



Planning & Transportation Commission

Staff Report (ID # 14454)

Report Type: Action Items **Meeting Date:** 8/31/2022

Summary Title: Recommendation on Ordinance for CUP Thresholds

Title: PUBLIC HEARING / LEGISLATIVE. Recommendation of an Ordinance Amending Title 18 (Zoning) of the Palo Alto Municipal Code, Chapters 18.04 (Definitions), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC and CS) Districts), 18.18 (Downtown Commercial (CD) Districts) and 18.30 (A) and (C) – the Retail and Ground Floor Combining Districts to Update Definitions, Broaden Permissible Uses, Limit Certain Uses and Update Thresholds for Conditional Use Permits for Some Land Uses Throughout the City. Environmental Review: CEQA Exemption 15061(b)(3)

From: Jonathan Lait

Recommendation

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

Recommend the City Council adopt an ordinance (Attachment A) amending Title 18 of the Palo Alto Municipal Code Zoning Code (Chapters 18.04 (Definitions), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, and CS) Districts), 18.18 (Downtown Commercial (CD) Districts) and 18.30 (A) and (C) – the Retail and Ground Floor Combining Districts for certain retail use definitions, limiting certain uses, and relaxing conditional use thresholds for certain uses.

Report Summary

The attached draft ordinance responds to the City Council's direction from March 8, 2021, to amend the Palo Alto Municipal Code (PAMC) to modify retail use definitions, limit certain commercial uses, and relax conditional use permit (CUP) thresholds for certain uses. This follows several months of meetings with the City Council on the proposed discrete changes. In their motion to adopt the temporary ordinance, the City Council directed staff and the PTC to consider a related permanent ordinance. On April 12, 2021, the City Council adopted a

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temporary ordinance (#5517) that was set to expire on June 30, 2022. The temporary ordinance was extended on May 16, 2022, with a new expiration date of December 16, 2022 (Ordinance #5549). The temporary ordinance included some discrete changes to promote economic recovery due to the coronavirus disease 2019 (COVID-19) pandemic.

The temporary ordinance included all the items from the Council's motion. The proposed amendments discussed herein make permanent the revisions contained in the temporary ordinance, however, presented in a format that is easy to implement within the PAMC. The amendments seek to promote economic recovery strategies while maintaining a vibrant pedestrian atmosphere along University and California Avenues. The amendments also seek to maintain a balance of uses in the Midtown Shopping Center and the Town & Country Village Shopping Center.

The Council's March motion also directed the PTC to evaluate three items (B, D and E); staff recommends these discussions be deferred to a later date. Staff has contracted with Michael Baker International (consultant) to assist the City with broader changes for retail recovery from the pandemic. The consultant will develop recommendations on best practices for retail recovery both citywide and district by district as directed by City Council. Staff will coordinate a study session with the PTC in the coming months to further these discussions.

Staff seek a recommendation from the PTC on the attached draft ordinance. If Council does not adopt a new ordinance to replace the temporary ordinance, the zoning code will revert to the prior code language in place before the adoption of the temporary ordinance. In accordance with PAMC 18.80, the PTC shall conduct a public hearing, review the proposed changes, and provide a recommendation to the City Council.

Background

Since November 9, 2020, the City Council has acted upon community and economic recovery strategies in response to the COVID-19 pandemic.¹ One strategy was to adopt a temporary ordinance providing a quick response to community concerns. The first reading of the temporary ordinance on December 14, 2020^{2,3} included discrete amendments to the zoning code that broadened the definition of retail uses and relaxed the CUP thresholds for certain uses. In summary, these amendments included:

- Relaxing CUP thresholds for medical offices
- Relaxing CUP thresholds for fitness studios/commercial recreation

¹ November 9, 2020 City Council Action Meeting Minutes:

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=42635.86&BlobID=79443>

² December 14, 2020 City Council Staff Report:

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=60118.96&BlobID=79480>

³ December 14, 2020 City Council Action Meeting Minutes:

<https://www.cityofpaloalto.org/civicax/filebank/documents/79829>

- Changing the definition of eating and drinking to clearly define what is a dining establishment versus a retail establishment selling food
- Establishing a definition for tutoring centers

The intent of these amendments was to swiftly act upon feedback from stakeholders about what was necessary to help support businesses. It was also intended that once a temporary ordinance was adopted, work on a permanent ordinance would commence to replace the temporary ordinance with these discrete changes. Other more substantive policy changes would occur later following the normal zoning amendment process.

During the second reading of the temporary ordinance on March 8, 2021^{4,5} the Council directed several amendments to the ordinance. The amendments addressed concerns about the displacement of traditional retail uses with certain personal service uses along University Avenue, California Avenue, and within the Town & Country Village Shopping Center.

The Council amendments included:

- Prohibiting nail salons and day spas on California Avenue
- Exceptions to the relaxing of CUP thresholds for fitness studios/commercial recreation uses located along California Avenue, University Avenue, and Town & Country Village Shopping Center
- Exceptions to the relaxing of CUP thresholds for tutoring centers located along University Avenue and California Avenue
- Exceptions to the relaxing of CUP thresholds for Medical Offices located along California Avenue and University Avenue.

In addition to these amendments, the Council also provided direction to the PTC for further evaluation on commercial recreation thresholds and occupancy limits for commercial recreation as well as ways to further define regulations for dining establishments.

On April 12, 2021, with the inclusion of the amendments, the Council adopted temporary ordinance #5517⁶. This ordinance was set to expire on June 30, 2022.

⁴ March 8, 2021 City Council Staff Report:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/reports/city-manager-reports-cmr/current-year/2021/id-12054.pdf>

⁵ March 8, 2021 City Council Action Meeting Minutes:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2021/03-08-21-ccm-action-minutes.pdf>

⁶ April 12, 2021 City Council Staff Report:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/reports/city-manager-reports-cmr/current-year/2021/id-12165.pdf>

On March 30, 2022^{7,8} the PTC reviewed a draft ordinance that was intended to make permanent the revisions contained in the temporary ordinance. The PTC voted 6-0 to continue the discussion of the item to a date uncertain until staff receives an extension to the temporary ordinance allowing further evaluation. PTC members expressed a desire to study the issues more thoroughly.

On May 2, 2022⁹, the City Council introduced a temporary ordinance (#5549) extending the expiration to December 16, 2022. A second reading of the ordinance occurred on May 16, 2022, with the extension becoming effective on June 16, 2022.

Discussion

The changes proposed in the draft ordinance (Attachment A) maintain the language from the temporary ordinance and are relatively minor and reserve more significant policy recommendations for future public hearings and analysis by the PTC. Staff recommends the PTC's review focus exclusively on the contents of the draft ordinance and whether the thresholds and definitions are advisable, if changes should be made, or if the policy should revert to previous definitions and size thresholds for CUPs prior to the temporary ordinance. For a more detailed discussion of the proposed changes, refer to the March 30, 2022 PTC staff report (footnote #7).

It is understood that while the City Council and staff have worked on these items for months, these are new concepts to the PTC. The intention is that these discrete items contained in the draft ordinance become permanent. The City Council sought specific input from the PTC on certain items. Broader discussions regarding citywide and district-by-district best practices on retail recovery are forthcoming with the efforts by the consultant as directed by the City Council on November 9, 2020 (footnote #1). These recommendations would be brought forward within the coming months to the PTC for discussion.

March 8, 2021 City Council Motion

The City Council made the following motion at the March 8, 2021 meeting:

MOTION: Vice Mayor Burt moved, seconded by Mayor DuBois to adopt the attached temporary ordinance with the following exceptions:

- A. Prohibit allowing nail salons, beauty shops, barber shops, etc. directly on

⁷ March 30, 2022 PTC Staff Report:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2022/ptc-03.30.2022-cup.pdf>

⁸ March 30, 2022 PTC Action Meeting Minutes:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2022/ptc-3.30.2022-summary-tracked-changes-af.pdf>

⁹ May 2, 2022 City Council Staff Report:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2022/20220502/20220502pccsmamended-linked.pdf#page=52>

- California Avenue street facing;
- B. On University Avenue, California Avenue, as well as Town and Country, prohibit the expansion of gyms greater than 1,800 square feet, and refer this to Planning and Transportation Commission for additional review;
 - C. Prohibit the expansion of tutoring, schools, and related functions on the main streets of Downtown and California Avenue;
 - D. Allow the change to commercial recreation to go forward, but also direct the Planning and Transportation Commission to look at occupancy for personal services that are commercial recreation;
 - E. Refer to the Planning and Transportation Commission the evaluation of the most appropriate way to define restrictions on dining establishments;
 - F. Prohibit expansion of the permissible medical sizes on the main shopping streets of California Avenue, University Avenue and Midtown Shopping Center.

The following sections provide a discussion on the City Council's motion items and the items that the City Council wanted the PTC to further evaluate.

Direction on Permanent Ordinance

The six components of the City Council motion from the March 8, 2021 meeting are detailed below. These items in the motion were incorporated into the temporary ordinance that was adopted on April 12, 2021, by the Council. The proposed ordinance maintains the substantive revisions contained in the temporary ordinance and presents revisions in a format that will be easy to implement in the PAMC. For example, where the temporary ordinance includes regulations in a footnote, the draft ordinance places the regulation in an appropriate subsection or table. See the following example in Figure 1.

Temporary Ordinance incorporates standard in footnote

(5) A conditional use permit is not required for medical office or commercial recreation uses up to 5,000 square feet of gross floor area, with the following exceptions, for which a conditional use permit is always required: (A) medical office fronting on California Avenue and in the Midtown Shopping District; (B) commercial recreation uses fronting on California Avenue and in the Town and Country Village Shopping Center.

Permanent Ordinance incorporates standard in table

Medical Offices	<u>CUP (5)</u>	<u>CUP (5)</u>	<u>CUP (5)</u>	<u>18.16.050</u>
<u>Up to 5,000 square feet</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>18.16.050, 18.30(A)</u>
<u>Exceeding 5,000 square feet</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>18.16.050, 18.30(A)</u>

Figure 1: Example of Format Change

The intent of the temporary ordinance was to quickly act on the issues to speed up economic recovery. At the same time, the intent is to be sensitive to areas such as University Avenue,

California Avenue, and Town & Country Shopping Center where there is a desire to strike a balance of traditional retail uses and personal service uses. The intent of the permanent ordinance is to maintain those temporary amendments but ensure that these changes are integrated in a way that can be implemented and understood easily by practitioners and the public.

A. Prohibit allowing nail salons, beauty shops, barbershops, etc. directly on California Avenue street-facing

The Council included this in their motion because of concerns that certain personal service uses may replace traditional retail spaces. Prior to the temporary ordinance, a CUP was required for these uses to locate on California Avenue. According to staff that interacts with the public, there were no inquiries regarding locating these types of uses on California Avenue in recent months. Most inquiries for California Avenue are for dining establishments. There are currently eight to 10 nail salons, beauty shops, and spas located on California Avenue (Retail Shopping (R) Combining District). The permanent ordinance maintains the language and intent of the Council. If these changes are made permanent, then the existing nail salon, beauty shops, barbershops, etc. on California Avenue become noncomplying uses and are subject to PAMC Chapter 18.70. If any of these establishments vacate a location, in accordance with the PAMC, the property owner has one year to attract a similar use to occupy the vacated space. If the space remains vacant for more than a year, then the space must be occupied by a complying use.

B. On University Avenue, California Avenue, as well as Town and Country, prohibit the expansion of gyms greater than 1,800 square feet, and refer this to Planning and Transportation Commission for additional review

Commercial Recreation and Fitness and Exercise Studios are distinguished by their gross floor area. Fitness and exercise studios, or similar uses, are considered to have 5,000 square feet or fewer of gross floor area. Otherwise, when these uses exceed 5,000 square feet they are considered “commercial recreation”. Establishing a commercial recreation use requires the approval of a CUP.

This motion tracks with Motion Item D which allows the square footage thresholds to be increased for fitness and exercise studios from 1,800 square feet to 5,000 square feet (allowed without a CUP). This increase was sought by property owners and supported by staff. However, the Council had concerns regarding the proliferation of commercial recreation facilities along University Avenue, California Avenue, and within Town & Country Village Shopping Center. Motion Item B creates an exception where fitness and exercise studios greater than 1,800 square feet require the approval of a CUP when located on University Avenue, California Avenue, and within the Town & Country Shopping Center. The draft permanent ordinance maintains this exception from the temporary ordinance.

Furthermore, the Council seeks input from the PTC on this issue. The PTC could in their deliberations consider a recommendation on this item or defer it with the other PTC-related items. Staff seeks confirmation from the PTC whether this threshold is appropriate, whether the threshold should be different, or that no exception is necessary. If deferred or deemed unnecessary, fitness and exercise studios citywide would be considered spaces up to 5,000 square feet that do not require the approval of a CUP.

C. Prohibit the expansion of tutoring, schools, and related functions on the main streets of Downtown and California Avenue

Prior to the temporary ordinance, there was no definition of ‘learning centers or tutoring.’ These uses were considered a ‘personal service’ through interpretation by the Director. The temporary ordinance created a new definition for these uses. The Council’s intention with this motion is that certain personal service uses may replace traditional retail spaces. The permanent ordinance maintains the language and intent of the Council.

D. Allow the change to commercial recreation to go forward, but also direct the Planning and Transportation Commission to look at occupancy for personal services that are commercial recreation

As discussed in the section on Motion B, commercial recreation is distinguished from fitness and exercise studios based on square footage. Fitness and exercise studios greater than 5,000 square feet are considered commercial recreation and require approval of a CUP. This motion seeks feedback from the PTC on the occupancy limits if any should be applied to commercial recreation uses. Staff does not have information on this issue at this time and requests that the PTC defer this item so that a more thorough discussion can be made in the future.

E. Refer to the Planning and Transportation Commission the evaluation of the most appropriate way to define restrictions on dining establishments

The temporary ordinance makes changes to the definitions by adding ‘drive-through’ to the ‘drive-in’ definition; distinguishing that ‘eating and drinking uses’ that provide ‘ready to eat’ products with no kitchens/dishwasher are considered ‘intensive retail services.’ The implications of this are that intensive retail requires less parking than dining establishments. In effect, this provides more flexibility to owners wanting to locate these uses where parking supply is low. These changes were sought by property owners and supported by staff. The draft permanent ordinance maintains these revisions and renames eating and drinking to ‘restaurants’ since most people refer to these uses as such.

These revisions should be made permanent, with additional consideration in the future from the PTC on other ways to define restrictions on dining establishments. This discussion would benefit from the recommendations from the consultant as discussed previously.

F. Prohibit expansion of the permissible medical sizes on the main shopping streets of

California Avenue, University Avenue and Midtown Shopping Center

The draft ordinance maintains the temporary ordinance thresholds for ‘medical office’ in the Commercial districts permitting medical offices up to 5,000 square feet without a CUP. Medical offices larger than 5,000 square feet would require a CUP. An exception to this is when a medical office proposes to be located along California Avenue and University Avenue when a CUP is required. PAMC 18.16.040 Table 2 specifies the permitted and conditionally permitted uses within the Midtown Shopping Center. Table 2 lists medical offices as requiring a CUP when located within the Midtown Shopping Center.

The Council had concerns that medical office uses may displace retail spaces in these areas. There remains strong interest in locating office space in the City.

Further Evaluation for PTC

The Council sought specific input from the PTC on certain motion items. Broader discussions regarding citywide and district-by-district best practices on retail recovery are forthcoming with the efforts by the consultant as directed by the City Council on November 9, 2022 (footnote #1). These recommendations would come forward within the coming months to the PTC.

As discussed previously in this report, the PTC could determine whether the threshold in Motion B is appropriate or defer the item.

- B. On University Avenue, California Avenue, as well as Town and Country, prohibit the expansion of gyms greater than 1,800 square feet, and refer this to Planning and Transportation Commission for additional review;
- D. Allow the change to commercial recreation to go forward, but also direct the Planning and Transportation Commission to look at occupancy for personal services that are commercial recreation;
- E. Refer to the Planning and Transportation Commission the evaluation of the most appropriate way to define restrictions on dining establishments;

Environmental Review

The proposed ordinance 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 ordinance is determined to be exempt from CEQA pursuant to CEQA Guidelines 15061(b)(3) in that it can be seen with certainty that the ordinance will not have a significant impact on the environment. The ordinance makes minor adjustments to land use definitions and modest changes to the thresholds for discretionary review.

Public Notification, Outreach & Comments

The Palo Alto Municipal Code requires the publication of a notice of this public hearing in a local paper at least ten days in advance of the meeting. Notice of the PTC public hearing was published in the *Daily Post* on August 19, 2022, which is 12 days in advance of the meeting. Staff also publicized this meeting to stakeholders via outreach.

Staff had previously spoken with interested property owners regarding the amendments and conducted outreach to businesses within the Downtown and California Avenue areas. This outreach was detailed in the March 30, 2022 PTC staff report.

Next Steps and Timeline

The PTC's recommendation will be forwarded to the City Council for consideration during a future publicly noticed hearing. If introduced, the ordinance will be read a second time for adoption and become effective 30 days later.

The current temporary ordinance expires on December 16, 2022. In order to have a permanent ordinance in place prior to the expiration, the following actions on the draft ordinance need to occur on or prior to:

- City Council Ordinance Introduction: October 24, 2022
- City Council 2nd Reading: November 14, 2022

Alternative Actions

In addition to the recommended action, the Planning and Transportation Commission may:

1. Modify the draft ordinance; or
2. Recommend that the temporary ordinance lapse.

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Attachments:

- Attachment A Ordinance Amending PAMC Title 18 Ch 18.04 18.16 18.18 and 18.30 Relaxing CUP Requirements (PDF)

¹⁰ Emails may be sent directly to the PTC using the following address: planning.commission@cityofpaloalto.org

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Ordinance No. ____

Ordinance of the Council of the City of Palo Alto Amending Palo Alto Municipal Code (PAMC) Title 18 (Zoning), Chapters 18.04 (Definitions), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC and CS) Districts), 18.18 (Downtown Commercial (CD) Districts) and 18.30 (A) and (C) – the Retail and Ground Floor combining districts and making Conforming Changes to Various Sections of the Palo Alto Municipal Code.

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:

- A. On April 5, 2021, the Palo Alto City Council adopted interim Ordinance No. 5517, relaxing certain zoning regulations in the City’s commercial zoning districts to address some of the economic challenges created by the COVID-19 pandemic and to spur economic activity.
- B. On May 16, 2022, the Council adopted Ordinance No. 5549, extending the temporary regulations to December 16, 2022.
- C. The Planning and Transportation Commission held a public hearing and recommended adoption of this ordinance on _____, 2022.

SECTION 2. Section 18.04.030 (Definitions) of Chapter 18.04 (Definitions) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

18.04.030 Definitions

(a) Throughout this title the following words and phrases shall have the meanings ascribed in this section.

[. . .]

(45) “Drive-in/drive-through service” means a feature or characteristic of a use involving sales of products or provision of services to occupants in vehicles, including drive-in or drive-up windows and drive-through services such as mechanical automobile washing, pharmacy windows, ~~coffee stands~~, automatic teller machines, etc. Related definitions are provided in subsections (47)(A) Restaurant, Drive-in/drive-through service and (125)(B) Intensive Retail Use”.

[. . .]

~~(124.5)(47) “Restaurant Eating and drinking service”~~ means a use providing preparation and retail sale of food and beverages with a full menu and providing indoor seating area. ~~Eating and drinking service Restaurants~~ include presence of a full commercial kitchen and commercial dishwasher. For establishments with incidental sale alcoholic beverages, a minimum of 50% of

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revenues from a 'Restaurant' ~~an 'eating and drinking service'~~ must be derived from the sale of food. Related definitions are provided in subdivisions (A) and (B) to this definition and in subsections (45) (Drive-in/drive-through service), (125)(B) (Intensive retail service) and (136) (Take-out service). References in the Palo Alto Municipal Code to "Eating and drinking" shall have the same meaning as "Restaurant," as defined herein.

(A) "Restaurant, drive-in/drive-through service" means a feature or characteristic of a restaurant use involving sales of products or provision of services to occupants in vehicles, including drive-in or drive-up windows and drive-through services.

(B) "Restaurant, take-out service" means a characteristic of a restaurant which encourages, on a regular basis, consumption of food or beverages, such as prepared or prepackaged items, outside of a building, in outdoor seating areas where regular table service is not provided, in vehicles parked on the premises, or off-site. Take-out service does not include intensive retail service uses, as defined in subsection (125)(B).

[. .]

(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 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).

(95.1) "Medical research" means a use related to medical and/or dental research, testing and analysis, including but not limited to trial and clinical research. Biomedical and pharmaceutical research and development facilities are not included in this definition. Medical Research does not include the storage or use of quantities of hazardous materials above the exempt quantities listed in Title 15 of the Municipal Code nor any toxic gas regulated by Title 15. Additionally, Medical Research may include storage and use of etiological (biological) agents up to and including Risk Group 2 or Bio Safety Level 2 (Center for Disease Control).

(95.2) "Medical support retail" means a retail use providing sales, rental, service, or repair of medical products and services to consumers or businesses, and whose location near hospitals or medical offices facilitates the provision of medical care or medical research. Examples of medical retail uses typically include, but are not limited to, pharmacies, sale of prosthetics, and sale of eyeglasses or other eye care products.

(95.3) "Medical support service" means a use providing administrative support functions for healthcare providers or facilities, intended to support the operations of hospitals or of medical and dental office uses, and whose location near those medical facilities enhances the interaction between medical providers and/or facilitates the provision of medical care or

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medical research. Examples of medical support service uses typically include, but are not limited to, administration and billing services, public relations, training, and fundraising. Hospitals and ambulance services are not included in this definition.

[. . .]

(114) “Personal service” means a use providing services of a personal convenience nature, and cleaning, repair or sales incidental thereto, including:

(A) Beauty shops, nail salons, day spas, and barbershops;

(B) Self-service laundry and cleaning services; laundry and cleaning pick-up stations where all cleaning or servicing for the particular station is done elsewhere; and laundry and cleaning stations where the cleaning or servicing for the particular station is done on site, utilizing equipment meeting any applicable Bay Area Air Quality Management District requirements, so long as no cleaning for any other station is done on the same site, provided that the amount of hazardous materials stored does not at any time exceed the threshold which would require a permit under Title 17 (Hazardous Materials Storage) of this code;

(C) Repair and fitting of clothes, shoes, and personal accessories;

(D) Quick printing and copying services where printing or copying for the particular service is done on site, so long as no quick printing or copying for any off-site printing or copying service is done on the same site;

(E) Internet and other consumer electronics services;

(F) Film, data and video processing shops, including shops where processing for the particular shop is done on site, so long as no processing for any other shop is done on the same site;

(G) Art, dance or music studios intended for an individual or small group of persons in a class (see “commercial recreation” for other activities); and

(H) Fitness and exercise studios, or similar uses, in a space having 5,000 square feet or fewer of gross floor area (see “commercial recreation” for uses exceeding 5,000 square feet).

(I) Learning centers intended for individual or small group settings, including tutoring, standardized test preparation, language classes, after-school programs, cooking classes, and similar uses.

[. . .]

(125) “Retail service” means a use open to the public during typical business hours and predominantly engaged in providing retail sale, rental, service, processing, or repair of items primarily intended for consumer or household use.

(A) “Extensive retail service,” as used with respect to parking requirements, means a retail sales use having more than seventy-five percent of the gross floor area used for display,

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sales, and related storage of bulky commodities, including household furniture and appliances, lumber and building materials, carpeting and floor covering, air conditioning and heating equipment, and similar goods, which uses have demonstrably low parking demand generation per square foot of gross floor area.

(B) "Intensive retail service" as used with respect to parking requirements, means any retail service use not defined as extensive retail service and including limited food service (i.e. 'ready-to-eat' food and/or beverage shops without a full commercial kitchen, where food and/or beverages are ready to consume at the time of sale and any seating area is limited; examples include sandwiches, frozen desserts, non-alcoholic beverages, and baked items).

(125.1) "Retail-like use" means a use generally open to the public during typical business hours and predominantly engaged in providing services closely related to retail services, including but not limited to:

- (A) ~~Eating and drinking services~~ Restaurant, as defined in subsection (47-124.5);
- (B) Hotels, as defined in subsection (73);
- (C) Personal services, as defined in subsection (114);
- (D) Theaters;
- (E) Travel agencies;
- (F) Commercial recreation, as defined in subsection (33);
- (G) Commercial nurseries;
- (H) Auto dealerships, as defined in subsection (12.5); and
- (I) Day care centers, as defined in subsection (42).

[. . .]

(136) Reserved. ~~"Take-out service" means a characteristic of an eating or drinking service which encourages, on a regular basis, consumption of food or beverages, such as prepared or prepackaged items, outside of a building, in outdoor seating areas where regular table service is not provided, in vehicles parked on the premises, or off-site. Take-out service does not include intensive retail service uses, as defined in subsection (125)(B).~~

[. . .]

SECTION 3. Section 18.16.040 (Land Uses) of Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, CS) Districts) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

The uses of land allowed by this chapter in each commercial zoning district are identified in the following tables. Land uses that are not listed on the tables are not allowed, except where otherwise noted. Where the last column on the following tables ("Subject to Regulations in")

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includes a section number, specific regulations in the referenced section also apply to the use; however, provisions in other sections may apply as well.

(a) Commercial Zones and Land Uses

Permitted and conditionally permitted land uses for each commercial zone are shown in Table 1:

TABLE 1

PERMITTED AND CONDITIONALLY PERMITTED USES

P = Permitted Use CUP = Conditional Use Permit Required

LAND USE	CN ⁽⁴⁾	CC, CC(2)	CS ⁽⁴⁾	Subject to Regulations In:
ACCESSORY AND SUPPORT USES				
Accessory facilities and activities customarily associated with or essential to permitted uses, and operated incidental to the principal use.	P	P	P	18.42
Drive-in/ drive-through services or take-out services associated with permitted uses ⁽³⁾	CUP	CUP	CUP	18.42
<u>Restaurant, drive-in/drive-through services or take-out services, associated with permitted uses ⁽³⁾</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>18.42</u>
Tire, battery, and automotive service facilities, when operated incidental to a permitted retail service or shopping center having a gross floor area of more than 30,000 square feet.		CUP		18.42, 18.40.160
Safe Parking				18.42.160
EDUCATIONAL, RELIGIOUS, AND ASSEMBLY USES				
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
OFFICE USES				
Administrative Office Services			P	18.16.050
Medical Offices	<u>CUP</u> (5)	<u>CUP</u> (5)	<u>CUP</u> (5)	<u>18.16.050</u>
<u>Up to 5,000 square feet</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>18.16.050, 18.30(A)</u>

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<u>Exceeding 5,000 square feet</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>18.16.050, 18.30(A)</u>
Professional and General Business Offices	P	P	P	18.16.050
PUBLIC/QUASI-PUBLIC USES				
Utility Facilities essential to provision of utility services but excluding construction or storage yards, maintenance facilities, or corporation yards.	CUP	CUP	CUP	
RECREATION USES				
Commercial Recreation	CUP (5)	CUP (5)	CUP (5)	18.40.160
Outdoor Recreation Services	CUP	CUP	CUP	
RESIDENTIAL USES				
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
RETAIL USES				
Eating and Drinking Services <u>Restaurant</u> , excluding drive-in/drive-through and take-out services	P	P	P	18.40.160
Retail Services, excluding liquor stores	P	P	P	18.40.160
Liquor stores	CUP	P	P	18.40.160
Shopping Centers		P		18.16.060(e), 18.40.160
SERVICE USES				
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
Banks and Financial Services ♡	CUP	P(2)	P(2)	
General Business Services		CUP	P	
Hotels		P	P	18.16.060(d), 18.40.160
Mortuaries	CUP	P	P	
Neighborhood Business Services	P			18.16.060(f)

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Personal Services	P	P (6)	P	18.16.060(f), 18.40.160, <u>18.30(A)</u>
Reverse Vending Machines	P	P	P	
TEMPORARY USES				
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
P = Permitted Use	CUP = Conditional Use Permit Required			
<u>Footnotes:</u>				
<p>(1) Residential is only permitted: (i) as part of a mixed use development, pursuant to the provisions of Section 18.16.060(b), or (ii) on sites designated as housing inventory sites in the Housing Element of the Comprehensive Plan, (iii) on CN or CS sites on El Camino Real, or (iv) on CC(2) sites, all pursuant to the provisions of Section 18.16.060(b) and (c).</p> <p>(2) Except drive-in/<u>drive-through</u> services.</p> <p>(3) So long as drive up facilities, excluding car washes, provide full access to pedestrians and bicyclists. A maximum of two such services shall be permitted within 1,000 feet, and each use shall not be less than 150 feet from one another.</p> <p>(4) For properties in the CN and CS zone districts, businesses that operate or have associated activities at any time between the hours of 10:00 p.m. and 6:00 a.m. require a conditional use permit.</p> <p>(5) A conditional use permit is not required for medical office or commercial recreation uses up to 5,000 <u>greater than 1,800</u> square feet of gross floor area, with the following exceptions, for which a conditional use permit is always required: (A) medical office fronting on California Avenue and in the Midtown Shopping District; (B) commercial recreation uses fronting on California Avenue and when located in the Town and Country Village Shopping Center.</p> <p>(6) A conditional use permit is required for the following uses when fronting on California Avenue: (A) Fitness or exercise studios, and similar uses exceeding 1,800 square feet in gross floor area; and (B) Learning centers intended for individual or small group settings. A conditional use permit is required for fitness or exercise studios, and similar uses exceeding 1,800 square feet in gross floor area in Town and Country Village Shopping Center.</p>				

[. . .]

(c) CN District: Special Use Requirements in the Charleston and Midtown Shopping Centers

The following regulations shall apply to areas of Charleston Center and the Midtown Shopping Center as defined in Section [18.16.030](#).

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Table 2 shows the uses permitted and conditionally permitted on the ground floor of the applicable areas of the Charleston Center and Midtown Shopping Centers. Permitted and conditional uses specified in subsection (a) of this section shall only apply to the ground floor of the areas of the Charleston and Midtown Shopping Centers as listed in Table 2. Uses lawfully existing on January 16, 2001 may be continued as non-conforming uses but may only be replaced with uses permitted or conditionally permitted under this subsection.

TABLE 2**CHARLESTON AND MIDTOWN SHOPPING CENTERS GROUND FLOOR USES**

P = Permitted Use CUP = Conditional Use Permit Required X = Prohibited Use

LAND USES	Charleston Shopping Center	Midtown Shopping Center	Subject to Regulations in:
ACCESSORY AND SUPPORT USES			
[...]	[...]	[...]	[...]
RETAIL USES			
Restaurants Eating and Drinking Services, excluding drive-in/ <u>drive-through</u> and take-out services	P	P	18.40.160
Retail Services, excluding liquor stores	P	P	18.40.160
Liquor stores	CUP	CUP	18.40.160
[...]	[...]	[...]	[...]
P = Permitted Use CUP = Conditional Use Permit Required X = Prohibited Use			

[...]

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

18.16.060 Development Standards

[...]

(b) Mixed Use and Residential

Table 4 specifies the development standards for new residential mixed use developments and residential developments. These developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlined in Section 18.16.090, provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and development services, pursuant to Section 18.76.020.

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Table 4
Mixed Use and Residential Development Standards

	CN	CC	CC(2)	CS	Subject to regulations in:
Minimum Site Specifications					
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
Footnotes: (1) Twenty-five-foot driveway access permitted regardless of frontage; build-to requirement does not apply to CC district. [. . .] (6) Ground floor commercial uses generally include retail, personal services, hotels and eating and drinking establishments <u>restaurants</u> . Office uses may be included only to the extent they are permitted in ground floor regulations. [. . .] (10) In the CC(2) zone and on CN and CS zoned sites on El Camino Real, there shall be no minimum mixed use ground floor commercial FAR for a residential project, except to the extent that the retail preservation requirements of Section 18.40.180 or the retail shopping (R) combining district (Chapter 18.30(A)) applies.					

(1) Nonresidential uses that involve the use or storage of hazardous materials in excess of the exempt quantities prescribed in Title 15 of the Municipal Code, including but not limited to dry cleaning plants and auto repair, are prohibited in a mixed use development with residential uses.

(2) Residential mixed use development is prohibited on any site designated with an Automobile Dealership (AD) Combining District overlay.

(c) Exclusively Residential Uses

[. . .]

(f) Size of Establishments in the CN District

In the CN district, permitted commercial uses shall not exceed the floor area per individual use or business establishment shown in Table 5. Such uses may be allowed to exceed the maximum establishment size, subject to issuance of a conditional use permit in accord with Section 18.76.010. The maximum establishment size for any conditional use shall be established by the director and specified in the conditional use permit for such use.

//

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TABLE 5
MAXIMUM SIZE OF ESTABLISHMENT

Type of Establishment	Maximum Size (sq ft)
Personal Services	3,000
Retail services, except grocery stores	15,000
Grocery stores	20,000
Eating and drinking services Restaurants	5,000
Neighborhood business services	3,000

[. . .]

(h) Outdoor Sales and Storage

(2) In the CC district and in the CC (2) district, the following regulations shall apply to outdoor sales and storage:

(A) Except in shopping centers, all permitted office and commercial activities shall be conducted within a building, except for:

(i) Incidental sales and display of plant materials and garden supplies occupying no more than 2,000 square feet of exterior sales and display area,

(ii) Outdoor eating areas operated incidental to permitted ~~eating and drinking services~~ restaurants or intensive retail uses,

(iii) Farmers' markets that have obtained a conditional use permit, and

(iv) Recycling centers that have obtained a conditional use permit.

(B) Any permitted outdoor activity in excess of 2,000 square feet shall be subject to a conditional use permit.

SECTION 5. Sections 18.18.050 (Land Uses) of Chapter 18.18 (Commercial Downtown (CD) District) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

18.18.050 Land Uses

The uses of land allowed by this chapter in each commercial zoning district are identified in the following table. Land uses that are not listed on the tables are not allowed, except where otherwise noted. Where the last column on the following tables ("Subject to Regulations in") includes a section number, specific regulations in the referenced section also apply to the use; however, provisions in other sections may apply as well.

Permitted and conditionally permitted land uses for the CD district are shown in Table 1:

Table 1
CD Permitted and Conditionally Permitted Uses

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P Permitted Use • CUP Conditional Use Permit Required				
	CD-C	CD-S	CD-N	Subject to regulations in:
ACCESSORY USES				
Accessory facilities and activities associated with or essential to permitted uses, and operated incidental to the principal use	P	P	P	
Drive-in/ <u>drive-through</u> or Take-out Services associated with permitted uses ⁽²⁾	CUP	CUP	CUP	
<u>Restaurant, Drive-in/Drive-through or Take-out Services associated with permitted uses</u> ⁽²⁾	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	
Tire, battery, and automotive service facilities, when operated incidental to a permitted retail service or shopping center having a gross floor area of more than 30,000 square feet	CUP			18.40.160
Safe Parking				18.42.160
EDUCATIONAL, RELIGIOUS, AND ASSEMBLY USES				
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
OFFICE USES				
Administrative Office Services		P		18.18.060(f)
Medical, Professional, and General Business Offices	P	P	P	18.18.060(f), 18.30(C)
PUBLIC/QUASI-PUBLIC FACILITY USES				
Utility Facilities essential to provision of utility services but excluding construction or storage yards, maintenance facilities, or corporation yards	CUP	CUP		
RECREATION USES				
Commercial Recreation	CUP (3)	CUP (3)	CUP (3)	18.30(C)

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Outdoor Recreation Services	CUP	CUP	CUP	
RESIDENTIAL USES				
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
RETAIL USES				
Restaurants Eating and Drinking Services, except drive-in or take-out services	P	P	P	18.18.060(g) , 18.40.160
Retail Services, excluding liquor stores	P	P	P	18.18.060(g) , 18.40.160
Shopping Centers	P			18.18.060(g) , 18.40.160
Liquor Stores	P	P	CUP	18.40.160
SERVICE USES				
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
Personal Services	P (4)	P (4)	P (4)	18.18.060(g), 18.40.160, 18.30(C)
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
P Permitted Use CUP Conditional Use Permit Required				
(1) Residential is only permitted as part of a mixed use development, pursuant to the provisions of Section 18.18.060(b), or on sites designated as Housing Opportunity Sites in the Housing Element of the Comprehensive Plan, pursuant to the provisions of Section 18.18.060(c).				
(2) Drive-up facilities, excluding car washes, provide full access to pedestrians and bicyclists. A maximum of two such services shall be permitted within 1,000 feet and each use shall not be less than 150 ft from one another.				
—(3) A conditional use permit is not required for commercial recreation uses up to 5,000 square feet of gross floor area, with the following exceptions, for which a conditional use permit is always required: (A) medical office fronting on University Avenue; (B) commercial recreation uses fronting on University Avenue.				

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~~—(4) A conditional use permit is required for the following uses when fronting on University Avenue: (A) Fitness or exercise studios, and similar uses; and (B) Learning centers intended for individual or small group settings.~~

SECTION 6. Section 18.18.060 (Development Standards) of Chapter 18.18 (Commercial Downtown (CD) District) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

[. . .]

(g) Restrictions on Size of Commercial Establishments in CD-N Subdistrict

In the CD-N subdistrict, permitted commercial uses shall not exceed the floor area per individual use or business establishment shown in Table 4. Such uses may be allowed to exceed the maximum establishment size, subject to the issuance of a conditional use permit in accordance with [Chapter 18.76](#). The maximum establishment size for any conditional use shall be established by the director and specified in the conditional use permit for such use.

TABLE 4
MAXIMUM SIZE OF ESTABLISHMENT

Type of Establishment	Maximum Size (ft ²)
Personal Services	3,000
Retail services, except grocery stores	15,000
Grocery stores	20,000
<u>Restaurants</u> Eating and drinking services	5,000

(h) Outdoor Sales and Storage.

The following regulations shall apply to outdoor sales and storage in the CD district:

(1) CD-C Subdistrict

In the CD-C subdistrict, the following regulations apply:

(A) Except in shopping centers, all permitted office and commercial activities shall be conducted within a building, except for:

(i) Incidental sales and display of plant materials and garden supplies occupying no more than 2,000 square feet of exterior sales and display area,

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(ii) Outdoor eating areas operated incidental to permitted ~~eating and drinking services~~ restaurants or intensive retail uses,

(iii) Farmers' markets which have obtained a conditional use permit, and

(iv) Recycling centers that have obtained a conditional use permit.

(B) Any permitted outdoor activity in excess of 2,000 square feet shall be subject to a conditional use permit.

(C) Exterior storage shall be prohibited, except recycling centers which have obtained a conditional use permit.

(2) CD-S Subdistrict

In the CD-S subdistrict, outdoor sales and display of merchandise, and outdoor eating areas operated incidental to permitted ~~eating and drinking services~~ restaurants and intensive retail uses shall be permitted subject to the following regulations:

(A) Outdoor sales and display shall not occupy a total site area exceeding the gross building floor area on the site, except as authorized by a conditional use permit.

(B) Areas used for outdoor sales and display of motor vehicles, boats, campers, camp trailers, trailers, trailer coaches, house cars, or similar conveyances shall meet the minimum design standards applicable to off-street parking facilities with respect to paving, grading, drainage, access to public streets and alleys, safety and protective features, lighting, landscaping, and screening.

(C) Exterior storage shall be prohibited, unless screened by a solid wall or fence of between 5 and 8 feet in height.

(3) CD-N Subdistrict

In the CD-N subdistrict, all permitted office and commercial activities shall be conducted within a building, except for:

(A) Incidental sales and display of plant materials and garden supplies occupying not more than 500 square feet of exterior sales and display area, and

(B) Farmers' markets that have obtained conditional use permits.

(i) Employee Showers

Employee shower facilities shall be provided for any new building constructed or for any addition to or enlargement of any existing building as specified in Table 5.

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TABLE 5
EMPLOYEE SHOWERS REQUIRED

Uses	Gross Floor Area of New Construction (ft ²)	Showers Required
Medical, Professional, and General Business Offices, Financial Services, Business and Trade Schools, General Business Services	0-9,999	No requirement
	10,000-19,999	1
	20,000-49,999	2
	50,000 and up	4
Retail Services, Personal Services, and Restuarants Eating and Drinking Services	0-24,999	No requirement
	25,000-49,999	1
	50,000-99,999	2
	100,000 and up	4

[. . .]

SECTION 7. Section 18.30(A).040 (Permitted Uses) of Chapter 18.30(A) (Retail Shopping (R) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

Except to the extent a conditional use permit is required pursuant to Section 18.30(A).050, the following uses shall be permitted in an R district:

- (a) ~~Restaurants Eating and drinking services~~, except drive-in/drive-through and take-out services.
- (b) Personal services, except ~~the following on California Avenue:~~
 - (i) the following shall be prohibited on the ground floor on California Avenue: beauty shops; nail salons; day spas; barbershops; laundry and cleaning services as defined in Section 18.04.030(114)(B); and
 - (ii) the following shall require a conditional use permit on the ground floor on California Avenue: fitness or exercise studios exceeding 1,800 square feet in gross floor area; and learning centers intended for individual or small group settings.
- (c) Retail services.
- (d) All other uses permitted in the underlying commercial district, provided they are not located on a ground floor.

SECTION 8. Section 18.30(A).050 (Conditional Uses) of Chapter 18.30(A) (Retail Shopping (R) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

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The following uses may be conditionally permitted in an R district, subject to the issuance of a conditional use permit in accord with Chapter 18.76 (Permits and Approval):

- (a) Financial services, except drive-in services, on a ground floor.
- (b) All other conditional uses allowed in the underlying commercial district provided they are not located on a ground floor.

(c) On California Avenue:

- (i) Formula retail businesses; ~~on California Avenue.~~
- (ii) Fitness or exercise studios exceeding 1,800 square feet in gross floor area;
- (iii) Commercial recreation uses;
- (iv) Learning Centers intended for individual or small group settings; and
- (v) Medical offices.

(d) Beauty shops, nail salons, ~~and~~ barbershops, except as prohibited on California Avenue, fitness or exercise studios exceeding 1,800 square feet in gross floor area; and learning centers intended for individual or small group settings.

SECTION 9. Section 18.30(C).020 (Permitted Uses) of Chapter 18.30(C) (Ground Floor (GF) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

(a) The following uses shall be permitted in the GF combining district, subject to restrictions in Section 18.40.160180:

- (1) Restaurants ~~Eating and drinking;~~
- (2) Hotels;
- (3) Personal services, except the following are prohibited when located on University Avenue: for parcels with frontage on University Avenue, where uses defined in Section 18.04.030(114)(B), (G), and (H), and (I) are not permitted
 - (A) Laundry and cleaning services as defined in Section 18.04.030(114)(B);
 - (B) Art, dance or music studios intended for an individual or small group of persons in a class;
 - (C) Fitness and exercise studios, or similar uses exceeding 1,800 square feet or more of gross floor area; and
 - (D) Learning centers intended for individual or small group settings.
- (4) Retail services;

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- (5) Theaters;
- (6) Travel agencies;
- (7) Commercial Recreation up to 5,000 square feet in gross floor area, except ~~for~~ parcels with frontage when located on University Avenue;
- (8) All other uses permitted in the underlying district, provided such uses are not on the ground floor.

(b) Elimination or conversion of basement space currently in retail or retail-like use or related support purposes is prohibited.

(c) Entrance, lobby, or reception areas serving non-ground floor uses may be located on the ground floor to the extent reasonably necessary, provided they do not interfere with the ground floor use(s), and subject to the approval of the Director.

SECTION 10. Section 18.30(C).030 (Conditional Uses) of Chapter 18.30(C) (Ground Floor (GF) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

(a) The following uses may be conditionally allowed on the ground floor in the GF ground floor combining district, subject to issuance of a conditional use permit in accord with Chapter 18.76 (Permits and Approvals) and with the additional finding required by subsection (b), subject to restrictions in Section 18.40.160:

- (1) Business or trade school;
- (2) Commercial recreation over 5,000 square feet in gross floor area or ~~with~~ frontage located on University Avenue;
- (3) Day care;
- (4) Financial services, except drive in services;
- (5) General business service;
- (6) Learning centers intended for individual or small group settings, except as prohibited on University Avenue;
- (7) All other uses conditionally permitted in the applicable underlying district, provided such uses are not on the ground floor.

(b) The director may grant a conditional use permit under this section only if he or she makes the following findings in addition to the findings required by Chapter 18.76 (Permits and Approvals):

- (1) The location, access or design of the ground floor space of the existing building housing the proposed use, creates exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the same district.
- (2) The proposed use will not be determined to the retail environment or the pedestrian-oriented design objectives of the GF combining district.

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(c) Any use conditionally permitted pursuant to this section shall be effective only during the existence of the building that created the exceptional circumstance upon which the finding set forth in subsection (b) was made.

SECTION 11. Sections 18.13.040 (Site Development Standards) of Chapter 18.13 (Multiple Family Residential (RM-20, RM-30, and RM-40) Districts); 18.16.010 (Purposes) and 18.16.050 (Office Use Restrictions) of Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, and CS) Districts); 18.20.040 (Site Development Standards) of Chapter 18.20 (Office, Research, and Manufacturing (MOR, ROLM, RP, and GM) Districts); 18.34.030 (Land Uses) of Chapter 18.34 (Pedestrian and Transit Oriented Development (PTOD) Combining District Regulations); and 18.42.030 (Accessory Uses and Facilities) and 18.42.090 (Alcoholic Beverages) of Chapter 18.42 (Standards for Special Uses) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

18.13.040 Development Standards

[. . .]

(f) Personal Services, Retail Services, and Restaurants ~~Eating and Drinking Services~~ in the RM-30 and RM-40 Districts

Within a single residential development containing not less than 40 dwelling units, personal services, retail services, and restaurants ~~eating and drinking services~~ solely of a neighborhood-serving nature to residents in the development or in the general vicinity of the project may be allowed upon approval of a conditional use permit, subject to the following limitations and to such additional conditions as may be established by the conditional use permit:

- (1) Total gross floor area of all such uses shall not exceed 5,000 square feet or three percent of the gross residential floor area within the development, whichever is smaller, and may not occupy any level other than the ground level or below grade levels.
- (2) A maximum of 2,500 square feet of retail and/or service and/or restaurant ~~eating and drinking~~ uses shall be allowed per establishment.
- (3) Personal services, retail services, and restaurants ~~eating and drinking services~~ provided in accordance with this section shall not be included in the gross floor area for the site.
- (4) The conditional use permit for the project may preclude certain uses and shall include conditions that are appropriate to limit impacts of noise, lighting, odors, parking and trash disposal from the operation of the commercial establishment. The hours of operation shall be limited to assure compatibility with the residential use and surrounding residential uses.
- (5) Allowable Neighborhood-Serving Uses. A neighborhood-serving use primarily serves individual consumers and households, not businesses, is generally pedestrian oriented in design, and does not generate noise, fumes or truck traffic greater than that typically expected for uses with a local customer base. A neighborhood-serving use is also one to which a significant number of local customers and clients can walk, bicycle or travel short distances, rather than relying primarily on automobile access or the provider of the goods or

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services traveling off-site. Allowable neighborhood-serving personal services, retail services and restaurants ~~eating and drinking services~~ may include, but are not limited to, "agent" dry cleaners, flower shops, convenience grocery stores (excluding liquor stores), delicatessens, cafes, fitness facilities, day care facilities, and similar uses found by the Planning Director to be compatible with the intent of this provision.

[. . .]

18.16.010 Purposes

The commercial zoning districts are intended to create and maintain sites for retail, personal services, eating and drinking establishments, hotels and other business uses in a manner that balances the needs of those uses with the need to minimize impacts to surrounding neighborhoods.

(a) Neighborhood Commercial [CN]

The CN neighborhood commercial district is intended to create and maintain neighborhood shopping areas primarily accommodating retail sales, personal service, ~~eating and drinking~~ restaurant, and office uses of moderate size serving the immediate neighborhood, under regulations that will assure maximum compatibility with surrounding residential areas.

[. . .]

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~~ restaurant, 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~~ restaurant, personal services, and automobile services does not decrease;

[. . .]

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18.20.040 Site Development Standards

Development in the office research, industrial, and manufacturing districts is subject to the following development standards, provided that more restrictive regulations may be required as part of design review under Chapter 18.76 of the Palo Alto Municipal Code.

[. . .]

(f) Limitations on Outdoor Uses and Activities.

(1) In the GM district, outdoor sales and display of merchandise and outdoor eating areas operated incidental to permitted restaurants ~~eating and drinking services~~ are permitted subject to the following regulations:

[. . .]

18.34.030 Land Uses

[. . .]

(b) Mixed use development, where residential and non-residential uses are combined, may include two or more of the following uses:

- (1) Multi-family residential;
- (2) Non-residential uses, limited to:
 - (A) Retail and personal services;
 - (B) Restaurants ~~Eating and drinking services~~;

[. . .]

18.42.030 Accessory Uses and Facilities**(a) Examples of Accessory Uses and Facilities**

Accessory uses and facilities include, but are not limited to, the following list of examples; provided that each accessory use or facility shall comply with all provisions of this title:

[. . .]

(5) Newsstands, gift shops, drugstores, and restaurant ~~seating and drinking facilities~~, or similar services intended solely for the convenience of occupants or employees, or guests thereof, of a principal use, when conducted entirely within a principal facility;

[. . .]

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18.42.090 Alcoholic Beverages**(a) Conditional Use Permit Required in Tandem with On-Sale License**

In any district where otherwise permitted by this title, any ~~eating and drinking establishment~~ restaurant or other use having any part of its operation subject to an on-sale license required by the State of California shall be subject to securing a conditional use permit.

[. . .]

SECTION 12. The land use tables in Sections 18.13.030 (Land Uses) of Chapter 18.13 (Multiple Family Residential (RM-20, RM-30, and RM-40) Districts); 18.20.030 (Land Uses) of Chapter 18.20 (Office, Research, and Manufacturing (MOR, ROLM, RP, and GM) Districts); 18.28.040 (Land Uses) of Chapter 18.28 (Special Purpose (PF, OS, and AC) Districts); 18.36.040 (Land Uses) of Chapter 18.36 (Hospital (HD) District) of Title 18 (Zoning) of the Palo Alto Municipal Code shall be amended to replace all references to phrase “Eating and drinking services” with the term “Restaurants,” and the phrase “drive-in” with the phrase “drive-in/drive-through.”

SECTION 13. The Minimum Off-Street Parking and Loading Tables (Tables 1, 2, and 3) in Section 18.52.040 (Off-Street Parking, Loading and Bicycle Facility Requirements) of Chapter 18.52 (Parking and Loading Requirements) of Title 18 (Zoning) of the Palo Alto Municipal Code shall be amended to replace all references to phrase “Eating and drinking services” with the term “Restaurants” and the phrase “eating and drinking” with the term “restaurant.”

SECTION 14. All remaining references in the Palo Alto Municipal Code to “Eating and Drinking,” “Eating and Drinking Services,” “Eating and Drinking Facilities,” or “Eating and Drinking Establishments” shall have the same meaning as “Restaurants,” as defined in Section 18.04.030(a)(124.5).

SECTION 15. Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 16. 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.

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SECTION 17. The Council finds that the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline sections 15061(b)(3) because it can be seen.

SECTION 18. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Planning & Development
Services