

PLANNING DIVISION STAFF REPORT

June 10, 2019



PREPARED FOR THE PLAN COMMISSION

Proposal: Zoning Text Amendments
Legistar File ID #: 55737, 55783, 55801, 55878
Prepared By: Planning and Zoning Staff

The following is a summary of the proposed zoning text amendments.

55737 Allow Use Library/Museum in PR Parks and Recreation District

This ordinance will allow library/museum as a permitted use in the PR Parks and Recreation District. This use was inadvertently omitted from the use list for PR when the zoning ordinance was re-written. Currently, the City is planning for a new library in Reindahl Park, necessitating this ordinance change.

Property in the City that is zoned in the PR district often includes open space/recreation uses and buildings / development. For example, the PR district that applies to the Warner Park area includes open spaces, athletic fields a stadium and a community center. This change will allow for the library/museum {institutional} use within Parks.

Staff supports this amendment.

55783 Allow Uses Animal Grooming and Animal Daycare in the A Agriculture District

This ordinance allows Animal Day Care and Animal Grooming Facility in the Agricultural District as a permitted use. The Animal Day Care use has supplemental regulations for the use.

The Agriculture district currently allows the use animal boarding facility, kennel, animal shelter as a permitted use. Animal grooming and animal daycare are customary and similar to these uses, and should be similarly allowed in that district.

This ordinance also removes references to the American Kennel Association and ABKA (this organization no longer exists) and replaces this with a requirement for operating procedures that must be submitted to address behavior and excessive barking.

Staff supports this amendment.

55801 Create the Use Residential Services Office and Allow in Suburban Residential - Varied 1 District.

This amendment will allow owners of residential dwellings to use all or part of a building as an office and supportive services space for residents of that owner's residential dwellings located within 1,250 feet of the office. Under this amendment, this use would be a conditional use in the SR-V1 District. The amendment also includes a new definition for the principal use *office, residential services*. These services often include apartment office, laundry, recreation or community-building spaces, vending, or other services designed to assist the residents and management of the development.

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The SR-V1 district is comprised of stand-alone multi-family residential structures with eight or less units per building. Typically, one building of this size does not have a density to support an office or services space, or the fact that only a small number of on-site units can be served results in no office or services space being provided in the building. This is because providing an office or services space is not an efficient use of the limited space in these otherwise smaller buildings.

In some cases, multiple adjacent nor nearby lots are under a single ownership, and the owner wishes to provide a single office and space within one of the buildings, to provide services to the residents in the building and in other nearby buildings they own. This amendment would allow for a Conditional Use request for such an office/services space.

Staff supports this amendment.

55878 Create New Category of Land Use "Incidental Uses" and New Use "Incidental Alcohol Sales"

The Zoning Ordinance currently defines Principal Use as the "main use of land or buildings as distinguished from a subordinate or accessory use." The Zoning Code also allows for accessory uses, which are defined as uses "on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure and serving the occupants of the principal use or structure." Thus, the Zoning Code contemplates that a building or structure will contain a single principal use and may contain accessory uses that customarily go with that principal use. While mixed-use districts allow multiple principal uses on a single property or in a single building, those uses must be in separate units on the land or in the building and thus are treated similarly to single use properties with respect to the classification of principal and accessory uses.

This scheme matches the historical use of properties: each piece of land or structure is used for a principal – single – purpose perhaps accompanied by accessory uses that are customarily associated with that principal use. In recent times, staff has seen an increase in requests of property owners to conduct multiple uses on a land or in a structure that may not customarily go hand-in-hand. Up to this point, Staff has approved such requests by approving multiple principal uses on the same property. However, doing this runs counter to the basic idea of a principal use as being the "main use" of the property. In other words, by definition, a property cannot have more than one principal because there would then be no "main use" of the property. Staff has been unable to call these additional uses accessory uses because oftentimes the additional uses are not "customarily incidental to" the principal use. Thus, there is a need for the zoning code to acknowledge a person may have multiple distinct uses of a property but only one principal use.

This amendment creates a new use category known as *Incidental Uses*. It removes the word "incidental" from the definition of accessory use and defines incidental use as "a use that is affiliated with but subordinate to a principal use of land or structure." Unlike accessory use, an incidental use does not have to be of the type customarily associated with the principal use. Instead, it must be affiliated with the principal use, such as through common ownership. Under this amendment, any principal use identified in the district use tables may also be an incidental use subject to the same use category (Permitted or Conditional) and same supplemental regulations, where applicable.

This amendment also recognizes there may be incidental uses that need to be specifically identified because there is no principal use that would apply. An example of such an incidental use is the incidental sale of alcohol. Over the last several years, staff has received numerous requests from business owners (primarily retail businesses) who want to supplement their business with the sale of alcohol to their customers. Currently, however, there is

no way to approve such a use without adding an additional "principal use" to the property. Thus, this amendment also creates "Incidental Alcohol Sales" which would allow a property owner holding a class B license to sell alcohol to users of a principal use as long as the sale of alcohol does not exceed 25% of the gross receipts of the owner's uses on the land. This zoning change has no impact on the separate issue of obtaining any needed alcohol license.

Staff supports this amendment.