

PC Case #192

TO: Plan Commission

FROM: Patrick D. Benjamin, Community Development Director
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DATE: June 29, 2009

RE: **ZONING CODE AMENDMENTS – C-1 Central Commercial District, Changes to Permitted and Special Use Lists**

I. BACKGROUND

The Village's Zoning Code was comprehensively amended in 1991. Since that time the Zoning Code has been amended many times in mostly small ways. Most recently, certain bulk, yard, and space regulations in the single family residential districts were revised in October 2007.

Since 1991, the lists of permitted and special uses for the various zoning districts have been amended from time to time for particular reasons, but the lists have not undergone comprehensive review. It is useful and appropriate to review use lists from time to time. Over time, the character and demographics of a community change, and so does the character of a particular district. Further, some existing uses evolve in character and new uses come into being as well.

When that happens, not all of the uses that previously have been authorized in a zoning district necessarily continue to best serve the intent and purposes of that district. And uses that have not previously been listed ought to be considered because they may enhance a zoning district.

The Staff has been planning to undertake review of the uses lists in the Zoning Code after completion of the residential component of the current phased review of the Zoning Code. The recent news that a pawnshop owner seeks to locate a store within the C-1 Central Commercial District has served as a reminder that the permitted and special use lists in the C-1 District need review to determine whether the currently authorized uses best serve the intent and purposes of that district and the general welfare of the Village as a whole.

The Staff, with the assistance of Village Attorney Mark Burkland, has reviewed the C-1 District permitted use list (ZC §5-102) and special use list

(ZC §5-105) and makes the recommendations listed in Part III of this memorandum.

II. THE SIC MANUAL CODE NUMBERS

Uses lists in the Zoning Code are designated according to the Standard Industrial Classification (“SIC”) Manual. The SIC Manual classifies uses by type of activity. It codes those activities in broad categories called “divisions,” then subdivides the activities into “major groups,” and then further into categories called “industries” and subcategories.

Each major group has a two-digit code number. For example, Major Group 57 is called *Home Furniture, Furnishings, and Equipment Stores*. Each industry within Major Group 57 adds a digit to the code number 57. For example, the third-listed industry within Major Group 57 is called *Radio, Television, Consumer Electronics, and Music Stores* and has the code number 573. Subcategories under Industry 573 add one last digit to the code number. For example, the subcategory *Computer and Computer Software Stores* has the code number 5734.

We use the code numbers from the SIC Manual for most uses in our Zoning Code. They are shown in parentheses next to the uses. This approach has the very important advantage of being very specific about what uses are allowed. Any use that is not specifically listed is prohibited.

When our Zoning Code includes a use with a three-digit code number, then all of the uses in the SIC Manual under that three-digit number are allowed. For example, the permitted use list in the C-1 District includes *C16. Radio, Television, Consumer Electronics, and Music Stores (573)*. This means that all the uses in the SIC Manual under code number 573 are permitted, including *Consumer Electronic Stores (5731)*, *Computer Stores (5734)*, and *Sheet Music Stores (5736)*, among others.

Notably, in some cases, the Zoning Code lists a broad category, but then excludes some of the specific uses listed within that category because they are not in character with the district. For example, the C-1 District permitted use list includes *E3 Laundry, Cleaning, and Garment Services (721)*, but then excludes two of the uses within that category—*dry-cleaning plants (7216)* and *industrial launderers (7218)*.

III. PROPOSED AMENDMENTS

A. Permitted Use List (ZC §5-102)

The Staff has reviewed all of the permitted uses in the C-1 District and recommends the following changes to the currently authorized uses:

Deletions from the Permitted Use List

- *Used building materials stores (5932)*. This use falls within the *Used Merchandise (593)* industry. The Staff thinks that allowing a store that specializes in used building materials could lead to “junk” shops that sell large scraps of materials. Such a use would not be consistent with the character of the Village’s core retail district.
- *Pawnshops (5932)* - This use also falls within the *Used Merchandise (593)* industry. The principal focus of a pawnshop is the pawn transaction—that is, a short-term, high-interest loan. The retail component of a pawnshop is relegated to miscellaneous, used personal items that not are redeemed. For this reason, the Staff thinks pawnshops do not support the character of the Village’s core retail district.
- *Retail ice dealers (5999)*. This use falls within the *Miscellaneous Retail Stores (5999)* category. It is antiquated and no longer relevant in the Village.
- *Monuments (retail) (5999)*. This use also falls within the *Miscellaneous Retail Stores (5999)* category. Because the Zoning Code already prohibits sales of tombstones and gravestones, the Staff thinks monuments also should be prohibited. Sales of tombstones, gravestones, and monuments are not consistent with the pedestrian-oriented scale of the Village’s core retail district.
- *Swimming pools (not installed, retail) (5999)*. This use also falls within the *Miscellaneous Retail Stores (5999)* category. The Staff feels that the large store that would be required to support sale of swimming pools is not consistent with the pedestrian-oriented scale of the Village’s core retail district.

Additions to the Permitted Use List

- *Photography Studios* (allow on the first floor). This use currently is permitted within the C-1 District, but not on the first floor in the core retail district. The Staff has had requests to include this use on the first floor. In addition, this is a retail sales tax generating use that would be compatible with the Village's core retail district.
- *Wine and Beer Stores in conjunction with retail sale of food (5921)*. The Village currently has retail establishments that sell wine and food in the core retail district. This new use would acknowledge the appropriateness of those uses.
- *Consumer Lending (NAICS 522291), but not including loan agents, consumer loans, or payday loans* (allow only above the first floor). This category is currently permitted. This revision to the permitted use list would narrow the category by excluding specific uses, including payday loans and personal loan agents and companies. In this case, the Staff is recommending reference to the North American Industrial Classification System ("NAICS") Manual, because that manual is more specific, and thus more protective of the Village, in this particular use category.
- *Personal physical fitness training/supervised exercise facilities with related retail sales, but not greater 3,500 square feet in area (NAICS 713940)*. The Staff currently has an application for a small workout facility called the *Dailey Method*, which is not currently permitted within the C-1 District. The proposed use would combine personal training with non-impact fitness classes and would require a visible retail component—being high-end women's workout apparel in the case of the *Dailey Method*.

The Staff recommends the imposition of a maximum space limitation on these facilities because, while a small, supervised exercise facility would add value to the Village's core retail district, a sprawling health club on the first floor in the core district would not be so valuable and potentially could create traffic congestion and parking issues.

If the Plan Commission determines that a larger health club facility above the first floor would be appropriate in the C-1 District, then the Staff recommends adding those facilities as a special use, as shown below under Additions to the Special Use list.

- *Massage Therapy Services (7299), but only accessory to Beauty Shops, Exercise Centers, Fitness Salons, and Spas.* This category would not include free-standing massage parlors but would allow massage services when located within other fitness or beauty facilities. State law requires that massage specialists be licensed.

B. Special Use List (ZC §5-105)

The Staff has reviewed all of the special uses in the C-1 District and recommends the following changes to the currently authorized uses:

Additions to the Special Use List

- *Exercise Centers, Fitness Salons, and Spas (NAICS 713940)* (allow only above the first floor). As stated above, the Plan Commission could recommend that general exercise facilities be authorized above the first floor in the C-1 District, but only as a special use because of the potential traffic and parking impacts that a larger facility might create.
- *Bowling Centers (7933)*. This is consistent with the recommendation in the Comprehensive Plan to encourage entertainment downtown. The Staff recommends that this use be added as a special use because of the potential traffic and parking impacts of a large entertainment use.

Deletions from the Special Use List

- *Yoga Instruction (7999)*. If the Village adds small fitness facilities as a permitted use as recommended above by the Staff, then this use would no longer be required on the special use list.
- *Firearms and Ammunition – retail (5941)*. The Staff thinks that this use is no longer appropriate in the C-1 District (or anywhere else in the Village).

IV. STANDARDS FOR GENERALLY APPLICABLE AMENDMENTS

As set forth in Section 14-605 of the Zoning Code, the standards applicable to an amendment of general applicability (rather than a specific parcel of property) are as follows:

1. *The consistency of the proposed amendment with the purposes of this Code.*

Among the purposes of the Zoning Code as stated in Section 1-102 are (a) to protect and enhance the taxable value of land and buildings and (b) to protect the public health, safety, and morals, and the general welfare of the Village.

The Staff believes the changes it is recommending are consistent with the intent and purposes of the Zoning Code as well as of the C-1 District.

2. *The community need for the proposed amendment and for the uses and development it would allow.*

As stated in Section 5-101 of the Zoning Code, the C-1 District is intended to provide for the development and maintenance of a concentrated, pedestrian-oriented commercial shopping center, with special protection of the core of that district as a retail environment at street level.

The Staff believes the changes it is recommending will cause the use lists in the C-1 District to better serve the intent and purposes of that district, thereby protecting and promoting the essential retail character of the Village's core retail center.

V. RECOMMENDATION

Therefore, the Staff recommends that the Plan Commission consider amending Zoning Code §5-102 (the C-1 District permitted use list) and Zoning Code §5-105 (the C-1 District special use list) by adding and deleting uses as stated in Part III of this memorandum.