



ITEM 9: SMALL BUSINESS SUPPORT ZO AMENDMENTS

OCTOBER 3, 2018 PLANNING COMMISSION MEETING



6 RECOMMENDATIONS TO SUPPORT SMALL BUSINESSES

Goal: make the zoning review process for new or expanding small businesses easier, clearer and more streamlined.

The six modifications to the zoning ordinance are:

1. Remove the parking requirement for a change of use for qualifying projects in C- prefixed districts;
2. Condense food services categories (i.e., quick serve, carry out and full service) to a single category known as “Food Service Establishment”;
3. Standardize square footage thresholds that trigger various permits for “changes of use” across all C-prefixed districts;
4. Standardize “uses deemed compatible” across all C-prefixed districts to the same level of discretionary review;
5. Expand the “commercial recreation” thresholds like those adopted for the Downtown (2016) across other C-prefixed districts; and
6. Allow the incidental service of beer and wine at a seated food service establishment via a Zoning Certificate in C-prefixed districts, and impose performance standards where there would not otherwise be conditions of approval.

PAST ACTIONS & MEETINGS

- **Small Business Support Package** - Referral to OED from City Council April 25, 2017
- Office of Economic Development (OED) Council Work Session January 16, 2018 – **Small Business Support Package Referral Response**
 - *Modified OED Work plan for 2018 ~ including OED to Return to Council by June 2018 with specific zoning recommendations to support small business*
 - *Council Consent Calendar, Item 9, May 15, 2018 - Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses*
- **Planning Commission (PC) takes up Referral: Zoning Ordinance Amendments (ZOAs) Supporting Small Businesses** from Council May 15, 2018 (*return by Dec 2018 with ZOAs*)
- **PC discussed ZOAs** to support small businesses on **June 20, 2018** and **July 18, 2018**
- Tonight's **Public Hearing on finalized Zoning Ordinance Amendments to Support Small Business** (10/3/18)

OED - TONIGHT'S HEARING IN CONTEXT

The mission of the Office of Economic Development is to assist businesses, entrepreneurs, artists and community organizations to access services, feel welcome in Berkeley, and thrive.



OED – BUSINESS SERVICES



Identify resources and get assistance to launch or grow a business.



Connect with local leaders through business networks, commercial districts, and industry groups.



Obtain **economic and demographic data** to support location decisions, marketing, and research.



Find a **business location** or commercial real estate in Berkeley.



Get certified as a **green business**.



Get financing for a business expansion or other business needs through our Revolving Loan Fund.



Recruit local talent or share your knowledge through our education and training partner network.



Plug-in to the broader Berkeley innovation ecosystem, including U.C. Berkeley and Berkeley Lab.



Navigate Berkeley's codes, regulations, and policies to start or expand a business.



Provide feedback on local policy.

ADDITIONS & ENHANCEMENTS TO OED'S 2018-19 WORK PLAN

Small Business Support Package - Referral to Office of Economic (OED) from City Council April 25, 2017, → *Modified OED Work plan for 2018*

- 1. Improve OED's outreach & communications with small businesses.**
- 2. Increase support for businesses navigating the permitting process.**
- 3. Recommend modifications to the zoning ordinance to support small local businesses and prioritize desired uses.**
- 4. Pilot new small business assistance and retention programs.**
- 5. Increase marketing, technical assistance, and networking opportunities for locally-owned retail and services businesses.**

OED'S PROGRESS ON 2018 WORK PLAN ADDITIONS

Tonight's zoning ordinance modifications are one part of a many-pronged strategy to support our local businesses. Here are the others:

- **Launching small business retention programs:**
 - Uptima Business Bootcamp and Bay Area Organization of Black-Owned Businesses are partnering to provide technical assistance to enhance the profitability and sustainability of existing Berkeley businesses.
 - Project Equity will be facilitating conversion of existing businesses with traditional ownership structures to worker-owned cooperatives.
- **Supporting and marketing independent retailers:**
 - 2019 campaign to highlight Berkeley's independently-owned retail and services businesses
 - Events series for locally-owned businesses to access new markets, including a 'shop local' holiday gift fair in early December.
- **Enhancing communications:**
 - This year OED has produced updated brochures and toolkits, and is conducting an annual survey, hosting a Small Business Forum, and (always!) marketing our Revolving Loan Fund program.
- **Strengthening the core:** *providing case management and technical assistance* to business owners
 - Real estate support, small business specialist (shadow permit service center staff, engage with the transportation group, support special projects, i.e. Parklets)

OED - TONIGHT'S HEARING IN CONTEXT

- The zoning ordinance **amendments before you tonight are an essential tool for helping prevent displacement** and closure of existing, independently-owned small businesses in Berkeley.
- We've heard **directly from small businesses** – and have observed countless cases that substantiate their feedback – that restrictive land use controls for small businesses are often a **significant barrier to expanding, relocating, or opening a second location**. Larger, **well-capitalized businesses**, including national chains, are more **able to weather Use Permit and AUP processes**, whereas it is much more difficult for a locally-owned business to carry the extra costs (e.g., rent, consultants).
- Permitting **Process improvements** that help **control the variables** of money (but more importantly **time**) will directly alleviate impacts on small, independent, local businesses at risk of closure and or displacement.

DRAFT ZONING ORDINANCE AMENDMENTS

Four Types of Modifications

1. Reductions in Parking Requirements
2. Food Service Category Consolidation
3. Changes to Levels of Discretion
4. Changes to Permitting Thresholds – size (square footage) that triggers more/less discretion

RECOMMENDATION I

Remove “Incremental Change in Parking” Required with a ‘Change of Use’ in the Commercial Districts

Table 3: Parking Required with Change of Use in Existing Commercial Spaces

Land Use Designation	Zoning District	Parking Required for Medical Practitioners and Medical Offices	Parking Required for Quick or Full Service Restaurants	Parking Required for All Other Uses
Neighborhood Commercial	C-E	1 per 500 sq. ft. (if over 6,000 sq. ft.)	1 per 500 sq. ft. (if over 6,000 sq. ft.)	1 per 500 sq. ft. (if over 6,000 sq. ft.)
	C-N	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
	C-NS	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
	C-SA	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
	C-SO	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
	C-1	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
Avenue Commercial	C-T	NA	NA	NA
	C-W	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
Downtown	C-DMU	1 per 667 sq. ft.	1 per 667 sq. ft.	1 per 667 sq. ft.

districts affected

HYPOTHETICAL EXAMPLE: An existing retail clothing store in a 1,500 square foot commercial space closes. A food service establishment wants to open at this same location with no changes to store area. Per the current code requirements, two additional parking spaces would be required to support the new use. If off-street parking can't be provided, the new business must apply for a "parking waiver" through the AUP process

RECOMMENDATION 2

Condense Three Food Service Categories into One Category in Commercial Districts

Levels of Discretion/Thresholds consistent in Ave-Comm (1,500 ft²) and N'hood-Comm (1,000 ft²)

Follow Up:

Level of Discretion in C-T & C-W: UP(PH)

Permitting Thresholds in C-DMU: 2,000 ft² (QS and CO) vs 4,000 ft² (FS)

Parking Requirements: 1:300 vs 1:500

Size Limitations in C-E – 1,000 ft² cap on QS and CO

Districts Affected: All Commercial Districts

See pages 148-149 of agenda packet for table.

RECOMMENDATION 2 (CONT)

Selected Downtown (C-DMU) Food Uses by Square Footage

Property Address	Square Footage (OED estimate)	Current Tenant (Q2 2018)
1890 Shattuck	1,462	Sweetgreen
1952-56 University	2,278	The Butcher's Son (Makers Common)
2071 University	2,529	Tender Greens
2200 Oxford	3,242	Gather
2068 Center	4,000	Eureka!
21 Shattuck Square	5,100	85 Degrees C
2181 Shattuck	7,495	Jupiter
1920 Shattuck	6,500 (approx.)	Triple Rock

RECOMMENDATION 3

Standardize ‘Change of Use’ Permitting Thresholds in Commercial Districts

Analysis showed that permitting thresholds were consistent across Ave-Comm and N’hood-Comm. Level of discretion could be reduced from UP(PH) to AUPs for larger commercial spaces (see table below).

Follow Up: Difference Between AUP and UP(PH)

Districts Affected: C-I, C-N, C-NS, C-SA, C-SO, and C-W

Table 2: Permits Required for Commercial Change of Use

Zoning District	Commercial Space (square feet)	Existing
C-E, C-N, C-NS, C-SO	over 3,000	UPPH
C-1, C-SA	over 5,000	UPPH

RECOMMENDATION 4

Reduce the Level of Discretion from a UP(PH) to an AUP when Establishing a “Use Deemed Compatible”

The Zoning Officer can approve an unlisted use for a commercial business if the use is deemed compatible with the purposes of the district.

Neighborhood Commercial districts currently require a UP(PH). Avenue Commercial districts require an AUP.

Follow Up: Difference between AUP and UP(PH)

Districts Affected: C-N, C-E, C-NS, C-SA, and C-SO

RECOMMENDATION 5

Apply the Permitting Thresholds for Commercial Recreation Centers in the C-DMU to All Commercial Districts

C-DMU Permit Thresholds	
Threshold (square feet)	Permit Required
under 5,000	ZC
5,000 – 10,000	AUP
over 10,000	UPPH

Permit Thresholds N'hood Comm	
Threshold (square feet)	Permit Required
under 1,500	ZC
1,500 – XXX	AUP
over XXX	UPPH

Follow Up: Discuss permit threshold for AUP-UP(PH) in Neighborhood Commercial.

Districts Affected: All Commercial districts except C-DMU

See pages 10-11 and 133 of agenda packet for info on commercial space sizes.

RECOMMENDATION 5 (CONT)

Proposed Commercial Recreation Permit Thresholds				
Land Use Designation	Zoning District	District Title	Size Threshold (square feet)	Permit Required
Neighborhood Commercial	C-E, C-N, C-NS, C-SA*, C-SO	Elmwood, Neighborhood Commercial, North Shattuck, South Area*, Solano Avenue	Under 1,500	ZC
			1,500 - X,000	AUP
			Over X,000	UP(PH)
	*Portions of the C-SA are included in both the Neighborhood Commercial and Avenue Commercial General Plan designations.			
Avenue Commercial	C-I, C-T, C-W	General Commercial, Telegraph Avenue Commercial, West Berkeley Commercial	Under 5,000	ZC
			5,000 – 10,000	AUP
			Over 10,000	UP(PH)
Downtown	C-DMU	Downtown Mixed Use Commercial (Adopted 2016)	Under 5,000	ZC
			5,000 – 10,000	AUP
			Over 10,000	UP(PH)

RECOMMENDATION 6

Allow incidental service of beer and wine at Food Service Establishments with a ZC. Codify performance standards.

Currently an AUP is required -- however, applications for beer and wine incidental to food service are non-controversial and rarely denied. Applicants must apply for additional permits through ABC.

Conditions of Approval (associated with AUPs) have been proven over time to effectively limit detriment and will be codified in Section 23E.16.040 (Alcoholic Beverages).

Districts Affected: All Commercial Districts

PLANNING COMMISSION ACTIONS - SUMMARY

- Recommendation 1: Remove incremental change in parking associated with change of use?
- Recommendation 2: Condense Food Service Categories?
 - **Set Parking Ratio & C-DMU threshold. Consider C-T/C-W UP(PH) & C-E 1,000 ft² cap.**
- Recommendation 3: Reduce level of discretion from UP(PH) to AUP for large commercial spaces?
- Recommendation 4: Reduce level of discretion from UP(PH) to AUP for “uses deemed compatible”?
- Recommendation 5: Apply C-DMU thresholds to CRCs in Ave-Comm?
 - **Set N’hood Comm AUP-UP(PH) threshold.**
- Recommendation 6: Reduce level of discretion from AUP to ZC for beer/wine incidental to seated food service?

NEXT STEPS

- Clarifying Questions
- Open Public Hearing
- Hear Testimony
- Close Public Hearing
- Deliberate
- Take Action -- directing Staff to finalize ZO amendments and forward to City Council for approval