



Desk Item

DATE: SEPTEMBER 1, 2022

TO: PLANNING COMMISSION

FROM: CARMELA CAMPBELL, ECONOMIC AND COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: TEXT AMENDMENT TO TITLE 18, ZONING, OF THE UNION CITY MUNICIPAL CODE (AT-22-002) AND UPDATE TO THE POLICY STATEMENT FOR THE REGULATION OF SEASONAL SALES

Staff received questions/comments from Planning Commissioner Jo Ann Lew regarding the project. The following are the questions received and staff's responses (in *red italics*). Attached to this Desk Item is an updated version of the proposed amendments (Exhibit A and B). These updated amendments should be referenced when making any motion to recommend approval to the City Council.

Commissioner Lew Comments

1. Staff report, page 1, Section I – the City desires a text amendment to Title 18, Chapter 18.50, to allow seasonal sales lots as a conditionally permitted use in the Civic Facilities zoning district, and for the operators of those lots to obtain an administrative use permit under Title 18, Chapter 18.54. According to Section 18.54.030, this chapter appears to apply to single-family residential, commercial and industrial districts, but not to civic facilities districts. Please clarify the applicability of Chapter 18.54 to civic facilities districts when it has been excluded from this chapter.

In response to the comment received, staff is proposing an update to Section 18.54.030(B). Amended text is shown below as redlined.

Chapter 18.54 ADMINISTRATIVE USE PERMIT

18.54.030 Applicability.

The administrative use permit procedure shall apply to the following types of projects:

A. In the single-family residential districts, large family day care homes which are an accessory use within a home which regularly provides care, protection, and supervision

of nine (9) to fourteen (14) children, inclusive of children under the age of ten (10) years who reside at the home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away, and is licensed for such use by the State Department of Community Care Licensing.

B. ~~For commercial districts see Section 18.36.030. Uses as specified in the zoning district regulations~~

~~C. For industrial districts see Section 18.40.450.~~

~~DC.~~ In the commercial and industrial districts, temporary outdoor commercial events consisting of the outdoor promotional display or sale of merchandise customarily sold on the premises by a permanently established business. Also included in this category are multiple vendor events such as arts and crafts fairs, holiday boutiques, and the like, when held on the premises of a developed commercial or industrial site. Such events shall include the display of goods typically sold on the site of the event. This category is not intended to apply to activities conducted by nonprofit or charitable institutions in the City nor is it intended to permit the placement of individual vendor operations such as hot dog carts, produce trucks, and the like. Events included within this category shall comply with the provisions of the administrative use permit procedures and shall comply with the following regulatory conditions and parameters:

1. These events shall be conducted on private property located in commercial or industrial zones with the written approval of the property owner. Verification of the property owner's approval shall be submitted along with the application for administrative use permit.
2. These events shall be conducted on the site of developed commercial or industrial projects and shall not be permitted on vacant parcels.
3. Events permitted within this definition shall have maximum duration of five consecutive days.
4. At least five (5) calendar days prior to the event, the applicant shall submit a five hundred dollar (\$500.00) deposit to the City to ensure adequate cleanup of the site following termination of the event.
5. The applicant shall submit a site plan as part of this application to the Economic and Community Development Department detailing the parking provision for the event, ingress and egress routes, and adequate emergency vehicle access as deemed appropriate by the City.
6. The design, placement and construction of any temporary structures to be erected on the site of the event shall be subject to the review and approval of the City. If necessary, detailed structural and electrical drawings shall be submitted to

the Building Department for review and approval prior to the erection of any structures on the site.

7. The applicant shall submit a detailed statement of use at the time of application filing to the Economic and Community Development Department which includes a description of the event and the types of activities to be held or goods to be sold on the site, the hours and days of the event, the number and the types of vendors participating, and any additional information deemed necessary by the Director.

8. Any signs or outdoor advertising structures erected to promote an event shall be in accordance with the regulations specified in Chapter 18.30 of this title.

9. Additional conditions regulating the conduct of the event may be placed on an application approved by the Zoning Administrator if deemed necessary to ensure the orderly and safe conduct of the event and to mitigate potential nuisances emanating from the event.

2. Staff report, page 2, Section II, first paragraph regarding operation of a holiday tree lot at Logan High School – it has been my understanding that the City does not regulate the New Haven Unified School District (NHUSD). Please explain why the City is now imposing its regulations on the school district.

Staff has consulted with the City Attorney. Pursuant to Government Code section 53094, NHUSD is subject to the City's land use authority for "non-classroom facilities." The holiday tree lot is not a "classroom facility" and therefore is subject to the requirements of the City's Zoning Ordinance.

3. Staff report, page 3, Section III – the City refers to the temporary nature of seasonal sales lots under Findings #1 and #3. If an administrative use permit is granted for operation of a seasonal sales lot under Title 18, Chapter 18.54, then it is understood (according to 18.54.140) that the administrative use permit "shall run with the land and shall continue to be valid upon change of ownership of the site...as long as the approved activity is continued." However, if the activity is discontinued for "a consecutive period of six (6) months, the administrative use permit shall be deemed to be expired and shall become null and void" and "further continuation of the activity...will require approval of a new administrative use permit application." Does the City desire that the NHUSD seek a new administrative use permit each year to operate, for example, a holiday tree lot? Please explain the City's strategy for conditionally permitting seasonal sales lots on public property.

In response to the comment received, staff is proposing an update to Section 18.54.140. Amended text is shown below as redlined.

18.54.140 Administrative use permit to run with land.

An administrative use permit granted pursuant to the provisions of this chapter shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the administrative use permit application, as long as the approved activity is continued. However, should the activity approved by the administrative use permit be discontinued for a consecutive period of six (6) months, the administrative use permit shall be deemed to be expired and shall become null and void, with the exception of Seasonal Sales Lots. Upon expiration, further continuation of the activity on-site will require approval of a new administrative use permit application.

4. Exhibit B, Chapter 18.50, Section 18.50.030 – the City proposes to add seasonal sales lots as a conditional use in the civic facilities district, and approval for the use permit would be granted by the Zoning Administrator under Chapter 18.54, Administrative Use Permit. As already mentioned in #1 above, “civic facilities” is not included in the description of applicable zoning districts in 18.54.030. Given the absence of this zoning district in Chapter 18.54, can the City legally apply this code to the proposed change? Please explain.

See comment above. Section 18.54.030(B) has been revised.

5. Exhibit B, Chapter 18.50, Section 18.50.040 – do all of the listed items (A through F) apply to all of the listed conditional uses in Section 18.50.030? Please explain as there appears to be no exception shown.

Yes, subsections A through F of 18.50.040 apply to the conditional uses in Section 18.50.030.

6. Exhibit B, Chapter 18.50, Section 18.50.040 – Item E, as amended, refers to Chapters 18.72 and 18.76 with Chapter 18.56 being deleted. However, 18.50.030B refers to Chapter 18.56 as the reference for the use permit process. Please explain the deletion of Chapter 18.56 and the inclusion of Chapter 18.72 in Section 18.50.040, Item E, while 18.50.030B is being proposed with a reference to Chapter 18.56. I find this confusing.

Use permit processes are now referenced in Section 18.50.030; therefore, the reference in Section 18.50.040 is no longer needed. However, a reference to Section 18.72 Administrative Site Development Review was added to Section 18.50.040 E for projects that are subject to that provision.

EXHIBIT A

Chapter 18.50 CIVIC FACILITIES (CF) DISTRICT

18.50.030 Conditional uses.

The following are conditional uses in the CF district:

- A. Approval by Zoning Administrator (refer to Chapter 18.54 for a detailed description of the administrative use permit process).
 - 1. Seasonal sales lots for holiday trees and pumpkins subject to the provisions of the Policy Statement for the Regulation of Seasonal Sales Lots.
- B. Approval by Planning Commission (refer to Chapter 18.56 for a detailed description of the use permit process).
 - 1. Recycling centers;
 - 2. Sewage treatment plants;
 - 3. Transportation facilities such as heliports and bus terminals.

18.50.040 Other regulations.

- A. Off-street parking and loading: As prescribed in the relevant sections of the Union City zoning title.
- B. Signs: As prescribed in Chapter 18.30.
- C. Landscaping and screening: As prescribed in the Union City Landscape Standards Policy Statement.
- D. Accessory structures:
 - 1. No accessory structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.
 - 2. No detached accessory structure or structures shall occupy more than thirty percent (30%) of the area of a required rear yard.
 - 3. No detached accessory structures located in a required rear yard shall exceed twelve (12) feet in height.
- E. Review procedures: As described in Chapters 18.72 and 18.76.
- F. The provisions of Chapter 18.102, Decoto Industrial Park Study Area (DIPSA), including design guidelines and findings, shall apply to all development within the DIPSA.

Chapter 18.54 ADMINISTRATIVE USE PERMIT

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A. In the single-family residential districts, large family day care homes which are an accessory use within a home which regularly provides care, protection, and supervision of nine (9) to fourteen (14) children, inclusive of children under the age of ten (10) years who reside at the home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away, and is licensed for such use by the State Department of Community Care Licensing.

B. Uses as specified in the zoning district regulations.

C. In the commercial and industrial districts, temporary outdoor commercial events consisting of the outdoor promotional display or sale of merchandise customarily sold on the premises by a permanently established business. Also included in this category are multiple vendor events such as arts and crafts fairs, holiday boutiques, and the like, when held on the premises of a developed commercial or industrial site. Such events shall include the display of goods typically sold on the site of the event. This category is not intended to apply to activities conducted by nonprofit or charitable institutions in the City nor is it intended to permit the placement of individual vendor operations such as hot dog carts, produce trucks, and the like. Events included within this category shall comply with the provisions of the administrative use permit procedures and shall comply with the following regulatory conditions and parameters:

1. These events shall be conducted on private property located in commercial or industrial zones with the written approval of the property owner. Verification of the property owner's approval shall be submitted along with the application for administrative use permit.
2. These events shall be conducted on the site of developed commercial or industrial projects and shall not be permitted on vacant parcels.
3. Events permitted within this definition shall have maximum duration of five consecutive days.
4. At least five (5) calendar days prior to the event, the applicant shall submit a five-hundred-dollar (\$500.00) deposit to the City to ensure adequate cleanup of the site following termination of the event.
5. The applicant shall submit a site plan as part of this application to the Economic and Community Development Department detailing the parking provision for the event, ingress and egress routes, and adequate emergency vehicle access as deemed appropriate by the City.
6. The design, placement and construction of any temporary structures to be erected on the site of the event shall be subject to the review and approval of the City. If necessary, detailed structural and electrical drawings shall be submitted to the Building Department for review and approval prior to the erection of any structures on the site.
7. The applicant shall submit a detailed statement of use at the time of application filing to the Economic and Community Development Department which includes a description of the event and the types of activities to be held or goods to be sold on the site, the hours and days of the event, the number and the types of vendors participating, and any additional information deemed necessary by the Director.
8. Any signs or outdoor advertising structures erected to promote an event shall be in accordance with the regulations specified in Chapter 18.30 of this title.

9. Additional conditions regulating the conduct of the event may be placed on an application approved by the Zoning Administrator if deemed necessary to ensure the orderly and safe conduct of the event and to mitigate potential nuisances emanating from the event.

18.54.140 Administrative use permit to run with land.

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D. Accessory structures:

1. No accessory structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

2. No detached accessory structure or structures shall occupy more than thirty percent (30%) of the area of a required rear yard.

3. No detached accessory structures located in a required rear yard shall exceed twelve (12) feet in height

E. Review procedures: As described in Chapters ~~18.56~~ 18.72 and 18.76.

F. The provisions of Chapter 18.102, Decoto Industrial Park Study Area (DIPSA), including design guidelines and findings, shall apply to all development within the DIPSA.

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