

SUBJECT: ZONE TEXT AMENDMENT: OUTDOOR COMMERCIAL USES ABOVE THE GROUND FLOOR

DATE: OCTOBER 1, 2018

INITIATED BY: CITY COUNCIL

PREPARED BY: PLANNING & DEVELOPMENT SERVICES DEPARTMENT
Jerry Hittleman (Contract Planner, Long Range Planning)

ISSUE STATEMENT

In response to noise complaints stemming from rooftop outdoor dining, the proposed zone text amendment would add standards requiring Administrative Permit approval with review and decision by the Planning and Development Services Director for all new or expanded outdoor commercial uses above the ground floor.

COUNCIL DIRECTION

On November 2, 2015, the City Council directed the Planning and Development Services Department to draft a zone text amendment (ZTA) to require development permit approval for new rooftop activity or the intensification of a rooftop use in commercial zones. The Council further specified that such requests for rooftop uses should be reviewed, approved, modified or denied through a public hearing process. The intent of the procedural changes regarding outdoor commercial uses was to protect residential neighborhoods from increased noise emanating from rooftop activities such as outdoor dining and other assembly uses.

At a subsequent City Council meeting in June 2017, and after review of the ZTA by the Planning Commission in May 2017, the City Council discussed whether to require a development permit or administrative permit for rooftop uses, bearing in mind the need to streamline the process and reduce costs to business owners. Protecting residential neighbors from potential noise and other impacts was discussed and remained a concern of several Councilmembers as well. No decision was reached at this meeting.

PLANNING COMMISSION ACTION

At their September 6, 2018 meeting, the Planning Commission considered this item again and voted to recommend approval of the same language as in the previously approved May 4, 2017 Planning Commission resolution requiring that all commercial uses above the ground floor be processed as a development permit to be acted upon by the Planning Commission (Exhibit F2 – September 6, 2018 Planning Commission Resolution).

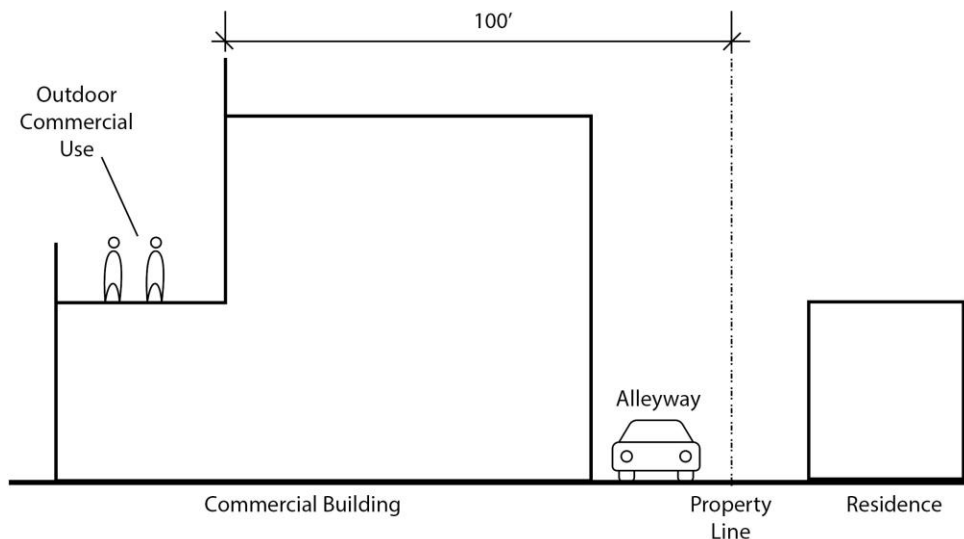
ANALYSIS

Under the Municipal Code, Section 19.36.210, Outdoor Dining is allowed with an Administrative Permit that can be approved by the Director of Planning and

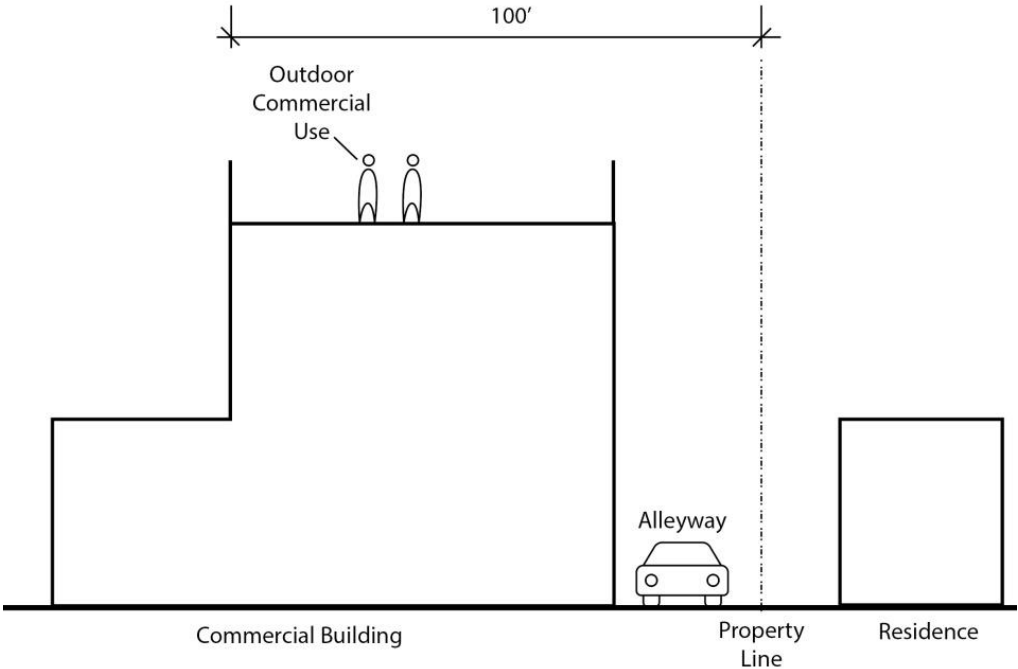
Development Services without a public hearing. Outdoor dining requests with alcohol service may be reviewed and approved by the Director at the same public hearing for the minor conditional use permit for the alcohol service. There is no distinction in the zoning ordinance between outdoor dining areas located on the ground level and those located on a rooftop or elevated terrace. Currently there are no regulations requiring permits for other types of outdoor commercial uses above the ground floor.

Staff acknowledges the Planning Commission recommendation that outdoor commercial uses above the ground floor be processed as a development permit requiring Planning Commission approval. However, to address the concerns of the Council regarding streamlining the process for businesses, staff continues to recommend a process whereby the Director administratively reviews and approves these requests. During this process, the Director would consider public comments and impose conditions ensuring that any request is compatible with the surrounding land uses, reducing potential impacts to the surrounding neighborhood. In order to address impacts, the following administrative permit review requirements are proposed in the ZTA:

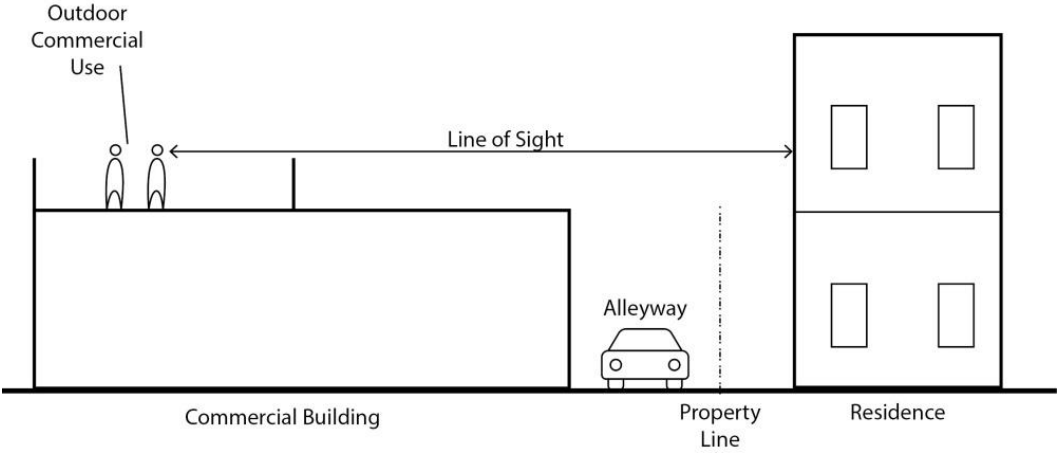
- An administrative permit would be needed for all new or expanded (including expanded hours of operation) for outdoor commercial uses located above the ground floor on rooftops, terraces, or other outdoor locations including. It includes restaurants, nightclubs/bars, cannabis consumption areas, banquet facilities, exercise classes, or other similar outdoor uses with similar noise, light, and public impacts. Only certain applications would require a public hearing.
- An administrative permit with no public hearing would be required for all outdoor commercial areas located further than 100 feet from residential uses or located in the front portion of a commercial building. The illustration below shows a typical scenario where approval of an administrative permit by the Director (no public hearing) could occur:



- An administrative permit with a public hearing would be required for outdoor commercial uses that are above the ground floor and located within 100 feet an adjacent residential use (measured at the property line). This scenario is shown graphically below:



- An administrative permit with a public hearing would also be required for outdoor commercial uses that are above the ground floor are within the direct line of site of an adjacent residential use. This scenario are shown graphically below:



The public hearing for the two scenarios above would allow public input because these situations could have noise and lighting/glare impacts on their residential neighbors that could require additional conditions of approval to address these situations. To address these in advance, the proposal would have to meet the following standards for noise and light/glare impacts:

- Lighting would have to be designed to prevent glare onto, or direct illumination of, any residential property or use.
- An acoustical wall would be required around the perimeter of the outdoor use area, unless an acoustical study could demonstrate that a wall is not needed.

The proposed ZTA also includes the following design standards to ensure there are no visual impacts to the neighborhood:

- Landscaping is required for the commercial areas, shown in a landscape plan that meets the landscaping standards of Chapter 19.26, and could include planter boxes and permanent vegetation.
- Any structural elements such as awnings, covers, furniture, or umbrellas, that are visible from the public right-of-way or adjacent properties, must be compatible with the overall design of the main structure.

This administrative permit process with additional standards will provide a streamlined and cost effective process for reviewing these uses while protecting nearby residents from noise, light, and glare impacts.

EXHIBITS

1. Ordinance No. 18-1043
2. Planning Commission Resolution 18-1283
3. Planning Commission Staff Report dated August 16, 2018
4. Planning Commission Minutes from August 16, 2018
5. City Council Staff Report dated June 19, 2017
6. City Council Minutes dated June 19, 2017- Review of First PC Recommendation
7. Planning Commission Staff Report dated May 4, 2017
8. Planning Commission Minutes from May 4, 2017
9. City Council Staff Report dated November 2, 2015- Initial Direction