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**TO:** Fruita City Council and Mayor

**FROM:** Planning & Development Department

**DATE:** October 1, 2024

**AGENDA TEXT:** ORDINANCE 2024-17, 2<sup>nd</sup> reading – an Ordinance amending certain sections of Title 17 of the Fruita Municipal Code concerning Conditional Use Permits in the Downtown Mixed-Use Zone, Call-Up Provisions, Appeals, and the Sign Code.

*(Land Use Application #2024-09)*

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### BACKGROUND

These proposed amendments to Title 17 of the Fruita Municipal Code, also known as the Fruita Land Use Code, include Fuel Sales in the Downtown Mixed-Use (DMU) Zone, Call-Up Provisions, Appeals, and the Sign Code. A description of each amendment is included below.

Following direction from the City Council, Staff put together the amendments and presented them to the Planning Commission on July 7, 2024, and then presented them to City Council on July 23, 2024, for final direction. Staff received direction to move forward with the proposed amendments with a few changes to the Appeals and Sign Code which have been included.

The Planning Commission discussed these land use code amendments at their September 10, 2024, public hearing and recommended approved to the City Council by a vote of 5-0 with no modifications

#### **Conditional Use Permits:**

The proposed amendment shows a change from Fuel Sales as an Allowed land use to a Conditionally Allowed Use in the DMU zone. This means that if a Fuel Sales business is proposed in the DMU zone, a Conditional Use Permit would be required. This amendment is proposed for Section 17.05.090.

#### **Call-Up Provisions:**

This code language needs to be relocated from Section 17.21.030(2) to Section 17.07.040 (G). The reason for relocating the language from the Subdivisions chapter to the Standard Review Procedures chapter is because the language now includes Site Design Review as a project subject to call up. These call-up provisions will allow the Community Development Director to decide whether a project or application should be called up. The call-up provisions would likely not be used for every project.

#### **Appeals:**

The proposed changes will ensure that if an application for appeal of a decision the application is not reheard. The proposed changes reflect best practices from around the state and mean that an appeal is

based on whether or not a decision or determination shall not be reversed or modified unless there is a finding that there was a denial of due process or the administrative body has acted arbitrarily and capriciously, exceeded its jurisdiction or abused its discretion.

### **Sign Code:**

The proposed amendments to the Sign Code are directly related to Supreme Court rulings regarding compliance with the First Amendment to the United States Constitution regarding municipal regulation of signs across the nation. With this ruling, municipalities are not allowed to regulate signage based on what the sign says. However, municipalities still can regulate signage location, size, height, brightness, and quantity. The proposed changes are to Section 17.15.040 Exempt Signs section of the Land Use Code. The Exempt Sign regulations explain the types of signage which do not require a Sign Permit.

### **FISCAL IMPACT**

Staff does not expect any negative fiscal impacts associated with these amendments.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

It is a commitment of Staff to continue to review the Land Use Code to help ensure that the regulations reflect the best promotion of Fruita's Core Services.

### **OPTIONS AVAILABLE TO THE COUNCIL**

1. Adopt Ordinance 2024-17, an Ordinance amending certain sections of Title 17 of the Fruita Municipal Code concerning Conditional Use Permits in the Downtown Mixed-Use Zone, Call-Up Provisions, Appeals, and the Sign Code.
2. Adopt Ordinance 2024-17, an Ordinance amending certain sections of Title 17 of the Fruita Municipal Code concerning Conditional Use Permits in the Downtown Mixed-Use Zone, Call-Up Provisions, Appeals, and the Sign Code with changes.
3. Deny Ordinance 2024-17.

### **RECOMMENDATION**

It is the recommendation of Staff that the Council by motion:

**ADOPT ORDINANCE 2024-17, 2<sup>ND</sup> READING, AN ORDINANCE AMENDING CERTAIN SECTIONS OF TITLE 17 OF THE FRUITA MUNICIPAL CODE CONCERNING CONDITIONAL USE PERMITS IN THE DOWNTOWN MIXED-USE ZONE, CALL-UP PROVISIONS, APPEALS, AND THE SIGN CODE.**