



Legislation Details (With Text)

File #: 21-341 **Version:** 1 **Name:**

Type: Public Hearings **Status:** Agenda Ready

File created: 7/23/2021 **In control:** Planning Commission

On agenda: 9/2/2021 **Final action:**

Title: Adoption of a Resolution Recommending Approval to the City Council Municipal Code Amendments Adding Definitions for Liquor Stores and Tobacco Shops; Prohibiting Liquor Stores, Massage Therapy, Tobacco Related Uses and Tobacco Shops within the Central Business District (CBD) Overlay Zone; and Allowing Alcoholic Beverage Sales in CBD Zone 1.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment 1 -- CBD Area, 2. Attachment 2 -- Redline Section 17.24.020.E Allowed Use Definitions Retail, Service and Office Uses, 3. Attachment 3 -- Redline Section 17.30.020.C, Table 17.30.020 -1 Retail, Service and Office Uses, 4. Attachment 4 -- Planning Commission Resolution, 5. Attachment 4a -- Exhibit "A" Ordinance

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Planning Commission Agenda

Memo to: Manteca Planning Commission

From: Chris Erias, Development Services Director

Prepared by: J.D. Hightower, Deputy Director of Development Services, Planning

Date: August 19, 2021

Subject: Zoning Code Amendment Adding Definitions for Liquor Stores and Tobacco Shops; Prohibiting Liquor Stores, Massage Therapy Tobacco Shops, and Tobacco Related Uses in the Central Business District (CBD) Overlay Zone; and Allowing Alcoholic Beverage Sales in CBD Zone 1

Adoption of a Resolution Recommending Approval to the City Council Municipal Code Amendments Adding Definitions for Liquor Stores and Tobacco Shops; Prohibiting Liquor Stores, Massage Therapy, Tobacco Related Uses and Tobacco Shops within the Central Business District (CBD) Overlay Zone; and Allowing Alcoholic Beverage Sales in CBD Zone 1.

Background:

APPLICATION NO.: MCA-21-082

LOCATION: Central Business District Overlay Zone

APPLICANT: City of Manteca

PROPERTY OWNER: Various

ZONING: CBD Overlay Zone 1 and Zone 2

GENERAL PLAN: Various

CEQA STATUS: Exempt, CEQA Guidelines Section 15061(b)(3), Common Sense Exemption. It can be seen with certainty that the creation of a zoning land use definitions for Liquor Stores and Tobacco Shops; the prohibition of such along with Massage Therapy and Tobacco Related Uses land use categories within the CBD Overlay Zone; and allowing Alcoholic Beverage Sales in CBD Zone 1 will not have a significant effect on the environment.

PROJECT DESCRIPTION:

This amendment revises the zoning code by further defining Liquor Store and Tobacco Shop. The amendment also revises Table 17.30.020-1, Allowed Uses and Permit Requirements in the use table by prohibiting Liquor Stores, Massage Therapy, Tobacco Related Uses and Tobacco Shops within Zone 1 and Zone 2 of the CBD. Any such existing businesses will become legal, non-conforming land uses subject to the provisions of Chapter 17.12, Nonconforming Uses and Structures, of the Zoning Code. The amendment also amends the Table by listing Alcoholic Beverage Sales as a permitted use in both Zones 1 and 2 of within the CBD Overlay.

The Planning Commission is requested to recommend the following to City Council:

- 1. Approval of a Municipal Code Amendment creating a new Section 17.24.020.E.16 defining a Liquor Store.** Currently there is a definition for Alcoholic Beverage Sales, “The retail sale of beverages containing alcohol for off-site consumption subject to regulation by the California Department of Alcoholic Beverage Control (ABC) as an off-sale establishment.”

The existing definition of Alcoholic Beverage Sales is very broad and does not account for the differing retail settings and uses in which Alcoholic Beverage Sales take place. As an example, La Super Altema Market at 233 East Yosemite Avenue is a grocery store that sells beer and wine for off premise consumption within CBD Zone 1. Brethren Brewery, a micro-brewery at 220 North Main Street, is also within CBD Zone 1. The Economic Development Committee has also discussed the potential and desirability for a wine tasting establishment locating within the CBD.

To distinguish these types of retail establishments from a proto-typical Liquor Store, a clear definition of a Liquor Store is needed. Staff proposes the following definition for a Liquor Store:

Liquor store. Any retail establishment whose main use is devoted to and the primary purpose for which the establishment exists is alcoholic beverage sales (see Section 17.24.020.E.3) for off-premises consumption, and the incidental sale of other items such as magazines, newspapers, lottery tickets and packaged snack foods. Does not include a Grocery Store/Supermarket or Neighborhood Market which may offer alcoholic beverage

sales along with the offering of groceries including such items as: food items prepared on-site, fruit, vegetables, dairy, meat, seafood and staple foods; or, a Convenience Market that sells items and services primarily for convenience and travelers' need such as: diesel, gasoline, compressed gases (air and CNG), coolants (water and antifreeze), packaged and prepared food, and other miscellaneous convenience and travel items that may also offer alcoholic beverage sales.

2. **Approval of Municipal Code Amendment creating new a Section 17.24.020.E.29 defining a Tobacco Shop.** Currently there is not a zoning definition for a use whose primary purpose is the retail sale of tobacco and tobacco related products. The proposed definition is:

***Tobacco Shop.** Any retail establishment whose main use is devoted to, and the primary purpose for which the establishment exists, is the retail sale of tobacco and smoking equipment including, but not limited to, cigarettes, e-cigarettes, roll-your-own supplies, smokeless tobacco such as dipping tobacco and chewing tobacco, cigars, pipe tobacco and vaping supplies intended to be consumed off the store's premises.*

3. **Approval of a Municipal Code Amendment to Section 17.30.020.C, Table 17.30.020-1 (Table) by showing the following uses as prohibited uses ("N") within the CBD in both Zones 1 and 2:**

- **Liquor Store**
- **Massage Therapy**
- **Tobacco Related Uses**
- **Tobacco Shop**

4. **Approval of a Municipal Code Amendment to Section 17.30.020.C, Table 17.30-020-1 (Table) by showing Alcoholic Beverage Sales as an approved use ("A") within CBD Zone 1.**

The proposed ordinance is included as Attachment 5.

FINDINGS:

MMC Section 17.10.190 requires the following findings for a Zoning Text Amendment:

1. The proposed Zoning Amendment (text or map) is **consistent with the General Plan** and any applicable Specific Plan goals, policies, and implementation programs;
2. The proposed amendment would **not be detrimental to the public interest, health, safety, convenience, or welfare** of the City;
3. The amendment has been reviewed in compliance with the provisions of the **California Environmental Quality Act (CEQA)**;
4. The amendment is **internally consistent** with other applicable provisions of this Zoning Code.

FINDING #1 GENERAL PLAN CONSISTENCY:

The intent of prohibiting of Liquor Stores, Massage Businesses and Tobacco Stores within the historic downtown area has long been expressed by residents and business owners. The General Plan recognized this sentiment through Economic Development Element Policy, ED-P-19, which calls for the City to, “Promote Manteca as a desirable location to live and visit, promoting the “Family City” image.” Alcoholic Beverage Sales, Massage Therapy, Tobacco Shops and Tobacco Related Uses is not conducive towards making the CBD reflect the City’s value as a “Family City”.

This Economic Development policy is also backed and consistent with General Plan Land Use Element Policy, LU-P-21, directs that, “The City shall promote the downtown as a significant pedestrian oriented, commercial and financial center of Manteca and as the primary civic and cultural center.” Liquor Stores, Massage Therapy, Tobacco Shops and Tobacco Related Uses are inconsistent with the direction that the CBD zone be Manteca’s primary civic and cultural center. The limited and well defined area of the CBD makes the regulation and management of consistent uses paramount for the success of downtown.

The prohibition of Liquor Stores, Massage Therapy, Tobacco Related Uses and Tobacco Shops within Manteca’s CBD area is consistent with the General Plan Community Design Element. Community Design Element Policy, CD-P-25, directs that, “The City shall encourage mixed land uses but provide physical separation or design buffers between incompatible land uses.” The prohibition of uses that create nuisances and that are contrary to the Family City image, civic and cultural center functions of the CBD will provide for the physical separation of these uses away from the heart of Manteca.

The General Plan Administration and Implementation Element directs that, “The City shall review and amend, as necessary, the City’s Zoning Ordinance and Subdivision Ordinance to ensure consistency with the General Plan.” Staff recommends the proposed amendments to the Zoning Ordinance to ensure that CBD Overlay zone is consistent with the policies of the General Plan.

FINDING #2 NOT DETRIMENTAL TO THE PUBLIC INTEREST, HEALTH, SAFETY CONVENIENCE OR WELFARE

The prohibition of Liquor Stores, Massage Therapy, Tobacco Related Uses and Tobacco Shops is within the best public interest, health, safety, convenience and welfare. Limiting where the four uses can operate in the City is not detrimental to the public. In fact, there is some evidence suggesting that the presence of such uses leads to increased criminal behavior. The limited police resources of the City can be enhanced by the prohibition of such uses within the CBD.

FINDING #3 CEQA ANALYSIS:

The proposed ordinance is exempt from further environmental analysis pursuant to Section 15061(b) (3) of the CEQA Guidelines. This section, known as the “common sense” exemption, is appropriate if:

The activity is covered by the common sense exemption that CEQA applies only to projects which

have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

The proposed ordinance creates new zoning definitions for Liquor Stores and Tobacco Shops; prohibits Liquor Stores, Tobacco Shops, Massage Therapy and Tobacco Related Uses in the CBD Overlay Zones 1 and 2, and allows other Alcoholic Beverage Sales in CBD Zone 1. These changes are consistent with applicable General Plan policies and protect the public interest (please see discussions above). The proposed text amendments do not relate to any specific projects and will not result in any physical changes on the ground. As such there is no possibility that this ordinance will have a significant effect on the environment.

FINDING #4 INTERNAL CONSISTENCY

The proposed amendments are consistent with the purpose of the zoning code, MMC Section 17.02.020, that:

To promote the stability of existing land uses that conform with the General Plan and to protect them from inharmonious influences and harmful intrusions”.

The intent of these amendments is to protect the CBD Overlay area from the inharmonious influences and harmful intrusions associated with Liquor Stores, Massage Therapy, Tobacco Related Uses and Tobacco Shops.

In addition to being consistent with the purpose and objective of the zoning ordinance, the amendments are internally consistent with the construct of the zoning code.

The Table lists land uses by categories and then sets forth the required processes for evaluating the suitability of that use within the CBD area. The CBD area is split between the inner core of the CBD, Zone 1; and periphery areas of influence around the core CBD, Zone 2. Please see Attachment 1 for a map of the CBD area and its accompanying zones. Please see Attachment 3 that illustrates the proposed amendments to the Table’s Retail, Service and Office Uses and permit requirements.

Relating to the uses listed in Attachment 3, the MMC includes Chapter 17.24, Allowed Land Use Definitions. Within this Chapter, the City has existing definitions for Alcoholic Beverage Sales, Massage Therapy, and Tobacco Related Uses. Below are the definitions for each use and the current land use regulation within the Central Business District as listed in the Table.

Alcoholic Beverage Sales. The retail sale of beverages containing alcohol for off-site consumption subject to regulation by the California Department of Alcoholic Beverage Control (ABC) as an off-sale establishment.

Currently Alcoholic Beverage Sales are not allowed in CBD Zone 1 (“N”), and are an approved use (“A”) in CBD Zone 2. The proposed amendment would allow Alcoholic Beverage Sales as an approved use (“A”) in CBD Zone 1.

As a proposed definition, **Liquor Store** (please see definition above) is not currently listed on Table 17.030.020-1.

Massage Therapy. Establishment where customers can receive a massage.

Currently Massage Therapy requires approval of a Conditional Use Permit in CBD Zone 1 (“C”) and is an approved use (“A”) in CBD Zone 2. The amendment would list Massage Therapy as a prohibited use (“N”) within both Zone 1 and Zone 2.

Tobacco Related Uses. A commercial establishment whose primary activity consists of a lounge or eating area where patrons smoke tobacco or nontobacco related products including, but not limited to, hookah, cigar, cigarette, pipe, e-cigarette, or other smoking device.

Currently Tobacco Related Uses is a land use category not listed on Table 17.30.020-1. The amendment would list Tobacco Related Uses as a prohibited use (“N”) in both Zone 1 and Zone 2 of the CBD Overlay Zone.

As a proposed definition, **Tobacco Shop** (please see definition above) is not currently listed on Table 17.030.020-1

Fiscal Impact:

There is no fiscal impact by adding new defined terms for Liquor Store and Tobacco Shop and amending the land use regulations within the CBD by prohibiting Liquor Stores, Massage Therapy, Tobacco Shops, and Tobacco Related Uses. All such existing businesses will become legal non-conforming thus there are no impacts to associated sales tax. Long term the amendment is expected to have a positive fiscal impact by creating a downtown retail and financial district that reflects Manteca as the Family City.

Documents Attached:

Attachment 1 - Map of CBD Area

Attachment 2 - Redlined Section 17.24.020.E Allowed Use Definitions; Retail, Service and Office Uses

Attachment 3 - Redlined Section 17.30.020.C Central Business District (CBD) Overlay Zone; Allowed Uses, Table 17.30.020-1 Allowed Uses and Permit Requirements in the Central Business District Overlay Zones

Attachment 4 - Planning Commission Resolution Recommending Approval to City Council

Attachment 5 - Exhibit “A” to Resolution, Draft Ordinance