

CITY COUNCIL AGENDA: AUGUST 6, 2013

SCHEDULED MATTER

SUBJECT: DETERMINATION OF ZONING CONFORMANCE - DEFINITION OF PERSONAL SERVICES LAND USE CLASSIFICATION

BACKGROUND: On July 17, 2013, Community Development Department staff received a request for clarification of the use classification "Personal Services" (Attachment 1). The interested party asked that florist shops be considered a personal service due to the component of their business model that involves creating custom work for weddings and other events. Series 600 of the Porterville Development Ordinance identifies the designated responsibilities of the various bodies, officials, and administrators, and Section 600.03 (g) specifies that this type of request would typically be considered by the Zoning Administrator. However, in this case, the property owner of the site of interest is a member of the City Council, and, therefore, the issue is required to be considered by the City Council pursuant to the provisions of the Political Reform Act.

For purposes of this discussion it is important to note that the Porterville Development Ordinance defines both Personal Services and Retail Sales uses. Section 701 of the Porterville Development Ordinance defines the two land uses as follows:

Personal Services: Provision of recurrently needed services of a personal nature. This classification includes barber and beauty shops, tattoo parlors, seamstresses, tailors, dry cleaning agents (excluding large-scale bulk cleaning plants), shoe repair shops, self-service laundries, photocopying and photo finishing services, and travel agencies.

Retail Sales: The retail sale or rental of merchandise not specifically listed under another use classification. This classification includes department stores, clothing stores, furniture stores, pet supply stores, small hardware stores (with ten thousand (10,000) square feet or less of floor area), and businesses retailing the following goods: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies and services (including portraiture and retail photo processing), medical supplies and equipment, pharmacies, electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, antiques, art galleries, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, video rental, and new automotive parts and accessories (excluding vehicle service and

installation). Retail sales may be combined with other services such as office machine, computer, electronics, and similar small-item repairs. This classification includes secondhand and wholesale stores. This classification excludes medical marijuana dispensaries.

The applicant has represented their interest as a florist shop on property zoned D-PO, Professional Office in the Downtown District. In this zone, personal services are a permitted use. As defined above, retail sales less than 50,000 square feet are permitted, but only as accessory to a primary use. Accessory use is defined in Section 700 as “a use that is customarily associated with, and is incidental and subordinate to, the principal use and located on the same lot as the principal use”. After speaking with the prospective owner, the use is described as a flower shop. The purpose defined for the D-PO zone is to “encourage the adaptive re-use of existing buildings with office and professional uses, and infill of new office buildings, in order to provide convenient services to local residences and businesses, complement nearby retail development, and maintain the historic residential character of the area”.

The interested party currently operates a business at 45 West Putnam Avenue, and has indicated that, due to parking constraints and business expansion goals, she is looking for another location in the downtown area. The specific site being considered at present, and the focus of this request, is 73 West Cleveland Avenue, at the southeast intersection of West Cleveland Avenue and North “D” Street (APN 252-186-003). If a determination is made finding that a florist is a personal service, it would not be limited to this specific parcel, and would be consistently applied in the D-PO and PO zones.

ANALYSIS: The land use classification “Personal Services” is defined in Series 700 of the Development Ordinance as “provision of recurrently needed services of a personal nature.” By comparison, “Retail Sales” includes “the retail sale or rental of merchandise not specifically listed under another use classification”. The definition of retail sales includes a long list of various shops, some of which include a service component secondary to the retail sales. While florist shops are not specifically listed in any given zone district, the definition of retail sales incorporates any non-specified sales use as retail.

Numerous retail uses include a service component. One might find a demonstration of specific cooking skills at a housewares store, or the preparation of a gift basket at a gift shop. The purchase of carpeting could include installation, purchase of large furniture could include delivery, or purchase of a watch battery might involve the jeweler replacing the old battery. Indeed, the definition of “Retail Sales” in Section 701 notes that

“retail sales may be combined with other services such as office machine, computer, electronics, and similar small item repairs”. This service component does not result in a shift of the primary use as retail.

Because of the importance of retail uses to the downtown area, the Development Ordinance provides great flexibility. Of the nine downtown zone districts, retail sales less than 50,000 square feet are permitted by right, without condition, in all but four: medium density residential, high density residential, professional office, and public/semi-public. Conversely, there is a need for office space as well, and the current zoning designations provide specific areas of land for current and future professional offices, focused on the northern portion of downtown between Morton and Putnam Avenues. The Economic Development Division is seeing an increased interest in available office space in anticipation of the opening of the new courthouse, and offices near the Putnam corridor in particular are often associated with medical doctors and specialized professionals serving the hospital and medical district. In general, there is not an excess of available PO zoned land. Based on the growth goals identified in the General Plan, professional office zones make up less than one percent of the land within the City, even at full build-out.

Commercial zones are more broadly designated, making up about 12 percent of the City’s developed area by 2030. In commercial zones citywide, retail uses, personal services, and professional offices are accommodated. As the City’s commercial center, the downtown area provides a variety of commercial zoned opportunities, allowing owners flexibility for their businesses.

The Zoning Administrator acknowledges the interested party’s goal of expanding her existing business to a new location downtown, but based on analysis of the Development Ordinance, would not find the proposed business in the D-PO zone consistent. As stated above, consideration of this particular item was forwarded to the City Council. It is important to note that any decision of the Zoning Administrator is appealable to the City Council for their ultimate consideration.

RECOMMENDATION: That the City Council determine whether a florist constitutes a personal service and/or is an approved use in the D-PO and PO zones.

ATTACHMENT: 1. Letter from business owner dated July 17, 2013
2. Authorization letter from Property Owner dated July 30, 2013

RECEIVED

July, 17 2013

JUL 17 2013

Community Development
Department

Brad Dunlap/ Zoning Administrator
City of Porterville
291 N Main Street
Porterville, CA 93257

TO WHOM IT MAY CONCERN

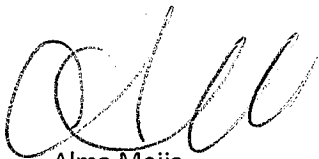
Dear Sir/Madam

73 W Cleveland Ave, Porterville, CA 93257 APN# 252-186-003

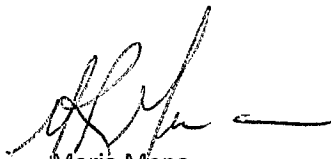
We, the undersigned, ask that the above-mentioned property is considered by the City Council as an item for discussion and vote at the next Council meeting.

The subject property is zoned POD. Our intention is to open a florist store on the subject property, and we ask that the City Council allow us to do so, under the current zoning for the following reasons:

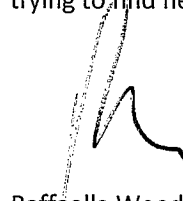
- POD allows for needed services of a personal nature. Even though we realize that in our business money is exchanged for goods, our intention is to create custom work for our clients (for funerals, weddings, anniversaries, and such events of a personal nature), and therefore we believe that our service is not incompatible, and in fact conforms with the intent of personal service.
- Miss Alma Mejia and her business need to expand, and therefore can no longer stay at their current location (45 W Putnam Avenue), because of lack of parking and because there are in need of a bigger facility.
- Miss Mejia Really would like to help beautify downtown, and it would break her heart to have to move her business away from downtown, but she would find herself in that position, should she not be allowed to expand her business in said location, which would not only leave yet again another vacant lot, but also a vacant building.
- The subject property is a blighted lot, and it would be a shame if it stayed as such for years to come, when it could instead be a beautiful brand new building, offering customized service to local people, who could walk and shop downtown, whilst waiting for their arrangement.
- There is already a high percentage of both already developed and undeveloped PO zoned facilities and lots, which are vacant, and we would not want the subject property to just be another percentage.
- Such a business, though not listed under PO use, is also not listed under Retail, and therefore falls between the cracks, and is has not been clearly identified as purely retail by the planning department.
- We know that City is proud to call Herself "business friendly", and we trust that the honorable council members will support a small local business owner trying to find her American dream!



Alma Mejia
Carmen's Vineyard
Potential Buyer



Maria Mena
Realtor & downtown
business owner



Raffaella Woods
Melson Realty

**ATTACHMENT
ITEM NO. 1**

7-30-13

From: Greg Shelton
888 N. Williford Dr.
Porterville, CA, 93257

To: City of Porterville

To Whom it may concern:

Please consider this correspondence as constructive notice that I approve of the request by Rafaella Woods to consider a zoning conformance review for the piece of vacant property located at 73 W. Cleveland. If you have any questions, please contact me!

Thanks,

Sincerely,

Greg Shelton

Phone # (559) 784-7809

**ATTACHMENT
ITEM NO. 2**