REGULAR MEETING AGENDA

Planning Commission meetings are being conducted in a hybrid format with in-person and remote options for attending, participating, and commenting. The public can make statements in this meeting during the planned public comment sections. Some members of the Commission may attend virtually. Members of the public may attend virtually by following instructions below.

Remote Attendance/Comment Options: Members of the public may attend this meeting by watching on cable channel 16, streaming on CCXmedia.org, streaming via Webex, or by calling 1-415-655-0001 and entering access code 2450 065 8999.

Members of the public wishing to address the Commission remotely have two options:
- Via web stream - Stream via Webex and use the ‘raise hand’ feature during public comment sections.
- Via phone - Call 1-415-655-0001 and enter meeting code 2450 065 8999. Press *3 to raise your hand during public comment sections.

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes
   February 14, 2022, Planning Commission Meeting
4. Informal Public Hearing – Screening and Outdoor Storage
   Applicant: The City of Golden Valley
5. Informal Public Hearing – Zoning Text Amendment – Adding Outdoor Service Areas as a Temporary Use
   Applicant: The City of Golden Valley

   — End of Televised Portion of Meeting —
   To listen to this portion, please call 1-415-655-0001 and enter meeting access code 2450 065 8999.

6. Council Liaison Report
7. Other Business
   a. Reports on Board of Zoning Appeals and Other Meetings
8. Adjournment
REGULAR MEETING MINUTES

This meeting was conducted in a hybrid format with in-person and remote options for attending, participating, and commenting. The City used Webex to conduct this meeting and members of the public were able to monitor the meetings by watching it on Comcast cable channel 16, by streaming it on CCXmedia.org, or by dialing in to the public call-in line.

1. Call to Order
The meeting was called to order at 7:00 by Chair Pockl.

Roll Call
Commissioners in person: Sophia Ginis, Lauren Pockl
Commissioner remote: Andy Johnson, Mike Ruby, Chuck Segelbaum
Commissioners absent: Rich Baker, Adam Brookins
Staff present: Myles Campbell – Planner, Jason Zimmerman – Planning Manager
Council Liaison present: Denise La Mere-Anderson

2. Approval of Agenda
Chair Pockl asked for a motion to approve the agenda.
MOTION made by Commissioner Johnson, seconded by Commissioner Ginis, to approve the agenda of February 14, 2022.
Staff took a roll call vote. Motion carried.

3. Approval of Minutes
Chair Pockl asked for a motion to approve the minutes from January 24, 2022.
MOTION made by Commissioner Ginis, seconded by Commissioner Segelbaum to approve.
Staff took a roll call vote. Motion carried.

4. Discussion – Screening and Outdoor Storage
Jason Zimmerman, Planning Manager, didn’t have a presentation but encouraged a discussion while mentioning a few key points from past discussions. Staff reviewed the previous Commission meeting where staff issues arising with some of the regulations currently outlined in the Screening and Outdoor Storage section of the Zoning Chapter. In an effort to better address concerns, text amendments are being offered to deal with rooftop mechanicals, the use of commercial lots for storage of personal vehicles and equipment, and (more recently) how outdoor self-storage lots are being utilized.
Analysis

**Rooftop Mechanical Screening**

Language around the screening of rooftop mechanicals reads as follows:

“All mechanical equipment, including rooftop units, shall be screened from view from the street right-of-way.”

The Planning Commission helped draft language around this type of screening when it considered the new Architectural and Material Standards (Section 113-157). That language is a bit more specific.

Staff is recommending that the language in Section 113-152 be updated to match that in Section 113-157, and that both be augmented with language that provides exemptions for equipment associated with solar and wind energy systems if screening would interfere with system operations.

Commissioners and staff discussed the history of the code, revisions through the years, exemptions, and standards of other cities.

**Storage of Personal Vehicles**

The Zoning Chapter is vague on what constitutes “storage” versus other uses such as “parking.” Over the years staff have been asked to address discrepancies or variations of interpretation and staff believes defining the two will help ease confusion. Staff offers the following:

- **Parking:** The temporary use of designated spaces for vehicles associated with the primary operation of a site or as the principal use where allowed.

- **Storage:** The placement of an item in a location for a period of time in order to retrieve for future use or sale.

Staff and commissioners discussed vehicles associated with the use of the occupant, unintended storage, other code language that may address this, screening, and how planning staff work with other departments depending on the concern.

**Idling Vehicles**

While there are prohibitions around parking/storing commercial vehicles on-street, those same standards are not in effect for non-residential private properties. Staff recommends calling out Outdoor Storage specifically as a use only allowed in the Industrial Zoning District and further restricting the use by prohibiting overnight parking of semis or other vehicles or equipment. This could support enforcement of longer-term leases and avoid some of the attractions of a day-to-day or week-to-week arrangement. If this does not sufficiently address the problem of idling vehicles, additional regulations may need to be considered.
Staff and commissioners discussed regulations in other cities, intentional spaces for idling, semi’s versus RV’s, and the potential for creating an area specific to allow this process.

**Staff Recommendation**
Staff recommends amending the text of Section 113-87: Summary Use Tables, Section 113-152: Screening and Outdoor Storage, and Section 113-157 Architectural and Material Standards to update regulations around the screening of mechanicals and outdoor storage.

5. **Discussion of Zoning Text Amendment** – Accessory Dwelling Units
*Myles Campbell, Planner,* reviewed previous conversations staff had with commissioners and preliminary recommendations. Staff discussed detached ADUs, side and rear setbacks, height requirements, and discussed Family Housing Fund ADU Idea Book.
Staff reviewed takeaways from the handbook: ADUs vary depending on the context of the existing home and lot, the cheapest example shown was still 76k, 4/6 examples included a garage/carport, increase in price for ADUs that require sewer/water hookups. Staff went on to review case studies, dimensions, and cost breakdowns.

Staff and commissioners discussed the difference of a garage or ADU encroaching on the setbacks. The also discussed adding an ADU as a new unit or as an extra space for the current homeowner and what housing stock/variety looks like these days. The conversation moved on to applicability, minimal lot area, attached vs detached ADUs, and how many lots would benefit from this new language.

6. **Discussion of Zoning Text Amendment** – Mobile Uses
*Myles Campbell, Planner,* referred to existing code language and discussed how staff would like to expand the language to include all mobile uses. When code language was originally created, it was specific to mobile food vending. *Campbell* gave the example of a mobile dog groomer as an additional mobile use to be included in the proposed new language.

Staff and commissioners discussed expanding uses but ensuring they’re located in a place not in direct competition with a brick and mortar. It was discussed to redefine parks and what uses are allowed in a park versus a residential area in the City. The conversation moved on to a variety of uses and what categories they may fall under.

**Chair Pockl** ended the televised portion of the meeting at 9:12pm.

7. **Council Liaison Report**
Council Member La Mere-Anderson informed the Commissioners that the Council approved the change in start time from 7:00 to 6:30 pm beginning in March. She shared the Council’s deliberations regarding the land use change for the Artessa and the vote of approval. She noted that the Interim Police Chief had provided an update on policing and public safety at the last Council meeting. Commission Ginis asked if there had been any conversation around no-knock warrants. La Mere-
Anderson replied that it would likely be discussed. Finally, it was noted that the City’s mask mandate would be revisited at the next Council meeting and likely revoked.

8. Other Business
   None.

9. Adjournment
   **MOTION** by Commissioner Johnson to adjourn, seconded by Commissioner Ginis, and approved unanimously by roll call vote. Meeting adjourned at 9:23 pm.

______________________________
Andy Johnson, Secretary

______________________________
Amie Kolesar, Planning Assistant
Summary
In recent years, staff has noted issues arising with some of the regulations currently outlined in the Screening and Outdoor Storage section of the Zoning Chapter. In an effort to better address concerns, text amendments are being offered to deal with rooftop mechanicals, the use of commercial lots for storage of personal vehicles and equipment, and (more recently) how outdoor self-storage lots are being utilized. The Planning Commission discussed these topics at their February 14 meeting.

Background
The Zoning Chapter regulates a number of aspects of screening (including fencing) of mechanical and other visually impactful items, as well as where and how outdoor storage can take place in various settings and in a range of zoning districts. In 2018, as part of the recodification of the City Code, the majority of these regulations were clustered into Section 113-152: Screening and Outdoor Storage. This section provides some definitions, general regulations, regulations by zoning district (residential vs. other districts), and a list of certain exemptions.

While standards surrounding the screening of rooftop mechanicals have been in the City Code for many years, questions continue to be raised regarding some ambiguities in the language. City policy has been to require new mechanicals to be screened through some kind of parapet wall or other physical construction on the roof. This has caused pushback from HVAC contractors who typically prepare bids only contemplating the mechanical work, but are then faced with additional construction requirements which can be quite costly. This is less of an issue with new construction vs. existing buildings.

Staff is also not infrequently confronted with commercial parking lots for office, retail, industrial, etc., being used to “store” personal vehicles or equipment such as RVs, boats,
trailers, or other autos. This has generated complaints from neighbors and often requires enforcement actions by the City. Zoning language is vague on this point and should be clarified to help strengthen staff’s hand.

Finally, recent complaints regarding semitrailers parking in lots designated for outdoor storage and idling for extended periods of time during cold weather has raised the question of if outdoor storage should be defined in code and/or prohibitions on specific uses included.

Analysis

Rooftop Mechanical Screening

Language around the screening of rooftop mechanicals reads as follows:

“All mechanical equipment, including rooftop units, shall be screened from view from the street right-of-way.”

Due to the allowances for legal nonconformities listed in State statute and in City code (“Any nonconformity existing at the time of the adoption of an additional control under this chapter, including the lawful use or occupation of land or premises, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion”), rooftop mechanicals that are existing must be allowed to be replaced with mechanicals of a similar or smaller size without triggering the screening requirement. New mechanicals, or replacement mechanicals that are larger (expanded use), should follow the screening requirements included in code.

The Planning Commission helped draft language around this type of screening when it considered the new Architectural and Material Standards (Section 113-157). That language is a bit more specific:

“Rooftop equipment shall be screened from view from the public right-of-way by a parapet wall or a fence the height of which extends at least one foot above the top of the rooftop equipment and is compatible with exterior materials and architectural features of the building.”

Staff is recommending that the language in Section 113-152 be updated to match that in Section 113-157, and that both be augmented with language that provides exemptions for equipment associated with solar and wind energy systems if screening would interfere with system operations.

Storage of Personal Vehicles

The Zoning Chapter is vague on what constitutes “storage” versus other uses such as “parking.” Over the years staff have been asked to address commercial equipment parked in an unassociated lot (a tree trimming truck, for example, being kept overnight for weeks at a time in a restaurant parking lot) or personal vehicles or equipment (such as a boat or trailer) being kept seasonally behind an industrial or retail operation.
Staff believes defining “parking” and “storage” within Section 113-152 would help address this issue and offers the following:

**Parking:** The temporary use of designated spaces for vehicles associated with the primary operation of a site or as the principal use where allowed.

**Storage:** The placement of an item in a location for a period of time in order to retrieve for future use or sale.

These definitions would preserve the use of a commercial lot for the parking of vehicles for employees and customers (or as a dedicated stand-alone parking lot), but would discourage the use of that same area for longer-term storage of equipment or other items. Certain uses, such as lumber yards or auto sales lots, already explicitly allow the storage of materials, equipment, or inventory as long as it is associated with the principal use and is screened from view.

**Idling Vehicles**
While there are prohibitions around parking/storing commercial vehicles on-street, those same standards are not in effect for non-residential private properties. Outdoor storage lots typically house large seasonal vehicles or equipment such as RVs, boats, fish houses, etc., but the zoning code does not currently limit what can be stored there and so the possibility of using these locations for shorter-term parking of semitrailers is not specifically prohibited. When these lots are near residential neighborhoods, the noise and odors associated with idling can generate complaints.

In order to address this problem, staff recommends calling out Outdoor Storage specifically as a use only allowed in the Industrial Zoning District and further restricting the use by prohibiting overnight parking of semis or other vehicles or equipment. This could support enforcement of longer-term leases and avoid some of the attractions of a day-to-day or week-to-week arrangement. If this does not sufficiently address the problem of idling vehicles, additional regulations may need to be considered.

**Staff Recommendation**
Staff recommends amending the text of Section 113-87: Summary Use Tables, Section 113-152: Screening and Outdoor Storage, and Section 113-157 Architectural and Material Standards to update regulations around the screening of mechanicals and outdoor storage.

**Attachments**
Selected draft language from Section 113-87: Summary Use Tables, Section 113-152: Screening and Outdoor Storage, and Section 113-157: Architectural and Material Standards (4 pages)
Table 87-2. Economic and Business Uses.

<table>
<thead>
<tr>
<th>Land Use Description</th>
<th>C</th>
<th>L1</th>
<th>I</th>
<th>O</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warehousing and Wholesale</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greenhouses</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Building materials yards, including inside and outside storage</td>
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<td>C</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Bulk storage of gas, fuel oil, chemicals, and other liquid or solid materials which may be considered hazardous or toxic</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Outdoor sales, including car lots, nurseries, and equipment rentals</td>
<td>C</td>
<td>X</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td><strong>Outdoor storage for vehicles and equipment</strong></td>
<td>X</td>
<td>X</td>
<td>R</td>
<td>X</td>
</tr>
<tr>
<td>Recycling drop-off facilities</td>
<td>X</td>
<td>C</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Recycling facilities</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Laundries and dry-cleaning plants</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Lumber yards, including outside storage</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Warehouses</td>
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<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Wholesale-retail distribution centers</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
</tbody>
</table>

Sec. 113-152. Screening and Outdoor Storage.

(a) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Berm:* An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other similar purposes.

*Fence:* A structural enclosure or barrier used as a boundary, means of protection, or concealment.

*Front Yard:* The portion of a lot between the street right-of-way and the front plane of the principal structure. This area may be deeper than the yard required by the front yard setback.

*Parking:* The temporary use of designated spaces for vehicles associated with the primary operation of a site or as the principal use where allowed.

*Screening:* A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

*Storage:* The placement of an item in a location for a period of time in order to retrieve for future use or sale.

*Trailer:* An unpowered vehicle used for multiple purposes, including, but not limited to, hauling a boat, personal motorized recreational vehicle, or fish house.

(b) **General Regulations.** All zoning districts are subject to the following requirements:
(1) The side of a fence without primary structural supports shall be considered the finished side and must face outward from the property on which it is constructed towards the adjacent property and/or street. If a fence has two similarly finished sides, either side may face the adjacent property and/or street.

(2) All berms, screening, and fences, including fence footings, must be located entirely on the property for which they are being constructed. A property owner installing a new fence must accurately determine lot lines prior to installing a fence.

(3) All berms, screening, and fences shall be maintained and kept in good repair by property owners. Any hazardous fence or fence in a state of disrepair shall be repaired or removed by the property owner within 30 days of notice by the City. If a property owner fails to comply with such notice, in addition to all other applicable penalties under City Code, the City may remove the fence and assess the property owner the cost of such removal.

(4) All berms, screening, and fences shall comply with the right-of-way management regulations of the City Code.

(5) Electrified fences are prohibited. Barbed wire fences are prohibited except in the Light Industrial or Industrial Zoning Districts as described below.

(6) All mechanical equipment shall be screened from view from the street right-of-way. Rooftop equipment shall be screened by a parapet wall or a fence the height of which extends at least one foot above the top of the rooftop equipment and is compatible with exterior materials and architectural features of the building. Equipment associated with solar and wind energy systems are exempt from this provision if screening would interfere with system operations.

(7) For all other standards related to visual nuisances and threats to the health, safety, and welfare of the community, the City's adopted International Property Maintenance Code shall apply.

(c) Regulations By Zoning District. Fences and the screening of outdoor storage shall be governed by the following provisions:

(1) All Residential Zoning Districts.
   a. Fences in all front yards shall not exceed four feet in height. Fences in side and rear yards shall not exceed six feet in height.
   b. Parking or storage in all front yards may occur solely upon a driveway and in no other location. Any parking or storage shall be behind the lot line.
   c. Only one of the following may be parked or stored in all front yards of any lot:
      1. Recreational camping vehicle.
      2. Trailer.
   d. No personal motorized recreational vehicle or boat may be parked or stored in a front yard, except upon a trailer.
e. The storage in any front yard of landscaping or construction materials may not exceed 30 days.

f. Items stored in the side and rear yard may not be stored within five feet of the lot line.

g. All outdoor storage, including any storage of a motorized vehicle, recreational camping vehicle, fish house, trailer, boat, or personal motorized recreational vehicle, in the side or rear yard must be screened from view of adjacent properties by a wall or fence not more than six feet in height and not less than 75 percent opacity, or by vegetation of not less than six feet in height and not less than 75 percent opacity year round.

h. Views of storage in any side or rear yard from the street right-of-way must be at least 50 percent obscured by screening.

i. All mechanical equipment, including rooftop units, shall be screened from view from the street right-of-way.

(2) All Other Zoning Districts.

a. Fences shall not exceed eight feet in height except as noted below.

b. Barbed wire fences are permitted in Light Industrial and Industrial Zoning Districts. No barbed wire shall be erected upon any fence at a height lower than seven feet.

c. No materials or equipment shall be stored outside, unless screened in such a manner as not to be visible from adjacent properties or street right-of-way. All outdoor storage shall be screened by a wall, fence, or vegetation not less than six feet in height and not less than 90 percent opacity year round. No storage shall be permitted within required landscaped areas.

d. Storage of automobile sales inventory on surface lots is allowed by conditional use permit in the Light Industrial and Industrial Zoning Districts. With the permission of the property owner, automobile sales inventory may be stored in parking ramps in the Office Zoning District. The City reserves the right to disallow this storage if parking for the principal uses is negatively impacted.

e. A solid screen, consisting of either a solid fence or wall not less than six feet in height, or a planted landscape screen providing at least 90 percent opacity year round and at least six feet in height at the time of planting, shall be installed and maintained along all lot lines separating an Industrial Zoning District from any Residential or Institutional Zoning District.

f. All waste material, debris, refuse, junk or damaged vehicles, or vehicles under repair or being stored in connection with repair services, shall be either kept entirely within an enclosed building or completely screened from adjacent properties and street rights-of-way.
g. All mechanical equipment, including rooftop units, shall be screened from view from the street right-of-way.

Outdoor storage in an Industrial Zoning District shall not include overnight parking of semitrailers or other vehicles or equipment.

(d) Exceptions. Any deviation from this section shall require a variance in accordance with this chapter except for the following:

(1) Tennis and basketball courts in all zoning districts may have a single perimeter fence no higher than 10 feet. Such fences shall be located to the rear of the principal structure and shall require a minimum three-foot strip of landscaping around the entire perimeter.

(2) A wall or fence not exceeding six feet in height is permitted in the front yard of all properties directly adjoining a minor arterial street or adjoining the frontage road of a principal arterial, freeway, or expressway; as designated by the City.

(3) A wall or fence not exceeding 12 feet in height is permitted in Light Industrial and Industrial Zoning Districts solely for the purpose of screening outdoor storage areas.

(4) The screening requirement for mechanical equipment located in the side yards of properties in Light Industrial and Industrial Zoning Districts may be waived by the City Manager or his/her designee.

(5) A portion of the required screening for properties in the Commercial, Light Industrial, and Industrial Zoning Districts may be waived for enhanced security and public safety purposes at the discretion of the City Manager or their designee, and only upon request by the Golden Valley Police Department.

Sec. 113-157. Architectural and Material Standards.

(c), (d), (e), (f), and (g)

Rooftop equipment shall be screened by a parapet wall or a fence the height of which extends at least one foot above the top of the rooftop equipment and is compatible with exterior materials and architectural features of the building. Equipment associated with solar and wind energy systems are exempt from this provision if screening would interfere with system operations.
Date: February 28, 2022
To: Golden Valley Planning Commission
From: Jason Zimmerman, Planning Manager
Subject: Informal Public Hearing – Zoning Text Amendment – Adding Outdoor Service Areas as a Temporary Use

Summary
Spurred by a request from Schuller’s Tavern to explore options to allow outdoor seating at 7345 Country Club Drive, staff began work in 2021 to develop a new temporary outdoor service area use that could be applied throughout the City. The Planning Commission discussed this idea generally at three meetings and the concept was presented at a City Council Work Session in November. At that meeting, the Council expressed support for moving forward with a Zoning Text Amendment that would allow temporary Outdoor Service Areas in some zoning districts. The Planning Commission reviewed a proposal by staff in January of 2022.

Background
Schuller’s has operated as a nonconforming use (a restaurant within a single-family zoning district) for many decades. In recent years, the owners have sought to find a way to utilize outdoor space for seating and dining. Due to the existing nonconforming status, this would be considered an illegal expansion of the restaurant use.

In search of solutions, the idea was raised to explore the possibility of creating an interim – or temporary – use within the Zoning Chapter and potentially applying the concept to this property. Interim uses are those which are temporary in nature and are allowed to exist for a pre-determined period of time. They can be targeted to specific aspects of individual zoning districts. If workable, this idea could provide a focused solution to the current problem without exposing the wider neighborhood to potentially greater impacts.

Staff also notes that COVID restrictions for restaurants and other retail/service uses in 2020 and 2021 resulted in the creation of Temporary Outdoor Service Area permits for use across the city. These permits – reviewed and approved by staff in Planning, Inspections, and Fire – allowed for outdoor seating/dining and retail sales using creative and temporary arrangements in parking lots and other areas.
Outdoor Service Areas
As discussed previously, the concept of a new temporary outdoor service area use would complement the City’s other current Temporary Uses found in Section 113-31 of the City Code: Mobile Food Vending, Seasonal Farm Produce Sales, and Temporary Retail Sales. It would need to be consistent with the criteria for interim uses outlined in Minnesota Statute 462.3597. There, an interim use is defined as “a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.” A city may set conditions on interim uses, but may only grant permission for an interim use of property if:

(1) the use conforms to the zoning regulations;
(2) the date or event that will terminate the use can be identified with certainty;
(3) permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
(4) the user agrees to and conditions that the governing body deems appropriate for permission of the use.

The addition of an Outdoor Service Area us in Golden Valley would likely be used sparingly, if at all beyond Schuller’s. Any approval of this use by the City would be carried out via a public hearing process and would include clear termination dates absent any request for any extension.

Staff recommends allowing temporary Outdoor Service Areas in all residential zoning districts, as well as in Commercial and Mixed-Use zoning districts. This would allow all restaurants as well as other retail businesses the opportunity to potentially take advantage of this option.

What the allowance of Outdoor Service Areas would NOT do is open the door to the establishment of new restaurants or retail operations where they are not already permitted under the existing zoning regulations. This amendment WOULD allow existing or permitted (or legally nonconforming) uses to take advantage of the outdoor option.

Additional Information
Staff examined other businesses in Golden Valley that have outdoor seating. All of them take place entirely on private property and utilize permanent patio space constructed specifically for this purpose. Staff involvement with respect to the “approval” of these areas typical revolves around ensuring compliance with accessibility requirements, confirming minimum parking counts are not impacted, evaluating potential stormwater impacts due to increased impervious coverage, and updating liquor licensing and insurance information to reflect an expanded service area.

Staff is not aware of any businesses that currently utilize outdoor space for retail sales, though if this were to be pursued it would likely not require any additional City approvals beyond the considerations of accessibility, parking, and potential stormwater impacts mentioned above.

If temporary outdoor service areas are to be approved via a public hearing, specific regulations that attempt to mitigate impacts would not be spelled out in the zoning text, but would be
developed on a case by case basis as part of the proposal evaluation by staff, the Planning Commission, and the City Council. In general, staff would examine potential impacts to parking, hours of operation, lighting, noise, visual screening, etc. The City Council would also be asked to make findings that the proposed use was consistent with the Comprehensive Plan and not injurious to the surrounding neighborhood or otherwise impact the general public health, welfare, or safety.

Analysis
Amending the zoning text to allow Outdoor Service Areas would require changes in three part of the Zoning Chapter.

First, a new definition of Outdoor Service Area would be added to Section 113-1:

A defined space intended to provide outdoor seating/dining at a bar or restaurant or to allow for retail sales or services to be performed outside of a principal structure on a temporary basis. Outdoor service areas are not allowed in association with home occupations.

Second, new text would be added to the Temporary Use section of code (Section 113-31) that details the process for application and approval. Staff has drafted language that closely mirrors the process for approval of a Conditional Use Permit, with a handful of modifications that emphasize the temporary nature of the approval (below). Allowances are provided for extension requests, though these would be evaluated through a public process and also be limited in their duration.

j. The initial term of an outdoor service area permit may not exceed one year. Upon application for an extension of the same use on the same site, succeeding outdoor service area permits may be approved for up to two years each if the Planning Commission and City Council make the findings set forth above and also find that all previous conditions of approval have been satisfied.

k. Physical improvements associated with the outdoor service area shall be temporary in nature. At the conclusion of the approved permit period, all improvements shall be removed and the site restored to its former condition.

l. An outdoor service area permit shall expire and the use terminate at the earlier of:

(1) The expiration date established by the City Council at the time of approval, but in no event more than two years from the date of approval;
(2) The occurrence of any event identified in the outdoor service area permit for the termination of the use; or
(3) Upon an amendment of the City Code that no longer allows the outdoor service area.
Third, Outdoor Services Areas would need to be listed in the Summary Use Tables in Section 113-87 as a restricted use for the targeted zoning districts (meaning they would be permitted but that certain restrictions – established by the City – would accompany their approval).

Draft language around Outdoor Service Areas is attached.

**Staff Recommendation**
Staff recommends amending the text of Section 113-1: Definitions, Section 113-31: Temporary Uses, and Section 113-87: Summary Use Tables to allow for Outdoor Service Areas in targeted zoning districts.

**Attachments**
Selected draft language from Section 113-1: Definitions, Section 113-31: Temporary Uses, and Section 113-87: Summary use Tables (5 pages)
Sec. 113-1. - Definitions.

Outdoor Service Area: A defined space intended to provide outdoor seating/dining at a bar or restaurant or to allow for retail sales or services to be performed outside of a principal structure on a temporary basis. Outdoor service areas are not allowed in association with home occupations.

Sec. 113-31. - Temporary Uses.

(a) Purpose and Intent. The purpose and intent of this section is to provide conditions under which certain temporary uses may be allowed while ensuring a minimum negative impact to neighboring land uses.

(b) Permitted Temporary Uses.

(1) Mobile food vending.

(2) Seasonal farm produce sales.

(3) Temporary retail sales.

(4) Outdoor service areas.

(c) Prohibited Temporary Uses. Temporary family health care dwellings, as defined in State law, are prohibited in all zoning districts.

(d) General Requirements.

(1) Mobile Food Vending. […]

(2) All Seasonal Farm Produce Sales. […]

(3) Temporary Retail Sales. […]

(4) Outdoor Service Areas. A permit for an outdoor service area may be granted after approval by the City Council and with any necessary conditions that prevent or minimize injurious effects upon the neighborhood. All permits for outdoor service areas shall be subject to the following conditions:

a. An outdoor service area shall be allowed only in a zoning district for which it is listed as a permitted use.

b. An application for an outdoor service area permit may be made by any governmental body, department, board, or commission, or by any person, individual or corporate, having a legal interest in the property described in the application. Each property site shall require its own application. Single applications may not be made for noncontiguous or scattered sites.

c. The City Manager or their designee shall refer the application to the Planning Commission to hold an informal public hearing. The applicant and all property owners within 500 feet of the subject site shall be notified of the informal public hearing by the U.S.
mail, not less than 10 days prior to the date of this informal public hearing. Such notice shall include the date, time, and place of the hearing and shall identify the subject site.

d. The Planning Commission shall make findings and recommendations to the City Council based upon any or all of the following factors (which need not be weighed equally) and shall present its findings and recommendations to the City Council in writing:

1. Consistency with the Comprehensive Plan of the City.
2. Effect upon property values in the neighboring area.
3. Effect of any anticipated traffic generation upon the current traffic flow and congestion in the area.
4. Increase in noise levels to be caused by the proposed use.
5. Any odors, dust, smoke, gas, or vibration to be caused by the proposed use.
6. Any increase in pests, including flies, rats, or other animals or vermin in the area to be caused by the proposed use.
7. Visual appearance of any proposed structure or use.
8. Any other effect upon the general public health, safety, and welfare of the City and its residents.

e. The City Council shall take no action on the application until it receives the Planning Commission's recommendation, or until 60 days after such application has been submitted to the Planning Commission. Upon receiving the findings and recommendations of the Planning Commission, or the elapse of said 60-day period, the City Council shall call and conduct an official public hearing to consider the application.

f. Notice of the official public hearing shall be published in the official newspaper of the City not less than 10 days prior to the date of the hearing. Such notice shall include the date, time, and place of the hearing and shall reasonably identify the subject site. In addition, copies of the written notice in the form published shall be mailed to the applicant and to all property owners within 500 feet of the subject site not less than 10 days prior to the date of such official public hearing.

g. The City Council shall make findings and shall grant or deny a permit based upon any or all of the factors found above. The City Council may make its approval of the permit contingent upon such conditions as it determines necessary to prevent or minimize injurious effects upon the neighborhood. The City Council may also require that sufficient performance bonding by an acceptable surety be supplied by the property owner to ensure satisfactory compliance with the conditions imposed by the conditional use permit.

h. The City Council shall set forth in writing its decision, and the specific reasons for such decisions, following the official public hearing. The applicant shall be notified in writing of the City Council's decision. If the application is denied in whole or in part or conditions are imposed, the reasons for such denial or for the imposition of conditions, shall accompany this notification.

i. No application which has been denied wholly or in part shall be resubmitted for a period of six months from the date of said denial, except on the grounds of new evidence or upon proof of changes of conditions. Each resubmission shall constitute a new filing and a new filing fee in an amount adopted by resolution of the City Council shall be required.

j. The initial term of an outdoor service area permit may not exceed one year. Upon application for an extension of the same use on the same site, succeeding outdoor service area permits may be approved for up to two years each if the Planning Commission and
City Council make the findings set forth above and also find that all previous conditions of approval have been satisfied.

k. Physical improvements associated with the outdoor service area shall be temporary in nature. At the conclusion of the approved permit period, all improvements shall be removed and the site restored to its former condition.

l. An outdoor service area permit shall expire and the use terminate at the earlier of:

(1) The expiration date established by the City Council at the time of approval, but in no event more than two years from the date of approval;
(2) The occurrence of any event identified in the outdoor service area permit for the termination of the use; or
(3) Upon an amendment of the City Code that no longer allows the outdoor service area.

m. Changes to an approved outdoor service area permit other than minor changes shall require amendment to the outdoor service area permit by the City. The requirements for application and approval of an outdoor service area permit amendment shall be the same as the requirements for original application and approval.

n. The City Council shall have the right to revoke or suspend any outdoor service area permit whenever the terms or conditions of such permit have been violated or broken. All such action by the City Council to revoke or suspend an outdoor service area permit shall be by means of a majority affirmative vote of City Council Members.

Sec. 113-87. – Summary Use Tables.

### Table 87-1 Residential Land Uses

<table>
<thead>
<tr>
<th>Land Use Description</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>R-4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential facilities, Foster Homes, and Essential Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential facilities serving six or fewer persons</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Residential facilities serving up to 25 persons</td>
<td>C</td>
<td>C</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Foster family homes</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Group foster family homes</td>
<td>C</td>
<td>C</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Essential services, Class I</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Mobile food vending</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>R</td>
</tr>
<tr>
<td>Outdoor services areas</td>
<td>R</td>
<td>R</td>
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</tbody>
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### Table 87-2 Economic and Business Land Uses

<table>
<thead>
<tr>
<th>Land Use Description</th>
<th>C</th>
<th>LI</th>
<th>I</th>
<th>O</th>
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</thead>
<tbody>
<tr>
<td>Food, Entertainment, and Retail</td>
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<td></td>
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<tr>
<td>Adult-oriented services that require City licensing</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
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<tr>
<td>Breweries</td>
<td>X</td>
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<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Brewpubs</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Catering establishments</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Land Use Description</td>
<td>MU-N</td>
<td>MU-C</td>
<td>MU-E</td>
<td></td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td></td>
</tr>
<tr>
<td><strong>Commercial</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Medical clinics</td>
<td>P</td>
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<td></td>
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<tr>
<td>Hotels</td>
<td>X</td>
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<td>P</td>
<td></td>
</tr>
<tr>
<td>Restaurants, brewpubs</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>General retail/service</td>
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<tr>
<td>Breweries</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Taprooms</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>Micro-distilleries</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Mobile food vending</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td></td>
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<tr>
<td>Cocktail rooms</td>
<td>C</td>
<td>C</td>
<td>C</td>
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</tr>
<tr>
<td>Parking</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Child care</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>Drive-thru facilities</td>
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**Table 87-4 Mixed Use Land Uses**
<table>
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<th>Service Description</th>
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<th>3</th>
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<tbody>
<tr>
<td>Gasoline sales and automotive repair</td>
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</tr>
<tr>
<td>Self storage</td>
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</tr>
<tr>
<td>Outdoor storage</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Sale or repair of firearms</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Firing range</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td><strong>Outdoor service areas</strong></td>
<td>R</td>
<td>R</td>
<td>R</td>
</tr>
</tbody>
</table>