

## Chapter 14.80 USE PERMITS<sup>1</sup>

### Sections:

#### 14.80.010 Conditional uses.

Uses which are permitted in certain districts upon the granting of a use permit shall be deemed conditional uses. Such uses, because of their unusual characteristics, shall be given special consideration to the end that they be located properly with respect to the objectives of the [zoning general plan](#), [and municipal code](#) and with respect to their effects upon surrounding properties. The specific conditions under which each such use is permitted shall be considered in the light of general public interests and the interests of persons residing or working in the vicinity of the use.

(Prior code § 10-2.2801)

#### 14.80.020 Initial application review.

All applications filed with the [community development services](#) department in compliance with this zoning code shall be accompanied by the payment of a processing fee in such amount as established by resolution of the city council and initially processed as follows.

- A. Review for completeness. The [community development services](#) director or their designee shall review all applications for completeness and accuracy before accepting them as complete. The determination of completeness shall be based on the city's list of required application contents as proscribed in the "submittal requirements" documents provided by the [community development services](#) department.
- B. Notification of applicant. The [community development](#) director or their designee shall notify the applicant in writing within thirty (30) days of the filing of the application with the [community development services](#) department that either the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, as specified in the letter, shall be provided. If subsequent written comments from the [community development services](#) director or their designee identify deficiencies not initially raised within thirty (30) days of the filing of the application, then this subsequent letter will be considered the notification of incompleteness for the purposes of determining the application expiration date.
- C. ~~Appeals of administrative decisions. Determinations of incompleteness or denials of an extension request may be appealed to the city council pursuant to Chapter 1.12 (Appeals).~~
- ~~D.~~ Expiration of application. If the applicant does not provide the information and materials necessary for a complete application within one hundred eighty (180) days after notification of incompleteness, the application shall be deemed expired. After expiration of the application or extension, if granted, a new application, including fees, plans, exhibits, and other materials will be required to commence processing of any project on the same property.
- ~~E-D.~~ Extensions. The applicant may request, in writing, within the one hundred eighty (180) day time period, an extension of up to one hundred eighty (180) days to the [community development services](#) director

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<sup>1</sup>Editor's note(s)—Ord. No. 2012-383, § 3, adopted May 22, 2012, changed all references to the "planning commission" within Ch. 14.80 to the "planning and transportation commission."

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or their designee. Approval of the extension is contingent on the applicant demonstrating that there are extenuating circumstances that have caused a delay in the submittal of the required information. An application may only be granted an extension of time once.

- ~~F.E.~~ Environmental information. After an application has been accepted as complete, the ~~community~~ development ~~services~~ director or their designee may require additional information as necessary for the project's environmental review.

(Ord. No. 2016-423 , § 11, 9-27-2016)

#### **14.80.030 Public meeting notification requirements.**

Notice of public meetings before the zoning administrator or planning commission ~~and/or city council~~ shall be given at least ten (10) days prior to the date of the meeting by all of the following methods:

- A. Mailing of notices via first-class mail to all property owners within ~~one thousand~~ three hundred (~~1,030~~) feet of the project site at the mailing address on record with the county assessor; and
- B. Mailing of notices via first-class mail to all commercial business tenants within ~~one thousand three hundred~~ (~~1,030~~) feet of the project site at the addresses shown on the latest city business license records; and
- C. Posting of a notice on the project site in accordance with the standards set by the ~~community~~ development ~~services~~ director or their designee; and
- D. All meetings before the planning commission ~~and/or city council conducted under this section, excluding study sessions,~~ shall be ~~noticed separately and~~ conducted as public hearings and shall satisfy all notification requirements applicable to public hearings, including a notice published in a newspaper of general circulation within the city.

(Ord. 00-382 § 4: prior code § 10-2.2803; Ord. No. 2019-457 , § 4, 1-28-2020)

#### **14.80.040 Hearings—Procedure.**

At the public hearing the planning commission shall review the application and statements, plans, and drawings submitted therewith and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, and make the required findings particularly with respect to the issues set forth in Section 14.80.060 ~~of this chapter on which the commission is required to make findings prior to transmitting its report to the council.~~

(Prior code § 10-2.2804)

#### **~~14.80.045 Authority of the Development Services Director. Hearings—Procedures for office and commercial districts.~~**

~~In the event that a particular application or proposed use is determined to be sensitive in nature the development services director shall be authorized to require any application to be reviewed by the City Council.~~

~~Notwithstanding the provisions of Section 14.80.040 of this chapter, the planning commission shall be the decision-making body for conditional use permit applications in all OA and C districts for businesses proposed in existing structures. This section shall not apply to conditional use permit applications that are subject to the requirements of Chapter 14.78 of this title. All other applicable provisions of this chapter shall remain in effect. The~~

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action of the planning commission shall be final unless it is appealed in writing to the city council, and the appropriate fee is paid, within fifteen (15) days of the date of the action.

(Ord. 07-312 § 11; Ord. 01-394 § 6; Ord. No. 2016-423, § 12, 9-27-2016; Ord. No. 2019-457, § 5, 1-28-2020)

#### **14.80.050 Hearings—Procedures for personal wireless communication facilities.**

- A. Notwithstanding the provisions of Section 14.80.040 of this chapter, hearings for personal wireless services and facilities shall be conducted in accordance with the provisions of this chapter, except as follows:
1. Administrative review. The ~~community~~ development services director or their designee shall be the approving authority for all distributed, repeater, or microcell antenna systems and building-mounted antennas that comply with applicable zoning regulations.
  2. Planning commission review. The planning commission shall be the approving authority for all monopole antennas that comply with applicable zoning regulations.
  3. Planning commission ~~and city council~~ review. The planning commission ~~and city council~~ shall be the approving authority for all antennas that require a variance to the applicable zoning regulations.
- B. Notice of public hearings shall be in accord with Sections 14.80.030(C) and (D) of this chapter. The action of the ~~community~~ development services director or their designee may be appealed to the planning commission. The action of the planning commission may be appealed to the city council. Actions of the ~~community~~ development services director or their designee and planning commission are final unless appealed in writing within ~~fifteen-fourteen~~ (154) days of the date of action.

(Ord. 06-304 § 2; Ord. 05-277 § 2; prior code § 10-2.2804.1; Ord. No. 2016-423, § 1, 9-27-2016; Ord. No. 2019-457, § 5, 1-28-2020)

#### **14.80.060 FindingsCommission and council action.**

The planning commission ~~and council shall make a specific finding on each of the following issues may only approve a conditional use permit application upon making the following findings:~~

- A. That the proposed location of the conditional use is desirable or essential to the public health, safety, comfort, convenience, prosperity, or welfare;
- B. That the proposed location of the conditional use is in accordance with the objectives of the zoning plan as stated in Chapter 14.02 of this title;
- C. That the proposed location of the conditional use, under the circumstances of the particular case, will not be detrimental to the health, safety, comfort, convenience, prosperity, or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
- D. That the proposed conditional use will comply with the regulations prescribed for the district in which the site is located and the general provisions of Chapter 14.02;
- E. ~~When the proposed conditional use and/or structure is located in the CRS District, the commission and council shall make a specific finding on each of the following issues:~~
  1. ~~That the proposed use and/or structure is in scale with the existing development and it enhances the unique village character of the CRS District; and~~
  2. ~~That the proposed use and/or structure will not cause degradation in the level of service of the streets and intersections within the CRS District;~~

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- ~~F.~~ When the proposed conditional use is a flag lot, the commission ~~and council~~ shall make a specific finding on each of the following issues. Any negative findings may result in denial of the use permit or in conditions of approval which alter the minimum development standards, e.g., height, floor area, and setbacks, for the district in which the property is located.
1. That the size of the proposed flag lot is sufficient to mitigate development impacts and is compatible with the existing lots in the immediate neighborhood;
  2. That the proposed flag lot will not result in unreasonable noise impacts for neighbors adjoining the access corridor;
  3. That the proposed flag lot will not result in unreasonable privacy invasion or unreasonable massing as a result of building height;
  4. That the proposed flag lot will not result in incompatible setbacks from neighboring properties;
  5. That the allowed floor area ratio in accordance with district regulations will not result in adverse impacts on neighboring properties;
- ~~G.~~ ~~When the proposed conditional use is a large family day care home as defined by the California Health and Safety Code, the commission and council shall make a specific finding on each of the following issues:~~
- ~~1. That the day care home provides a minimum of four off street parking spaces;~~
  - ~~2. That the day care home provides staggered drop-off and pick-up times in order to minimize traffic impacts;~~
  - ~~3. That the day care home provides noise mitigation measures in order to minimize the noise levels generated by outdoor play areas, and that children's outdoor play only occurs between the hours of 8:00 a.m. and 7:00 p.m.;~~
  - ~~4. That the day care home is not located within one thousand five hundred (1,500) feet of another large family day care home, as measured following the street, or within five hundred (500) feet of another large family day care home as measured from any property line;~~
  - ~~5. That the day care home is visually incidental and secondary to the residential use of the property;~~
  - ~~6. That the day care home is the principal residence of the child care provider;~~
  - ~~7. That if the day care home is located on a flag lot, that lot shall be a minimum of fifteen thousand (15,000) square feet;~~
- ~~H.F.~~ When the proposed conditional use is a nonconforming ground floor office use, the planning ~~and transportation~~ commission ~~and city council~~ shall make one or more of the following findings:
1. That access to the space to be occupied can only be reached through another business;
  2. That there is no direct frontage to the space to be occupied from the street or parking plaza; and/or
  3. That the building to be occupied is constructed in such a manner that its conversion to retail is infeasible or would cause unreasonable economic hardship due to the type of construction, the structural remodeling required to convert to retail, lack of window display, or other constraint identified with the findings;
- ~~I.G.~~ When a conditional use permit is required ~~for a medical or dental office, or medical, dental or animal clinic or hospital~~, the planning ~~and transportation~~ commission shall make a specific finding that there is adequate on-site parking to support the facility, including staff, patients, visitors and other ancillary support services. This determination shall be based on a parking demand analysis prepared by a

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qualified professional and presented to the planning ~~and transportation~~ commission at a public hearing;

- ~~J. When conditional expansion in the LC/SPZ District is requested as provided for in Section 14.42.040, the commission and council shall make a specific finding on each of the following issues:~~
- ~~1. That the proposed construction is found to meet the specific purposes of the district pursuant to Section 14.42.020 of the Los Altos Municipal Code;~~
  - ~~2. That the proposed square footage contributes to expansion potential pursuant to Section 14.42.040 of the Los Altos Municipal Code in the following order:~~
    - ~~i. The square footage contributes to the permitted fifteen thousand (15,000) square foot new ground-level retail until such total square footage is achieved, at which time,~~
    - ~~ii. The square footage contributes to the permitted four thousand (4,000) square foot second-level retail services until such total square footage is achieved, at which time,~~
    - ~~iii. The square footage contributes to the permitted four thousand (4,000) square foot second-level office;~~
  - ~~3. That the use occupying the proposed square footage builds upon the existing strengths of the Loyola Corners Neighborhood Commercial Center and adds business which is appropriate in terms of use, physical scale, and size of the site.~~

~~Notwithstanding the above findings, the planning and transportation commission and city council may find that a use which meets all code criteria may not be in the best interest of the Loyola Corners Commercial Neighborhood Center;~~

- ~~K. When an extension of time is requested for an office use in the LC/SPZ District as provided for in Section 14.42.030 of this chapter, the commission and council may in its sole discretion make a determination as to the length of the term, provided findings on each of the following issues can be made:~~
- ~~1. That there is a five percent or greater vacancy rate (excluding the space in question) in the LC/SPZ zoning district;~~
  - ~~2. That the property owner has demonstrated to the satisfaction of the commission and council that the use has been economically beneficial to the Loyola Corners Neighborhood Commercial Center;~~
  - ~~3. That the use has proven to be of a type that receives significant on-site clientele visitations;~~
  - ~~4. That the use has maintained a pedestrian friendly exterior by maintaining visual access into the building interior through windows which are not permanently blocked during business hours; and~~
  - ~~5. That continuance of the use would not further move the area from an ideal cost/benefit ratio of seventy (70) percent retail and thirty (30) percent office which is determined necessary to: (i) provide a retail center whose function it is to provide retail services to the surrounding community; (ii) provide a lively, active, and diversified shopping experience; and (iii) ensure that a reasonable portion of the commercial activities are generating taxable retail sales.~~

(Ord. 07-312 § 12; Ord. 05-294 § 4; Ord. 05-271 § 3; prior code § 10-2.2805)

(Ord. No. 2015-406 , § 6, 2-10-2015)

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#### **14.80.070 Appeals.**

- A. Within ~~fifteen~~ fourteen (14) days of any action on a use permit by the planning commission, the decision may be appealed to the city council by any interested party.
- B. Within ~~fifteen~~ fourteen (14) days of any action (approval or denial) on a use permit by the planning commission may be called up for review by the city council if two members of the city council submit requests to the city clerk pursuant to Section 1.12.040.

(Prior code § 10-2.2806; Ord. No. 2019-457 , § 6, 1-28-2020)

#### **14.80.080 Revocation.**

A use permit may be revoked by the planning commission ~~and/or city council~~, or whichever body initially approved the permit, based upon a determination by the ~~community~~ development services director or their designee that the holder of the permit has failed to comply with any condition thereof or has violated any applicable provision of this chapter. The revocation procedure shall be the same as prescribed in this chapter for the initial use permit.

(Prior code § 10-2.2807)

(Ord. No. 2011-368, § 3, 7-26-2011; Ord. No. 2016-423 , § 1, 9-27-2016; Ord. No. 2019-457 , § 7, 1-28-2020)

#### **14.80.090 New applications.**

Following the denial of a use permit application or the revocation of a use permit by the planning commission ~~or council~~, no application for a use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within six (6) months after the date of the denial or revocation of the use permit.

(Prior code § 10-2.2808; Ord. No. 2019-457 , § 8, 1-28-2020)

#### **14.80.100 Expiration of use permit approval—Extensions.**

- A. Use permit approvals granted pursuant to this chapter shall expire twenty-four (24) months from the date on which the approval became effective, unless prior to such expiration date, a building permit is issued for the improvements constituting the subject of the use permit approval, and construction thereof is commenced and prosecuted diligently toward completion.
- B. Use permit approvals may be extended for a period of time not exceeding twelve (12) months. The application for extension shall be filed prior to the expiration date and shall be accompanied by the payment of a fee in such amount as established from time to time by resolution of the city council. Extensions of use permit approval are contingent on the ~~community~~ development services director or their designee finding that the project complies with all current zoning ordinance regulations.

(Ord. 05-279 § 1: prior code § 10-2.2809; Ord. No. 2016-423 , § 1, 9-27-2016)

#### **14.80.110 Modification of a use permit.**

For modifications to an approved use permit, the planning commission shall be the decision-making body. The action of the planning commission shall be final unless:

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A. It is appealed in writing to the city council, and the appropriate fee is paid, within ~~fifteen~~ fourteen (15~~4~~) days of the date of the action;

~~B. Two members of the city council submit requests to the city clerk pursuant to Section 1.12.040.~~

(Ord. No. 2016-423 , § 13, 9-27-2016; Ord. No. 2019-457 , § 8, 1-28-2020)