



Legislation Details (With Text)

File #: 21-391 **Version:** 1 **Name:**
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File created: 9/3/2021 **In control:** CITY COUNCIL
On agenda: 9/21/2021 **Final action:**
Title: Waive the first reading by substitution of the title and introduce an Ordinance amending the Municipal Code by creating zoning definitions for a Liquor Store (Section 17.24.020.E.16) and Tobacco Shop (Section 17.24.020.E.28); and, amending Table 17.30.020-1, Allowed Uses and Permit Requirements in the Central Business District Overlay Zone, showing Liquor Store, Massage Therapy, Tobacco Related Uses and Tobacco Shop as uses not allowed ("N") within Zones 1 and 2; and showing Alcoholic Beverage Sale as a use permitted by right ("A") in both Zones 1 and 2.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment 1 – Map of CBD Overlay Zone Area, 2. Attachment 2 - Definitions Redline Copy, 3. Attachment 3 - Redlined Zoning Table 1730020-1, 4. Attachment 4 - Proposed Ordinance

Date	Ver.	Action By	Action	Result
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City Council Agenda

Memo to: Manteca City Council
From: Chris Erias, Development Services Director
Prepared by: J.D. Hightower, Deputy Director - Planning
Date: September 21, 2021
Subject: Municipal Code Amendment (MCA-21-082) Central Business District Overlay Zone - Prohibition of Liquor Stores, Massage Therapy, Tobacco Related Uses and Tobacco Shops.

Waive the first reading by substitution of the title and introduce an Ordinance amending the Municipal Code by creating zoning definitions for a Liquor Store (Section 17.24.020.E.16) and Tobacco Shop (Section 17.24.020.E.28); and, amending Table 17.30.020-1, Allowed Uses and Permit Requirements in the Central Business District Overlay Zone, showing Liquor Store, Massage Therapy, Tobacco Related Uses and Tobacco Shop as uses not allowed ("N") within Zones 1 and 2; and showing Alcoholic Beverage Sale as a use permitted by right ("A") in both Zones 1 and 2.

Background:

LOCATION: Central Business District Overlay Zone (Please see Attachment 1)

APPLICANT: City of Manteca

PLANNING COMMISSION RECOMMENDATION: Approve 4-0.

On September 2, 2021 the Planning Commission held a duly noticed public hearing regarding MCA-21-082 (Please see Attachment 2 - Planning Commission Staff Report) After due consideration of the information presented and public testimony, the Planning Commission decided that the necessary findings to amend the MMC are evident and that the MCA is exempt from further CEQA review. The Planning Commission voted unanimously (4-0) to recommend approval of the zoning text amendments to the City Council (Please see Attachment 3 - Planning Commission Resolution).

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 recommends that the City Council adopt an ordinance that reflects the following actions (Please see Attachment 4 - Proposed Ordinance):

1. Approval of a Municipal Code Amendment creating a new Section 17.24.020.16 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 that Alcoholic Beverage Sales take place. As an example, La Super Altona 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. Also the Economic Development Committee 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), recorded music, gloves, tools and clothing items that may also offer alcoholic beverage sales.

2. Approval of Municipal Code Amendment creating new a Section 17.24.020.28 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, Table 17.30.020-1 (Table) by showing the following uses as not allowed ("N") within the CBD Overlay in both Zones 1 and 2:

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

4. Approval of a Municipal Code Amendment to Section 17.30.020-1 (Table) by showing Alcoholic Beverage Sales as a use permitted by right ("A") use within CDB Zone 1.

FINDINGS:

The Planning Commission determined that the proposed amendment meets the thresholds set by MMC Section 17.10.190 that 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 Planning Commission found that the proposed amendments are consistent with the following General Plan policies:

- **Promote ... the “Family City” image.** (ED-P-19)
- **Promote the downtown ... as the primary civic and cultural center.** (LU-P-21)
- **Improve air quality by ... Minimizing public exposure to toxic or hazardous air pollutants; and ...to pollutants that create a public nuisance, such as unpleasant odors.** (Goal AQ-1)
- **City shall ... provide physical separation or design buffers between incompatible land uses.** (CD-P-25)
- **The City shall review and amend ... Zoning Ordinance ... to ensure consistency with the General Plan.** (AD-I-5)

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

The Planning Commission found that 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 Planning Commission found that 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 Planning Commission found that 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.

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 Overlay Zone Area
- Attachment 2 - Definitions Redline Copy
- Attachment 3 - Redlined Zoning Table 1730020-1
- Attachment 4 - Proposed Ordinance