

MEMO

DATE: March 11, 2021

TO: Planning and Zoning Commission Members

FROM: Rachel Smith, AICP, Senior Planner
Brad Kelley, AICP Candidate, Planner

Re: Unified Development Code Text Amendment Project – Zoning

Background: *The Unified Development Code (UDC) was adopted on March 20, 2017 and integrated formally separate municipal code chapters addressing subdivision and zoning regulations. The UDC is located in Chapter 29 of the Municipal Code. Staff and the Commission are currently working on the second of several anticipated phases of proposed amendments.*

Overview:

This work session will allow review of proposed revisions to reflect Commission feedback on previously discussed code amendments related to Retail, Accessory Commercial Kitchens, Artisan Industry, and Personal Service, Office and Physical Fitness Center uses. This review will also include new revisions to the personal services use-specific standards found in Chapter 29-3.3(v) and the permitted use table found in Chapter 29-3.2 intended to permit personal services in the M-OF district where presently they require a conditional use permit (CUP). Revisions to previously considered amendments are shown in **blue** text. New text is shown in **bold**, and deleted text shown as ~~strikethrough~~.

Staff will also discuss how feedback from stakeholders has been incorporated into the proposed amendments.

Retail, General:

The UDC differentiates parking requirements for Retail large and small, but nowhere else in the code were small versus large retail sites addressed. 15,000 GFA was used as the difference between small versus large after research and is tied to the use-specific standard which already exists that only permits retail uses up to 15,000 GFA in the M-N and M-BP districts (grocery stores may be up to 45,000 GFA). Since January, revisions have simplified the proposed amendment reverting back to the singular definition of retail, general (not distinguishing between small and large *via the definition*) but

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rather clarifying the parking standard between *small* and *large* in the use specific standard - as this is the simplest path to achieve the desired clarification in parking. Additionally, how the code reads in terms of limiting *individual retail uses* versus total uses within a single building was made more explicit.

Artisan Industry:

At the February 18 work session, staff and the Commission discussed the proposed amendment to Artisan Industry. The Commission directed staff to research and produce different sets of standards for various classes of uses with the intent to differentiate between less intrusive and more intrusive uses considered under the umbrella of Artisan Industry. Staff found that most uses fall under the general categories of: Arts and Crafts, Food and Beverage, and Fabrication. While most municipalities that chose to differentiate between artisan uses have decided to split this definition into Food and Beverage or Manufacturing, staff believes some uses considered to be more closely related to Arts and Crafts are not as intense or intrusive as glass or metalworking, and should not be regulated in the same manner (i.e. restricted from M-N (Mixed-Use Neighborhood) zone). Staff feels the scale limitation of 5,000 square feet set forth in the M-N district with screening provisions are sufficient to allow small-scale artisans to produce leather products, jewelry and textiles in this district.

Alternatively, the Commission may feel that simply using the more common separation of uses into Food and Beverage or Manufacturing may be the more appropriate means of delineating uses. Although, this would mean some of the least intense uses may be held to higher standards than Food and Beverage. With this alternative in mind, staff would suggest permitting Artisan Manufacturing in M-N up to a smaller scale with 3,000 square feet being an appropriate marker.

Regarding Live-Work Dwellings which was a tangential topic of conversation at the February work sessions, there isn't a significant demand for this specific use as it is typically either covered by Home Occupations in the residential districts, or by a mixed-use district elsewhere. It isn't a specific use itself but rather a mix of a residential use combined with another such as personal services, office, retail, or artisan industry. As stated earlier, these uses (and combination thereof) are permitted in appropriate mixed-use districts or as small-scale operations in home occupations. Staff believes this separate use predates modern mixed-use zoning and is to some extent obsolete.

However, there may be some specific contexts in which this use is appropriate and not permitted outright. For reference, the use is currently "C – conditional" in the R-MF (Multi-Family Dwelling) district. As an example, we recently had a concept review for a property on the fringe of downtown, near Park Avenue and Tenth Street, where the applicant was interested in a Conditional Use Permit (CUP) for their property zoned R-MF. Their intended use was to operate the front of the first floor as office space for a few employees and to use the rear of the first floor and the entirety of the second floor as dwelling space. Staff found this request to be a textbook example of a Live-Work Dwelling given the land use context as a transitional area between the urban core of downtown and the residential area to the north. Additionally, the building had previously been used as an artist studio on the first floor and a dwelling on the second floor which fit the definition as well.

Ultimately, the applicant noted that they (the owner) did not intend to personally live and work in the structure after a year. Staff noted that this fact would render the request inappropriate as it did not meet the criteria or intent of the use. Instead, the applicant would need to seek a request to rezone the property from R-MF to M-OF – of which, staff would need to conduct an additional review. In general, staff feels that a CUP for a Live-Work Dwelling in specific contexts is more appropriate and supportive of existing neighborhoods than a zoning map amendment as significant control and restrictions are maintained with a CUP. Staff is happy to continue researching this niche but does not have an amendment to bring forward at this time.

Accessory Commercial Kitchens

Prior work session discussion regarding Accessory Commercial Kitchens centered on limiting the scale and/or intensity of a commercial kitchen operations in a residential context. Staff discussed this with the Department of Public Health and Human Services and found that they already conduct a thorough review of each commissary and food establishment seeking to utilize a shared commissary operation. They noted to staff that they have routinely denied operating permits to food establishments wishing to use a commissary that would overutilize the kitchen space.

Staff believes these inspections by PHHS will supplement the City's ability to ensure kitchens are not over-utilized in a residential context. Staff has included language in the amendment to reference the existence of several PHHS regulations and policies without supersession. For example, there must be a commissary agreement in place between the food establishment (caterer) and commissary provider (religious institution, school, etc.) and each of those bodies must maintain an operating permit.

Personal Services, Office and Physical Fitness Center

Following discussion on revisions to clarify the nuances between the Personal Service, Office and Physical Fitness Center uses, staff was further directed to review the existing use-specific standards (29-3.3 (v)) for personal services, and explore scale and intensity controls which may allow the use to be permitted in the M-OF (mixed-use office) zone. Presently, the M-OF zone only permits personal services with a conditional use permit (CUP). Note: Personal services are permitted in the M-N, M-C, M-DT, M-BP and IG zones subject to Use-Specific Standard (v).

Attachments:

- *Retail, General Amendments*
 - *Artisan Industry Amendments*
 - *Memo from Business Loop CID- Artisan Industry*
 - *Accessory Commercial Kitchens Amendments*
 - *Personal Svcs, Office, & Physical Fitness Center Amendments*
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