



**DATE:** November 10, 2015

**CATEGORY:** Public Hearing

**DEPT.:** Community Development

**TITLE:** **Adopt a Resolution to Amend Area J of the P-19 (Downtown) Precise Plan for Ground-Floor Office Uses and Discuss Other Potential Text Amendments**

## **RECOMMENDATION**

That the City Council:

1. Adopt a Resolution Approving a Precise Plan Amendment to Remove Office as a Permitted Ground-Floor Use and Add Office as a Provisionally Permitted Ground-Floor Use in Area J of the P-19 Downtown Precise Plan, to be read in title only, further reading waived (Attachment 1 to the Council report).
2. Discuss other potential text amendments to the Downtown Precise Plan for future consideration. No action is required by the City Council.

## **BACKGROUND**

### **Ground-Floor Office Uses**

City staff has received an increased number of inquiries for office space in the downtown as the economic market has strengthened and office vacancy rates remain low (less than 5 percent). While staff recognizes the importance of office space for new and expanding businesses, the P-19 (Downtown) Precise Plan promotes a diverse mix of uses within downtown, with a strong pedestrian focus at the ground floors along Castro Street. Every area of the Precise Plan, except Area J, requires a Provisional Use Permit for ground-floor office uses along Castro Street, which requires discretionary review and an opportunity for public input at an Administrative Zoning public hearing (Attachment 2 is the [Downtown Precise Plan](#) and Attachment 3 is the Map of Ground-Floor Office Uses.) If adopted, the proposed Precise Plan Amendment would align the regulations for ground-floor office use in Area J with the regulations for ground-floor office use along the rest of Castro Street. For reference, Area J spans the east side of Castro Street between Mercy Street and El Camino Real.

Discussion of ground-floor office uses in downtown began in late 2012 when the Planning Division received an application at 783 Castro Street to convert a multi-tenant retail building into a single-tenant office building in Area J of the Downtown Precise Plan. This application initiated discussion at a City Council meeting in January 2013, where the majority of Council supported a text amendment to require a Provisional Use Permit for ground-floor office uses in Area J. By a 4-2 vote (1 recused), Council directed staff to defer a text amendment for nine months until the project at 783 Castro Street was completed, permitting the applicant to convert to an office use without a Provisional Use Permit. The majority of Council understood staff's concerns and the desire for ground-floor retail, but wanted to permit this applicant to proceed with building permits without a Provisional Use Permit due to the resources already invested in the property conversion (see Attachment 4 – [City Council Report dated January 29, 2013](#)). Therefore, staff is bringing forth this Precise Plan Amendment to City Council at this time for a final decision.

### **Other Potential Text Amendments**

Along with ground-floor office uses along Castro Street, staff has identified three other potential text amendments to the Downtown Precise Plan for future consideration by the City Council, based on concerns raised by the community, public inquiries, and the City's enforcement experience to date. These text amendments include:

1. Restrict bar and nightclub establishments to areas of the downtown where they currently exist, effectively prohibiting them in Areas D, E, I, and J;
2. Remove the 50 percent Parking In-Lieu Fee reduction for new restaurant uses within the parking district, requiring a new restaurant to pay the full Parking In-Lieu Fee; and
3. Maintain the 1.1 floor area ratio (FAR) for multi-family developments and add an FAR limit for new single-family homes in Area B, aligning with the R1 Zoning District FAR limitations.

Staff received input from the Downtown Committee and the Environmental Planning Commission (EPC) on these potential text amendments, which are discussed later in this report.

## **ANALYSIS**

### **Ground-Floor Office Uses (Area J)**

#### *Downtown Committee*

On September 1, 2015, staff presented the Precise Plan Amendment for Area J to the Downtown Committee at their regularly scheduled meeting. By a 6-0 vote (4 absent), the Committee recommended approval of the text amendment (see Attachment 5 – [Downtown Committee memo for September 1, 2015](#)).

#### *Environmental Planning Commission*

On October 7, 2015, staff presented the Precise Plan Amendment for Area J to the EPC and, by a 6-0 vote (1 recused), the Commission recommended approval of the text amendment. Three members of the public spoke at the EPC hearing on this proposed text amendment and supported prohibiting office uses on the ground floor in order to maintain pedestrian-friendly ground-floor uses, to enliven Area J with more active uses, and to help stabilize rents as the high demand for office uses increase rental rates. The EPC was not supportive of prohibiting office uses on the ground floor.

### **Other Potential Text Amendments**

Staff is seeking direction on whether these other potential text amendments to the Downtown Precise Plan should be reviewed in more detail at a future date, with public outreach, and brought back to the EPC and City Council for final consideration.

#### *Restricting Bar and Nightclub Uses*

Within the downtown, bars and nightclubs are primarily restricted to locations within one block of Castro Street, with some locations permitted further out; specifically, bars and nightclubs are provisionally permitted in Areas D, E, G, H, I, and J (see Attachment 6 – Map of Existing Bar/Nightclub Regulations). Bars and nightclubs are prohibited in locations immediately across from residential uses (i.e., along View Street, Hope Street, Franklin Street, etc.).

A bar or nightclub is an establishment whose primary operation is the sale and consumption of alcoholic beverages with limited to no food service, which may include dancing and live entertainment. The existing designated bars and nightclubs in downtown include Opal Lounge (251 Castro Street), Monte Carlo (228 Castro Street),

Molly Magees (241 Castro Street), and Alberto's (736 West Dana Street), all of which are located in Areas G and H.

Over the years, City staff has experienced some enforcement issues, public complaints, and illegal building improvements with bar and nightclub businesses. This includes issues with maintaining safety and security, operating within legal building occupancy limits, and preventing unpermitted uses. While relationships with City staff and enforcement issues have improved with these businesses over the last two years, staff continues to receive complaints from the public about late-night activities around bar and nightclub establishments. As a result, staff is requesting City Council feedback on whether bar and nightclub establishments should be restricted to those areas of the Precise Plan where they currently exist (Areas G and H), prohibiting them in Areas D, E, I, and J.

The Downtown Committee members felt no changes should occur for bar and nightclub uses as they are already provisionally permitted and reviewed on a case-by-case basis with an Administrative Zoning public hearing. Committee members did not wish to further restrict the use in case future opportunities for new bar and nightclub businesses arise along Castro Street in areas where bars and nightclubs do not currently exist.

The EPC members agreed with the Downtown Committee (straw vote 5-0, 1 abstained and 1 recused). Since the City is not receiving new applications for nightclubs, they felt there is no immediate need to change regulations pertaining to them. Three members of the public spoke about bar and nightclub uses at the hearing – two of whom support limiting bar and nightclub locations as there is room for these businesses to locate within Areas G and H, and one of whom supported maintaining bars and nightclubs over office uses as they activate the downtown and provide a form of recreation.

**Question 1:** Does City Council wish staff to study restricting bar and nightclub establishments to the areas in downtown where they currently exist (Areas G and H), effectively prohibiting them in Areas D, E, I, and J?

#### *Parking In-Lieu Fee Reduction for Restaurants*

The parking district in downtown is divided into three areas: Areas E, H, and other areas within the parking district (see Attachment 7—Map of Downtown Parking District). Properties located within the parking district are given the opportunity to pay an in-lieu fee for required parking instead of providing parking on-site as most properties are built-out. The option to pay an in-lieu fee is based on the location of the property within the Precise Plan and parking district, and the proposed use(s) on-site.

Approval to pay the in-lieu fee is granted by the Zoning Administrator or City Council at a public hearing. This in-lieu fee is a one-time fee paid for the conversion of a tenant space to a particular use (in this case, restaurant use) and is valid for as long as the space is maintained as that given use, even if the business turns over multiple times.

The Precise Plan outlines the parking requirements per land use and identifies allowances for requesting to pay a Parking In-Lieu Fee based on location within the parking district. For example, a new restaurant proposing to locate in Area H may request to pay up to 100 percent of the required parking as an in-lieu fee if no parking spaces are available on-site, as opposed to a restaurant locating within the parking district outside of Areas E and H, where they may request to pay up to 20 percent of the required parking as an in-lieu fee.

When the Precise Plan was updated in 2004, there was a strong focus on activating the downtown with retail and restaurant uses, where restaurant uses are permitted to pay an in-lieu fee at 50 percent reduced cost of the full fee (i.e., \$13,000 per parking space (50 percent fee) versus \$26,000 per parking space (full fee)). This was seen as an incentive to encourage restaurant establishments to locate in downtown.

As restaurant uses in the downtown have become popular, the question arises of whether the City has reached a point for restaurants where this fee reduction is no longer appropriate as it may limit opportunities for other uses to enter the downtown market. Currently, downtown has approximately 95 designated restaurant spaces (out of approximately 300 businesses), with approximately 65 restaurants along Castro Street alone. Restaurants are defined as any food- or beverage-serving business where preparation and point-of-sale occurs on-site. Some examples include coffee shops, bakeries, juice bars, take-out restaurants, dining restaurants, etc. Historically, staff has found that once a tenant space converts to a restaurant use, it is unlikely for the space to convert to retail or any other nonfood use in the future due to the cost of infrastructure and business operations to establish a restaurant space. Over the last five years, the City has approved one new restaurant per year. Based on this, staff is requesting City Council feedback on whether the 50 percent fee reduction for Parking In-Lieu fees for new restaurants should be removed, requiring restaurants to pay the full in-lieu fee per required parking space.

The Downtown Committee members supported removing the fee reduction for restaurants, requiring a new restaurant to pay the full Parking In-Lieu Fee. They felt adjusting the fee may discourage additional restaurants from locating in downtown and allow greater opportunities for retail or other uses to move in, which they felt we should encourage in the downtown.

The EPC supported removing the fee reduction for restaurants to encourage diversity of uses in the downtown (straw vote 6-0, 1 recused). At the hearing, two members of the public spoke in support of removing the Parking In-Lieu Fee reduction for restaurant uses.

**Question 2:** Does City Council wish staff to study removing the 50 percent fee reduction for Parking In-Lieu fees for new restaurant uses in the downtown parking district, requiring a new restaurant use to pay the full Parking In-Lieu Fee?

#### *Floor Area Ratio Limit for Single-Family Homes*

The perimeter of downtown is commonly occupied by multi-family residential properties, including apartments, condominiums, and townhomes, and are envisioned to be transition areas from the commercial core of downtown to lower-density residential neighborhoods beyond. Area B of the Precise Plan is such an area, which transitions from the mixed-use commercial areas of Castro and Bryant Streets to one- and two-story, single-family homes on Franklin Street. Area B is made up of approximately 17 properties, 14 of which are privately owned and the remaining are public parking lots, which span the east side of Franklin Street between Villa Street and Mercy Street (see Attachment 8 – Map of Area B).

The development guidelines and standards for Area B are targeted for multi-unit residential development, allowing a FAR of 1.1. The residential neighborhood outside of the Precise Plan (on the west side of Franklin Street) is in the R1 (Single-Family Residential) Zoning District, with an FAR limit for single-family homes ranging from 0.40 to 0.45. Because the Precise Plan regulations do not differentiate between multi-unit and single-unit residential developments, a new single-family home in Area B could propose an FAR up to 1.1. Over the years, staff has seen development of large single-family homes constructed along Franklin Street (in the 400 block), many of which are noticeably larger in size compared to the R1 single-family homes across the street. While staff and the Development Review Committee review new homes in Area B prior to construction and strive to reduce mass and bulk of the structures, these new homes are built at approximately 0.55 to 0.65 FAR (approximately 4,500 square feet in size). This is the only area in the City where single-family homes can be built at this high of an FAR. Staff is requesting City Council feedback on whether to add an FAR limit for new single-family homes in Area B, aligning with the R1 District FAR limitations, while maintaining the multi-family FAR of 1.1.

The Downtown Committee members supported establishing an FAR limit for single-family homes to allow for a more fluid transition to the Old Mountain View

Neighborhood. However, the Committee was uncomfortable with setting a specific FAR limit without further research and discussion.

The EPC desired more information and research to better understand the existing conditions of homes in Area B, but were supportive of establishing an FAR limit for single-family homes (straw vote 6-0, 1 recused). The EPC was not comfortable establishing an FAR limit per the R1 Zoning District (of 0.40 to 0.45 FAR) without further discussion on existing FARs of single-family homes in Area B. At the hearing, three members of the public spoke regarding establishing an FAR limit for single-family homes—two of whom were supportive of setting a smaller FAR limit for single-family homes as they did not like the larger single-family homes in the area, and one who owned a property in Area B and desired to build a large single-family home for their household, noting the higher FAR was the reason for purchasing the property in the first place.

**Question 3:** Does City Council wish staff to study adding an FAR limit for new single-family homes in Area B (in accordance with the R1 Zoning District), while maintaining the 1.1 FAR limit for multi-family residential developments?

#### *Priority of Text Amendments*

Of the three text amendments, the EPC prioritized the amendments based on their judgment of the amount of staff time and resources needed to complete the task and their level of interest in the topic. They prioritized the proposed amendments in the following order:

- *Priority 1:* Remove the 50 percent Parking In-Lieu Fee reduction for new restaurant uses within the parking district, requiring new restaurants to pay the full Parking In-Lieu Fee.

The EPC felt this task would require the least amount of staff time and resources to accomplish.

- *Priority 2:* Maintain the 1.1 FAR for multi-family developments and add an FAR limit for new single-family homes in Area B.

The EPC felt this would require the most amount of staff time and resources to accomplish, but felt it took priority over the bar and nightclub restrictions. They also wanted additional information and research for further discussion on the topic.

- *Priority 3:* Restrict bar and nightclub establishments to areas of the downtown where they currently exist, effectively prohibiting them in Areas D, E, I, and J.

The EPC was least interested in this task since there are no active applications for new bar and nightclub establishments.

Staff also received a written public comment on the proposed text amendments, which is enclosed as Attachment 9 to this report.

**Question 4:** If Council is interested in all three text amendments, or some combination thereof, does Council agree with EPC's prioritization outlined above?

**FISCAL IMPACT** – None, other than staff resources.

## **CONCLUSION**

The EPC recommends the City Council adopt a resolution to amend the Downtown Precise Plan to remove office as a ground-floor permitted use and add ground-floor office as a provisionally permitted use in Area J. If approved, this amendment will align the ground-floor regulations for office uses on Castro Street throughout the downtown, allowing the City to review applications on a case-by-case basis with an Administrative Zoning public hearing and provide opportunities for public input.

Additionally, staff seeks direction and prioritization from Council on the other potential text amendments for future consideration, including restricting bar and nightclub uses, removing the Parking In-Lieu Fee reduction for restaurant uses, and establishing an FAR limit for single-family homes in Area B. If Council wishes to authorize staff to proceed with any of these other amendments, the timeline for returning to Council with these would depend on a number of factors, including the availability of staff resources to complete the effort and Council priorities, as they relate to other projects and studies that the Community Development Department is currently working on. Consideration should also be given to new work items that may come out of the November 17, 2015 Council Study Session on potential strategies to increase the amount of residential units in the City and the December 8, 2015 Council hearing on the most recent Gatekeeper requests. Substantive work on these items may not be possible until next fiscal year.

## **ALTERNATIVES**

1. Do not adopt a resolution to amend the P-19 (Downtown) Precise Plan and continue to permit ground-floor office uses in Area J.
2. Direct staff to move forward with one or more of the three potential text amendments, including public outreach.

## **PUBLIC NOTICING**

The Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's Internet website. All property owners within Area J and property owners within 300' of Area J were notified of this meeting. Additionally, representatives from the Central Business Association, Chamber of Commerce, and the Old Mountain View Neighborhood Association have been notified.

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- Attachments:
1. Resolution
  2. [Downtown Precise Plan](#)
  3. Map of Ground-Floor Office Uses
  4. [City Council Report Dated January 29, 2013](#)
  5. [Downtown Committee Memo for September 1, 2015](#)
  6. Map of Existing Bar/Nightclub Regulations
  7. Map of Downtown Parking District
  8. Map of Area B
  9. Public Comment Received