

City of Piedmont
PLANNING COMMISSION AGENDA REPORT

DATE: August 12, 2024

TO: Planning Commission

FROM: Gopika Nair, Associate Planner

SUBJECT: Informational Item - Study Session Reviewing the Results of a Citywide Commercial Uses Survey, and Proposed Revisions to City Code Chapter 17 related to Conditional Use Permits and Permitted Commercial Uses in Zone D.

AGENDA ITEM NUMBER 6

PURPOSE OF THE STUDY SESSION

This agenda item discusses further updates proposed to the conditional use permit (CUP) process, and adding permitted commercial uses in Zone D. The agenda item also includes results of the citywide commercial uses public opinion survey that closed on July 21, 2024. This item is for informational purposes and public feedback, with no formal action anticipated at this time.

EXECUTIVE SUMMARY

On July 8, 2024, Planning Commission held a study session during its regular meeting to discuss proposed changes to the CUP process and approval criteria, permitted uses in Zone D, and a citywide commercial use survey's preliminary results. The goals of the proposed changes are to implement State law, align with Housing Element programs 4.M and 4.U, improve current procedures, and clarify code language based on staff recommendations and review of current practices. As summarized in the next section, the study session provided a valuable forum for the Commission and staff to collaboratively refine the recommended zoning revisions.

This agenda report delves further into:

- Draft revisions to the regulations authorizing the CUP review body, transferring the decision-making authority from the City Council to the Planning Commission, and enabling Planning Commission decisions to be appealed to the City Council
- Discussion related to commercial uses permitted by-right in Zone D, including final results of the recent citywide commercial use survey
- Next steps

The recommended revisions reflect best practices and would establish both commercial uses permitted by-right and commercial uses subject to conditional use permits. These revisions to Chapter 17 (Planning and Land Use) of the Piedmont City Code, including divisions 17.26 and

17.68, build upon the the Commission’s July 8th discussion in an on-going effort to update regulations related to commercial uses in the City Code.

BACKGROUND

July 8, 2024, Study Session Summarized

The July 8 [study session](#) discussed:

- Allowing certain commercial uses as a permitted use-by-right in Zone D.
- Generating a possible list of commercial uses permitted by-right by analyzing citywide survey results.
- Updating the criteria of when a CUP is needed.
- Updating existing CUP findings and standards for approving residential projects and adding new CUP findings criteria for approving commercial projects.
- Clarifying that a CUP shall continue to be valid upon change of ownership of the business, site or structure when the continued use is consistent with the original CUP.

The July 8 study session report compared current provisions to proposed revisions to division 17.26 (Zone D: Commercial and Mixed-Use) and 17.68 (Conditional Use Permits) of the Piedmont City Code. The Planning Commission asked why a structural change to a building has historically required a CUP, inquired about the City’s goals for having permitted commercial uses and the reasoning behind selecting the commercial uses named in the survey, and asked if the public engagement for the proposed changes would extend beyond the citywide survey. The Commission requested staff to assess the potential impacts of the commercial uses on the surrounding areas (such as considerations for loading/unloading zones, parking availability, and business operation hours).

One member of the public provided testimony, expressing a preference for allowing businesses that generate higher sales tax revenue. The study session was informational, and no action was taken.

DISCUSSION

Staff seeks the Commission’s and public’s input on the following:

- Potential amendments to the CUP division
- Permitted commercial uses within Zone D
- Community engagement strategies

In the following sections, staff will present background research and analysis of proposed amendments. The Commission is expected to review this information, receive a staff presentation, and provide direction for the proposed draft amendments.

Proposed New Updates to CUP Process

City staff continues to develop the proposed revisions to divisions 17.26 and 17.68 to improve the Piedmont CUP process. Building on the July 8th study session discussions and after reviewing the

regulations for identifying the approving body for CUPs in other jurisdictions within Alameda County, staff proposes streamlining the CUP review process in Piedmont. Currently, the City Council makes the final decision after the Planning Commission's recommendation on each CUP application. The proposed amendments to the City Code would delegate decision-making authority to the Planning Commission, with appeals of Planning Commission decisions going to the City Council. This revision is consistent with cities throughout the Bay Area and California, and with the decision-making authority of Piedmont's variance and design review permit processes.

Permitted Commercial Uses in Zone D and Citywide Survey Results

Informed by Planning Commission feedback, staff has continued to review permitted uses in other jurisdictions, Piedmont's development standards, the City's commercial goals, and citywide survey results as follows.

1. Review Body for CUPs

Attachment A, report page 10, examines CUP approval processes across 10 Alameda County jurisdictions. The analysis reveals variations in CUP procedures, including the frequent use of tiered systems and differing review bodies for different CUP types.

Piedmont's CUP Approval Process

Currently, Piedmont is an outlier among other jurisdictions in Alameda County by having the City Council act as the sole approving body for all CUPs, following a recommendation from the Planning Commission. This can lead to extended processing timelines due to additional steps involved. During the past twenty years the City Council has never approved or denied a CUP application in opposition to the Planning Commission's recommendation. Additionally, under the current process City Council decisions on CUPs are not subject to appeal as the Council is the approving body.

Proposed Streamlining with Planning Commission as Approving Body

It is a best practice to avoid subjecting permit applicants to unnecessary processes, timelines and costs. Historically, the City Council's decisions on CUPs are consistent with the Planning Commission's recommendation. To improve customer service, staff proposes a change in the CUP approval process by designating the Planning Commission as the approving body. This aligns with the practices observed in most other Alameda County jurisdictions (and jurisdictions throughout California) and aims to achieve several benefits:

- **Streamlined Processing:** By changing the decision-making authority from the City Council to the Planning Commission, the CUP decision-making process would become more streamlined, eliminating unnecessary permit processing times and costs for applicants. Reduced permit fee costs could be lowered by reduced administrative costs related to mailings and staff time

- **Preserving Public Comment:** Importantly, this proposal does not eliminate the public hearing aspect of the CUP process. Public hearings and public comment will still be integral to the consideration of CUP applications.
- **Establishment of Appeal Process:** A key element of the proposed change is the inclusion of an appeal process. As provided in City Code division 17.78, this will allow applicants and the public to appeal decisions made by the Planning Commission, with the City Council considering the appeals.

Overall, the proposed changes seek to achieve a more efficient CUP decision-making process that incorporates best practices while safeguarding public engagement for these important land use decisions. The inclusion of an appeal process ensures a balanced approach that respects both the authority of the Planning Commission and the right to challenge its decisions.

2. Permitted By-right Commercial Uses and Citywide Survey Results

As discussed in the July 8 study session, to comply with Housing Element Program 4.M and State law (SB 330), staff recommends listing by-right commercial in Zone D. Housing Element Program 4.M Facilitate Multi-Family and Residential Mixed-Use Projects by Right Subject to Objective Standards states as follows, in part: “Consistent with State law, including SB 35 and SB 330, the City will adopt objective design standards for multi-family and residential mixed-use projects. The purpose of these standards is to expedite the approval and development process for such projects and support the City in meeting its housing goals.” Use-by-right means that the commercial use is permitted (no public hearing) and no permit is required. However, the commercial buildings and infrastructure will continue to be required to comply with the objective zoning standards and design standards. (See the section on Development Standards and Design Standards and Guidelines on page x of this report.)

The draft set of by-right commercial uses was generated through the evaluation of City goals for commercial uses, an audit of commercial uses permitted in other comparable jurisdictions, an analysis of citywide survey results, and a review of existing City standards and guidelines for commercial development.

Goals

The [Land Use Element](#) of the Piedmont General Plan serves as the blueprint for Piedmont's development. It outlines key goals for public and private property use, prioritizing neighborhood character and minimizing conflicts between different areas. While the Land Use Element anticipates some changes in land use, it emphasizes the preservation of residential areas and responsible development on commercial and public sites.

Focus on Commercial and Mixed-Use Areas:

The commercial and mixed-use section of the Land Use Element specifically focuses on the goals for commercial and mixed-use areas (Zone D). The primary objective is to cultivate a diverse range of businesses that cater to the essential needs of the Piedmont community. Staff has prepared the following draft objectives consistent with the Land Use Element:

- **Supporting Local Businesses:** Encouraging local, independent businesses strengthens Piedmont's economic identity and provides job opportunities for residents.
- **Balancing Development and Traffic:** Promoting commercial and office projects with appropriate building size and traffic generation ensures that development doesn't negatively impact traffic flow and congestion.
- **Creating a Vibrant Urban Center:** Fostering Piedmont's commercial and mixed-use corridors as thriving hubs for commerce, finance, and a mix of civic, social, entertainment, cultural, and residential uses. These spaces can evolve into vibrant gathering areas for the community.
- **Promoting High-Quality Design:** Encouraging high-quality design standards for new or remodeled commercial developments ensures they complement Piedmont's existing aesthetic and adhere to established design guidelines.
- **Minimizing Negative Impacts:** Prioritizing strategies to limit negative off-site impacts, such as traffic congestion, noise pollution, and parking issues, on surrounding areas.
- **Protecting Residential Neighborhoods:** Ensuring that commercial development safeguards the peace and livability of adjacent residential districts.

Citywide Survey Results

A web-based public opinion survey was conducted between June 8 and July 21, 2024, to gather feedback on the community's desired commercial uses in the existing, designated commercial and mixed-use Zone D areas along Grand and Highland Avenues in Piedmont. The citywide survey was publicized on the Exedra news website, on posters, and in the Planning & Building Department e-newsletter, emailed twice to over 1,000 subscribers. As of the close of the survey, a total of 640 people participated, and most respondents (83.6%) live within a 10-minute walk of Zone D.

The survey asked residents their opinions on whether specific business types should be allowed in Zone D without requiring a special permit. Here's a breakdown of the results for some key business types:

- **Highly favored (desired by most respondents):**
 - Restaurant/Café (without live entertainment or drive-through restaurants),
 - Retail (food/beverage, nurseries, general),
 - Tutoring/lessons,
 - Personal services (salons, barber services etc.)
- **Somewhat favored (desired but with some limitations by most respondents):**
 - Hardware store,
 - Fitness center,
 - Office (professional),
 - Medical/dental office
- **Divided opinions:**
 - Dry cleaner,

- Financial institution,
- Bar/tavern,
- Animal services
- **Least favored (not desired by most respondents):** Liquor store

The open-ended question in the Piedmont commercial uses survey allowed residents to express their desires for businesses beyond the listed options. Here's a breakdown of the key themes:

Additional Desired Business Types:

- **Community-Oriented Businesses:** Many community members expressed a desire for businesses that promote social interaction and community building. Examples included cafes, wine bars, independent bookstores, and ice cream shops.
- **Services and Amenities:** Electric vehicle charging stations, a farmers' market, a small business incubator, and a bakery were frequently mentioned suggestions.
- **Focus on Local and Independent Businesses:** Respondents showed a preference for locally owned and operated businesses that contribute to the unique character of Piedmont. Some expressed concerns about a possible future influx of national franchises and chain stores.

Concerns and Limitations:

- **Traffic and Parking:** Increased traffic congestion and limited parking were recurring concerns, particularly for businesses that might attract a large number of customers.
- **Negative Impacts on Neighborhoods:** Some community members and residents expressed concerns about businesses that could generate noise, litter and pollution, or other negative impacts on the surrounding neighborhoods.

Additional Considerations:

- **Aesthetics and Design:** A few responses emphasized the importance of businesses that complement the aesthetic of the commercial district.
- **Specificity:** Some residents suggested specific types of restaurants (e.g., international cuisine, healthy options) or specific types of retail stores (e.g., clothing boutiques, toy stores) that they'd like to see.

Overall, the open-ended responses paint a picture of a community that values a vibrant commercial area with a focus on local businesses, social gathering spaces, and amenities that enhance the overall quality of life, in alignment with Land Use Element goals. The survey respondents are also mindful of potential negative impacts and want businesses that integrate well with the existing neighborhoods.

Commercial Uses Permitted in Other Jurisdictions

Staff compared commercial zoning regulations in eight Bay Area cities (Alameda, Albany,

Belvedere, Berkeley, Moraga, San Anselmo, Sausalito, and San Rafael) to those in Piedmont. Staff found that all these cities, regardless of population size, allow a variety of commercial uses "by-right" in commercial and mixed-use areas. The table providing the analysis of the regulations in the eight Bay Area cities is provided as Attachment B, agenda report pages 11-14.

Key takeaways:

- **Widespread Use of Permitted Uses:** Across all city sizes (smaller than, similar to, and larger than Piedmont), commercial and mixed-use zoning districts allow a range of businesses to operate without requiring a special permit.
- **Common Permitted Uses:** The most frequently allowed use-by-right businesses include: retail stores, food service (bakeries, cafes, etc.), offices, banks and financial institutions, fitness and recreation facilities, laundromats, pet stores, and public markets.
- **Variations and Limitations:** While the core permitted uses are similar, some cities may have variations in the list or impose limitations on:
 - Business size
 - Outdoor services (e.g., limitations on outdoor dining)
 - Encroachment on public spaces (e.g., sidewalk cafes may require a permit)
- **Development Standards Apply:** Even for permitted uses, businesses must adhere to regulations regarding parking standards, landscaping and screening requirements, Floor Area Ratio (FAR - limits building size on a property), setbacks from property lines, and building height restrictions.

The 16 commercial uses named in the citywide commercial use survey are inclusive of the uses permitted use-by-right in other Bay Area jurisdictions. The highly favored and somewhat favored uses from the citywide survey results align with the commonly permitted uses in the eight cities compared in this section of the staff report.

Development Standards and Design Standards and Guidelines

The City updated its [Piedmont Design Standards and Guidelines](#) (September 2023) document to include objective criteria for approving commercial and mixed-use development/remodel projects. Chapter 7 of the Piedmont Design Standards and Guidelines sets objective criteria for evaluating the aspects of a proposed commercial or mixed-use development application, including building design, site design, and façade design. These aspects outline design regulations and guidelines for building placement, massing, roof form, building elements (balconies, windows, eaves, awnings, materials etc.), parking and driveway standards, exterior lighting, screening and landscape. Other development standards including setback, height, parking, lot coverage, landscape coverage and signage are regulated by provisions in City Code Chapter 17 Planning and Land use.

The buildings and infrastructure for commercial uses in Zone D must continue to comply with existing objective design and zoning criteria. By-right commercial uses are proposed to be subject to performance standards being prepared by staff for the Commission's consideration during a future meeting.

NEXT STEPS

The project’s next steps are:

1. **Community Engagement:** Continue to engage and inform the community of the proposed amendments to the conditional use permit process and new permitted commercial uses. This could include additional surveys, open houses, study sessions, Planning and Building e-newsletters, and information on the City website.
2. **Permitted Commercial Uses List:** Develop a curated list of permitted commercial uses based on community engagement (completed and forthcoming) and the Planning Commission's direction and feedback. This list will be accompanied by performance standards specific to each use. Possible performance standards could include regulations governing the number of staff, floor area sizes, limits on the types of sales and service, hours of operation, loading zones, and deliveries hours.
3. **Update Zoning Ordinance:** Upon the completion of items 1 and 2 above, staff will complete draft amendments to relevant sections of the Piedmont City Code (including divisions 17.26, 17.28, and others) to reflect the newly defined permitted uses, changes to CUP review body and other updates related to the CUP process.

CONCLUSION

This report provides information on draft changes to the CUP process and discusses issues related to the selection of commercial uses to be permitted by-right in Zone D. The draft revisions aim to achieve a more efficient and responsive approach to commercial development in Piedmont to achieve General Plan goals and implement best practices.

Overall, the proposed revisions aim to preserving the unique character of Piedmont by continuing to permit the types of businesses currently in Piedmont’s commercial districts while providing some incentive to attract business types that the community favors. The streamlined CUP process and careful selection of permitted uses are expected to facilitate a more responsive and efficient approach to commercial development that meets the community’s needs.

The Commission will be asked to consider these possible amendments for a recommendation to the City Council at a future undetermined Planning Commission public hearing.

LINKS TO RELEVANT DOCUMENTS:

Pages

- A 10 CUP Review Body for 10 Alameda County Jurisdictions
- B 11-14 Table Comparing Permitted Commercial Uses in Other Bay Area Cities

1. [Commercial Uses Survey Results Report](#)

2. [Combined Document- Permitted Uses in Commercial and Mixed-Use Districts of other Jurisdictions](#)
3. The City of Piedmont's 6th Cycle [Housing Element](#)
4. Piedmont City Code [Chapter 17, Planning and Land Use](#)
5. [Piedmont Design Standards and Guidelines](#)
6. July 8, 2024, study session meeting [video](#) and [staff report](#)
7. [Council Report and Ordinance](#) adopting Zoning Ordinance Updates that went into effect on April 3, 2024.

Attachment A

City	Review Body
Fremont	Planning Commission, Staff/Zoning Administrator
San Leandro	Planning Commission, Staff
Pleasanton	Planning Commission, Staff/Zoning Administrator
Emeryville	Planning Commission, Staff
Dublin	Planning Commission
Hayward	City Council, Planning Commission, Staff
Albany	Planning Commission, Staff
Alameda	Planning Commission
Berkeley	Zoning Adjustments Board
Union City	Planning Commission
Piedmont	City Council

Attachment B

LEGEND


 Uses Listed in Piedmont’s Commercial Uses Survey

Table Comparing Commercial Uses Permitted in Comparable Zoning Districts of 8 Cities

Uses	Alameda	Albany		Belvedere		Berkeley	Moraga	San Anselmo	San Rafael	Sausalito	
	C-1 Neighborhood Business	CMX Commercial Mixed Use	SC Solano Commercial	C-1 Commercial	MU Mixed Use	C-N Neighborhood Commercial	Community Commercial	C-2 Downtown Commercial	NC Neighborhood Commercial	CN Neighborhood Commercial	CR Mixed Commercial & Residential
General Limitations	Use conducted principally within enclosed structures and not doing business between the hours of 10 pm and 7 am		Use specific limitation for some cases like size		Use specific limitation for some cases like size	Use specific limitation for some cases like size	Use specific limitation for some cases like size	Use specific limitation for some cases like size	Use specific limitation for some cases like size and distance between stores		
Hardware Store	P				P				P		
Dry Cleaner-Full service	P		P		P			P	P		
Laundromats	P		P		P				P		
Financial Institution			P		P		P			P	
Fitness Center						P	P				
Liquor Store									P		
Offices of General Professional						P	P	P	P	P	
a) Real Estate	P		P		P	P	P				
b) Financial Planning	P		P			P	P				
c) Architectural	P		P			P	P				
d) Travel Agency					P	P	P				

Attachment B

	Alameda C-1	Albany CMX	Albany SC	Belvedere C-1	Belvedere MU	Berkeley C-N	Moraga Community Commercial	San Anselmo C-2	San Rafael NC	Sausalito CN	Sausalito CR
Medical Offices	P						P	P			
Restaurants/Cafes			P			P	P	P	P		
Live Entertainment, Unamplified and Indoor						P	P				
Retail, food and beverage sales	P		P		P	P	P		P		
a) Wine Shop											P
Retail, nurseries and garden supplies			P		P				P		
Retail Sales, neighborhood serving			P			P		P		P	P
a) Art, Thrift and Antique Shop	P				P		P			P	P
b) Bakery	P				P				P		
c) Clothing Stores	P				P			P		P	P
d) Florist Shops	P										
e) Gift, novelty and stationery shops	P				P			P			
f) Craft Studio						P		P	P		
g) Toy Store					P				P		
h) Jewelry Shops	P				P						P
i) Printing Shop			P		P						
j) Repair Shops	P		P					P	P	P	P

