

**CITY OF PLACERVILLE
Community Development Department
STAFF REPORT**

DATE: 12/2/2016

PROJECT: Zone Change 10-01

REQUEST: Proposed amendments to the City Zoning Ordinance relating to used merchandise stores, pawn shops, antique stores and consignment stores in various commercial zoning districts Citywide.

APPLICANT: City of Placerville

APPLICANT'S REPRESENTATIVE: Steve Calfee, Community Development Director

LOCATION: Citywide

CURRENT USE: Commercial/Retail (used merchandise stores, pawn shops, antique stores and consignment stores).

GENERAL PLAN DESIGNATION: Central Business District, Commercial, Heavy Commercial, and Highway Commercial

ZONING: CBD, C, HC, and HWC

ENVIRONMENTAL DOCUMENT: This matter is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines - Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, directly or indirectly.

RECOMMENDATION On March 2, 2010, the Placerville Planning Commission conducted a public hearing on this matter. At the conclusion, the Planning Commission voted 3-1 to recommend that the Placerville City Council adopt the Code changes described herein. In doing so, it is requested that the City Council

introduce the attached Ordinance relating to used merchandise stores and waive the first reading of said ordinance.

BACKGROUND / DISCUSSION

At the regular City Council meeting of October 27, 2009, Staff presented the City Council a recommendation to adopt a 45-day Urgency Ordinance on the establishment, expansion or relocation of used merchandise stores in order to offer Staff the opportunity to examine the City's Zoning Regulations with respect to used merchandise stores. The matter was presented to City Council because, within the last year, four used merchandise stores were established in the Placerville Drive area (for a total of five) and a sixth store was being considered for location within the Placerville Drive Development and Implementation Planning area. An additional store was slated to open on lower Main Street, while yet another operates in the Broadway commercial corridor. A copy of the Urgency Ordinance and Memorandum related thereto are included as **Attachment A** and **Attachment B**, respectively. The City Council voted unanimously to adopt the Urgency Ordinance for the initial 45-day period. Further, Staff was directed to assemble a committee that included members of each of the three business districts as well as several members from the used merchandise industry and a community member at large. The committee was chaired by Councilmember Machado. The volunteer committee met three times regarding this matter. Further, this matter was formally presented to the Placerville Downtown Association, the Placerville Drive Business Association, and the Broadway Village Association.

The first task that the committee undertook was to define the use(s) for purposes of discussion. In doing so, the committee concluded that used merchandise stores actually involve four separate definitions, which include Pawn Shops, Consignment Stores and Antique Stores. The committee generally agreed upon the following definitions:

Used Merchandise Store. An exclusively indoor retail establishment which primarily sells or resells common contemporary household, clothing, consumer products, appliances and similar products. Such uses include, but are not limited to, "Thrift" stores, "Salvation Army" stores, "Goodwill" stores, "Second Hand" stores, and "Charity" stores. This definition includes used merchandise stores that are operated for-profit as well as non-profit, charitable or religious organizations.

Pawn Shop. An exclusively indoor retail use in which any person, firm or corporation, other than banks, trust companies or bond brokers who may otherwise be regulated by law and authorized to deal in commercial papers, shares of stock, bonds and other certificates of value, who keeps a loan or pawn office or engages in or carries on the business of receiving jewelry, precious stones, valuables, firearms, clothing or personal property, or any other article or

articles in pledge for loans or as security or in pawn for the repayment of monies, and exacts an interest or any other charge for such loans.

Consignment Store. An exclusively indoor retail establishment whose primary service is to receive a new or used retail product from a second party who entrusts the establishment to reimburse the second party, or trustee, upon the sale of the consigned retail product.

Antique Store. An exclusively indoor retail establishment whose primary products that are sold or exchanged derive their value from the fact that the products belong to, or were made in, a former period, as compared to a present or contemporary good or product.

The second task was to evaluate the City's commercial zoning districts and identify which districts would be appropriate to accommodate the four uses defined above. Generally speaking, the City has four commercial zoning districts. These are:

- **CBD** – Central Business District (lower Main Street to Cedar Ravine)
- **C** – Commercial (Placerville Drive and Main Street east of Cedar Ravine)
- **HC** – Heavy Commercial (EID/Mosquito Road area)
- **HWC** – Highway Commercial Zone (Highway 50/Forni Road/Placerville Drive and most of Broadway)

The four districts and their purpose (which mirrors the General Plan) are described in further detail below.

CBD, Central Business District (lower Main Street to Cedar Ravine):

1. Provide for a broad range of pedestrian-oriented commercial, institutional and public uses.
2. Protect the downtown area from encroachment by unrelated and incompatible uses.
3. Differentiate the downtown area from all other land use designations because of its unique character.

C, Commercial (Placerville Drive area and Main Street, east of Cedar Ravine):

1. Provide the land necessary for retail sales and services, entertainment and other light commercial activities to serve the residents of the community.
2. Provide for the development of commercial facilities concentrated in well-planned areas properly located in relation to access, topography and residential areas.
3. Create conditions conducive to a convenient and desirable environment for customers and employees, and protect it from the encroachment of

objectionable or dangerous uses and uses which could be located in areas less suited for light commercial activities.

HC, Heavy Commercial (EID/Mosquito Road area):

1. Provide the land necessary for wholesale, bulk storage, industrial services, manufacturing, processing, packing and other heavy commercial activities to serve the community, and provide employment and income for its residents.
2. Provide for the development of heavy commercial, industrial and service facilities, concentrated in well-planned areas properly located in relation to utilities, access, topography and residential uses.
3. Create conditions conducive to a convenient and desirable working environment, control the objectionable or dangerous effects of certain uses necessary in the community but detrimental to other areas, and protect the areas designated under this zone against the encroachment of uses which could be better located in areas less suited for heavy commercial activities.

Highway Commercial (Hwy. 50/Forni Road/Placerville Drive and most of Broadway):

1. Provide for freeway-oriented uses, such as fast-food restaurants, gas stations and other uses which are necessary and convenient to the traveling public.
2. Provide for the development of highway commercial facilities concentrated in well defined and designed areas.
3. Create conditions conducive to a convenient and desirable environment for customers and employees.
4. Protect areas in this designation from encroachment by unrelated and incompatible uses.
5. Differentiate freeway and travel-oriented uses from those of the downtown business district and other light commercial areas.

In each of the four commercial districts described above, there are areas where certain uses are allowed outright and uses which may be permitted conditionally given certain circumstances. The uses allowed outright are those which generally require no discretionary approvals and the conditional uses require Planning Commission approval. In granting a Conditional Use Permit, the Commission must generally find the following:

1. That the proposed use is generally consistent with the City's General Plan.
2. That the use is found to be not detrimental to public health and safety.
3. That the use will not impact a site or surrounding properties.
4. That the use will not unreasonably impact traffic or circulation.

It implies that a Conditional Use Permit may be “conditioned” to address potential impacts such as noise, light, odor, hours of operation, etc., so that a use not normally compatible to a certain area may be found to be compatible with such conditions. A Conditional Use Permit may be revoked if the terms or conditions of the permit are not met or are violated.

The following represents the general consensus of the three business groups as well as the seven-member advisory committee chaired by Councilmember Machado. The uses/definitions stated above were recommended to be categorized or placed in the following zoning districts:

- **CBD - Central Business District**
 - Allowed by right: Pawn Shop, Consignment Store, Antique Store
 - Conditional uses: Used Merchandise Store
- **C - Commercial**
 - Allowed by right: Used Merchandise Store, Pawn Shop, Consignment Store, Antique Store
 - Conditional uses: None
- **HC - Heavy Commercial**
 - Allowed by right: None
 - Conditional uses: Used Merchandise Store, Pawn Shop, Consignment Store, Antique Store
- **HWC - Highway Commercial Zone**
 - Allowed by right: None
 - Conditional uses: Used Merchandise Store, Pawn Shop, Consignment Store, Antique Store

While, by definition, the uses described above are for “exclusively indoor” retail activities, in those circumstances where a Conditional Use Permit is required in a particular zoning category, the Planning Commission may have the discretion to consider other operational facets of the use, including: method of merchandise intake, merchandise storage, hours of operation, signage, limitations on outdoor marketing, and the like, and condition the use accordingly.

A great deal of discussion and deliberation has been conducted in regard to used merchandise stores, et al., in a Highway Commercial Zone. In discussing the land uses/stores as ones which may be permitted as conditional uses (Planning Commission approval), the committee felt that the land uses/stores could potentially be compatible with the Highway Commercial Zone, however Staff notes that the primary purpose of the zone is to provide for freeway-oriented uses such as fast food restaurants, gas stations, and other uses which are necessary and convenient to the traveling public, i.e., the underlying purpose of the district. By placing the land uses/stores as conditionally permitted, the Planning Commission is afforded the discretion to review requests on a case-by-case basis. In evaluating the purpose of the Highway Commercial district, Staff

is concerned that the necessary findings to approve the land uses may be legally deficient. For example, the Planning Commission would be required to find that in granting the use, the use must be compatible with the General Plan, noting that the purpose of the Highway Commercial Zone is to provide for freeway-oriented uses.

Perhaps the best way to describe the compatibility issue is to describe two separate scenarios. For example, if a Used Merchandise Store, Pawn Shop, Antique Store, or Consignment Store were to occupy a tenant space within a shopping center in a Highway Commercial Zone, a finding of consistency may be sustained in that the use would be one tenant in a shopping center where the shopping center generally caters to the traveling public. Conversely, if a Used Merchandise Store, Pawn Shop, Antique Store, or Consignment Store were to seek approval for a stand-alone use (not accessory to a shopping center), then Staff believes the findings of consistency with the General Plan would not only be difficult to support, but would place decisionmakers in a difficult situation in terms of making such findings of consistency and the findings may not be legally sustainable. Simply stated, such a use could be found consistent with the General Plan if it is incidental to a shopping center which caters to the traveling public but not so in a stand-alone use.

On February 9, 2010, Staff presented the above recommendation of the committee and business groups to the City Council for further direction. On the same date, the City Council voted to direct Staff to formally initiate amendments to the Zoning Ordinance as described above. The Code requires that such matters be referred to the Planning Commission for a public hearing and recommendation to the City Council. On March 2, 2010, the Planning Commission conducted a public hearing on the proposed code changes outlined above.

RECOMMENDATION

Conduct a public hearing on the Zoning Ordinance amendments discussed above and make a recommendation to the City Council. The Planning Commission recommends that the City Council adopt the proposed code amendments attached hereto via the following action:

1. Adopt the Staff Report as part of the public record.
2. Acknowledge that this matter is categorically exempt environmental review, pursuant to California Environmental Quality Act ("CEQA") Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines - Title 14, Chapter 3 of the California Code of Regulations), because it has no potential for resulting in physical change to the environment, directly or indirectly.

3. Make the following findings:
- A. That the City of Placerville last updated its zoning regulations in 1991 to ensure that the City's zoning regulations are consistent with the goals, policies and standards set forth in the City's General Plan;
 - B. That the zoning regulations have not been substantially evaluated since 1991 to the extent that the location, characteristics and density of used merchandise stores and similar stores within the City were not thoroughly considered;
 - C. That used merchandise stores are not clearly defined in the Zoning Code, nor are such stores clearly categorized into commercial zoning categories;
 - D. That the proposed zoning ordinance amendments described herein are consistent with the following General Plan Goals and Policies:
 - i. Land Use Element Goal C, which states:

“To protect and provide for the expansion of Placerville's commercial services sector to meet the needs of both Placerville area residents and visitors.”

and
 - ii. The accompanying policies which state:
 - 1. The City shall promote the development and renewal of the downtown as the commercial center of Placerville.
 - 2. The City shall assist the private sector in maintaining and improving the economic viability of downtown through the provision of public facilities and services and the enactment of land use policies and decisions supportive of downtown's primary commercial role.
 - 4. The City shall encourage the establishment of new commercial businesses in Placerville that provide services currently not being provided in the Placerville area, create jobs appropriate to the skills of the local labor force, and broaden the revenue base of the City of Placerville.

8. The City shall limit highway commercial uses to areas near Highway 50 interchanges, subject to their compatibility with adjacent areas.

9. The City's planning for commercial areas shall be guided by the following principles:

- a. Contribute to the City's objective to become a balanced community.
- b. Have a positive economic impact on the community.
- c. Provide for adequate parking and vehicular areas.
- d. Be designed and landscaped in a manner sensitive to Placerville's character.

4. Amend City Code Section 10-1-4, adding the following definitions, in alphabetical order:

Antique Store. An exclusively indoor retail establishment whose primary products that are sold or exchanged derive their value from the fact that the products belong to, or were made in, a former period, as compared to a present or contemporary good or product.

Consignment Store. An exclusively indoor retail establishment whose primary service is to receive a new or used retail product from a second party who entrusts the establishment to reimburse the second party, or trustee, upon the sale of the consigned retail product.

Pawn Shop. An exclusively indoor retail use in which any person, firm or corporation, other than banks, trust companies or bond brokers who may otherwise be regulated by law and authorized to deal in commercial papers, shares of stock, bonds and other certificates of value, who keeps a loan or pawn office or engages in or carries on the business of receiving jewelry, precious stones, valuables, firearms, clothing or personal property, or any other article or articles in pledge for loans or as security or in pawn for the repayment of monies, and exacts an interest or any other charge for such loans.

Used Merchandise Store. An exclusively indoor retail establishment which primarily sells or resells common contemporary household, clothing, consumer products, appliances and similar products. Such uses include, but are not limited to, "Thrift" stores, "Salvation Army" stores, "Goodwill" stores, "Second Hand" stores, and "Charity" stores. This definition includes used merchandise stores that are operated for-profit as well as non-profit, charitable or religious organizations.

5. Make the following amendments to Title 10 of City Code:

- A. Amend City Code Section 10-5-14(c), adding the following uses as uses permitted by right in a Central Business District (CBD): Pawn Shop, Consignment Store, Antique Store, and adding the following use as a Conditional Use permitted in a Central Business District (CBD): Used Merchandise Store;
 - B. Amend City Code Section 10-5-15(b), adding the following uses as permitted by right in a Commercial District (C): Used Merchandise Store, Pawn Shop, Consignment Store, Antique Store;
 - C. Amend City Code Section 10-5-17(c), adding the following uses as Conditional Uses permitted in a Highway Commercial District (HWC): Used Merchandise Store, Pawn Shop, Consignment Store, Antique Store;
 - D. Amend City Code Section 10-5-18(c), adding the following uses as Conditional Uses permitted in a Heavy Commercial District (HC): Used Merchandise Store, Pawn Shop, Consignment Store, Antique Store.
6. Introduce the Ordinance attached hereto and waive the first reading.

Steve Calfee
Community Development Director

John W. Driscoll
City Manager/City Attorney

Attachments: **A-B**