

**CITY OF ALBANY  
PLANNING AND ZONING AGENDA  
STAFF REPORT**

Agenda date: 10/25/11  
Prepared by: ALH

**ITEM: 6B**

**SUBJECT: Permitted Land Use Table Amendment Discussion-** The Planning & Zoning Commission voted 5-0 at the October 11, 2011 hearing to begin discussions to amend the permitted land use tables in Section 20.12.040 of the Albany Municipal Code. The discussion will include commercial, retail, office, and personal service uses within the Solano Commercial and San Pablo Commercial corridors.

**SITE: Solano Ave./San Pablo Ave.**

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**STAFF RECOMMENDATION**

Staff recommends that the Planning and Zoning Commission receive the summary memo and begin the following discussion:

1. Identify the appropriate policy tool for restricting uses (CUP vs. depth of ground floor area)
2. Review each permitted use within the existing table determine if special provisions should be applied. Use permit provisions as well as other changes can be identified in the table and through the Notes contained in the table. (See Attachment 1)
3. Identify uses which might not necessarily be defined and decide if a definition should be prepared (Ex. Personal Services is not defined with the Zoning Code)

**BACKGROUND**

At the regular Planning & Zoning Commission meeting held on October 11, 2011, the Commission moved action to begin the process of updating the Permitted Use Tables contained in Section 20.12.040 of the Albany Municipal Code.

Staff had attended a series of meetings with representatives from the Solano Ave. Merchants Association and the Albany Chamber of Commerce to listen to concerns about an increase in personal service establishments. Specifically, hair salons, nail shops, and massage establishments/day spas were identified as businesses which are becoming more common on Solano Ave.

## ANALYSIS

### Availability of Second Story Space on Solano & San Pablo Ave.

Staff walked up Solano Ave. and San Pablo Ave. to assess how much upper level commercial space is available in both corridors. On San Pablo Ave., almost all the commercial space is single-story. Existing uses within the corridor include auto repair/sales, bars/restaurants, gas stations, cell phone/electronics retail stores, and miscellaneous retail.

On Solano Ave. between San Pablo Ave. & Key Route Blvd. (six block stretch) much of the existing space is single-story. Where there are multi-story buildings within this area, the upper levels are used as residential apartments. This stretch of the corridor includes restaurant, retail, mail service, flower shop uses as well as a movie theater. Staff counted a total of four (4) buildings which have second story commercial space levels on this six (6) block stretch. The photos below show the two story building identified by staff.





On Solano Ave. between Key Route Blvd. and the City-limit lines, there is more second-story office/commercial space in existence. Beginning at Key Route and east of up Solano Ave., towards Berkeley, there is two-story construction on almost every block. This includes the recently constructed orthodontist building on the northeast side of Key Route & Solano and existing commercial two-story construction.

Depending upon the Commission's assessment of available second story commercial space, restrictions for locating office/personal service uses on these upper levels. Alternatively, the Commission may consider a percentage of floor area and/or depth that can be used for personal service/incidental services. As an example, the City of Alameda has a provision which requires 50% depth of ground floor space directly behind the building frontage closest to the public street, public alley or public sidewalk shall be reserved for retail sales and/or service uses permitted in the zoning district.

### Use Permit

With the current process, a business submits a business license application to the City for review and issuance. To approve a business license, Planning staff verifies property zoning, the building inspector visits the business to insure is safe for occupants, and the Fire Department checks for compliance with the Fire Code (exiting, egress, etc.) The Finance Department collects the fee and issues the license which is good for one calendar year. This process typically takes 5-10 business days.

If a Use Permit process were to be included as part of the amendment, this would add time and cost to the review process. In addition to the business license fee, the business proprietor would be responsible for the CUP application fee and incur the cost of application related materials. This also adds at least three (3) additional months to allow for Planning & Zoning Commission



review and requires a 300 ft. public notice. This would also increase the amount of staff time currently expended on use permit application processing.

If the Planning & Zoning Commission were to deny a use permit application request, findings would need to be crafted explicitly stating why a use is incompatible. These findings would require a factual basis with which to support a denial action. Currently, the findings for a use permit include: necessity, desirability, compatibility, adverse impacts, and consistency with the Zoning Ordinance, General Plan, and Specific Plan.



Figure 1. Aerial of Solano Ave. between Key Route & Peralta

### Permitted Land Use Tables

Staff reviewed land use regulations of neighboring jurisdictions for comparison purposes. Both Berkeley and Alameda have regulations within their permitted use tables to regulate street level business activity. Both jurisdictions have limited this regulation to specific main street corridors.

In Berkeley these regulations are applicable on Telegraph Ave. In Alameda, these regulations apply to the Park St. District.

There are several ways to modify the permitted land use tables including:

- Require a Conditional Use Permit for personal service/office uses that would like to locate in a street level storefront. Permit personal service/office uses by right in upper level
- Restrict a percentage of floor area and/or depth that can be used for incidental services.

#### Alcohol Establishment Monitoring Program

As previously mentioned, an alcohol establishment monitoring program has been discussed with representatives of residential neighborhoods near San Pablo Ave. As it is proposed, existing alcohol establishments would be required to pay a fee for the monitoring program and would be issued program and operating criteria which would regulate business operations. Failure to comply with the operating criteria could result in fines, other possible penalties, and even revocation. Establishments would be charged and evaluated on an annual basis for compliance with the program.

As part of the review of the permitted use tables, the Commission may consider this idea further and recommend that staff initiate an outreach process with local establishment owners. Prior to introducing a potential ordinance, this program would be discussed with the Planning & Zoning Commission, the Police Department, and local alcohol establishment owners as part of a study session.

#### Attachments

1. Table 1 20.12.040 of the Albany Municipal Code