

MEETING DATE: 5-12-16

PLANNING COMMISSION

Case No. P15-37

Zoning Code Text Amendments



CITY of MEDINA

Planning Commission

May 12, 2016 Meeting

Case No: P15-37

Applicant: City of Medina

Subject: Discussion – Further amending Heavy and Light Manufacturing use definitions

Submitted by: Jonathan Mendel, Community Development Director 

At the April 14, 2016 Planning Commission meeting, amendments to various zoning texts related to Heavy and Light Manufacturing uses were reviewed. The Planning Commission recommended the amendments as proposed by staff.

The discussion revolved around improving the applicability and enforceability of the regulations without creating unintended consequences that could negatively affect existing and/or future uses/businesses within the City of Medina industrially zoned areas.

Therefore, staff recommends the Planning Commission have further discussion on the direction of continued revision to the Heavy and Light Manufacturing use definitions.

In that direction, staff provided the following outline the main points of discussion from April 14, 2016:

- The below amended Heavy and Light Manufacturing definitions could still negatively impact existing uses or businesses

1105.097 MANUFACTURING, HEAVY

“Heavy manufacturing” means a building or outdoor land used for the assembly, fabrication or processing of goods and materials using processes that ordinarily create one or more of the following: smoke, dust, or other airborne particulates, noise which is plainly audible outside of the boundary lines of the parcel where the noise is being created, fumes, odor, glare or potential safety hazards (e.g., explosive materials processing, hazardous materials being used or created by a process, etc.).

1105.098 MANUFACTURING, LIGHT

“Light manufacturing” means a building or outdoor land used for the assembly, fabrication or processing of goods and materials using processes that ordinarily do not create one or more of the following: smoke, dust, or other airborne particulates, noise which is plainly audible outside of the boundary lines of the parcel where the noise is being created, fumes, odor, glare or potential safety hazards (e.g., explosive materials processing, hazardous materials being used or created by a process, etc.)

- The types of land use that triggered the review of the heavy and light manufacturing regulations could be regulated separately from the heavy and light manufacturing uses. Specific land use definitions and review process applicability could be created to address such land uses directly.

Attached to this report:

- April 14, 2016 Planning Commission staff report – Case P15-37
- April 14, 2016 draft Planning Commission meeting minutes regarding Case P15-37

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staff report

(with 'which is' edit)



CITY of MEDINA
Planning Commission
April 14, 2016 Meeting
Exhibit A

Case No: P15-37
Applicant: City of Medina
Subject: Various Zoning Code Text Amendment
Submitted by: Jonathan Mendel, Community Development Director

Attached are the revisions to the proposed Heavy and Light Manufacturing use definitions, the I-1 zoning district permitted and conditionally permitted use tables, and two of the conditionally permitted use regulations.

These changes were discussed at the January 14, 2016 Planning Commission meeting along with other text amendments, which are currently proceeding through the City Council review.

These revisions to the proposed text amendments from January 14, 2016 have been reviewed and approved by the City's legal counsel.

Therefore, Staff requests the Planning Commission recommend approval, and forward to City Council, the proposed text amendments outlined in this staff report.

Proposed text amendment reviewed January 14, 2016 (for comparison)

- 1. Add "dust" to Sections 1105.097 & 1105.098 to provide more specificity to the types of secondary impacts a manufacturing use may generate when determining whether a specific operation is light or heavy manufacturing.**

1105.097 MANUFACTURING, HEAVY
"Heavy manufacturing" means a building or land used for the assembly, fabrication or processing of goods and materials using processes that ordinarily create smoke, dust, noise, fumes, odor, glare or potential safety hazards (e.g. explosive materials processing).

1105.098 MANUFACTURING, LIGHT
"Light manufacturing" means a building or land used for the assembly, fabrication or processing of goods and materials using processes that ordinarily do not create smoke, dust, noise, fumes, odor, glare or potential safety hazards (e.g. explosive materials processing).

Revised text amendment proposal as of April 14, 2016

- 1. Add “dust” to Sections 1105.097 & 1105.098 to provide more specificity to the types of secondary impacts a manufacturing use may generate when determining whether a specific operation is light or heavy manufacturing.**

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- 2. Add specific conditionally permitted use regulations “37 and 38” superscripts to the “Heavy Manufacturing” use in the Conditionally Permitted Use table in order to provide further regulatory strength to the conditional zoning certificate review process for such uses. The specific text of regulations 37 & 38 are at the end of page 4 of this report.**
 - 3. Lastly, Remove “Office - Professional, Medical and Administrative” use from the I-1 Conditionally Permitted Use table and add it to the I-1 Principally Permitted Uses table. There are no compelling reasons to classify such office uses as a conditional use when many of the currently permitted uses in the I-1 zoning district are more intensive uses than professional or medical office. There are many properties throughout the I-1 zoned areas of the City that are designed as flexible office/light industrial properties and making professional and medical office a permitted use in the I-1 district permits a wider use of the properties without unnecessary delay.**
 - 4. A minor edit to Section 1153.04(a)(38) is needed for the Conditionally Permitted Use regulation #38 to remove the reference to the “I-3” zoning district which no longer exists.**

1141.02 PRINCIPALLY PERMITTED USES.

The following uses shall be permitted in the I-1 Industrial District:

Residential	Public/Semi-Public	Commercial
• None	• Public Utility	• Distribution Center for Fuel, Food and Goods, Underground Storage - Must be Completely Enclosed if Facing a Non-Industrial District
		• Heavy Duty Repair Services for Machinery and Equipment Including Repair Garages and Specialty Establishments including Motor, Body, Fender, Radiator Work.
		• Light Manufacturing
		• Mixed Use Building
		• Off-Street Parking Lot, Deck and Garage
		• Office - Professional, Medical and Administrative
		• Other Uses as Determined by the Planning Commission
		• Plant Greenhouse
		• Research and Development Laboratory and Processing with No Hazardous, Noxious or Offensive Conditions
		• Self-Storage Warehouse
		• Truck or Transfer Terminal - No Closer than 50 Feet from an Residential District
		• Veterinary Office or Hospital in an Enclosed Building
		• Warehousing
		• Wholesale Establishment

1141.04 CONDITIONALLY PERMITTED USES.

The following uses shall be permitted as conditionally permitted uses in the I-1 Industrial District subject to the requirements of Chapter 1153, Conditional Uses. Numerical identification after each item corresponds to specific standards in Section 1153.04, Conditionally Permitted Use Regulations.

Residential	Public/Semi-Public	Commercial
• None	• Conservation Use	• Commercial Entertainment
	• Educational Institution for Higher Education	• Commercial Recreation

	• Passenger Transportation Agency and Terminal	• Contractor's Equipment Storage Yard or Plant, or Storage and Rental of Equipment Commonly Used by Contractors - Must be Completely Enclosed if Facing a Non-Residential District
	• Publicly Owned or Operated Governmental Facility ^{3,7,8,11}	• Cremation Facility
	• Wireless Telecommunication Facility	• Heavy Manufacturing ^{37, 38}
		• Office—Professional, Medical—and Administrative ^{37,39}
		• Open Air Building Materials Sales Yard and Lumber Yard
		• Motor Vehicle, Truck, Trailer and Farm Implement Repair, Service and Storage (Excluding Body Work, Painting, Engine Overhaul)
		• Retail
		• Truck Wash

(Specific Conditionally Permitted Use regulations for the “Heavy Manufacturing” use from Section 1153.04(a))

SECTION 1153.04(a)

(37) Such uses shall be conducted not closer than 100 feet from any R District. Where the I District abuts upon but is separated from R District by a street, the width of the street may be considered as part of the required setback. The construction, operation and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas fumes, noise, vibration, refuse matter or water carried wastes.

(38) In the interests of the health, safety, general welfare and the protection of property values of the community, the area and adjoining land uses, and the other industries within the I-1 or I-3 District, the Planning Commission may require any conditions deemed necessary. In regard to an industrial operation whose effects on adjacent premises, the area or the community are not readily known, the Planning Commission may seek expert advice on what conditions should be imposed on the particular industrial operation to reasonably modify any injurious or offensive effects likely to result from such an operation. The cost of securing such expert assistance shall be borne by the applicant.

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Mr. Mendel gave an overview of the case. Mr. Mendel stated in January of 2016 the board reviewed several "housekeeping" items for the code. Mr. Mendel stated there were items regarding the definitions for "Heavy Manufacturing" and "Light Manufacturing" and some changes to the principle permitted and conditionally permitted uses for the I-1 District in Chapter 1141 of the Planning and Zoning Code. Mr. Mendel stated with that, the I-1 Zoning District requirements were not voted on in order to provide review from legal counsel. Mr. Mendel stated the Law Director has reviewed the draft revised text amendments.

Mr. Mendel stated legal counsel has provided additional information regarding the definition of noise. Mr. Mendel stated in the staff report under the revised definition of "Manufacturing Light" should state "noise *which is* plainly audible outside of the boundaries of the parcel". Mr. Mendel stated it was mistakenly left off the staff report.

Mr. Mendel stated the I-1 Zoning District will move Office-Professional, Medical and Administrative under the conditionally permitted uses to permitted uses. Mr. Mendel stated it is a low intensity use of land and is appropriate to allow as permitted in a high intensity industrial district.

Mr. Mendel stated Conditionally Permitted Use regulations were added in section 37 and 38 to provide broader application to the heavy manufacturing. Mr. Mendel stated in section 38, the words "or I-3" is removed because there is no longer an I-3 zoning district.

Mr. Mendel stated staff recommends the Planning Commission approve the proposed text amendments and recommend them to City Council for approval.

Mr. Gold stated under "Manufacturing Light", the words smoke, dust, or other airborne particulates and noise are written. Mr. Gold stated a welding shop which produces particulates and fumes which are evacuated through an exhaust fan or hood could technically not be permitted under this verbiage.

Mr. Gold stated a sheet metal shop that is pounding duct work together would carry noise outside the boundaries of the property line and would therefore be in violation of the new verbiage in the code. Mr. Gold stated both situations exist across the street from each other on State Road. Mr. Mendel stated the city would need to look at it on a case by case basis. Mr. Mendel stated many of the existing uses are long established existing uses which may fall into non-conforming otherwise it could continue to operate as it is until there is an expansion of the facility which could trigger a Conditional Zoning Review at that time.

Mr. Gold stated there is ambiguity that is up for interpretation. Mr. Mendel stated the new proposed text gives more definition by saying "noise at the property line". Mr. Mendel stated noise is not just sound but is defined as having a negative connotation.

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Mr. Gold stated the proposed wording could open the city up to a challenge. Mr. Mendel stated it would be subject to the Conditional Zoning Certificate Review process.

Mr. Gold stated an HVAC shop would typically be light manufacturing. Mr. Gold stated with the new verbiage, it would not be permitted because the noise carries and would eliminate that area for light manufacturing. Mr. Gold stated there needs to be some type of definition such as a decibel range. Mr. Gold brought up the example of welding which could produce white smoke. Mr. Gold stated it could be interpreted as smoke that is not permitted in light manufacturing.

Mr. Mendel stated the old zoning code had 3 pages of types of businesses in a permitted use table or conditionally permitted use table. Mr. Mendel stated some of those do not exist any longer or are not able to cover every situation. Mr. Mendel stated to provide flexibility, you create codes that are broadly applicable with some parameters. Mr. Mendel stated when someone says it is not specific enough, it goes back to being super specific in the code and inflexibility.

Mr. Mendel stated it is more difficult to define decibel levels because of ambient noise, time of day, etc.

Mr. Becks stated we may be creating more existing non-conforming businesses which is a challenge in improving your code.

Kimberly Marshall, Economic Development Director, stated she does not like to get too involved in the zoning code text changes until it impacts businesses.

Mr. Rose asked if the reason for the change in the code is due to the Fechko case last year. Mr. Mendel stated yes, this did come out of enforcement action with Fechko Excavating and their facility on Progress Drive.

Mr. Rose suggested defining what the issue was with the crushing of concrete and putting that into the code rather than adding verbiage which would cause a manufacturing business to not want to come to Medina.

Mrs. Marshall stated one business could be performing an operation that is impacting another business. Mrs. Marshall stated you need to weigh out the benefits and detriments and find a solution.

Mr. Becks stated if a specific restriction is put in against concrete crushing activities, and a business that crushes natural stone would like to come to Medina, it would create the same challenges but we have specified concrete. Mr. Becks stated if you try and regulate by specific use, you are chasing uses as they come up.

Mr. Rose suggested looking at the recycling rules and applying them to the process of crushing concrete to form aggregate for recycling. Mr. Becks stated if you are bringing

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in natural stone and crushing it to be used in concrete, would we not have the same objections?

Mr. Gold stated he does not understand why the Law Director allowed such a broad definition to limit existing businesses regarding dust and noise.

Mr. Mendel stated the existing text of the definitions would still apply to Standard Welding or an HVAC company that is fabricating ductwork and such. Mr. Mendel stated it creates noise. Mr. Mendel stated under the existing Zoning text, they would still be considered Heavy Manufacturing. Mr. Mendel stated as proposed, provides more definition and applicability of the noise being "at the property line".

Mr. Mendel suggested defining rock crushing and go specific as a heavy manufacturing use. Mr. Gold stated he feels this would go to court in the form it is being proposed. Mr. Gold stated if this is not defined correctly, it could be a potential problem for the city but for the manufacturer.

Mr. Gold stated if the members of the Planning Commission change over the years, the interpretation of the code will be different. Mr. Mendel stated these are legal questions and this has gone through legal counsel and has been crafted by legal counsel including outside legal counsel by Walter & Haverfield. Mr. Mendel asked if there were specific changes that Mr. Gold would like to see. Mr. Gold suggested having a discussion with legal counsel and bringing it back to Planning Commission. Mr. Gold strongly urged the city to not pass the changes as submitted.

Mr. Mendel stated he welcomes suggestions from Mr. Gold.

Mr. Mendel stated the Law Director has encouraged the Planning Commission to make this change as soon as possible. Mr. Rose asked if the smoke does not come outside the building, would it matter. Mr. Becks stated if the process is contained in the building, it should be light manufacturing.

Mr. Becks stated the proposed changes fix a specific issue. Mr. Becks stated he agrees that the board needs to look at making the whole thing more specific. Mr. Becks suggested passing this now to take care of the immediate concerns and then come back to the board with proposed changes to address Mr. Gold's concerns.

Mr. Mendel stated he will provide text changes to address the concerns for the May 2016 meeting.

Mr. Rose made a motion to approve the various Code and Text Amendments as submitted in the Staff Report submitted as Exhibit A, items 1 through 4, in the minutes.

The motion was seconded by Mr. Lash.

Vote:

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Grice	<u>Y</u>
Gold	<u>N</u>
Rose	<u>Y</u>
Lash	<u>Y</u>
Becks	<u>Y</u>
Approved	4-1

Having no further business, the meeting was adjourned.

Respectfully submitted,

Sandy Davis

Rick Grice, Chairman