

Department of Community Development Staff Report

MEETING DATE: September 8, 2016

REQUEST: A Zoning Ordinance Text Amendment to Sections 3-332 and 5-3200 to Allow Limited Commercial Uses in Residential Districts for Properties that have Historically Been Utilized for Commercial Uses

OUTSTANDING ISSUES There are no outstanding issues.

RECOMMENDATION: Staff recommends approval of the proposed text amendment.

Topic Description:

This proposed text amendment would allow additional commercial uses on properties located in the RR-2 and R-1 residential districts when those properties have historically been used for commercial purposes and have a commercial building on them. A Special Exception would be required, and standards are proposed that limit the eligible properties, limit the eligible uses and also provide additional protections for surrounding residential properties.

Background and Analysis:

Residential zoning districts in the County allow primarily residential uses, as well as supporting public and institutional uses such as schools, churches, day-cares, etc. Commercial business uses are very limited. Most of those businesses allowed are agriculturally related. The table on the next page lists the business uses currently allowed in the residential districts.

Some businesses can also be approved within the residential districts utilizing the Adaptive Reuse provisions of the Ordinance. Adaptive Uses require Special Exception approval, and are only allowed within historic structures or public buildings. The intent is to allow existing buildings more flexibility with use, such as: 1) a means to save historic structures; or 2) re-use abandoned public buildings. Uses allowed under the Adaptive Use provisions are also listed in the table below.

Current Zoning Ordinance Provisions

Commercial Business Uses allowed in Residential Districts By District						
	RR-2	V	R-1	R-2	R-3	R-4
Swimming/Tennis (Racquet) Facility, public or private	SP	SP	SP	SP	SP	SP
Antique shops less than 3,000 sq. ft.	SP	SP				
Veterinary Clinic	SP	SP				
Farm supply establishment		SP				
Business or Professional Office, 6 or less employees	SP	SP	SP	SP	SP	SP
Farm Equipment Sales, Rental & Service	SP					
Crop/Livestock Farm	P	P	P			
Horse Farm	P	P	P			
Equestrian Instruction	SP	SP	SP			
Horse Show						
Dairy Farm	SP	SP	SP			
Cattle feed lot greater than 300 head	SP					
Swine farm greater than 20 sows	SP					
Truck farm	P	P	P			
Poultry farm (over 1000 birds)	SP					
Orchard/vineyard	P	SP	SP			
Plant nursery/greenhouse (less than 10,000 sq. ft.) wholesale only	P	P	P			
Greenhouse (more than 10,000 sq. ft.) wholesale only	SP	SP	SP			
Plant nursery/greenhouse retail sales	SP	SP	SP			
Forestry	P	P	P	P	P	P
Distillation of industrial alcohol (ethanol) in conjunction w/farming	SP	SP	SP			
Commercial Adaptive Uses Allowed in Residential Districts By Special Exception						
Within Historic Structures			Within former School and Public Safety Buildings			
Retail Shops	Those uses allowed in the Rural, Residential, Commercial Village and C-1/Commercial Neighborhood Districts					
Arts and Crafts Galleries						
Offices						
Restaurants						
Receptions						
Tourist Homes						
Repair Service Establishments						
Furniture Repair, Cabinet Making & Upholstery						
Personal Service Establishments						
Scholarly Research Center						

Additionally, some businesses exist within the residential zoning districts because they are legally existing non-conforming businesses. Such uses were legally established under a prior zoning code or map that allowed the use, and the non-conforming provisions in Article 10 of the Ordinance allow the use to continue, and also to expand and/or change, subject to very specific standards and limitations set forth in those provisions. If the non-conforming business stops operating for a period of two years, the non-conforming status is lost and the property must conform to the current regulations.

Finally, Section 3-332 provides a means for a business that has existed continuously since prior to May 21, 1981 (the initial adoption date of the current Ordinance) to be approved through the Special Exception process, even where such business was not initially legally approved.

All of these existing provisions are intended to provide opportunities for expanded commercial activity on certain parcels in the residential districts because the existing buildings may not be appropriate for residential use and/or because of their long history of commercial use.

This proposed text amendment expands on this approach by adding another category of parcels eligible for more business flexibility. These may be parcels that once had non-conforming business uses on them (but lost the status because the business stopped for more than two years) or that have existing buildings on the property that are not appropriate for residential use.

Issues

In all other instances where the Ordinance has special provisions to allow additional commercial uses on residential properties, such uses are carefully controlled on a case-by-case basis through the Special Exception process. The Special Exception process allows detailed consideration by the Planning Commission and the Board of Supervisors of the unique history and surroundings of individual parcels. Such uses would only be appropriate at locations where there are no impacts on surrounding residential properties or where such impacts can be fully addressed through Special Exception conditions. The approach is proposed only to be utilized in the RR-2 and R-1 districts, as the smaller lot sizes in the other districts result in closer proximity to adjoining residential uses.

Proposed Uses

Staff is recommending a specific list of uses eligible for approval under the proposed provision. These uses are based on the list of uses currently allowed in the C-1 Commercial Neighborhood District. Staff started with the C-1 uses and then eliminated those uses typically not compatible with a residential area, even with conditions. Predominately, motor-vehicle related uses have been eliminated. The table below shows the starting C-1 list with strike-through for those uses staff has eliminated. The two uses shown in red type are uses that staff did not originally propose to include that were recommended to be included by the Planning Commission.

C-1 Uses not Allowed in Residential Districts	
Meeting Halls for social, fraternal, civic, public and similar organizations	Furniture repair, cabinet making, upholstery
Technical School, Indoor	Broadcasting studio
Golf, miniature	Barber/beauty shop
Theatre, indoor	Carpentry, plumbing, electrical, printing, welding, sheet metal shops
Bowling alley	Artisan’s workshop and studio
Indoor Sports/Activity Center	Taxidermisty shop
Post Office	Sex Offender Treatment
Civic center (governmental)	Auto repair garage
Retail sales and rental	Auto service station
Convenience store	Motor vehicle impoundment, towing
Funeral home	Automobile sales, rental and service
Farm supply establishment	Farm equipment sales, rental and service
Financial institutions	Motor vehicle wash
Business or Professional Office	Recreational Vehicle Storage Area
Drive-through facility in conjunction with any commercial business	Auction establishment
Eating establishment	Frozen food lockers
Eating establishment, fast food	Carpet and rug cleaning
Repair service establishment	Contractors offices, shops and material storage yards completely within building or completely screened from view
Laundry/dry cleaners/laundromat	

Standards

The proposed standards reflect language currently found in the requirements and standards for other situations where expanded commercial uses are allowed in residential districts.

Eligibility:

Eligibility is proposed to be limited to lots that were historically utilized for commercial uses and which are developed with a commercial building. “Commercial” is defined to mean business commercial uses, not other uses such as apartments or institutional uses that are considered commercial under the Building Code. Commercial uses also do not include agricultural buildings or uses. Specifically:

- Such property shall be developed with a commercial building or buildings.
- Such property shall have historically been utilized solely for either: 1) a legally approved commercial use; or 2) a legally established non-conforming use that has subsequently lost its non-conforming status because the use ceased operations for a period of two or more years. The applicant shall provide documentation to establish this fact to the satisfaction of the Board of Supervisors.
- Such property shall be located on a major collector or arterial.

Limitations:

- Uses shall be limited to those identified in the use chart above.
- A maximum 30% increase in the square footage of the commercial structures existing at the time of initial approval shall be permitted in connection with the approval of the Special Exception.
- No residential use shall be permitted on the property unless all commercial use authorized under this provision is eliminated.
- No Special Exception shall be approved under this provision unless the Board makes a finding that the property is not suitable for residential development.
- The Special Exception shall include conditions to assure the proposed use relates appropriately to surrounding residential uses, to include but not limited to buffering, noise attenuation, lighting, hours of operation, etc.

Process:

This text amendment was initiated by the Board of Supervisors on June 9, 2016. The Planning Commission held an initial public hearing on the amendment on July 21, 2016. Staff amended the proposed language after the July 21 meeting to remove V-Village from the proposal. Upon further consideration, staff concluded that V properties should be rezoned to CV-Commercial Village if a Commercial use was proposed, as this would be consistent with the Comprehensive Plan. A second public hearing and action was taken by the Planning Commission on August 18, 2016. The Commission recommended the addition of “auto repair” and “impoundment” as uses that could be approved through the proposed Special Exception process.