

Frequently Asked Questions

Responses to Frequently Asked Questions

To manage and offer a consolidated response to various questions and comments offered by the PC, HCPC, and the community, staff prepared responses to frequently asked questions.

1. What is a Zoning Overlay?

A zoning overlay creates additional regulations for a specific area to address a site or area-specific need or objective. It modifies standard zoning regulations that are provided by the Zoning Code. Overlay districts are frequently used in zoning codes to preserve sensitive environmental features, preserve historic buildings, prevent development on unstable or vulnerable land features, or promote specific types of development, such as transit-oriented development. Like other zoning regulations, overlay districts can control building and urban design, permitted land use, density, and other factors.

The IZO has three Overlay zones in [Chapter 5](#): the Flood Plain Overlay Zone, the Historic District Overlay Zone, and the Theater District Overlay Zone. These overlay zones guide important site, environmental, safety, compatibility, or design issues that require particular attention in project planning. When an overlay zone is applied to an area, any development within that area must comply with the underlying zoning and the overlay. Additionally, City Council expressed interest in creating a senior overlay zone over existing senior designated Mobilehome parks.

2. Why is a Zoning Overlay being reviewed?

The Site Plan and Architectural Review application for the EKN Appellation Hotel proposes a hotel building that exceeds the current maximum building height, lot coverage, and FAR allowed by the City's General Plan and IZO. When an application is received that does not comply with current land use or development standards, there are three options:

1. Modify the project to comply with current development standards;
2. Withdraw the project application; or
3. Request to change the development standards through General Plan and/or Zoning Amendments.

Staff presented EKN Appellation Hotel with these options, and the applicant chose to submit General Plan and Zoning Amendment applications proposing to change the development standards. Staff recommended that the applicant propose a zoning overlay, an approach that would provide the City with the opportunity to review current development standards and consider how modifications to these development standards may advance General Plan goals and policies for the Downtown area. Staff felt that creating an overlay within the downtown district was the best land use tool to address requests for increased building intensity and infill within the Downtown.

It is not uncommon for the City to use an applicant's request and funds to amend the General Plan and/or Zoning Amendment to further City Council goals. This was achieved recently with the Hampton Inn application that required amendments to the parking standards in the IZO. Rather than just amend the Ordinance to address the Hampton Inn's needs, the Planning Commission and City Council adopted amendments that provide greater flexibility for parking minimums for all future applications which addressed Council's goal of reducing parking minimums.

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3. Why discuss the proposed overlay through a study session?

A study session allows both the public and legislative body to provide their input and ask staff their questions regarding the proposed amendments. The initial study session was a joint meeting with both the Planning Commission and the Historical Cultural Preservation Commission. All amendments to the City's Zoning Ordinance, like creating the Overlay, requires approval and recommendation to City Council by the Planning Commission and as the Overlay was within or adjacent to the City's Historical District it sought input and comments from the HCPC.

Besides input from the legislative bodies and the public regarding the potential boundary of the District, staff are also interested in the specific height requirements of the Overlay and what review authority and findings are required to grant the additional height. Said another way, if an application sought a height increase beyond those currently allowed under the IZO, would it require a conditional use permit be issued by the Planning Commission upon certain findings being made.

As this meeting, like the prior meeting is just a study session, no formal determination will be made during the meeting and will require a subsequent meeting by the Planning Commission and then two readings by the City Council before the Overlay could be adopted. Accordingly, the public can continue to provide their comments to Planning@cityofpetaluma.org. The point of this study session is to continue to gather public feedback before providing the Planning Commission a proposed Overlay to vote on.

4. Is the overlay document the applicant's or the City's?

All application information submitted to the City becomes part of the project's public record. During the Planning review process, staff can request that the applicant modify application information to respond to issues that are identified. City staff are working closely with the applicant throughout the Planning process to ensure that the proposed amendments are fully analyzed, to respond to review authority and public comments, and that a future recommendation to review authorities is supported by substantial evidence in the project record.

5. Why can an applicant request a change to the General Plan or Implementing Zoning Ordinance?

General Plan Section i.5 - The Planning Process provides the opportunity to amend the General Plan. It states that:

“the General Plan is the heart of the planning process. It is intended to be a living document, and as such, will be subject to more site-specific and comprehensive amendments. Amendments may also be needed from time to time...to eliminate or modify policies that may become obsolete or unrealistic due to changed conditions (such as completion of a task or project, development on a site, or adoption of an ordinance or plan.” (p. i-13)

When considering a General Plan Amendment, City Council reviews evidence contained in the project record to determine if the proposed amendment addresses Key Issues and Guiding Principles included in the General Plan and if it furthers implementation of specific General Plan goals and policies.

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Similarly, IZO Chapter 25 sets forth the procedures to amend the Zoning Ordinance or Zoning Map, and within IZO [IZO Section 25.020](#), an “amendment may be initiated by the City Council, the Planning Commission, the [Zoning](#) Administrator (Director) or by an application of one or more owners of property affected by the proposed amendment”. Under [IZO Section 25.040](#), staff is required to “make an investigation of the proposed amendment and shall prepare a report thereon which shall be submitted to the City body or bodies with jurisdiction over the proposed amendment”. This report will first be presented to the Planning Commission and if the Planning Commission makes the required findings for amendments to the General Plan and Zoning Ordinance, the proposed amendments will go to City Council for their potential adoption. These amendments are discretionary and if the Planning Commission and City Council cannot make the requisite findings, like furthering the City’s goals and being in the City’s interest, then the reviewing bodies may choose to not make the amendments.

6. Why now, before the General Plan Update?

The City has not adopted a development moratorium that would prohibit the submittal of Planning land use applications proposing development activity. Therefore, the City must respond to all land use applications that have been submitted. The Statewide Permit Streamlining Act (1977) sets forth various time limits for the review of discretionary permit applications, and while some flexibility is allowed, the intent of the regulations is to require that jurisdictions review discretionary permit applications in a timely manner and if not under the Permit Streamlining Act the project could be deemed approved and there would be no discretionary review of the applications.

7. How does the timeline for the General Plan Update relate to the Timeline for this Overlay?

The review and potential adoption of the Overlay is being considered ahead of the General Plan Update. The consideration of a General Plan amendment to allow the zoning overlay are informed by the City’s work on the General Plan Update. If there is concern regarding the timing, it is possible for the Planning Commission and City Council to adopt the Overlay to expire upon adoption of the City’s General Plan Update.

8. Why not apply for a Variance instead?

[IZO Section 24.070.A](#) provides the following regarding variances:

“The purpose of variances is to allow variation from the strict application of the terms of this Zoning Ordinance where, by reason of the exceptional narrowness, shallowness, or unusual shape of a parcel of property; or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such parcel; or by reason of the use or development of property immediately adjoining the parcel in question, the literal enforcement of the requirements of this Zoning Ordinance would involve practical difficulties or would cause undue hardship unnecessary to carry out the spirit and purpose of this Zoning Ordinance.”

[IZO Section 24.070.E](#) provides that to approve a variance, the Planning Commission would need to find that all of the following conditions exist:

1. There are peculiar and unusual conditions inherent to the property in question sufficient to cause a hardship, and such conditions are not common to all or most of the properties in the immediate area.

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2. The hardship created by the peculiar and unusual conditions inherent to the property were not created by any act of the owner. For purposes of this provision, personal, family or financial difficulties, loss of prospective profits, and neighboring violations are not hardships justifying a variance.
3. A variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the vicinity, and a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by neighbors.
4. Granting the variance shall not create a substantial detriment to adjacent property and will be consistent with the purposes of this Zoning Ordinance and the public interest.
5. A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

Typically, the peculiar or unusual conditions that support granting a zoning variance are size, shape, topography, location or surroundings. (See Government Code Section 65906).

While a project like this is subject to review under each of the findings listed above, because the City would have to make all of the findings for the project to proceed, the inability to make 1 or more of the findings above is sufficient to reject a variance. Additionally, if the findings cannot be substantiated, they are subject to legal challenge and invalidation. Thus, instead of considering all of the findings, staff is focusing on finding #1 and #3, which are generally considered to be threshold findings to make first, and if they can be made, staff would then analyze the other findings. Staff believes that finding #1 and #3 cannot be made in this case.

Regarding #1, peculiar or unusual conditions are not present for the site, and no conditions exist for the site that are also not common to all or most of the properties in the immediate area. For this site, and other parcels within the General Plan Downtown subarea that are within the MU2 zone, [Table 4.10 of the IZO](#) sets forth the minimum lot area for new lots (2,000 square feet) but does not specify a minimum lot width or depth. The area of the hotel site is approximately 14,000 square feet, and the site dimensions are roughly 142 feet x 100 feet, the site is not the largest or the smallest when compared to parcels in the area, and in fact is very similar in shape and area as the site that includes Rex Ace Hardware and the site of the former Bank of the West. The hotel site is mostly flat (the grade of the site varies by no more than 3 feet), and based on a review of topographical maps for the area, parcels in the immediate vicinity of this site have the same or similar degree of slope as the site.

Regarding #3, The City would have to find that the variance was necessary for the preservation and enjoyment of substantial property rights and that granting a variance would not constitute a special privilege. Aside for the last 14 years, where the site has remained vacant, the site was developed as a service station and in that use for more than 60 years, providing the various owners over time with a substantial property right in that the site was in active and continuous use. The size and configuration of the site, along with the permitted uses established for the MU2 zone allow for a wide range of uses and building types to permit any owner of the site to benefit from a substantial property right. Staff believes that granting a variance for this site

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would constitute a special privilege, in that the parcels within the area cannot build to the FAR or building height contemplated by the Hotel project.

In conclusion, a variance for this site would not support in favor of a variance using Finding #1 or #3 above, and granting a variance would inconsistent with the stated purposes of a variance in that the site is not narrow, shallow or of an unusual shape, and when compared to the other parcels on the block, this site is surrounded by other sites that are flat and rectangular, and there is no evidence to suggest that there are other extraordinary situations or conditions that apply to the hotel site.

9. Why not rezone the hotel project site to a Planned Unit Development (PUD)?

The City regulates planned unit developments in Chapter 19 of the IZO. A required finding to adopt a PUD is that the PUD would conform to the General Plan. This finding could not be made unless the General Plan was first amended to increase the maximum allowable Floor-to-Area Ratio (FAR) from 2.5 to 5.6 (the FAR proposed for the Hotel). Thus, for a PUD to be adopted for the Hotel site, either the FAR limits of the Mixed Use Land Use Classification would need to be amended, or a new Land Use Classification be created. Staff did not recommend amending the Mixed Use Land Use Classification or creating a new Land Use Classification because the scope of the planning effort to do so would be beyond what the City could study alone or ask the applicant to fund.

Additionally, creating a PUD to allow the FAR, height and lot coverage limits that are required for the hotel would allow a vastly different land use potential for this site than the surrounding district, and when combined with the FAR General Plan Amendment described above, staff felt creating a PUD for this site would create a special privilege and be an instance of spot zoning. Spot zoning occurs when a City provides special zoning treatment for a site that is not available to other parcels in the area, creating an “island” effect in the middle of a larger area, and staff believes that applying a PUD to this site would afford this site with special zoning treatment.

Also, the PUD districts that the City adopts typically allow development that still adheres to the density limits but allows the development to proceed in a different configuration (such as clustered development to preserve open space, for example) than would be allowed under the zone that applied prior to the adoption of the PUD. Here, as stated above, the FAR, height, and lot coverage limits required for the hotel would be well above what is allowed under the zoning that applies to the site and surrounding areas.

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10. Why not focus the amendment on just the Mixed Use Classification set by the General Plan and the Mixed Use 2 Development standards set by the IZO?

The MU2 zone applies to 3 areas of the City: 1) the downtown, excluding the downtown area that extends into the CPSP; 2) parcels abutting Petaluma Boulevard North to West Street and Petaluma Boulevard South to roughly the location of the AMF Boulevard Lanes; and 3) the Silk Mill Site, which is the current location of the Hampton Inn Petaluma. Staff felt that confining the requested amendment to the Downtown Subarea would take advantage of the higher concentration of activity, proximity to include good and services, as well as the transit availability that is present in the downtown (when compared to the areas described in #2 & 3 above), and to reflect that the existing development pattern in and around the areas described in #2 & 3 is predominately low rise and that more development in those areas would require additional study to determine if FAR and height increases were feasible or warranted. In addition, as depicted in Exhibit 7 - General Plan 2025 Subareas, the MU2 areas beyond the study area are within different General Plan subareas (Petaluma Boulevard North/Washington Corridor, Petaluma Boulevard South, or Washington Core), and are subject to a different set of conditions, goals, and policies, than the area chosen for the Overlay, which is in the Downtown subarea.

11. Why not amend Chapter 12 to allow greater FAR instead of using the Overlay?

Like the proposed Overlay, amending Chapter 12 to add a process to exceed FAR would require an amendment to the General Plan to increase the FAR limit from 2.5 to 6 for all parcels classified as Mixed Use. Similar to the reasons stated in response to #9 above, applying such an exception would involve very different General Plan subareas, and be subject to a different set of conditions, goals, and policies that would require additional study to determine if the FAR or height increase was feasible or warranted and the environmental effects of the FAR or height increase.

12. How will parking be addressed?

The parking and loading standards contained in IZO Chapter 11 would not be modified by the Overlay and would continue to apply to all uses and buildings as under existing conditions.

13. Will the City require parking and traffic studies?

Traffic and parking studies have been requested. These studies will be reviewed for adequacy by City staff, including CEQA planners, prior to being made publicly available and will be fully incorporated into the project's Planning review process.

14. Portions of the Overlay would apply to parcels within the City Parking Assessment District. Would the hotel, or other new developments within the District contribute to the assessment district?

Per [IZO Section 11.035](#), sites and structures located in the municipal parking assessment district are exempt from the requirement to provide off-street parking facilities. The municipal parking assessment district does not include a provision to collect revenue from new uses or buildings within the district.

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15. How has Petaluma's Downtown evolved and how has it continued to preserve the integrity of its Historic Resources?

Petaluma's Downtown evolved on the southwest bank of the Petaluma River from its relationship with riverfront trading, commercial and industrial uses on the northeast riverbank, and agricultural commerce. Suburbanization and auto-centric industrialization diverted development outside of the downtown area to its adjacent neighborhoods, with residential neighborhoods, commercial buildings, and business parks. The City has continued to grow steadily with growth spurts from the 1950s to 1970s, and in 1980s and the 1990s. As the available land decreased, infill projects occurred in the City. During this time the Downtown was responding to an influx of population and uses and evolved to its present-day setting with mixed-uses and a rich character with a variety of architectural styles.

In the efforts of recognition and historic preservation, the Historic Commercial District was listed on the National Register of Historic Places (NR# 95000354) on March 31, 1995, and adopted as a City Landmark with a Historic Overlay Zoning on September 7, 1999. The district identifies and preserves a period of significance spanning from 1854 to 1945 featuring prominent architecture styles such as Late Victorian, Italianate, and Streamline Moderne. As noted within the National Register form, the buildings within the district demonstrate district unity by their built lot lines composition, storefronts with recessed entrances and flanking display windows, flat roofs with parapets, and elaborate ornamentation.

Integrity is the ability of a historic resource to convey its significance and can be defined with seven aspects, which include location, design, setting, materials, workmanship, feeling, and association. Discretionary reviews, guidelines, and technical standards have provided a level of review to evaluate the preservation of a historic resources' integrity. It does not discourage further development of the Downtown area, however, provides the additional framework for new development that complements its surrounding historic fabric. The Secretary of the Interior's Standards includes Rehabilitation as a treatment for historic properties and is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. A standard for Rehabilitation includes,

“New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.”

The former Carithers Department Store, located at the intersection of Western Avenue and Kentucky Street, is a contributing structure of the Historic Commercial District and is one of the most recent Rehabilitation projects in Petaluma's Downtown area. The building is currently undergoing exterior and interior alterations for an adaptive reuse of its interiors to facilitate Amy's Kitchen's Downtown Corporate Office. The creativity in this adaptive reuse project of a historic resource supported its continued use in the Downtown while preserving its integrity as a contributing historic resource to the Historic Commercial District.

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16. Would the Overlay preserve Historic Resources?

New buildings developed within the Overlay would be subject to the same discretionary review process(es) otherwise required by the IZO, and be subject to CEQA, as new buildings are under the existing regulations. New buildings not within a historic district would be subject to Major SPAR. New buildings within a historic district would continue to be subject to (1) Historic SPAR, (2) historic district design guidelines, (3) and the Secretary of the Interior's Standards. Discretionary review with compliance with these three measures of review would provide for a robust evaluation.

Supporting guidelines and recommendations for the Secretary of the Interior's Standards, drafted by the Technical Preservation Services, responds to new construction and infill development near historic resources, noting the following:

New construction should be appropriately scaled and located far enough away from the historic building to maintain its character and that of the site and setting. In urban or other built-up areas, new construction that appears as infill within the existing pattern of development can also preserve the historic character of the building, its site, and setting.

The Overlay considered the potential for bulk/mass conflicts that could be created by new buildings adjacent to historic resources, to propose new building setback and stepback controls. These building "setback and stepback" controls are illustrated in Exhibit 4.4 - New Development Adjacent to a Historic Resource. Staff believes that the stepbacks illustrated in Exhibit 4.4, along with the SPAR or Historic SPAR discretionary review process, and environmental review under CEQA, will ensure that new development will not create an impact to adjacent historic resources.

The Historic Commercial District's National Register of Historic Places registration form described the district's boundary was developed by identifying areas of distinctly different characters, following contiguous parcel lines, and encompassing nearly all of Petaluma's pre-1946 commercial buildings. The district originally included 64 elements that contribute to its historic character, 35 that do not contribute, and 14 empty parcels. The district's integrity is high due to the concentration of resources, the size and importance of the contributors, and the inconspicuousness of non-contributors. This historic district reflects a boundary that encompasses a single area of land containing a significant concentration of buildings for a district supporting visual continuity in the downtown area.

As noted in the previous sections of this staff report, following the June 13 study session, the Overlay boundary was reduced to three Subareas. This reduction in the Overlay boundary responds to public concerns by dramatically reducing the inclusion of properties within historic districts, specifically the Historic Commercial District. As illustrated in Exhibit 2, Subarea A retains three lots and Subarea B retains one lot at the perimeter of the Historic Commercial Historic District. Subarea C is completely outside of a historic district.

Eligible historic resources outside of the historic districts and within these Subareas have not been identified and would be evaluated as part of the discretionary review and CEQA review process. A Historic Cultural Resource Report (HCRR) is being prepared by Diana Painter for additional documentation to evaluate the historic context and provide recommendations for eligible and designated historic resources within and adjacent to the proposed Overlay Subareas, (Scope of work presented at the June 13, 2023, Study Session). A draft of the report

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is underway and will be presented to the PC, the HCPC, and the public when completed. Project documents for the Overlay are available on the City's planning project dedicated project webpage.

17. Would the Overlay preserve existing residential buildings?

The revised Overlay was designed to avoid confronting residential concentrations in or near the Downtown, however residential buildings would confront portions of Subarea C along Liberty and Keokuk Streets. The Overlay considered the potential for bulk/mass conflicts that could be created by new buildings that would confront residential buildings, to propose new building setback and stepback controls that would apply to any portion of a new building over 30 feet above grade. The building setback and stepback controls are illustrated in Exhibit 4.3 - New Development Confronting Residential Buildings.

A new building within the overlay would be subject to the same discretionary review process(es) otherwise required by the IZO (either Historic -SPAR if in Historic District, or Major SPAR if not), and be subject to CEQA, as new buildings are under the existing regulations.

18. Does the City require story poles for new construction?

For new construction in the City's South Hills or West Hills area, [IZO Section 16.040.R](#) requires a Visual Analysis for new or modified structures on hillsides or ridgelines. The visual analysis is prepared from the vantage point of an identified view platform and may be completed via one or more of the following:

- Photographic exhibit;
- Computer simulation;
- Story poles;
- Street elevations or other means of graphic representation that takes into account enough of the neighboring structures or site characteristics to provide a sense of massing and scale; or
- Other methods may be approved by the decision making authority.

Under existing requirements, Story Poles are not required for new construction elsewhere in the City. For the EKN Appellation Hotel project, the following visual analyses will be completed and relied upon for the CEQA analysis and/or for Historic-SPAR:

- Shadow studies;
- Diagrams to demonstrate the historic district's context, influence, and relationship with the proposed architectural design;
- Viewshed and footprint studies of the National Register District and what is proposed, renderings from the opposite side of the building, from 4th street and around the corner, and other studies to depict building height;
- Diagrams to illustrate programmatic placements (interior/exterior spaces, circulation, etc.), iterations demonstrating the most efficient and effective program placement for this site, identify visual corridors/moments to be preserved, such as the view to the chapel, and viewshed analysis of existing and with the proposed design; and

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- Visual studies to determine if the project would result in adverse effects upon these vistas: the Washington Street overpass, the McNear Peninsula, and the Rocky Memorial Dog Park (as called for by the General Plan 2025 EIR).

19. What are the economic benefits of the Overlay?

While the economic benefits of future projects should an Overlay be adopted by the City are not known, the EKN Appellation Hotel application remains the primary driver for consideration of the overlay district at this time and direct economic benefits for that project specifically are more easily quantifiable. Specifically, the EKN Appellation Hotel as currently proposed would generate approximately \$2,582,000 in Development Impact Fees. Because most of the City's adopted development impact fees include automatic annual increases it is anticipated that these fees would increase before collected at building permit issuance. Estimated development impact fees for the proposed EKN Appellation Hotel project include:

- ±\$220,000 in Commercial Development Housing Linkage fees to support affordable housing development throughout the City
- ±\$1,100,000 in Traffic Development Impact Fees
- +\$118,000 in Park Land Acquisition and Park Land Development Impact Fees
- +\$6,500 in Open Space Acquisition Fees
- +\$92,000 in City Facilities Fees

As presented to the PC and HCPC in June, the EKN Appellation Hotel project would provide other revenue to the City via the transient occupancy tax (TOT) and the sales tax that is associated with the Hotel use. For the initial 25-years of occupancy, the estimated TOT revenue is projected to be ±\$37,000,000 and the estimated sales tax is projected to be ±\$3,800,000. Also as reported in June, the EKN Appellation Hotel project would result in short-term and long-term economic impacts. The short-term economic impacts are driven by the project's development costs, and through the pre-construction and construction periods, the project is expected to support 328 jobs (222 annually) and provide \$55,000,000 in economic activity. The long-term economic impacts associated with the Hotel project are driven by the ongoing hotel and restaurant operations, and when occupied, the project is expected to support over 150 jobs annually and generate \$18,600,000 in economic activity.