

**TOWN OF FAIRFAX
STAFF REPORT**

To: Planning Commission

From: Jim Moore, Director of Planning & Building Services

Date: February 25, 2016

SUBJECT: CONSIDERATION OF FINAL POLICY ISSUES WITH REGARDS TO REZONING ALL 'CH HIGHWAY COMMERCIAL ZONE' (CHAPTER 17.096) PROPERTIES TO THE 'CC CENTRAL COMMERCIAL ZONE' (CHAPTER 17.100) AND ADDING SECTION 17.008.030 ('USE CLASSIFICATIONS') TO TITLE 17 ('ZONING') OF THE FAIRFAX TOWN CODE

BACKGROUND

On **May 27, 2015**, the Town Council adopted the 2015 update of the 2010 Housing Element as well as an Addendum to the Mitigated Negative Declaration with required findings pursuant to the California Environmental Quality Act (CEQA), for the Fairfax 2010-2030 General Plan.

The 2015 Housing Element update (as did the prior 2010 Housing Element) contains **Program H-3.1.1.1** which stipulates: "Amend 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."

On **October 29, 2015**, the Town Council held a special (third) General Plan Forum on the policy considerations and process for rezoning Highway Commercial (CH) to Central Commercial (CC). This event was well attended and public comments/concerns were recorded.

On **November 18, 2015**, the Planning Commission at their regularly scheduled meeting had a follow-up discussion of the CH to CC "Forum" reviewing the list of comments, and discussed preferred residential unit sizes, and parking requirements.

On **January 21, 2016** the Planning Commission at their regularly scheduled meeting had another discussion on parking requirements, unit sizes, affordability, and uses to be included in the rezoning of all CH properties to CC. Due to the length of the discussion on uses, it was determined that a special Planning Commission meeting should be scheduled to fully vet this important topic.

Please Note: all of the above meetings and a copy of the 2015 Housing Element update can be found on the Town's website at: www.townoffairfax.org

DISCUSSION

Therefore, tonight's special Planning Commission meeting is a continued discussion from the **January 21, 2016** Planning Commission meeting of policies to be addressed in the crafting of an Ordinance amending the Fairfax Town Code to rezone all properties currently located in the Highway Commercial (CH) Zone to Central Commercial (CC) Zone: specifically, updating the permitted and conditional use list in the Central Commercial Zoning Classification.

As articulated in the January 21, 2016 staff report, tonight the Commissioners are again being asked to consider:

4. **Uses:** The Table provided (**Attachment A**) list all principally permitted uses and conditionally permitted uses in the existing CH and CC zones. It also list what uses will be permitted uses in the new language of the CC zone – and how the use is classified. Please confirm which 'uses' should be allowed, conditionally allowed, or not allowed: via the new use classification by 'category' rather than by detailed use 'types' in new CC zone language.

Please note: Staff has included 'veterinarian offices and small animal hospitals' as permitted uses in the new CC zone to avoid the existing veterinary business becoming a "legal non-conforming use".

CEQA REVIEW

Once the PC has addressed number "4" above, staff will re-confirm that the allowed or conditionally allowed uses in the current CH zone, which are carried over to the new/revised CC zone, are covered under the existing (amended) CEQA review which resulted in a Mitigated Negative Declaration (MND) of the 2015 Housing Element update.

RECOMMENDATION

Consider and advise

ATTACHMENTS

CH vs. CC Table

Existing CC	CH	Principal Permitted Uses		Included in new CC permitted uses?	New use classification	Notes
		Existing	CH			
		In both CC and CH, principal permitted uses are required to be conducted entirely within a building (unless an exception applies)				
X			Alternative birthing centers licensed by the state's Department of Health Services unless the requirement is waived by the state	Yes		
	X		Animal grooming and supplies	Yes	Animal retail sales and grooming	
X			Antique stores	Yes	Retail uses	
			Appliances repair, domestic			
	X		Appliances sales, domestic			
X	X		Artist's studios and galleries	Yes	Retail uses	'Galleries' not listed in CC permitted uses
X			Art supply	Yes	Retail uses	
X	X		Audio/visual sales and service	Yes	Retail uses	
	X		Automobile supply stores	Yes	Retail uses	
X	X		Bakeries, including for sale on premises	Yes	Eating and/or drinking establishments	CH does not allow on-site baking
X	X		Banks	Yes	Financial institutions	CH also includes 'savings and loans' in this category
X			Bars	Yes	Eating and/or drinking establishments	
X	X		Barbershops	Yes	Personal services	
X	X		Beauty shops	Yes	Personal services	
X	X		Bicycle sales and repair	Yes	Retail uses	
X	X		Butcher shops	Yes	Food and beverage sales	

Existing		Principal Permitted Uses	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
X	X	Blueprint and photocopy services	Yes	Personal services	
X	X	Bookstores	Yes	Retail uses	
	X	Building contractor's facilities (provided there is no storage, servicing and repair of heavy equipment on the premises)			
	X	Building supplies and lumber when within a building	Yes	Retail uses	
	X	Business machine sales and repair	Yes	Retail uses	
X		Cafés	Yes	Eating and/or drinking establishments	
	X	Camera and photography shops	Yes	Retail uses	
X	X	Camera and photography sales, service, developing and printing	Yes	Retail uses	
X	X	Candy stores and confectioneries	Yes	Retail uses	CH does not mention confectioneries
	X	Carpenters' shops, cabinet making			
	X	Catering	Yes	Food and beverage sales	
X	X	Christmas tree sale lots	Yes	Retail uses	
X	X	Clothing stores	Yes	Retail uses	
X	X	Computer sales and service	Yes	Retail uses	
X	X	Craft shops (including custom wood, paper, glass and metal work and sales)	Yes	Retail uses	
	X	Dairy product stores	Yes	Food and beverage sales	
	X	Curtain and drapery shops	Yes	Retail uses	
X	X	Delicatessens	Yes	Food and beverage sales	
	X	Department stores		Retail uses	
	X	Diaper service			

Existing CC	CH	Principal Permitted Uses		Included in new CC permitted uses?	New use classification	Notes
		Existing	CH			
X	X		Drugstores and pharmacies	Yes	Retail uses	CH also allows 'prescription pharmacies' (not clear how they differ from pharmacies)
X	X		Electrical appliance sales, repair	Yes	Retail uses	
	X		Electronic products, sales, and repairs	Yes	Retail uses	
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 uses	
X	X		Florists	Yes	Retail uses	
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 uses	
X	X		Gift shops and greeting card shops	Yes	Retail uses	CH does not mention greeting card shops
X			Graphic artists, architects, draftsmen and painters (when not located on the ground floor)			
	X		Gymnasiums and athletic clubs			
X	X		Hardware stores	Yes	Retail uses	
X			Hobby stores	Yes	Retail uses	
X			Ice cream stores	Yes	Eating and/or drinking establishments	

Existing CC	CH	Principal Permitted Uses		Included in new CC permitted uses?	New use classification	Notes
		Existing	CH			
X		Interior decorating shops (with incidental retail sales)		Yes	Personal services	
	X	Janitorial service and supplies				
X	X	Jewelry sales and service		Yes	Retail uses	CH uses term 'jewelry stores'
	X	Laboratories				
X	X	Laundries		Yes	Personal services	CH includes 'dry cleaning' in this use
X	X	Leather goods and luggage stores		Yes	Retail uses	CH does not include 'luggage stores' in this use
	X	Linen supply		Yes	Retail uses	
	X	Lumberyards		Yes	Retail uses	
	X	Mail order and catalog sales				
	X	Mail services				
	X	Nurseries and garden supply stores				
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 uses	CH includes 'business machine stores, repair' in this use
	X	Office supplies		Yes	Retail uses	
X		Music stores		Yes	Retail uses	
X		Newsstands		Yes	Retail uses	
X		Optician and optometrical shops		Yes	Retail uses and/or office, medical	
	X	Packing and crating				
X	X	Paint, glass and wallpaper stores		Yes	Retail uses	

Existing		Principal Permitted Uses	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
	X	Parks, public			
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	Photographic equipment sales and service	Yes	Retail uses	
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 uses	CH does not include 'stereo sales'
X		Record, tape and compact disc stores	Yes	Retail uses	
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			
	X	Scientific instrument shops and service	Yes	Retail uses	
X	X	Shoe stores and repair	Yes	Retail uses	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			
X	X	Sporting goods stores	Yes	Retail uses	
X		Stamp and coin stores	Yes	Retail uses	
X	X	Stationery stores	Yes	Retail uses	
	X	Storage buildings, garages			

Existing CC	CH	Principal Permitted Uses		Included in new CC permitted uses?	New use classification	Notes
	X	Supermarkets and neighborhood grocery stores		Yes	Food and beverage sales	
	X	Swimming pool sales, services		Yes		
X	X	Tailor and dressmaking		Yes	Personal services	
	X	Tool and cutlery sharpening		Yes	Personal services	
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 uses	
	X	Upholstery shops				
X	X	Variety stores		Yes	Retail uses	
	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	Warehouses, except for storage of fuel or flammable liquids				
X		Watch and clock sales and repair		Yes	Retail uses	
	X	Wholesale establishments		No		
	X	Windows, window coverings		Yes		
X		Yard goods stores.		Yes	Retail uses	
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.				

Existing CC CH	Conditionally Permitted Uses		Included in new CC conditional uses?	New use classification	Notes
	CC	CH			
X		Any of the principal permitted uses not conducted entirely within a building			
X		Drive-up windows or patron service areas and spaces exterior to a building, for any use			
X		Theaters, nightclubs and entertainment establishments			
X		Offices and service establishments allowed in § 17.100.040 when on the ground floor			
X		Wholesale activities which are accessory to a main use on the same premises			
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			
X		Residential uses on the ground floor of a building or as accessory uses or in accessory structures			
X		Other uses determined by the Planning Commission as equivalent to those listed in divisions (A) through (G) of this section or which are determined to be equivalent to those listed in § 17.100.040, but requiring regulation of location, extent or operation because of some unique characteristic			
X		Establishments or businesses which entertain customers or clientele by musicians, actors or singers or establishments which charge admission or entrance fees			
X	X	Cigar shops, smoke shops			
X		Liquor stores			

Existing		Conditionally Permitted Uses	Included in new CC conditional uses?	New use classification	Notes
CC	CH				
	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 principal and accessory, is contained entirely within a building;			
	X	Permitted principal uses not conducted entirely within a building;			
	X	Small animal boarding outdoors, provided there is a 500-foot separation from any residential zone;			
	X	Car washes, both automatic and self-service;			
	X	Service stations;			
	X	Private and public garages and parking lots improved in conformity with the provisions in Chapter 17.052;			
	X	Automobile repair, parts and service establishments;			
	X	Used car sales;			
	X	Motels, hotels and residential uses on the second floor, at a density to be determined by the Planning Commission;			
	X	Other uses determined by the Planning Commission as equivalent to those listed in divisions (B)(1) through (9), or which are determined to be equivalent to those listed in § 17.104.030 of this title but requiring regulation of location, extent or operation because of some unique characteristic;			
	X	Establishments or businesses which entertain customers or clientele by musicians, actors			

Existing CC	CH	Conditionally Permitted Uses		Included in new CC conditional uses?	New use classification	Notes
		or singers, or establishments which charge admission or entrance fees;				
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>				
	X	Bed and breakfasts;				
	X	Churches;				
	X	Convalescent homes,				
	X	Day care centers;				
	X	Drug and alcohol treatment facilities;				
	X	Furniture stores;		No – included as principal permitted use (retail use)		

Existing CC	CH	Conditionally Permitted Uses			Notes
		Included in new CC conditional uses?	New use classification		
X		Game rooms, amusement and recreation establishments;			
X		Hospitals;			
X		Hotels;			
X		Institutional, non-profit;			
X		Institutional, public;			
X		Maintenance and repair services;			
X		Motorcycle, sales, service and repair;			
X		Musical instrument sales and service;			
X		Schools;			
X		Tool repair;			
X		Transportation services, bus depots;			
X		Utility substations and structures;			
X		Water tanks			