



CITY OF WILDOMAR – PLANNING COMMISSION
Agenda Item #2.2
PUBLIC HEARING
Meeting Date: October 21, 2015

TO: Chairman and Members of the Planning Commission

FROM: Matthew C. Bassi, Planning Director

SUBJECT: **Zoning Ordinance Amendment No. 15-03:**
Planning Commission review and recommendation to the City Council for the adoption of an Ordinance amending Chapter 17.305 (Mixed-Use Overlay District) of the Wildomar Municipal Code.

STAFF REPORT

RECOMMENDATION

The Planning Department recommends the Planning Commission take the following action:

1. Adopt a Resolution entitled:

PC RESOLUTION NO. 2015-27

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA, RECOMMENDING CITY COUNCIL ADOPTION OF AN ORDINANCE AMENDING CHAPTER 17.305 (MIXED-USE OVERLAY DISTRICT) OF THE WILDOMAR MUNICIPAL CODE (ZOA NO. 15-03)

BACKGROUND / DESCRIPTION

The Mixed Use Overlay District provisions (Chapter 17.305 of the Municipal Code) were adopted by the City Council on December 11, 2013 as part of the Housing Element update adoption the same night. Thereafter, the City was sued by a group known as the Alliance for Intelligent Planning who challenged the environmental analysis in the City's EIR prepared for the Housing Element update. The City and this group have now agreed to settle the lawsuit rather than continue on with costly litigation.

One component of the settlement is an amendment to Chapter 17.305 (Mixed Use Overlay District) of the Municipal Code. Hence, staff has brought Zoning Ordinance Amendment No. 15-03 to the Commission for consideration and recommendation to the City Council.

ANALYSIS

The primary change to the Mixed-Use Overlay District provisions requested by Alliance for Intelligent Planning was to list the permitted and conditionally permitted uses in this specific code section rather than referring to lists of permitted and conditionally permitted uses in other sections of the Code (i.e., C-1/C-P, R-3, etc.) to determine allowable uses. The changes are reflected in the attached Ordinance (refer to Sec. 17.305.030.C – E) and will make it easier for someone to determine what is allowed by right and what requires a conditional use permit within the Mixed Use Overlay District. Other changes requested by Alliance were primarily minor revisions to phrasing to improve clarity.

The proposed changes are consistent with the General Plan and Housing Element policies and will still allow uses and densities within the Mixed Use Overlay District as originally envisioned and approved by the Commission and Council.

CEQA DETERMINATION

In accordance with the requirements of the California Environmental Quality Act (Public Resources Code § 21000, et seq. (“CEQA”)), an Environmental Impact Report for the Housing Element Update (SCH# 2013051001), which included adoption of the original Mixed-Use Overlay District (Ord. No. 85) was prepared, considered and certified by the City Council on December 13, 2013, and a notice of determination was filed in accordance with state law. Upon evaluation of Zoning Ordinance Amendment No. 15-03, the Planning Department has determined that adoption of the proposed amendment does not significantly change the original ordinance evaluated in the original EIR certified by the City Council.

The changes to the original ordinance, which provides for minor text changes, do not create any new impacts that were not evaluated in the EIR, or significantly increase the impacts identified in the EIR. In addition, the environmental setting of Zoning Ordinance Amendment No. 15-03 has not changed since the adoption of Ordinance No. 85 less than two years ago; there has been no development on any of the properties that were included within the Mixed Use Overlay District. Therefore, staff has concluded that there has not been a significant change to the environmental setting since adoption of Ordinance No. 85 that would warrant further analysis under CEQA.

As there have been no significant changes to the Mixed Use Overlay District provisions, no changes in the circumstances under which the zoning ordinance amendment will be undertaken, and no new information has come to light regarding new or significant environmental effects, the Planning Department has determined that none of the conditions exist that might otherwise require a subsequent EIR, subsequent MND or subsequent Negative Declaration, or an Addendum pursuant to Title 14 Cal. Code Regs. Section 15162. Therefore, in accordance with Section 15153 of the CEQA Guidelines, the Planning Department has concluded that no further environmental review is required for the approval of Zoning Ordinance Amendment No. 15-03.

REQUIRED ZOA FINDING OF FACT

In accordance with the provisions of the Wildomar Zoning Ordinance, the following finding is offered for Planning Commission consideration in recommending approval of Zoning Ordinance Amendment No. 15-03 to the City Council.

- A. The proposed amendment is consistent with the City of Wildomar General Plan and Zoning Ordinance.

The proposed amendment is consistent with the City of Wildomar General Plan in that the proposed amendment will implement the policies and programs of the 2013-2021 Housing Element requiring such amendment. In addition, the Mixed Use Overlay District has been processed in accordance Government Code Section 65800, et. seq., and Chapter 17.280 of the Zoning Ordinance. With the approval and implementation of the proposed amendment, the City's General Plan and Zoning Ordinance will be in compliance with state law as prescribed in the 2013-2021 Housing Element.

PUBLIC NOTICING:

In accordance with the Wildomar Municipal Code, the Planning Department published a legal notice in the Press Enterprise, a local newspaper of general circulation, on October 11, 2015 notifying the general public of the public hearing for the proposed Zoning Ordinance Amendment No. 15-03. As of the date of this report, staff has not received any public comments on the proposed amendment.

Respectfully Submitted,
Matthew C. Bassi
Planning Director

Reviewed By,
Erica L. Vega
Assistant City Attorney

ATTACHMENTS:

- A. PC Resolution No. 2015-27
Exhibit 1 – Draft Council Ordinance

ATTACHMENT A

(PC Resolution No. 2015-27)

PC RESOLUTION NO. 2015-27

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA, RECOMMENDING CITY COUNCIL ADOPTION OF AN ORDINANCE AMENDING CHAPTER 17.305 (MIXED-USE OVERLAY DISTRICT) OF THE WILDOMAR MUNICIPAL CODE (ZOA NO. 15-03)

WHEREAS, the Planning Department has proposed to amend Chapter 17.305 (Mixed-Use Overlay District) regarding mixed-use development in the City of Wildomar; and

WHEREAS, in accordance with Section 17.280 of the Wildomar Municipal Code, the City of Wildomar Planning Commission has the authority to take action on, and recommend adoption by the City Council of Zoning Ordinance Amendment No. 15-03; and

WHEREAS, in accordance with the Wildomar Municipal Code, the Planning Department, on September 4, 2015, published a legal notice in the Press Enterprise, a local newspaper of general circulation, notifying the general public of a public hearing set for September 16, 2015 regarding Zoning Ordinance Amendment No. 15-03; and

WHEREAS, in accordance with Wildomar Municipal Code, the City of Wildomar Planning Commission conducted the duly noticed public hearing on September 16, 2015, at which time interested persons had an opportunity to testify in support of, or opposition to Zoning Ordinance Amendment No. 15-03, and at which time the Planning Commission received public testimony concerning Zoning Ordinance Amendment No. 15-03, and voted to table the agenda item to a future meeting; and

WHEREAS, in accordance with the Wildomar Municipal Code, the Planning Department, on October 11, 2015, published a legal notice in the Press Enterprise, a local newspaper of general circulation, notifying the general public of a public hearing set for October 21, 2015 regarding Zoning Ordinance Amendment No. 15-03; and

WHEREAS, in accordance with Wildomar Municipal Code, the City of Wildomar Planning Commission conducted the duly noticed public hearing on October 21, 2015, at which time interested persons had an opportunity to testify in support of, or opposition to Zoning Ordinance Amendment No. 15-03, and at which time the Planning Commission received public testimony concerning Zoning Ordinance Amendment No. 15-03, and has made a recommendation to the City Council regarding said amendment.

NOW THEREFORE, the Planning Commission of the City of Wildomar, California does hereby resolve, determine and order as follows:

SECTION 1. ENVIRONMENTAL DETERMINATION.

In accordance with the requirements of the California Environmental Quality Act (Public Resources Code § 21000, et seq. ("CEQA")), an Environmental Impact Report for the Housing Element Update (SCH# 2013051001), which included adoption of the

original Mixed-Use Overlay District (Ord. No. 85) was prepared, considered and certified by the City Council on December 13, 2013, and a notice of determination was filed in accordance with state law. Upon evaluation of Zoning Ordinance Amendment No. 15-03, the Planning Commission recommends the City Council has determine that adoption of the proposed amendment does not significantly change the original ordinance evaluated in the original EIR certified by the City Council.

The changes to the original ordinance, which provides for minor text changes, do not create any new impacts that were not evaluated in the EIR, or significantly increase the impacts identified in the EIR. In addition, the environmental setting of Zoning Ordinance Amendment No. 15-03 has not changed since adoption of Ordinance No. 85 less than two years ago; there has been no development on any of the properties that were included within the Mixed Use Overlay District. Therefore, there has not been a significant change to the environmental setting since adoption of Ordinance No. 85 that would warrant further analysis under CEQA.

As there have been no significant changes to the Mixed Use Overlay District provisions, no changes in the circumstances under which the zoning ordinance amendment will be undertaken, and no new information has come to light regarding new or significant environmental effects, the Planning Commission recommends that the City Council determine that none of the conditions exist that might otherwise require a subsequent EIR, subsequent MND or subsequent Negative Declaration, or an Addendum pursuant to Title 14 Cal. Code Regs. Section 15162. Therefore, the Planning Commission recommends that, in accordance with Section 15153 of the CEQA Guidelines, no further environmental review be required for the approval of Zoning Ordinance Amendment No. 15-03.

SECTION 2. REQUIRED ZOA FINDING.

In accordance with the provisions of the Wildomar Zoning Ordinance, the following finding is offered for Planning Commission consideration in recommending approval of Zoning Ordinance Amendment No. 15-03 to the City Council.

- A. The proposed amendment is consistent with the City of Wildomar General Plan and Zoning Ordinance.

The proposed amendment is consistent with the City of Wildomar General Plan in that the proposed amendment will implement the policies and programs of the 2013-2021 Housing Element requiring such amendment. In addition, the Mixed Use Overlay District has been processed in accordance Government Code Section 65800, et. seq., and Chapter 17.280 of the Zoning Ordinance. With the approval and implementation of the proposed amendment, the City's General Plan and Zoning Ordinance will be in compliance with state law as prescribed in the 2013-2021 Housing Element.

SECTION 3. PLANNING COMMISSION ACTION.

Based on the foregoing finding, and on substantial evidence in the whole of the record, the Planning Commission hereby adopts PC Resolution No. 2015-28 recommending the City Council approval of an Ordinance, attached hereto and incorporated herein by reference as Exhibit 1, approving Zoning Ordinance Amendment No. 15-03.

PASSED, APPROVED AND ADOPTED this 21st day of October, 2015 by the following vote:

AYES.

NOES:

ABSENT:

ABSTAINED:

Veronica Langworthy
Planning Commission Chairman

ATTEST:

Matthew C. Bassi
Planning Director/Minutes Secretary

APPROVED AS TO FORM:

Erica L. Vega
Assistant City Attorney

EXHIBIT 1
Draft City Council Ordinance

DRAFT ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT NO. 15-03 TO AMEND CHAPTER 17.305 (MIXED USE OVERLAY DISTRICT) OF THE WILDOMAR MUNICIPAL CODE

WHEREAS, on December 11, 2013, the City Council adopted and approved the 2013-2021 Housing Element for the City of Wildomar ("Housing Element") and certified the EIR prepared for the Housing Element; and

WHEREAS, the Housing Element calls for certain amendments to be made to the City's Zoning Ordinance to implement the programs and policies contained in the Housing Element; and,

WHEREAS, this Ordinance amends the Zoning Ordinance to implement the Housing Element; and,

WHEREAS, in accordance with Section 17.280 of the Wildomar Zoning Ordinance, the City Council has the authority to take action on the proposed Zoning Ordinance Amendment No. 15-03; and

WHEREAS, the Planning Commission on October 21, 2015 held a duly noticed public hearing regarding Zoning Ordinance Amendment No. 15-03 and voted to adopt PC Resolution No. 2015-27 recommending City Council approval of adoption of Zoning Ordinance Amendment No. 15-03; and

WHEREAS, in accordance with the Wildomar Zoning Ordinance, the Planning Department, on _____, 2015, published a legal notice in the Press Enterprise, a local newspaper of general circulation, notifying the general public of a City Council public hearing set for on _____, 2015 regarding Zoning Ordinance Amendment No. 15-03; and

WHEREAS, in accordance with Wildomar Zoning Ordinance, on _____, 2015, the City Council of the City of Wildomar, upon recommendation from the Planning Commission, conducted the duly noticed public hearing, at which time interested persons had an opportunity to testify in support of, or opposition to Zoning Ordinance Amendment No. 15-03, and at which time the City Council received public testimony concerning Zoning Ordinance Amendment No. 15-03.

**THE CITY COUNCIL OF THE CITY OF WILDOMAR HEREBY DOES ORDAIN
AS FOLLOWS:**

SECTION 1: CEQA/ENVIRONMENTAL DETERMINATION.

In accordance with the requirements of the California Environmental Quality Act (Public Resources Code § 21000, et seq. ("CEQA")), an Environmental Impact Report for the Housing Element Update (SCH# 2013051001), which included adoption of the original Mixed-Use Overlay District (Ord. No. 85) was prepared, considered and certified by the City Council on December 13, 2013, and a notice of determination was filed in accordance with state law. Upon evaluation of Zoning Ordinance Amendment No. 15-03, the City Council determines that adoption of the proposed amendment does not significantly change the original ordinance evaluated in the original EIR certified by the City Council.

The changes to the original ordinance, which provides for minor text changes, do not create any new impacts that were not evaluated in the EIR, or significantly increase the impacts identified in the EIR. In addition, the environmental setting of Zoning Ordinance Amendment No. 15-03 has not changed since the adoption of Ordinance No. 85 less than two years ago; there has been no development on any of the properties that were included within the Mixed Use Overlay District. Therefore, there has not been a significant change to the environmental setting since adoption of Ordinance No. 85 that would warrant further analysis under CEQA.

As there have been no significant changes to the Mixed Use Overlay District provisions, no changes in the circumstances under which the zoning ordinance amendment will be undertaken, and no new information has come to light regarding new or significant environmental effects, the City Council determines that none of the conditions exist that might otherwise require a subsequent EIR, subsequent MND or subsequent Negative Declaration, or an Addendum pursuant to Title 14 Cal. Code Regs. Section 15162. Therefore, in accordance with Section 15153 of the CEQA Guidelines, no further environmental review is required for the approval of Zoning Ordinance Amendment No. 15-03

The documents comprising the City's environmental review for the project are on file and available for public review at Wildomar City Hall, Planning Department, 23873 Clinton Keith Rd., Suite 201, Wildomar, CA 92595.

SECTION 2: AMENDMENT TO THE ZONING ORDINANCE

Section 17.305 (Mixed Use Overlay District) of the Wildomar Zoning Ordinance is hereby amended in its entirety to read as follows:

"Sec. 17.305.010 Purpose

This chapter provides a procedure to implement the Mixed Use Planning Area (MUPA) land use designation of the City of Wildomar General Plan. The intent of the Mixed Use Overlay District is to allow and encourage commercial and

professional office uses to be located with multi-family residential development ("Mixed Use Development"). The residential component of a Mixed Use Development must be at a density of at least 30 units per acre consistent with the MUPA General Plan land use designation provisions.

Sec. 17.305.020 Application for Mixed Use Development

- A. An application for a Mixed Use Development on property within the Mixed Use Zone under this chapter may be made by any property owner or their representative in a format established by the City.
- B. A Mixed Use Development project under this chapter requires the processing and approval of a Plot Plan consistent with the procedures and requirements of Chapter 17.216 of the Zoning Ordinance.

Sec. 17.305.030 Permitted Uses

- A. A Mixed Use Development must devote at least thirty (30) percent, but not more than 50%, of the developable area for the development of multi-family residential uses. Not less than fifty (50) percent of the developable area shall be devoted to commercial uses as outlined in this chapter.
- B. A Mixed Use Development must have a minimum density of at least 30 dwelling units per acre for the residential portion of the site, as required in the MUPA land use designation of the Wildomar General Plan.
- C. The following Residential Uses are permitted subject to a Plot Plan
 - 1. Multiple-family dwellings subject to the provisions of Section 17.44 & 17.60 of the Zoning Ordinance.
 - 2. Nonprofit community centers, social halls, parks, and community recreation facilities, including but not limited to swimming pools, and the normal accessory uses thereto.
 - 3. Community service areas and medical facilities designed primarily for the use of the residents of the subdivision.
- D. The following Commercial Uses are permitted subject to a Plot Plan (No Outdoor Storage Permitted)
 - 1. Antique shops
 - 2. Appliance stores, household
 - 3. Art supply shops and studios
 - 4. Bakery shops, including baking only when incidental to retail sales on the premises
 - 5. Banks and financial institutions (without drive-through facilities)

6. Barber and beauty shops
7. Book stores and binders (adult bookstores, prohibited)
8. Catering services
9. Cleaning shops, Dry cleaners
10. Clothing stores
11. Confectionery or candy stores
12. Convenience stores, not including the sale of motor vehicle fuel
13. Delicatessens
14. Department stores
15. Drug stores (without drive-through facilities)
16. Dry goods stores
17. Employment agencies
18. Florist shops
19. Food markets
20. Gift shops
21. Household goods sales, including but not limited to, new appliances, furniture, carpets, draperies, lamps, radios, and television sets, including repair thereof.
22. Hobby shops
23. Ice cream shops
24. Interior decorating shops
25. Jewelry stores, including incidental repairs
26. Leather goods stores
27. Locksmith shops
28. Meat markets, not including slaughtering
29. Micro-breweries
30. Music stores
31. Notions or novelty stores (adult stores, prohibited)
32. Offices, including business, law, medical, dental, chiropractic, architectural, engineering, community planning, real estate
33. Pet shops and pet supply shops
34. Photography shops and studios
35. Radio and television broadcasting studios
36. Recording studios
37. Restaurants and other eating establishments (not including drive-through facilities)
38. Shoe stores
39. Sporting goods stores
40. Stationer stores

41. Tailor shops
42. Tobacco shops
43. Toy shops
44. Travel agencies

E. Commercial Uses Subject to a Conditional Use Permit

1. Auditoriums and conference rooms
2. Automobile parts and supply stores
3. Automobile rental agencies
4. Banks and financial institutions (with drive-through facilities)
5. Bars and cocktail lounges
6. Billiard and pool halls
7. Blueprint and duplicating services
8. Bowling alleys
9. Convenience stores, including the sale of motor vehicle fuel
10. Car washes
11. Child day care center.
12. Congregate care residential facilities, developed pursuant to Section 19.103 of this ordinance
13. Drug stores (with drive-through facilities)
14. Dance halls
15. Gasoline service stations, including the concurrent sale of beer and wine for off premises consumption (subject to the provisions of Section 17.248 of the Zoning Ordinance)
16. Hotels, resort hotels and motels
17. Institutions for the aged licensed by the California State Department of Social Welfare or the County Department of Public Welfare.
18. Liquor stores (subject to the provisions of Section 17.248. of the Zoning Ordinance)
19. Restaurants and other eating establishments (including drive-through facilities)
20. Schools, business and professional, including art, barber, beauty, dance, drama, music and swimming
21. Theaters, not including drive-ins

Sec.17.305.040 Development Standards

- A. The multi-family residential component of a Mixed Use Development shall adhere to the development standards stated in Chapter 17.60 (Planned Residential Zone) of the Zoning Ordinance.
- B. The commercial retail and/or professional office component of a Mixed Use Development shall adhere to the development standards stated in Chapter 17.72 (C-1/C-P General Commercial Zone) of the Zoning Ordinance.
- C. Notwithstanding paragraphs B and C of this section, the development standards stated in Chapters 17.60 (Planned Residential Zone) and 17.72 (C-1/C-P General Commercial Zone) of the Zoning Ordinance may be waived or modified as part of the Plot Plan or Conditional Use Permit process if it is determined that the standard is inappropriate for the proposed use, and that a waiver or modification of the standard will not be contrary to the public health and safety.
- D. If any use proposed as part of a Mixed Use Development requires an application other than a Plot Plan, then said use shall be processed in accordance with requirements of Chapters 17.60 (Planned Residential Zone) and 17.72 (C-1/C-P General Commercial Zone) of the Zoning Ordinance.”

SECTION 3. SEVERABILITY.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect thirty (30) days after its passage by the City Council.

SECTION 5. PUBLICATION.

The city clerk is directed to certify the adoption of this ordinance and cause it to be published in the manner required by law.

SECTION 6. CITY CLERK ACTION

The City Clerk is authorized and directed to cause this Ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Section 36933(a) or, to cause this Ordinance to be published in the manner required by law using the alternative summary and pasting procedure authorized under Government Code Section 39633(c).

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2015

Ben Benoit
Mayor

APPROVED AS TO FORM:

ATTEST:

Thomas D. Jex
City Attorney

Debbie A. Lee, CMC
City Clerk