Would housing projects get to develop at greater densities because of the density bonus statute if we go through with this rezoning?

Right now, regardless of any decisions we make about rezoning, existing state law says that a development project that includes certain ratios of affordable or senior housing qualifies for a "density bonus," as well as a given number of incentives or concessions. Generally, this bonus allows the developer to build projects of greater density than would otherwise be allowed. For example, if ten percent of a given project was housing for lower income households, that project would qualify for a density bonus. In addition, any project that qualifies for a density bonus also allows the developer to request the waiver or reduction of development standards that would physically preclude the

¹ Legal, nonconforming uses are covered in the Town Code, which provides that they may remain in operation and be maintained (Town Code § 17.016.020), but may not be enlarged or extended "in such a way as to occupy any part of the structure or site or another structure or site which it did not occupy on the effective date of the ordinance codified in this title or of the amendment thereto which caused it to become a non-conforming use, or in a way as to displace any conforming use occupying a structure or site." (Town Code § 17.016.030(C) In the event the legal, nonconforming use was abandoned by lack of use for 12 or more months, such nonconforming use could not be revived, and subsequent use of the site would need to meet the new zoning requirements. (Town Code § 17.016.060)

construction of the affordable or senior housing proposed. That is the current state of the law, and that does not change with any rezoning action.

What would change is that adopting the ordinance would impose a maximum density of 4.5 dwelling units per acre for residential uses in the CC district, where currently there is no maximum. It also imposes minimum, maximum, and average unit sizes, where no such development standards currently exist. Passage of the ordinance would, in addition, allow residential uses by right on the parcels that were previously zoned CH and would now be zoned CC.

What would be the impact of the Governor's by-right affordable housing proposal on this rezoning?

At the final Planning Commission meeting on the ordinance, both the Commissioners and some members of the public wanted information on how the Governor's proposed by-right affordable housing proposal would, if enacted, impact housing review in the CC. The question concerned the Governor's proposed streamlined approval process for housing developments that met various objective standards. Such projects would be exempt from further CEQA review and would only be subject to ministerial review by the Town. Since the Planning Commission's meeting, Assembly Speaker Anthony Rendon has announced that negotiations with stakeholders, including labor groups and environmental advocates, have come to an impasse, and the proposal will not be advancing in this legislative session. The issue is thus moot.

How will this rezoning impact traffic? Has that been studied?

The rezoning of CH to CC and authorization of second story residential uses by right in the CC district was planned in the 2010-2030 General Plan. As explained in the CEQA memo accompanying the ordinance, the impacts of this proposed rezoning were considered in the CEQA document (the mitigated negative declaration or MND) that analyzed the 2010-2030 General Plan. In fact, the MND analyzed the impact of greater development than is contemplated in the ordinance, in that it analyzed a density of 20 dwelling units per acre, and the ordinance only contemplates 4.5 dwelling units per acre. Through that process, the impact of these changes on traffic and other environmental factors were considered.

Will office uses displace shops?

Many speakers were concerned that office uses would somehow displace shops that now occupy most CC store frontages. This is not what the ordinance provides and is not the intention of the Town. Rather, the ordinance allows office uses as a principally permitted use in the rear of buildings (not in store frontages) or on the second floor. If an applicant wants to occupy a store frontage with an office use, that applicant would

need to get a conditional use permit, which requires satisfying all of the usual conditional use permit findings².

In addition to those findings, the proposed ordinance requires applicants to meet new criteria specific to this zone. These require the Planning Commission to find that the proposed use:

- (E) is compatible with the existing character and uses in store frontages of nearby buildings in the area;
- (F) will not deter pedestrian traffic in the vicinity; and
- (G) activates the store front uses similar to a retail use.

As the Town Code is written today, office uses are permitted as a principally permitted use on the second floor and as a conditionally permitted use on the first floor in the CC district (see Town Code §§ 17.100.040 and 17.100.050). The new language would thus make the placement of offices in store frontages more difficult than it is now.

How are the public's concerns being incorporated?

At the Planning Commission meetings where members of the public have shared input, the Planning Commission has considered and discussed these comments. Some of the comments have resulted in changes to the proposed ordinance. For example, vehicle and equipment repair uses were originally envisioned to be prohibited in the revised CC district, but upon hearing public comment advocating for reconsideration of this, the Planning Commission ultimately recommended that such uses be allowed with a conditional use permit, as long as they were conducted indoors.

In addition, public comment received by staff prior to the meeting are distributed to the Planning Commission prior to the meeting whenever possible.

² These include finding that:

- (A) the approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment;
- (B) the development and use of property, as approved under the use permit, shall not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit;
- (C) approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any master plan, development plan or other plan or policy, officially adopted by the town; and
- (D) approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that the approval is in the public interest and for the protection or enhancement of the community.

How is the Town keeping the public informed of the meetings at which these zoning matters are being discussed? How can I stay informed?

All public meetings of the Planning Commission and Town Council are noticed in compliance with state law. Notices are posted on the bulletin board in three locations: at Town Hall (142 Bolinas Road), at the Fairfax Post Office (773 Center Boulevard), and at the Fairfax Women's Club (46 Park Road). Notices are also mailed to property owners within a certain radius of any proposed project, in accordance with state and local requirements.

The public can sign up to receive electronic copies of the PC agenda by contacting Town Hall. Agendas and packet materials are also posted on the Town's website (www.town-of-fairfax.org) 72 hours prior to regular meetings, and at least 24 hours prior to special meetings.

**TOWN OF FAIRFAX
STAFF REPORT**

To: Planning Commission

From: Jim Moore, Director of Planning & Building Services

Date: July 21, 2016

Subject: CONSIDERATION OF AN ORDINANCE TO AMEND THE TOWN OF FAIRFAX TOWN CODE AMEND FAIRFAX TOWN CODE CHAPTER 5.052 ('BUSINESS TAXES, LICENSES, AND REGULATIONS'), CHAPTER 7.008 ('DEFINITIONS'), CHAPTER 17.012 ('ZONE DISTRICTS ESTABLISHED'), CHAPTER 17.020 ('DESIGN REVIEW REGULATIONS'), CHAPTER 17.092 ('CL LIMITED COMMERCIAL ZONE'), CHAPTER 17.096 ('CH HIGHWAY COMMERCIAL ZONE'), AND 17.100 ('CC CENTRAL COMMERCIAL ZONE') IN ACCORDANCE WITH THE MITIGATED NEGATIVE DECLARATION PREPARED FOR THE 2010-2030 FAIRFAX GENERAL PLAN.

BACKGROUND

In April 2012, the Town Council adopted the 2010-2030 General Plan, which, along with the 2015 update to the Housing Element, dictate that certain zoning amendments be made in order to realize the policies and objectives of the Town with respect to the further development of the Town's retail heart and the provision of housing. Included amongst these directives is direction to rezone all properties currently zoned Highway Commercial to Central Commercial, and make certain modifications to the uses permitted in the Central Commercial zone. The draft zoning ordinance before the Planning Commission tonight represents the implementation of some of these policies and objectives within the Central Commercial zoning district. Staff asks the Planning Commission to consider recommending the Town Council adopt the ordinance and make associated CEQA findings.

DISCUSSION

Over the past several months, the Planning Commission and Town Council have hosted a number of public meetings to consider how to carry out the General Plan's directive to rezone all CH parcels to CC and rezone the CC to implement the policy directives in the General Plan. These public meetings include the following:

On **October 29, 2015**, the Town Council held a third General Plan forum to consider policy consideration and the process for rezoning CH parcels to CC. The event drew many participants and provided direction to staff as we began drafting a comprehensive rezoning ordinance.

On **November 18, 2015**, the Planning Commission held a follow-up to the Town Council's October meeting, discussing residential unit sizes, and parking requirements for the CC district.

On **January 21, 2016**, the Planning Commission continued their discussion on residential unit sizes, affordability measures, parking requirements, and the uses to be included in the CC

district. Due to the length of the meeting, a held was scheduled for February to continue the discussion.

On **February 25, 2016**, the Planning Commission met and considered the uses that should be permitted and conditionally permitted in the CC district.

On **April 28, 2016**, the Planning Commission once again met and held an extensive discussion as to the format of the CC district and the uses in the district. Further direction was provided to staff for amendments to the draft ordinance.

On **May 26, 2016**, the Planning Commission held a further meeting to refine definitions, discuss use locations, and seek additional information.

Tonight, after many months of drafting, revision, and study, the Planning Commission is asked to review and recommend to the Town Council the adoption of the proposed ordinance rezoning all CH parcels to CC and amending the permitted and conditionally permitted uses within the CC district accordingly.

Highlights. In sum, the draft ordinance attached for the Planning Commission's consideration accomplishes the following:

- Rezones all parcels currently zoned CH to CC, per the General Plan.
- Removes all references to the CH district from other sections of the Town Code.
- Amends the permitted and conditionally permitted uses in the CC district to employ a system of 'use classifications,' rather than listing individually enumerated uses. It is anticipated that this more modern style of zoning will avoid the need for zoning amendments and will be more efficient.
- Deletes outdated zoning definitions and adopts new definitions for use classifications to aid in administering zoning decisions.
- Brings the Town into conformance with state law requirements regarding the treatment of specific residential uses.
- Deletes language in the Town Code that vested the Planning Commission with the authority to dictate the zoning for lots where split zoning occurs.
- Amends the parking requirements for residential uses within the CC district that are 500 square feet or less.
- Imposes a maximum density of 4.5 dwelling units per acre.
- Implements many directives in the General Plan, as required by state law.

Residential uses. There were a number of questions about residential uses at the last Planning Commission meeting. According to the general plan, one of the primary reasons for rezoning the CH parcels to CC is to permit the development of certain second-story residential uses without the need for a conditional use permit in order to help the Town meet its regional housing need allocation. Once a zone permits certain such residential uses, however, state

law and our general plan require that additional, specific residential uses be permitted or conditionally permitted. In addition, our own General Plan requires certain residential uses be permitted or conditionally permitted in the CC. The following is a brief overview of the governing principles and laws that have shaped the designation of permitted and conditionally permitted residential uses in the revised CC district:

1. **Emergency homeless shelters.** (Permitted.) Policy H-2.1.6 of the 2015 Housing Element directs us to “[a]mend the Zoning Code to Comply with SB 2. Consistent with SB 2 (GC Sections 65582, 65583, and 65589.5), the Town will establish zoning designations for transitional and supportive housing, and will define “transitional housing” and “supportive housing” in the Zoning Ordinance. The Town will establish procedures to encourage and facilitate the creation of emergency shelters and transitional and supportive housing, and link this housing to programs of the Department of Health and Human Services whenever possible.” (Emphasis added.) Table C-1 of the 2015 Housing Element lists ‘emergency shelters’ as a residential use permitted by right in the Central Commercial zoning district. The Town has also adopted an ordinance regulating the operation of emergency homeless shelters to the fullest extent allowed by state law; any new emergency homeless shelter in the CC will be bound by these regulations. (See Town Code Section 17.138.010.)

2. **Family day care homes.** (Permitted as to both.) Under state law, the use of a single-family home for both small and large family day care homes must be treated as residential use of property. Health and Safety Code §§ 1597.45 and 1597.46. Though single-family homes are not permitted in the CC district, it is recommended that this principle be applied to the second-story residential uses that are permitted there, given the interpretation of these code sections by the State of California over the years. In this regard, the California Department of Social Services publishes the following advice:

“Even though the Health and Safety Code refers to ‘single-family residences,’ the law has historically been interpreted to protect providers in multiple dwellings such as apartments, condominiums and other non-detached residences . This means that any legal residence can qualify to become a family child care home if it meets the licensing requirements.”

(‘*Family Child Care Self-Assessment Guide: Tenant Rights*,’ published by the Community Care Licensing Division of the California Department of Social Services, page 6.)

3. **Group care homes.** (Permitted for homes with six or fewer residents; conditionally permitted for seven or more residents.) Under a number of state laws (see, e.g., Welfare & Institutions Code § 5116; Health & Safety Code §§ 1267.8, 1267.9, and 1267.16; and Health & Safety Code § 11834.23, among others), licensed group homes serving six or fewer residents must be treated the same way as single dwelling units for zoning purposes and can only be subject to the same zoning standards as are applied to other residential uses of the same housing type. Since second story residential is allowed by right in the CC district, so, too, must be group care homes of six or fewer

residents. For seven or more residents, we can require a conditional use permit in order to address any special impacts the proposed use may have.

Note: the 'group care homes' use classification replaces earlier proposed classifications in the ordinance, including 'adult day care home,' 'congregate living facility,' and 'residential care home.'

4. **Group residential.** (Conditionally permitted.) This use is not subject to state law requirements. Its treatment reflects the direction of the Planning Commission.
5. **Junior second unit.** (Not permitted.) Per Town Code § 17.048.220, junior second units are only allowed within the RD 5.5-7, RS-6, RS 7.5, SF-RMP, and UR zoning districts, and "are not allowed in conjunction with duplex or multiple residential developments."
6. **Second story residential.** (Permitted.) This implements Housing Element Program H-3.1.1.1, which directs "[a]mend CH Zone. Rezone all CH zones to CC zones, which will allow housing on second floors without a conditional use permit instead of requiring conditional use permits."
7. **Second unit.** (Permitted.) Under Government Code § 65852.2(c), towns and cities are prohibited from adopting any "ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single-family and multifamily zoned areas justify adopting the ordinance." We thus recommend allowing second units within the CC, recognizing that their construction will be highly unlikely.
8. **Single family residential.** (Not permitted, with exception.) The CC district is the Town's retail core, and housing is thus limited to the second story within this district. As such, single family homes are not permitted, with the exception of such structures existing as of the effective date of this ordinance that are then being used for residential purposes (i.e, have not been converted to a commercial use), which will be allowed to remain and will explicitly not be rendered legal, non-conforming by adoption of the ordinance.
9. **Single room occupancy.** (Permitted.) Implements Housing Element Program H-2.1.6.3, which directs "[p]ermit single-room occupancy dwelling units without a conditional use permit in the CC zone." This reflects our fulfillment of Government Code § 65583(c)(1), which requires us to identify sites as needed to "facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing." (Emphasis added.)

10. **Supportive housing.** (Permitted.) Per Government Code § 65583(a)(5), supportive housing must be permitted as a residential use subject to only those restrictions that apply to other residential dwellings of the same type in the same zone. (See also Housing Element Policy H-2.1.6) Since we are allowing second story residential by right, we are required to treat supportive housing in the same fashion.

11. **Transitional housing.** (Permitted.) Per Government Code § 65583(a)(5), transitional housing must be permitted as a residential use subject to only those restrictions that apply to other residential dwellings of the same type in the same zone. (See also Housing Element Policy H-2.1.6) Since we are allowing second story residential by right, we are required to treat transitional housing in the same fashion.

CEQA. As analyzed in greater detail in Attachment B, counsel has determined that the requirements of CEQA, including the State CEQA Guidelines, were satisfied by Town in the Mitigated Negative Declaration ('MND') prepared in order to evaluate the General Plan. The MND was sufficiently detailed such that all potentially significant environmental effects of the rezoning of the CH to CC have been adequately evaluated. Further, to the extent that any environmental effect of the proposed rezoning differs from that evaluated in the General Plan MND, such a difference will result in a decrease, rather than an increase, in those impacts and thus no additional environmental review is required.

RECOMMENDATION

Conduct a public hearing to consider recommending to the Town Council the adoption of the proposed ordinance and the making of associated CEQA findings.

ATTACHMENTS

Attachment A – Resolution No. 16-25

Attachment B – CEQA memorandum

Attachment C – Draft Ordinance

Comparative Table of Uses

Existing CC	CH	Principal Permitted Uses ¹	Included in new CC permitted uses?	New use classification	Notes
X	-	Alternative birthing centers licensed by the state's Department of Health Services unless the requirement is waived by the state	No	Health and wellness centers	Now requires a conditional use permit
-	X	Animal grooming and supplies	Yes	Animal retail sales and grooming	-
X	-	Antique stores	Yes	Retail sales	-
-	-	Appliances repair, domestic	Yes	Maintenance and repair services (small equipment)	-
-	X	Appliances sales, domestic	Yes	Retail sales	-
X	X	Artist's studios and galleries	Yes	Retail sales	'Galleries' not previously listed in CC permitted uses
X	-	Art supply	Yes	Retail sales	-
X	X	Audio/visual sales and service	Yes	Retail sales	-
-	X	Automobile supply stores	Yes	Retail sales	-
X	X	Bakeries, including for sale on premises	Yes	Eating and/or drinking establishments	Former CH did not allow on-site baking
X	X	Banks	Yes	Financial institutions	Former CH also included 'savings and loans' in this category
X	-	Bars	No	Eating and/or drinking establishments, with full alcoholic beverage service	Now requires conditional use permit
X	X	Barbershops	Yes	Personal services	-

¹ In both CC and CH, principal permitted uses are required to be conducted entirely within a building (unless an exception applies)

Comparative Table of Uses

Existing CC	CH	Principal Permitted Uses ¹	Included in new CC permitted uses?	New use classification	Notes
X	X	Beauty shops	Yes	Personal services	-
X	X	Bicycle sales and repair	Yes	Retail sales	-
X	X	Butcher shops	Yes	Food and beverage sales	-
X	X	Blueprint and photocopy services	Yes	Personal services	-
X	X	Bookstores	Yes	Retail sales	-
-	X	Building contractor's facilities (provided there is no storage, servicing and repair of heavy equipment on the premises)	No	-	-
-	X	Building supplies and lumber when within a building	Yes	Retail sales	-
-	X	Business machine sales and repair	Yes	Retail sales	-
X	-	Cafes	Yes	Eating and/or drinking establishments	CUP will be required for take-out service, outdoor seating, full alcohol sales, or live entertainment/dancing
X	-	Camera and photography shops	Yes	Retail sales	-
X	X	Camera and photography sales, service, developing and printing	Yes	Retail sales	-
X	X	Candy stores and confectioneries	Yes	Retail sales	CH does not mention confectioneries
-	X	Carpenters' shops, cabinet making			
-	X	Catering	Yes	Food and beverage sales	Catering
X	X	Christmas tree sale lots	Yes	Retail sales	-
X	X	Clothing stores	Yes	Retail sales	-
X	X	Computer sales and service	Yes	Retail sales	-
X	X	Craft shops (including custom wood, paper, glass and metal work and sales)	Yes	Retail sales Light industrial	-
-	X	Dairy product stores	Yes	Food and beverage	

Comparative Table of Uses

Existing		Principal Permitted Uses ¹	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
X		Curtain and drapery shops	Yes	Retail sales	-
X	X	Delicatessens	Yes	Food and beverage sales	-
-	X	Department stores	Yes	Retail sales	Permitted if less than 5,000 sq ft; larger formats need CUP
-	X	Diaper service	Yes	Cleaning services	
X	X	Drugstores and pharmacies	Yes	Retail sales	CH also allows 'prescription pharmacies' (not clear how they differ from pharmacies)
X	X	Electrical appliance sales, repair	Yes	Retail sales	
	X	Electronic products, sales, and repairs	Yes	Retail sales	
X		Emergency shelters, subject to compliance with Chapter 17.138 of this title	Yes		
X		Finance companies			
X	X	Floors, floor coverings (retail)	Yes	Retail sales	
X	X	Florists	Yes	Retail sales	
X		Food stores, excluding, supermarkets	Yes	Food and beverage sales	As written, the definition of 'food and beverage sales' currently includes supermarkets
	X	Furniture repair, upholstery	Yes	Personal services	
X		Furniture stores	Yes	Retail sales	
X	X	Gift shops and greeting card shops	Yes	Retail sales	CH does not mention greeting card shops
X		Graphic artists, architects, draftsmen and painters (when not located on the ground	Yes	Offices, business and professional	

Comparative Table of Uses

Existing		Principal Permitted Uses ¹	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
		floor)			
	X	Gymnasiums and athletic clubs	Yes	Health clubs	
X	X	Hardware stores	Yes	Retail sales	
X		Hobby stores	Yes	Retail sales	
X		Ice cream stores	Yes	Eating and/or drinking establishments	
X		Interior decorating shops (with incidental retail sales)	Yes	Personal services	
	X	Janitorial service and supplies	Yes	Cleaning services	
X	X	Jewelry sales and service	Yes	Retail sales	CH uses term 'jewelry stores'
	X	Laboratories	No	-	
X	X	Laundries	Yes	Personal services	CH includes 'dry cleaning' in this use
X	X	Leather goods and luggage stores	Yes	Retail sales	CH does not include 'luggage stores' in this use
	X	Linen supply	Yes	Retail sales	
	X	Lumberyards	Yes	Retail sales	
	X	Mail order and catalog sales	Yes	Personal services	
	X	Mail services	Yes	Personal services	
	X	Nurseries and garden supply stores	Yes	Nurseries; Retail sales	
X	X	Offices, when not located on the first floor, including medical/dental offices, real estate, insurance, stockbrokers, financial advisory services, tax services, programming, employment agencies and personnel offices	Yes	Office, business and professional Office, medical	CH allows 'offices and office buildings' on the first floor, as well
X	X	Office machines and supplies	Yes	Retail sales	CH includes 'business machine stores, repair'

Comparative Table of Uses

Existing		Principal Permitted Uses ¹	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
					in this use
	X	Office supplies	Yes	Retail sales	
X		Music stores	Yes	Retail sales	
X		Newsstands	Yes	Retail sales	
X		Optician and optometrical shops	Yes	Retail sales and/or office, medical	
	X	Packing and crating	Yes	Personal services	
X	X	Paint, glass and wallpaper stores	Yes	Retail sales	
	X	Parks, public	Yes	Park facilities	
X	X	Pet and bird stores	Yes	Animal retail sales and grooming	CH restricts this to 'pet stores'
X	X	Photocopying	Yes	Personal services	
X	X	Photographic equipment sales and service	Yes	Retail sales	
X	X	Picture framing shops	Yes	Personal services	CH adds 'galleries' to this
	X	Post offices	Yes	None - same designation	
X	X	Printing, publishing, lithography and engraving	Yes	Personal services	
X	X	Radio, television, stereo sales, repair	Yes	Retail sales	CH does not include 'stereo sales'
X		Record, tape and compact disc stores	Yes	Retail sales	
X		Residential uses on the second floor*	Yes		
X	X	Restaurants not providing live entertainment or fast food service for carry off trade	Yes	Eating and/or drinking establishments	
	X	Rug, carpet cleaning services	Yes	Personal services	
X		Savings and loan offices	Yes	Financial institutions	
	X	Secretarial services	Yes	Offices, business and professional	
	X	Scientific instrument shops and service	Yes	Retail sales	

Comparative Table of Uses

Existing CC	CH	Principal Permitted Uses ¹	Included in new CC permitted uses?	New use classification	Notes
X	X	Shoe stores and repair	Yes	Retail sales	CH only permitted 'shoe repair'
X		Service uses allowed in the CS zone when not located on the first floor and not displacing a residential use	Not explicitly		
X	X	Sporting goods stores	Yes	Retail sales	
X		Stamp and coin stores	Yes	Retail sales	
X	X	Stationery stores	Yes	Retail sales	
X	X	Storage buildings, garages	As an accessory use		
X	X	Supermarkets and neighborhood grocery stores	Yes	Food and beverage sales	
X	X	Swimming pool sales, services	Yes		
X	X	Tailor and dressmaking	Yes	Personal services	
X	X	Tool and cutlery sharpening	Yes	Maintenance and repair services (small equipment)	
X	X	Ticket agencies	Yes	Personal services	CH actually allows 'travel bureaus,' which I assume are the same as 'ticket agencies'
X	X	Toy stores	Yes	Retail sales	
X	X	Upholstery shops	Yes	Maintenance and repair services (small equipment)	
X	X	Variety stores	Yes	Retail sales	
X	X	Veterinarian's offices and small animal hospitals, including short-term boarding of animals and incidental care provided all operations are enclosed in a building with soundproof construction	Yes	Animal hospitals/veterinary services	
X	X	Warehouses, except for storage of fuel or	No	-	

Comparative Table of Uses

Existing		Principal Permitted Uses ¹	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
		flammable liquids			
X		Watch and clock sales and repair	Yes	Retail sales	
	X	Wholesale establishments	No		
	X	Windows, window coverings	Yes	Retail sales	
X		Yard goods stores.	Yes	Retail sales	
X		No principal permitted use provided for in division (A) above shall include entertainment of customers or clientele by music, actors or singing, nor permit any establishment or business to charge admission or entrance fees.	No, any such use requires a use permit		

Comparative Table of Uses

Existing CC	CH	Conditionally Permitted Uses	Included in new CC conditional uses?	New use classification	Notes
X	X	Any of the principal permitted uses not conducted entirely within a building	Yes, for some uses	-	Some uses include a limitation ('L-4'), which allows for outdoor storage of materials with a use permit
X	-	Drive-up windows or patron service areas and spaces exterior to a building, for any use	Yes, for some uses	-	Drive-up windows are not allowed, but exterior ATMs may be permitted with CUP
X	-	Theaters, nightclubs and entertainment establishments	Yes	Recreation and Entertainment, Indoors	-
X	-	Offices and service establishments allowed in § 17.100.040 when on the ground floor	Yes	Offices, business and professional Offices, medical	Both permitted on ground floor with CUP
X	-	Wholesale activities which are accessory to a main use on the same premises	No	-	-
X	-	Uses which combine wholesale and retail sales and/or retail and service activities when neither aspect of the business is an accessory or principal use but both are an integral part of the business	No	-	-
X	-	Residential uses on the ground floor of a building or as accessory uses or in accessory structures	No	-	Single family homes existing in the CC as of the effective date of the ordinance will be allowed to remain, but no new ground floor residential uses will be

Comparative Table of Uses

Existing		Conditionally Permitted Uses	Included in new CC conditional uses?	New use classification	Notes
CC	CH				
X	-	Other uses determined by the Planning Commission as equivalent to those listed in divisions (A) through (G) of this section or those listed in § 17.100.040, but requiring regulation of location, extent or operation because of some unique characteristic.	It depends	(Various)	allowed The Planning Director has discretion to determine that a proposed use is of the same general nature as a permitted or conditionally permitted use classification and permit or seek PC approval of a CUP accordingly.
X	X	Establishments or businesses which entertain customers or clientele by musicians, actors or singers or establishments which charge admission or entrance fees	Yes	Recreation and Entertainment, Indoors	-
X	X	Cigar shops, smoke shops	No	Retail sales	Retail sales are now a permitted use in the CC
X	-	Liquor stores	No	Food and beverage sales	Food and beverage sales are now a permitted use in the CC
-	X	Permitted principal uses with minor and/or accessory fabrication or assembly activities limited to light manufacturing or processing activities, when the entirety of the use, both	Yes	(Various)	-

Comparative Table of Uses

Existing CC	CH	Conditionally Permitted Uses	Included in new CC conditional uses?	New use classification	Notes
-	X	principal and accessory, is contained entirely within a building	No	Kennels	Outdoor boarding is not permitted in the CC
-	X	Small animal boarding outdoors, provided there is a 500-foot separation from any residential zone	No	Automobile washing	-
-	X	Car washes, both automatic and self-service	No	Service station	-
-	X	Service stations	No	-	-
-	X	Private and public garages and parking lots improved in conformity with the provisions in Chapter 17.052	No	Automobile repair; Retail sales	Automobile repair and service is not permitted; retail sales is permitted (without CUP)
-	X	Automobile repair, parts and service establishments	No	Automobile sales/new and used	-
-	X	Used car sales	No	Hotel/motel	Yes, residential uses will now be permitted by right in the CC
-	X	Motels, hotels and residential uses on the second floor, at a density to be determined by the Planning Commission	No as to motels and hotels; see 'Notes' for residential	-	The Planning Director has discretion to determine that a proposed use is of the same general nature as a permitted or conditionally permitted use

Comparative Table of Uses

Existing		Conditionally Permitted Uses	Included in new CC conditional uses?	New use classification	Notes
CC	CH				
X	X	Establishments or businesses which entertain customers or clientele by musicians, actors or singers, or establishments which charge admission or entrance fees	Yes	Recreation and entertainment, indoors	classification and permit or seek PC approval of a CUP accordingly.
-	X	<p>Mechanical amusement device arcades and computers for rent, subject to the following standards:</p> <p>(a) Use permits shall be granted for periods of no more than six months initially. The Planning Commission may approve extensions. In approving use permits and extensions, findings must be made that the use will not or has not created or increased the incidence of excessive loitering, vandalism, pedestrian obstruction, noise or any other activity that may have an adverse effect on adjacent or vicinity properties, residences or businesses.</p> <p>(b) Hours of operation shall be no later than 10:00 p.m. The Planning Commission may grant exceptions to this limitation for adults-only establishments or when it is clearly demonstrated that the use is clearly ancillary to another use.</p>	Yes	Recreation and entertainment, indoors	New CUP requirements do not include the specific factors listed here.

Comparative Table of Uses

Existing CC	CH	Conditionally Permitted Uses		Included in new CC conditional uses?	New use classification	Notes
		Conditionally Permitted Uses	Conditionally Permitted Uses			
-	X	Bed and breakfasts		No	Hotels/motels	-
-	X	Churches		Yes	Institution	With CUP
-	X	Convalescent homes		No	-	-
-	X	Day care centers		Yes	Childcare	-
-	X	Drug and alcohol treatment facilities		No	Small group homes	Small group homes serving six or fewer residents are permitted by right; larger such facilities are not permitted
-	X	Furniture stores		No	Retail sales	Allowed as a permitted use
-	X	Game rooms, amusement and recreation establishments		Yes	Recreation and entertainment, indoors	-
-	X	Hospitals		No	-	-
-	X	Hotels		No	Hotels/motels	-
-	X	Institutional, non-profit		Yes	Assembly	-
-	X	Institutional, public		Yes	Assembly	-
-	X	Maintenance and repair services		Yes	Maintenance and repair services (small equipment)	-
-	X	Motorcycle, sales, service and repair		No	Automobile sales/new and used	-
-	X	Musical instrument sales and service		No	Retail sales	Allowed as a permitted use
-	X	Schools		No	Schools	-

Comparative Table of Uses

Existing CC	CH	Conditionally Permitted Uses	Included in new CC conditional uses?	New use classification	Notes
-	X	Transportation services, bus depots	No	-	-
-	X	Utility substations and structures	No	-	-
-	X	Water tanks	No	-	-