



# Planning & Transportation Commission

## Staff Report (ID # 12221)

**Report Type:** Action Items **Meeting Date:** 5/12/2021

**Summary Title:** 855 El Camino: Establish a Retail Health Definition

**Title:** 855 El Camino Real (20PLN-00252): Recommendation on an Applicant Request and Council Direction to Consider Establishing a Retail Health Definition and to Allow for Limited Ground Floor Retail Health Uses at Town & Country Village. Environmental Assessment: Exempt From CEQA in Accordance With Guideline Section 15301 (Existing Facilities). Zoning District: CC (Community Commercial). For More Information Contact the Project Planner, Claire Raybould at [Claire.Raybould@cityofpaloalto.org](mailto:Claire.Raybould@cityofpaloalto.org)

**From:** Jonathan Lait

### Recommendation

Staff recommends the Planning and Transportation Commission (PTC) take the following action(s):

1. Review the proposed Ordinance for inclusion of a Retail Health definition and a two-year limit to execute a lease, as directed by Council, and recommend that Council adopt the revised Ordinance in Attachment B, which allows for limited ground floor Retail Health Uses at Town & Country Village.

### Report Summary

Citing a trend in retail storefront vacancies that were exasperated by the pandemic, the owners of Town & Country Village requested a legislative amendment to the City's Zoning Code to permit medical office uses on the ground floor. Council held a public hearing on March 22, 2021 to consider the proposed project. In its motion, Council directed the PTC to review the proposed ordinance for inclusion of a Retail Health definition and a two-year limit to execute a lease (4-3; Dubois, Kou, Filseth dissenting). Council directed staff to return to Council with the revised Ordinance before the Council's summer break. The summer recess begins June 22, 2021.

The attached ordinance has been revised to reflect Council's direction. Specifically, the ordinance establishes a Retail Health definition as a subset to Medical Office uses in Palo Alto Municipal Code Chapter 18.04, and amends Chapter 18.16 to permit a limited amount of Retail Health uses on the ground floor at Town & Country Village. Modifications to Chapter 18.16 include additional limitations on this use to ensure that the use complements the existing pedestrian and retail environment at the site. This is consistent with previous recommendations discussed during the PTC and Council hearing. The ordinance provisions also establish a limit on the timeframe to execute a lease for a Retail Health use.

## Background

As discussed in previous staff reports to the PTC<sup>1</sup> and Council<sup>2</sup>, Town & Country Village began experiencing some vacancies prior to the COVID-19 pandemic, which the applicant attributes to shifts in retail trends. Since shelter in place began, Town & Country Village has experienced more significant increases in vacancies.

To minimize the number of reported vacancies and support existing retailers, the owner originally requested that 20% (30,049 square feet) of the ground floor area be converted to medical uses. Concerned about the amount of floor area potentially converting from retail and retail-like uses to medical office, staff recommended the PTC consider up to 15% (22,537 square feet) and a limit of 5,000 square feet for each medical tenant space. This size limit is intended to reinforce the ancillary and supportive role of medical uses to the broader retail environment at Town & Country Village.

The PTC in its review on February 10, 2021<sup>3</sup>, supported (3-2, Commissioners Summa and Lauing dissenting) the staff recommendation. PTC also added two other criteria: 1) any medical use established by the subject ordinance must terminate within 10 years and, 2) tenant leases must be signed before the end of the 2021 calendar year.

The owner was concerned about their ability to lease tenant spaces to a medical provider with no opportunity for a lease extension. In addition, because of the sometimes protracted process of getting a tenant to sign a lease before the year's end, the applicant presented to staff an alternative request to the PTC's recommendation prior to the Council hearing. The updated request included a conversion of 10% (15,025 square feet) of the existing ground floor area to medical uses without restriction to when the lease is signed or its term.

In the staff report to Council, staff recommended approval of this 10% conversion alternative for several reasons. First, the 10% conversion alternative would assign less floor area to medical

<sup>1</sup> The Staff report for the February 10, 2021, Planning & Transportation Commission hearing is available at: [tinyurl.com/855-ECR-First-PTC-Staff-Report](https://tinyurl.com/855-ECR-First-PTC-Staff-Report) and the minutes from this hearing are available at: [tinyurl.com/855-ECR-First-PTC-Minutes](https://tinyurl.com/855-ECR-First-PTC-Minutes)

<sup>2</sup> The Staff report for the March 22, 2021, City Council hearing is available at: [tinyurl.com/855-ECR-First-Council-Report](https://tinyurl.com/855-ECR-First-Council-Report) and the minutes from this hearing are available at: [tinyurl.com/855-ECR-First-Council-Minutes](https://tinyurl.com/855-ECR-First-Council-Minutes)

<sup>3</sup> A video of the February 10, 2021 Planning and Transportation Commission Hearing is available at: <https://midpenmedia.org/planning-transportation-commission-63-2102021/>

uses. Second, it provides a case study to better understand the relationship between medical uses in a mixed retail environment. Finally, it does not include the restrictions on tenancy that both the applicant and staff find problematic. Staff continued to support a 5,000 square foot limit on the size of any individual medical tenant space. The revised ordinance presented to Council included text amendments to Palo Alto Municipal Code Sections 18.16.050 and 18.16.060(e)(1) to effectuate this change.

In its review of the proposed project on March 22, 2021 Council directed the PTC to review the proposed ordinance for inclusion of a Retail Health definition and a two-year limit to execute any leases. The intent of Council's direction was that, in-lieu of allowing medical office uses, they may be more supportive a more narrowly defined retail health use. Following the PTC hearing, staff would return to Council for its consideration of an ordinance amending Chapter 18.04 to establish a Retail Health use and Chapter 18.16 to allow for limited Retail Health uses at Town & Country Village.

### **Project Description**

Consistent with Council's direction, the applicant has revised their project description to reflect a request for a legislative change in order to convert up to 10% of the ground floor space at Town & Country Village to Retail Health uses. The applicant's request letter is included in Attachment C. As outlined in Attachment C, the applicant is not proposing a two-year limit to execute a lease. The letter explains that because the use, with the stated restrictions, fits appropriately within Town & County Village, the applicant does not believe there should be any lease restrictions.

The applicant has outlined some examples of the types of tenants that they would intend to occupy these spaces, if allowed, including: membership-based primary care practices such as One Medical and Carbon Health; dental/braces services such as Invisalign and Candid; health and wellness services such as Modern Acupuncture and Hyper Wellness; and medi-spa services such as Awaken MD.

### **Analysis<sup>4</sup>**

As discussed in previous staff reports to the PTC and Council, staff finds the proposed project to be generally consistent with the Community Commercial land use designation and other goals and policies of the Comprehensive Plan. It facilitates a mix of uses that support a diverse retail environment while ensuring that this use is applied narrowly so that it is ancillary to existing and future retail uses at the shopping center. Although the previous analysis was provided for a broader allowance of medical use, these findings would not change based on the narrower Retail Health use suggested by Council.

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<sup>4</sup> The information provided in this section is based on analysis prepared by the report author prior to the public hearing. Planning and Transportation Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to take an alternative action from the recommended action.

Consistent with Council's direction, the ordinance establishes a retail health use in the Code and would allow 10% of the ground floor area at Town & Country Village to be converted to a Retail Health use, for a total of 21.4% office including existing second-floor office uses. The ordinance also identifies limitations on the Retail Health use, including limits on execution of a lease as well as limits on the location of the use and the design of any spaces with this use, as discussed further below.

#### Retail Health Definition

The proposed ordinance in Attachment B defines "Retail Health" as meaning "a Medical Office use that is 5,000 square feet or fewer providing preventative and diagnostic procedures, and other health-related procedures, not requiring convalescence or general anesthesia, but that may include basic patient-oriented laboratory services. The use shall include a storefront and entry lobby design (minimum 500 sf or 15%, whichever is less) that is consistent with a retail environment such as a reception desk or retail displays and display windows. Treatment rooms shall not be visible from the entry or exterior. Retail Health may include some Medical support retail uses (e.g. sale of eyeglasses or other eye care products) that meet these size restrictions and storefront requirements."

The proposed definition is intended to include two components. First, it defines the limited types of services that could be included in this type of use. These uses would not include services beyond basic preventative or diagnostic care. This could include services such as a wellness spa or chiropractor, basic care for diagnostic services or preventative services, basic patient-oriented laboratory services (e.g. blood draw, not a full R&D lab), or for services such as braces or Invisalign. These uses are similar to those allowed under medical office but would be more limited in that they would exclude uses that offer corrective treatment such as surgical procedures.

Second, this definition is intended to separate this use as a subset of medical office that is more retail-oriented. Specifically, the proposed definition of Retail Health use includes requirements for a retail-oriented frontage by requiring at least 15% of the total square footage or 500 square feet of the frontage, whichever is less, to be dedicated toward an entrance lobby design and/or retail displays; treatment rooms are not allowed to be visible from the exterior. Additional specific restrictions for this use within Town & Country Village are outlined below and proposed to be included in Chapter 18.16 of the code, as outlined in the proposed ordinance.

The purpose of including this use as a subset of medical office is to avoid an unintended consequence of impacting existing medical office uses that meet this more limited Retail Health definition. For example, if "Retail Health" were treated as a distinct land use, some existing medical offices would be considered non-conforming unless the applicable zoning district were also updated to allow "Retail Health." Similarly, there are some zoning districts in which Medical Office is permitted, but retail uses are not.

#### Limits on Retail Health Use



As discussed in previous staff reports, PAMC Section 18.16.050 currently restricts both the total amount of office uses at Town & Country Village to 15% of the site as well as the conversion of any non-office use on the ground floor to an office use. In order to allow for Retail Health to be located on the ground floor at Town & Country Village, a legislative change is required to modify these restrictions. The modified ordinance would allow a total of 10% of the ground floor to be converted from a retail or retail-like use to a retail health use. This is less than the total amount of medical office originally recommended by the PTC (15% of the ground floor). In addition, some restrictions on this land-use based on feedback from the PTC and Council have been proposed as part of the draft ordinance, including restrictions on location, design, and a time limit on execution of a lease.

Notably, as a result of Ordinance 5517, which becomes effective on May 12, 2021, Retail Health uses will not require a conditional use permit to establish at Town & Country Village. Ordinance 5517 makes a number of minor changes to the zoning code to support economic recovery, including a change to treat Medical Office under 5,000 square feet as a permitted use in the CC zoning district (subject to site specific limitations like the ones discussed in the preceding paragraph for Town and Country Village).

#### *Location*

Consistent with the PTC discussion at the February 10, 2021 PTC hearing, the applicant's revised proposal to Council suggested that the location of these uses should be limited to storefronts that do not face directly onto El Camino Real or Embarcadero Road. This requirement has been included in the ordinance for Retail Health uses.

#### *Design*

In order to ensure that Retail Health uses are compatible with surrounding retail uses and support the pedestrian environment in Town & Country Village shopping center, the new definition includes specific requirements for the design of the storefront (addition of a lobby space or retail display of a specific size). Additionally, the ordinance reflects a requirement that Retail Health uses at Town & Country Village have transparent storefronts at the entrance, similar to City requirements within the retail combining districts.

#### *Lease Restriction*

The PTC in its earlier review recommended that 1) any medical use established by the subject ordinance must terminate within 10 years and, 2) tenant leases must be signed before the end of the 2021 calendar year. Staff does not support term limits on a lease for several reasons. First, because it may require the termination of a successful business in 10 years. Additionally, term limits could be disruptive to residents using those medical services, and upfront tenant improvement costs may discourage some tenants from signing a lease that cannot be extended. Finally, the code enforcement effort that could be required to remove potentially successful businesses and the challenging dynamics of removing a potentially thriving businesses is of concern to staff. Council did not support lease termination.

The Council in its review agreed with the PTC's recommendation on limiting the timeline for execution of a lease and staff does not object to a limit on the timeframe for execution of a lease, consistent with that direction. Council recommended modifications to the ordinance to require a two-year time limit on the execution of a lease agreement. The proposed ordinance has been modified to reflect the Council's motion.

Staff notes that the applicant's proposed project does not include the limitations on execution of a lease for a Retail Health Use. As explained in Attachment C, it is the applicant's position that the limited definition and other restrictions on the use being proposed provides sufficient controls and restrictions for this use. In addition, they believe there is adequate evidence that the downward trend in traditional retail leasing at Town & Country Vantage and elsewhere is well-documented. Therefore they do not feel there is a need for the two-year lease execution limitation.

## **Environmental Review**

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, the project is exempt from CEQA in accordance with CEQA Guidelines Section 15301 (existing facilities). The proposed ordinance would allow for some of the tenant spaces within a mixed-use commercial center to change to medical office uses. The proposed medical office use would replace existing spaces that were recently occupied by retail or retail-like uses, which have similar environmental impacts to the medical office uses. In addition, the project involves only a small fraction of the overall square footage on the site. Therefore, this project results in negligible or no expansion of the use of existing facilities.

## **Public Notification, Outreach & Comments**

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper and mailed to owners and occupants of property within 600 feet of the subject property at least ten days in advance of the hearing. Notice of a public hearing for this project was published in the *Daily Post* on April 30, which is 13 days in advance of the meeting. Postcard mailing occurred on April 30, which is 13 days in advance of the meeting.

### **Public Comments**

During the Planning and Transportation Commission hearing, one member of the public provided comments on the proposed project; the same resident provided written comments in addition to the oral comments. The speaker expressed concern that nearby school uses, such as Stanford and Palo Alto High School, which are temporarily closed, will re-open, allowing retail businesses at the site to pick up again. The speaker also noted that the vacancy rate is not that much higher than it has been in the past. The resident expressed that the proposal to allow medical office use would not support retail because it reduces available retail spaces in the City and suggested that the applicant provide reduced rent to allow businesses to remain in

operation.

At the City Council hearing on March 22, 2021, that same member of the public spoke, expressing similar concerns as those expressed to the PTC. There were eight other written comments to Council, and these are included in Attachment D.

**Report Author & Contact Information**

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**PTC<sup>5</sup> Liaison & Contact Information**

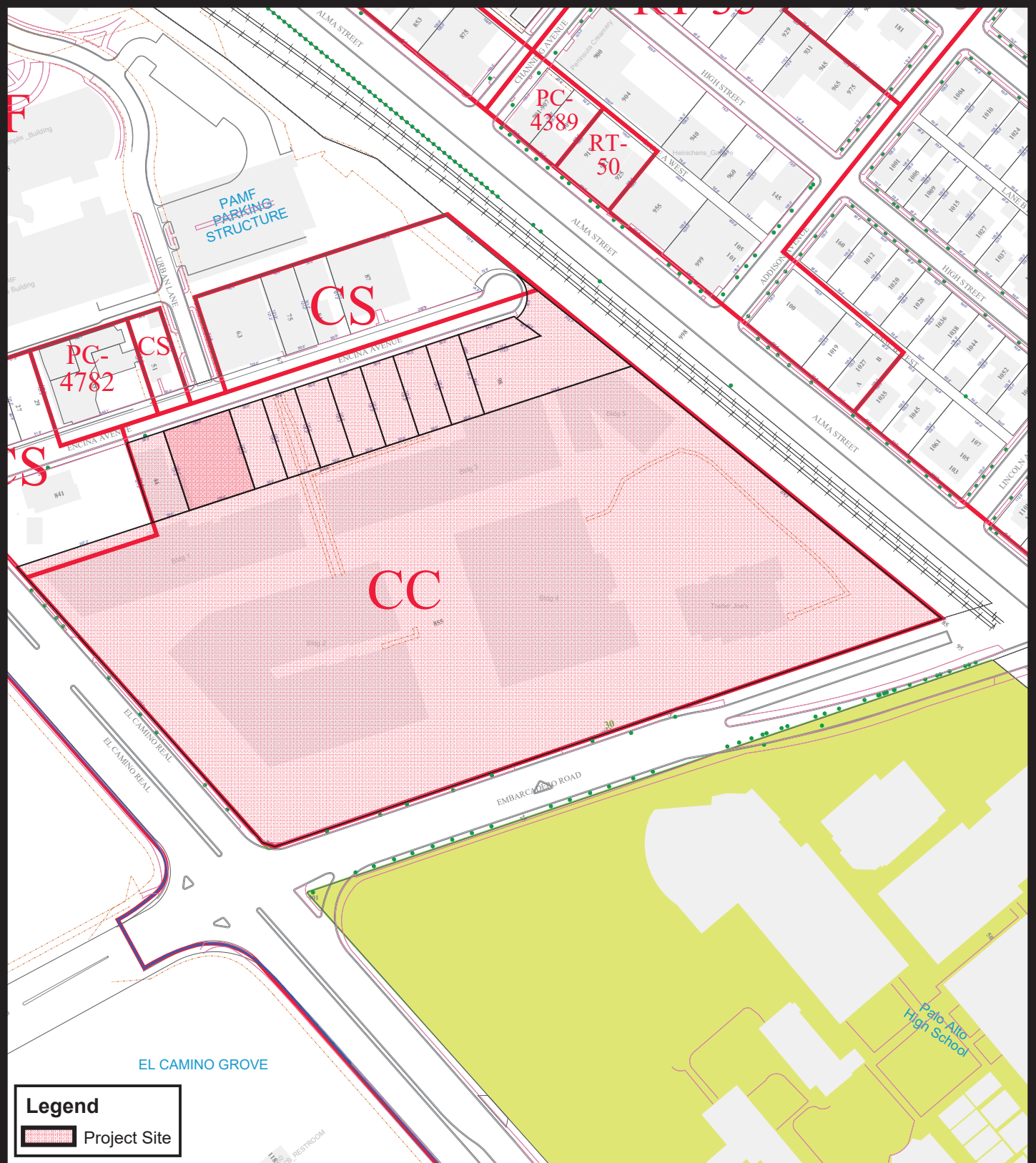
Rachael Tanner, Assistant Director  
(650) 329-2167  
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**Attachments:**

- Attachment A: Location Map (PDF)
- Attachment B: Proposed Ordinance (PDF)
- Attachment C: Applicant Request Letter (PDF)
- Attachment D: Public Comments (PDF)

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<sup>5</sup> Emails may be sent directly to the PTC using the following address: [planning.commission@cityofpaloalto.org](mailto:planning.commission@cityofpaloalto.org)



The City of  
Palo Alto



## Town & Country Village 855 El Camino Real

This map is a product of the  
City of Palo Alto GIS



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\*NOT YET APPROVED\*

Ordinance No. \_\_\_\_

Ordinance of the Council of the City of Palo Alto Amending Chapters 18.04 and 18.16 of Title 18 (Zoning) of the Palo Alto Municipal Code to Establish a Retail Health Use and to Allow A Limited Square Footage of Retail Health Uses on the Ground Floor at Town & Country Village

The Council of the City of Palo Alto does ORDAIN as follows:

**SECTION 1.** Findings and Declarations. The City Council finds and declares as follows:

1. On December 8, 2020, Ellis Partners, the owner of Town & Country Village, located at 855 El Camino Real, filed a request for a Palo Alto Municipal Code Zoning Text Amendment to allow a limited amount of medical office to be located within ground floor tenant spaces at the Town & Country Village shopping center.
2. As a result of the COVID-19 pandemic, Town & Country Village is currently experiencing a vacancy rate of 22.9%, which is 18.3% higher than the vacancy rate in January 2020 and significantly higher than vacancy rates experienced during the Great Recession, which peaked in 2010 at 7.8%.
3. Vacancies in retail environments can result in a domino effect, as reduced foot traffic to the shopping center because of vacancies can lead to additional vacancies.
4. Many of the tenants of Town & Country Village are smaller, independent businesses that have been more heavily impacted by the pandemic-fueled economic downturn.
5. Additional flexibility to allow some retail health uses on the ground floor will enhance the economic vitality of Town & Country Village while producing foot traffic similar to the retail and retail-like uses currently allowed on the ground floor.

**SECTION 2.** Subsection (a)(95) (Medical Office) of Section 18.04.030 (Definitions) of Chapter 18.04 (Definitions) of Title 18 (Zoning) of the Palo Alto Municipal Code is hereby amended to read as follows:

[. . .]

(95) "Medical office" means a use providing consultation, diagnosis, therapeutic, preventive, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans, licensed for such practice by the state of California. Incidental medical and/or dental research within the office is considered part of the office use, where it supports the on-site patient services. Medical office use does not include the storage or use of hazardous materials in excess of the permit quantities as defined in



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Title 15 of the Municipal Code. Medical gas storage or use shall be allowed up to 1,008 cubic feet per gas type and flammable liquids storage and use shall be allowed up to 20 gallons total (including waste).

- (A) “Retail Health” means a Medical Office use that is 5,000 square feet or fewer providing preventative and diagnostic procedures, and other health-related procedures, not requiring convalescence or general anesthesia, but that may include basic patient-oriented laboratory services. The use shall include a storefront and entry lobby design (minimum 500 sf or 15%, whichever is less) that is consistent with a retail environment such as a reception desk or retail displays and display windows. Treatment rooms shall not be visible from the entry or exterior. Retail Health may include limited Medical Support Retail uses (e.g. sale of eyeglasses or other eye care products) that meet these size restrictions and storefront requirements.

**SECTION 3.** Section 18.16.050 (Office Use Restrictions) of Chapter 18.16 (Neighborhood, Community and Service Commercial Districts) of Title 18 (Zoning) of the Palo Alto Municipal Code is hereby amended to read as follows:

#### **18.16.050 Office Use Restrictions**

The following restrictions shall apply to office uses:

- (a) Conversion of Ground Floor Housing and Non-Office Commercial to Office  
Medical, Professional, and Business offices shall not be located on the ground floor, unless any of the following apply to such offices:
  - (1) Have been continuously in existence in that space since March 19, 2001, and as of such date, were neither non-conforming nor in the process of being amortized pursuant to Chapter 18.30(I);
  - (2) Occupy a space that was not occupied by housing, neighborhood business service, retail services, personal services, eating and drinking services, or automotive service on March 19, 2001 or thereafter;
  - (3) Occupy a space that was vacant on March 19, 2001;
  - (4) Are located in new or remodeled ground floor area built on or after March 19, 2001 if the ground floor area devoted to housing, retail services, eating and drinking services, personal services, and automobile services does not decrease;
  - (5) Are on a site located in an area subject to a specific plan or coordinated area plan, which specifically allows for such ground floor medical, professional, and general business offices; or
  - (6) Are located anywhere in Building E or in the rear 50% of Building C or D of the property at the southeast corner of the intersection of Park Boulevard and California Avenue, as shown on sheet A2 of the plans titled “101 California Avenue Townhouse/Commercial/Office, Palo Alto, CA” by Crosby, Thornton, Marshall Associates, Architects, dated June 14, 1982, revised November 23, 1982, and on file with the Department of Planning and Development Services.
- (7) Are retail health uses located within Town & Country Village, provided that:

- (A) Total retail health uses on the ground floor shall not exceed 15,025 square feet (10%) of the ground floor area.



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(B) No retail health use shall face directly onto El Camino Real or Embarcadero Road.

(C) Exterior windows on the ground floor shall use transparent glazing. Low-e glass or minimal tinting to achieve sun control is permitted, provided that the glazing appears transparent when viewed from the ground level. Window coverings are not permitted on the ground floor during typical business hours. Where operations preclude transparency or where privacy requires window coverings other than at the entrance of the tenant space, pedestrian-facing windows shall include items of visual interest such as retail displays.

(D) Any lease for this use must be executed within two years of \_\_\_\_\_, 2021.

(E) Such retail health uses may replace retail or retail-like uses, notwithstanding the retail preservation requirements contained in Section 18.40.180.

(b) Size Restrictions on Office Uses in the CN and CS Districts

[. . .]

**SECTION 4.** Section 18.16.060 (Development Standards) of Chapter 18.16 (Neighborhood, Community and Service Commercial Districts) of Title 18 (Zoning) of the Palo Alto Municipal Code is hereby amended to read as follows:

#### **18.16.060 Development Standards**

(e) CC District Shopping Center Floor Area Ratio Regulations

- (1) The maximum floor area ratio for the Town and Country Village Shopping Center shall be .35 to 1; and office uses at said shopping center shall be limited to ~~15%~~ 36,579 sf (21.4% of the floor area of the shopping center existing as of August 1, 1989), except as further regulated by Section 18.16.050(a)(7). To the extent that Hotel use shall not be included as part of the .35 to 1 maximum floor area ratio, but shall not exceed an additional .25 to 1 floor area ratio, for a maximum site floor area ratio of .60 to 1.

**SECTION 5.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 6.** The Council finds that this Ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 for existing facilities.

\*NOT YET APPROVED\*

**SECTION 7.** This Ordinance shall be effective on the thirty-first date after the date of its adoption.

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Director of Planning and  
Development Services

## TOWN & COUNTRY VILLAGE

May 3, 2021

Mr. Jonathan Lait  
Director of Planning – City of Palo Alto  
250 Hamilton Ave  
Palo Alto, CA 94301

Dear Mr. Lait:

I am writing to you on behalf of Town & Country Village, which our firm, Ellis Partners, has proudly owned and operated since 2005. We appreciate your efforts in evaluating and processing our request for expanding the health and wellness uses at Town & Country as was discussed at the February 10, 2021 Planning and Transportation Commission hearing and subsequently at the March 22, 2021 City Council meeting. As you are aware, the City Council was supportive of allowing some form of medical or health-related uses on the ground floor of Town & Country, but asked that a narrower use definition be developed for these types of uses that are appropriate for a retail setting, as compared to the broader Medical Office definition.

We understand that city staff has developed a draft definition of a “Retail Health” use and based on initial drafts that we have seen. We believe that this definition would allow us to lease some of our vacant space to a category of medical/health tenant that we feel would be interested in and appropriate for the ground floor areas at Town & Country. If approved by the city for occupancy at Town & Country, these uses would bring much needed foot traffic to the center while maintaining the pedestrian-oriented, vibrant character of Town & Country.

As we understand it, Retail Health uses would have limitations in their operations and configurations and would be restricted to 5,000sf per tenant with approximately 15% of the space being set aside for attractive entry/reception and/or retail-oriented uses. In addition, we understand that these uses at Town and Country would be limited to approximately 15,000sf total and would not be permitted in locations facing El Camino and Embarcadero. See the attached theoretical plan showing how these requirements might be implemented at Town & Country. We believe that even with these limitations, the allowance of this type of use will play an important role in restoring occupancy in our vacant retail space and contribute to a return to vibrancy at Town & Country Village.

### **Background**

As we have recently discussed, retail sales and occupancy began to decline at Town & Country in 2017 with an average reduction of 4% per year from 2017-2019. This reduction was clearly due to the increasing prevalence of e-commerce since the majority of this sales loss impacted apparel, home goods, and books sales. The majority of our new vacancies during this period were in this sector of tenants which accounted for a vacancy increase from 2.6% to 8.2% during the 2017-2019 period. As you are aware, the COVID-19 pandemic had a disastrous effect on our retailers and restaurants such that our vacancy rate exceeded 20% in 2020 and remains over 20% today. While we are seeing signs that the pandemic impacts are lessening, it is widely believed that the over 40% increase in e-commerce that occurred during the pandemic will have lasting effects on consumer behavior and will only exacerbate the downward trend in traditional retail sales for many years to come. It is also widely known that increased retail vacancy levels can lead to a “death spiral” at shopping centers since all



retailers survive off of the foot traffic created by their neighboring stores. Our existing tenants have shared with us their concern about growing vacancy, co-tenancy and foot traffic which is impacting their lease renewal decisions. Restoring activity and vibrancy to Town & Country has never been more urgent.

We also want to stress that the dramatic increase in vacancy at Town & Country is despite our collective efforts to assist our tenants in any way we can such as providing outdoor dining within parking areas, enhancing our marketing and promotion efforts and voluntarily abating and/or deferring rent. We have successfully negotiated temporary agreements with over 60% of our retail tenants to enable them to stay in business while addressing the challenges of the new retail landscape and consumer needs.

### **The Good News**

The good news is that market for medical-related tenants is growing despite the pandemic and the e-commerce trends and we expect this new component of customer-facing merchandising to grow longer term. There are many examples of the types of medical service uses that we believe are suitable for a retail setting including membership-based primary care services such as: One Medical, Carbon Health and Forward; Dental/Braces services such as Invisalign and Candid; health and wellness services such as Modern Acupuncture, Hyper Wellness and B12LOVE; and Medi-Spa services such as Awaken MD and Orange Twist. Attached are sample photographs from some of these users' current locations. These types of tenant spaces would generally comply with the proposed Retail Health definition since they are typically geared toward pedestrian-facing retail settings and would be consistent with the character and merchandising mix at Town & Country. Additionally, their traffic and parking demand are generally consistent with retail use.

### **Finding the Right Balance**

We are unfortunately unable to take advantage of this growing demand since our zoning use restrictions are outdated and do not reflect the evolution of viable uses for successful shopping centers that provide the community what they need. Specifically, we are limited by our inability to lease ground floor space to medical services and limited to 15% overall for office uses. Allowing for these types of health and wellness services will allow Town & Country Village to offer more reasons to visit the property for these needs and to stay and shop for other goods and services at the property. It will also give us a much better chance of returning this cherished property to its pre-pandemic health despite the headwinds from e-commerce.

As such, in December 2020 we requested the following changes to the Palo Alto Planning Code to:

- Allow Medical Office uses to occupy up to 20% (30,049sf) of the ground floor at T&C; and
- Increase the sitewide office use to 30% (51,594sf).

Following the Planning & Transportation Commission hearing on February 10, 2021, city staff recommended approval of our request to the City Council with the adjustment of the Medical Office maximum to 15% and the sitewide office maximum to 20%. Based on feedback from the City Council, staff has recommended even further reductions and limitations to our initial request such as:

- Limiting uses to Retail Health tenants, pursuant to a new use definition to limit users to retail-oriented tenants;
- Further reducing the Retail Health use to 10% of the ground floor or 15,025sf;
- Limiting spaces to 5,000sf and in non-street frontage locations; and
- Limiting this to use to leases that are signed within two years.



We have carefully considered these amendments and the feedback we have received from the Planning and Transportation Commission and from the City Council over the past month. We are supportive of these proposed limitations and restrictions with the exception of the two-year limitation. While the use, size and configuration limitations will make our efforts to re-lease Town & Country Village more challenging, we believe that these proposed changes will still improve our chances of success in ensuring Town & Country's relevancy and vibrancy into the future despite the changing retail landscape.

Given that the downward trend of traditional retail at Town & Country pre-dates COVID-19 and that e-commerce usage has dramatically increased during the pandemic and is anticipated to continue to grow, we respectfully request the elimination of the two-year lease timeframe. We feel that the new Retail Health use definition and its size and configuration requirements create adequate controls to ensure that this use fits appropriately within the Town & Country fabric and therefore should not have any lease execution limitations.

### **Potential Financial Impacts**

We expect these proposed changes would mitigate the dramatic increase in ground floor vacancy and would drive badly needed foot traffic back to Town & Country which would have the effect of increasing retail sales volumes for the tenants that do survive. We believe that over the long term, having a full and vibrant center will produce more retail sales volume even with the Medical Office use component we are requesting. With that said, we understand that these changes might impact sales tax revenue that is important to Palo Alto. Pursuant to your request, we have endeavored to calculate the potential magnitude of these impacts on Palo Alto's sales tax revenue. Using the sales tax revenue from Town & Country reported in the March 8, 2018 City Auditor Report, which we found online, attached to this letter, we calculated the following:

- *Total Palo Alto Sales Tax Revenue from Town & Country (Annual Average based on 2016 and 2017 reported data):* **\$637,000**
- *Estimated Portion of Town & Country Sales Associated with In-Line Retail Spaces (excludes Trader Joes, CVS and Restaurants):* **27%**
- *Estimated Palo Alto Sales Tax Revenue from Town & Country from In-Line Retail Spaces:* **\$172,000**
- *Potential Reduction in Sales Tax Revenue to Palo Alto if ALL 15,100sf of the 66,488sf In-Line Retail was leased to Medical Office Tenants ( $15,100 \div 66,488 \times \$172,000$ ):* **\$39,000**

It is important to note that this represents a worst-case scenario in which ALL of the square footage that is given the more flexible use designation is actually converted from retail to medical office. For reference, this potential \$39,000 impact would only be an 6.1% reduction in the sales tax revenue associated with Town and Country and approximately 0.5% of total Palo Alto sales tax revenue. It is also worth noting that without the foot traffic generated by these potential new medical uses, we believe many of our remaining retail tenants that are currently generating sales tax will fail or experience significantly reduced sales resulting in a sales tax revenue reduction of similar or greater magnitude.

**Recent City Council Resolution**

As you are aware, the City Council held meetings on September 14, 2020 and November 9, 2020 to consider potential changes to retail zoning ordinances in response to the COVID situation and its impact on the market. Jim Ellis, one of our founding partners, addressed the Council at both meetings and explained the dire situation outlined above. As we understand it, the Council passed a motion on November 9, 2020 to: *"...quickly evaluate and propose changes to enable Diverse Retail Uses in more retail sites, including, food, medical, educational, financial and other professional office uses citywide or by district..."*.

We believe this Council action is consistent with the above requests.

As noted above, we have active interest from numerous Retail Health tenants for our vacant ground floor space including a signed Letter of Intent with an expiration date in several months if we cannot obtain the required approvals for this use. Every week is critical to our ability to maintain their interest in Town & Country and in Palo Alto in general. We appreciate your consideration of this request and look forward to hearing back from you regarding next steps.

Please call me at (415) 373-7706 with any questions on this matter.

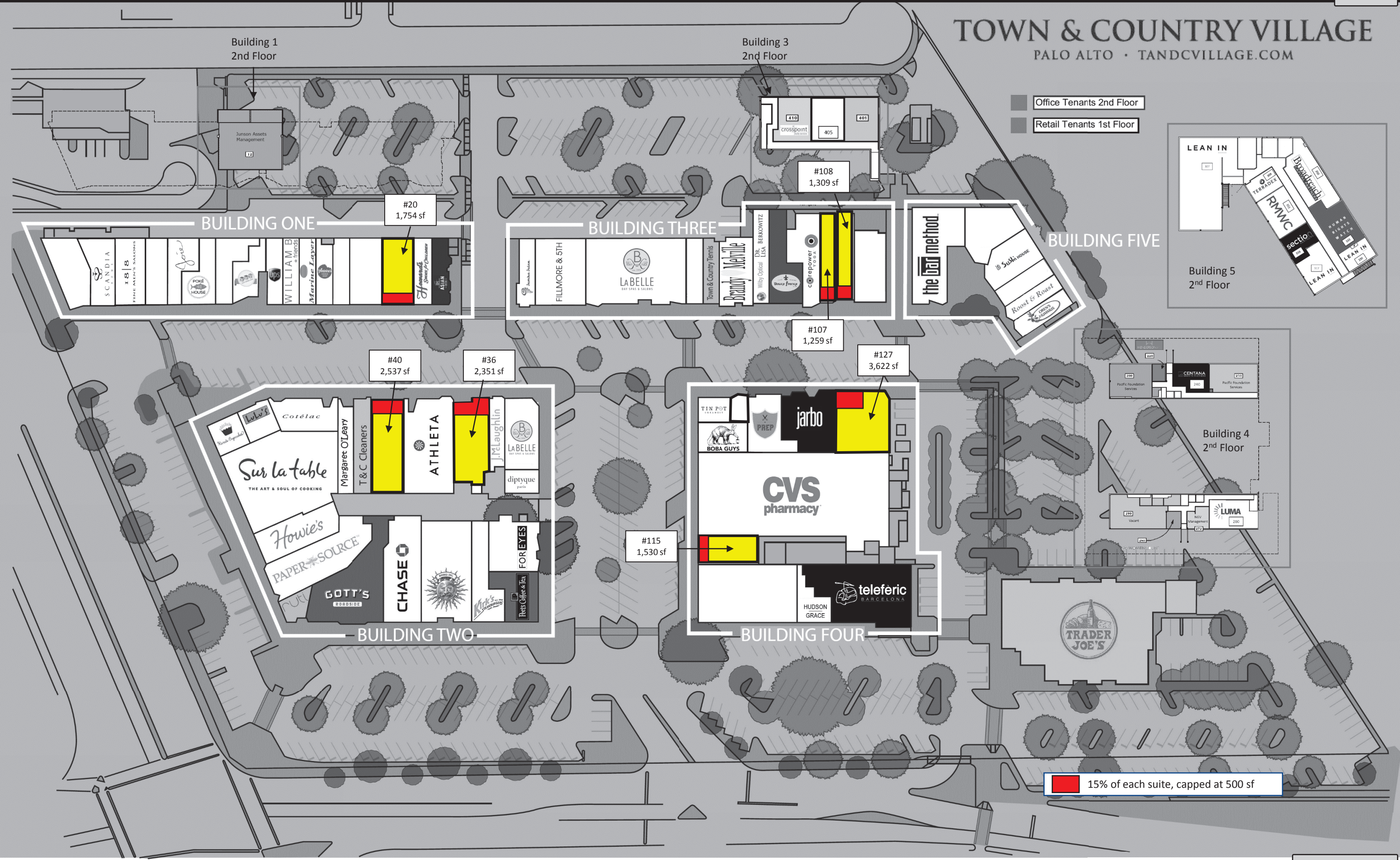
Best Wishes,



Dean Robinson  
Director of Development  
Ellis Partners

Attachments











**From:** [REDACTED]  
**To:** [Council, City; Clerk, City](#)  
**Subject:** March 22, 2021 Council Meeting, Item #3: 855 El Camino Real (20PLN-00252)  
**Date:** Sunday, March 21, 2021 5:28:27 PM

**CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.**

[REDACTED] 32  
 Palo Alto, CA 94302

March 21, 2021

Palo Alto City Council  
 250 Hamilton Avenue  
 Palo Alto, CA 94301

**MARCH 22, 2021 CITY COUNCIL MEETING, AGENDA ITEM #3**  
**855 EL CAMINO REAL (20PLN-00252)**

Dear City Council:

I urge you to remove this item from your agenda, because the proposed project is not exempt from the California Environmental Quality Act (CEQA) and requires either a Mitigated Negative Declaration or Environmental Impact Report before the Council can hold a public hearing on this application.

The staff report alleges that the project is exempt from CEQA pursuant to CEQA Regulation Section 15301 (Existing Facilities).

CEQA Regulation 15301 says,

"15301. EXISTING FACILITIES Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, *involving negligible or no expansion of existing or former use.*" (Emphasis Added)

I urge you to ask the City Attorney in open session whether I have accurately quoted the text of CEQA Regulation 15301.

The last two pages attached to the staff report for this agenda item show the floor area of each occupied use at Town and Country Village.

Only one leased space at Town and Country Village in location 82 (Dr. Berkowitz at For Eyes) is a medical office consisting of only 720 square feet.

The thousands of square feet of additional medical offices recommended is not a "negligible" expansion of an existing use as required by CEQA Regulation 15301.

Proceeding with your scheduled hearing on the basis of staff's proposed CEQA exemption is a violation of CEQA and a prejudicial abuse of discretion.

Planning Director Johnathan Lait's spouse's solo psychotherapy practice is currently prohibited from replacing retail uses on the ground floor at Town and Country Village Shopping Center, but would be permitted to replace retail uses if you adopt the proposed ordinance.

Does that fact mean that the proposed ordinance has a foreseeable material financial effect on Director Lait that is distinguishable from the public generally and that, therefore, he has a potential conflict of interest regarding the medical office language in the proposed ordinance?

Thank you for your consideration of these comments.

Sincerely,

[REDACTED]

**From:** [REDACTED]  
**To:** [Council, City](#); [Tanaka, Greg](#); [DuBois, Tom](#); [Burt, Patrick](#); [Cormack, Alison](#); [Stone, Greer](#); [Filseth, Eric \(Internal\)](#); [Kou, Lydia](#)  
**Subject:** Please reject the variance for first-floor medical at Town & Country  
**Date:** Saturday, March 20, 2021 3:09:14 PM

**CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.**

Dear Council,

Please reject the landlord's request for a variance to enable him to rent ground-floor space to medical offices, gyms, dental offices, etc.

The City gets no sales tax revenues from medical/dental services who staffs will take up much-needed parking that will hurt the existing struggling retail businesses.

Why the rush? Let retail recover from the pandemic.

The landlord has a 20+ year history of destroying retail tenants dating back to the 2000 dot.bomb crash when he refused to let long-term tenant Prestige Boutique move BACK into its smaller EMPTY space from the larger more costly space to which they'd moved. Ellis refused to make even that small accommodation to a long-term tenant and since then has done the same to Patrick James and Mayfield Bake

Please do the right thing and keep Town & Country "vibrant" with retail. Don't reward Ellis. Don't deprive the city of needed sales tax revenue.

Most sincerely

[REDACTED]  
 [REDACTED] Middlefield Road  
 Palo Alto, CA 94301

**From:** [REDACTED]  
**To:** [Council, City](#)  
**Subject:** Town & Country Retail  
**Date:** Sunday, March 21, 2021 5:31:19 PM

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Dear Mayor Dubois, Vice Mayor Burt & Council Members,

As I have stated before it is well known that Ellis is using the pandemic as an excuse to not negotiate with tenants and blames the vacancies on the virus.

Patrick James Clothiers and the Mayfield Restaurant and Bakery would still be in Town & Country Village center had Ellis worked with these strong tenants. The economy is improving and coupled with the public getting vaccinated will contribute to a better retail climate. All landlords have to plan for the ups and downs of doing business. It is shameful for this wealthy property owner to cry foul and attempt to get you, the city council, to bend to his design.

Please do not agree to medical services on the ground floor of Town & Country Village. Should you ignore what constituents want (retail on the ground floor) then these leases for medical services would remain and retail as we know it would be eliminated. The cachet of Town & Country would be severely diminished. This is not a common strip mall. The parking lots would be overwhelmed with the constant comings and goings of patients.

I have been going to Town & Country Village since I was a kid in the fifties. It provides patrons with an ambiance, stores, and restaurants that the public enjoys. It has served as a boon to many during the pandemic where they could frequent Douce France or browse for books at Books Inc. It is in contrast to the corporate mall which certainly has its place but does not offer the same experience.

California Avenue lost a florist, bakery, bookstore and art supply store. The last council wanted gyms on California Avenue. The character of the avenue has changed.

Therefore I ask that you retain our current retail zoning and do not allow medical services on the ground floor.

Respectfully yours,

[REDACTED]



**From:** [REDACTED]  
**To:** [Council, City](#)  
**Subject:** KEEP RETAIL ON THE GROUND FLOOR IN TOWN AND COUNTRY!!!  
**Date:** Sunday, March 21, 2021 7:18:17 PM

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To the PA Council:

Don't allow office space to overtake retail space in Town and Country! We need some place to shop!

Sincerely,

[REDACTED]

**From:** [REDACTED]

**Subject:**

Please do not allow medical at T&C. The consequences will be irreversible

**Date:**

Monday, March 22, 2021 9:26:17 AM

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**CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.**

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Dear Council -

Town and Country was a thriving retail and eating shopping center (with offices on the second floor) before the pandemic.

Give the environment a chance to 'grow back' it will not happen overnight.

We know that medical/offices provide a greater rent than retail - and this would be the goal of the property owners, 'highest and best use'

If Palo Alto needs more medical space, please allow offices to be converted, NOT retail.

There are plenty of offices available for conversion to medical.

Our spaces zoned for retail are precious - please keep them

[REDACTED]

**From:** [REDACTED]  
**To:** [Council, City](#)  
**Subject:** Town and Country Village Agenda Item 3  
**Date:** Monday, March 22, 2021 1:49:11 PM

**CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.**

Dear Mayor Dubois and Council Members,

Spot zoning for one particular commercial property company to provide them a permanent financial windfall because they complain that their business model isn't working is a terrible precedent to set.

It is not the responsibility of the city council to bail out particular property owners by spot-zoning to give them a permanent financial advantage. Although during the P&TC discussion Michael Alcheck proposed some conditions and limits that could be included to make council's approval more palatable, in reality any such "temporary" conditions are de facto permanent.

This is not the first time the council has been asked to change zoning codes for the benefit of certain commercial property owners. During a previous financial turndown and citing vacancies, council was asked to allow similar conversions of certain retail properties to offices along the University Avenue side streets. Council voted to allow "temporary" but not permanent conversions during the economic downturn, with the proviso that this come back to council after the economy recovered. While attaching such conditions may allow council to feel justified in voting in the affirmative, a lack of any systematic "institutional memory" means any conditions that require the city to automatically follow up at a later date are worth less than the paper on which they are printed. And I think one can assume that the property owners in question are hardly likely to do so.

Once again, the quality of the P&TC discussion and vote was disappointing. Particularly as some members of the commission appear to either regularly spend little, if any, time familiarizing themselves in advance, and/or lack the experience to understand in depth, the materials provided by staff. Leaving them unable to contribute much of substance and/or more than a shallow analysis of the complex land use issues pertaining to Palo Alto that come before the commission. While unfortunately, those with a greater understanding all too often may appear to be acting more as advocates for applicants rather than objectively representing the council and city.

Sincerely,

[REDACTED]  
 Cornell Street  
 Palo Alto

**From:** [REDACTED]  
**To:** [DuBois, Tom](#); [Burt, Patrick](#); [Kou, Lydia](#); [Cormack, Alison](#); [Tanaka, Greg](#); [Filseth, Eric \(Internal\)](#); [Stone, Greer](#); [Council, City](#)  
**Subject:** Town & Country  
**Date:** Monday, March 22, 2021 2:49:38 PM

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CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

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Dear Mayor Du Bois, Vice Mayor Burt and council members,

Please do not allow a vibrant Town & Country retail center to become a medical destination. We already have that next door at PAMF, other places in town, and nearby at Stanford.

Many times a week I'm a customer at the Village and it continues to be a very popular spot for dining, specialty services, all sorts of retail purchases - food, pharmacy, books, dry cleaning, clothing etc. It is unique to this town and quite a successful retail center.

Pre-pandemic T&C was thriving on all cylinders. At times it was difficult to find parking. They even had to offer valet parking to accommodate all the patrons. Then the pandemic hit. Things changed. Now as we emerge out of the pandemic people are returning, the center is busy and sales are increasing.

Prior to the pandemic a former council member was quite complimentary about the success of the center and the "mix" of tenants and that it should serve as a beacon and example for Cal Ave and other retail centers.

I've heard that the property owner started refusing to renew/negotiate leases for Mayfield restaurant and bakery, Patrick James and others. Those two businesses were thriving with longtime, repeat customers as well as new customers. Frequently there were lines out the doors at Mayfield.

Please keep T&C retail and do not allow medical offices as tenants.

Sincerely,

[REDACTED]

**From:** [Rubinson, Dean J.](#)  
**To:** [Council, City](#)  
**Cc:** [Raybould, Claire](#); [Lait, Jonathan](#); [Evers, Melinda Ellis](#); [Ellis, James F.](#); [Sarah MacIntyre](#); [Jeff Burkebile](#); [French, Amy](#)  
**Subject:** Town & Country Village  
**Date:** Friday, March 19, 2021 8:21:19 AM  
**Attachments:** [Town and Country Zoning Text Change Proposal 03-02-21 Final.pdf](#)

**CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.**

Dear Members of the Palo Alto City Council,

I am writing to you ahead of the March 22<sup>nd</sup> meeting at which we will be discussing our request to allow some degree of Medical Office Use at Town & Country Village. We believe the attached letter, which is included in the Staff Report, clearly outlines the dire leasing situation we are facing at this treasured asset and the fact that this condition is a result of long-term shifts towards e-commerce that are exacerbated by the COVID-19 pandemic, but will remain and likely worsen even after this health crisis subsides.

We have been thoughtful stewards of Town & Country since 2005 and have been carefully managing the merchandising mix in a way that creates a unique shopping experience for the community. However, the increased failures of our tenants is creating a dangerous downward spiral which will result in even greater vacancy unless we can restore foot traffic to the center quickly. We truly believe that allowing some degree of flexibility in leasing to Medical Office uses will restore this critical traffic to Town & Country while still maintaining its special charm.

We understand that there is concern that introducing these uses could change the overall experience at the center. Given the recent evolution of Medical Office uses towards retail and public facing settings (see images on the attached letter), we do not share these concerns. Furthermore, we believe that our revised proposal of 15,000sf or 10% of the ground floor (which is 50% of our original request), coupled with our agreement not to place these uses along street frontage, finds an appropriate balance, while meaningfully addressing the leasing and foot traffic crisis being faced at Town & Country.

As indicated in the Staff Report, we and Palo Alto Planning Department staff feel that this revised proposal results in a careful compromise that we truly hope you will support at Monday's meeting. If you have any questions or want any additional information ahead of that meeting, please feel free to email me or call me at (415) 373-7706 at any time, including this weekend, to discuss this important matter.

Thank you for your time and consideration,

Dean Rubinson

**Dean Rubinson**

Partner, Director of Development

[111 Sutter Street, Suite 800](#)

[San Francisco, CA 94104](#)

[415.373.7706](#)

[dean@ellispartners.com](#)

[www.ellispartners.com](#)

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