



MEMORANDUM

DATE: May, 5, 2015

TO: PDSZ Zoning Review Staff

FROM: Jim Mazzocco, Zoning Administrator

SUBJECT: Main Gate District and Permitted Uses and Liquor Licenses

PERMITTED USES -

A question was raised as follows: If a use is listed as a permitted use in the Main Gate District does the proposal that chooses the Main Gate zoning option also have to follow the underlying zone's permitted use and/or the use specific standards of the same use that is listed in use tables of Article Four (Zones) of the Unified Development Code (UDC)?

The answer is the proposal, if it chooses the Main Gate zoning option, it follows the permitted uses of the Main Gate District and does not follow the permitted uses in the UDC.

This question is related to a restaurant and accessory bar requiring a liquor license that is located in the Main Gate District whose underlying zoning is HC-1.

The applicant has applied to use the zoning option of the Main Gate District on the property that involves placing a U on the property. Ultimately, the property once it complies with the Main Gate District ordinance will become HU-1.

In Table 4-8.4, the UDC lists for C-1 zone as permitted under the Commercial Services Land Use Group the following: the land use class Food Service and the land use type 'Food Service with alcoholic beverage as an accessory use to a Food Service Use'. This land use type is further regulated by use specific standards Sec.4.9.4.V1, 3, & 5-9 as well as use specific standards Sec. 4.9.4.C.3 and 4.9.13.O.

The above land use type and the use specific standards are shown in Table 4-8.4 to apply to the C-1 zone only.

Further, the use specific standard Sec. 4.9.4.V.9 states that if a property is within 300 feet of a residential area that the applicant of a restaurant for a liquor license must submit a mitigation plan that addresses potential nuisance issue related to the restaurant's use of alcoholic beverages. In addition, if there are conditions created by the use that violate the mitigation plan it may be suspended or terminated.

The Main Gate District was adopted to allow the property owner to choose to develop the property with the underlying zoning or with the Main Gate zoning option that encourages transit-oriented development.

The Main Gate ordinance #11015 in Section C-2.a Permitted Uses lists in Section C-2.a.14 the following use, "Food Service, except that a Soup Kitchen is not permitted. Outdoor dining located in adjacent Right of Way is permitted subject to the user obtaining and maintaining the requisite licenses or easement from the Right of Way owner."

This permitted use represents an example of the Main Gate District's zoning option that the property owner may choose to apply to their property subject to following all the relevant provisions of the Main Gate District ordinance #11015.

There has been some question as to whether the Main Gate District's Section B-1.j activates all of the use specific standards of the underlying zone's permitted use and the land use type 'Food Service with alcoholic beverage as an accessory use to a Food Service Use' of Food Service, which requires among other items a liquor license mitigation plan (Sec. 4.9.4.V.9).

Section B-1.j states that unless otherwise specified in the MGD document the "LUC" and its supplement documents shall apply. In this case, there is a clear list of Permitted Uses that are much simpler than the more involved Permitted Use Tables in Article Four with supplemental use specific standards.

It should be noted that the Permitted Uses in the MGD can be used by all properties in the MGD regardless of underlying zoning. The only use specific standard that applies to a Food Service use in the Main Gate District is the one noted above about outdoor dining.

LIQUOR LICENSES -

It was also asked, at what point may the applicant apply for a liquor license, which is a State regulation, as part of the Main Gate District application?

The answer is when the applicant chooses the zoning option he/she may submit for a liquor license application after the floor plan and site plan have been approved by Design Professional. Any change may require a new submittal for a liquor license.

The submission for a liquor license should be at the time an approved site plan and floor plan have been reviewed and approved by the MGD Design Review Committee (DRC) or if the DRC is not involved then the approval of the Design Professional.

Any changes to a floor plan or site plan that were already submitted after that point will require an amended liquor license application to reflect the final approved site plan and floor

plan. If at any point for whatever reason the MGD zoning option is not completed through to a certificate of occupancy and a change in the zoning map to include a U, then the property will revert to the underlying zoning's permitted uses and its development and dimensional standards will apply.