

5. The County of Tuolumne has recently experienced increased interest in developing large scale retail stores along the County's scenic routes and in visually prominent areas. Such construction has the potential to substantially and dramatically alter the rural character and scenic environment of the County contrary to the goals, policies, and programs stated in the Tuolumne County General Plan and thereby impacting the public's welfare and quality of life.
6. The establishment of standards addressing the visual intrusiveness of large scale retail sales and retail services establishments, office buildings, and shopping centers is necessary to abate concerns about the public's welfare and quality of life cited above and balance the benefits of such facilities with those concerns.

SECTION 3: A new Section 17.04.694 is added to the Tuolumne County Ordinance Code is amended to read as follows:

- 17.04.694** **Retail sales.** "Retail sales" means an establishment that is primarily engaged in selling goods or merchandise to the general public for personal or household consumption but may include sales to commercial customers as well as the general public, and rendering services incidental to the sale of such goods. The characteristics of retail sales establishments are: (1) the establishment is a place of business that is primarily engaged in activities to attract the general public; (2) the establishment usually buys and receives wholesale merchandise and sells it as retail merchandise but may sell some merchandise wholesale to commercial customers; (3) the establishment may process or manufacture some of the products, such as a jeweller or bakery, but such processing or manufacturing must be incidental or subordinate to the selling activities; and (4) retail establishments sell primarily to customers for their own personal or household use but may sell some merchandise to commercial customers. The aggregate square footage of all adjacent stores which share a common check stand, management, a controlling ownership, or storage areas shall be considered one establishment. Retail sales establishments include discount warehouse or discount "club" stores.

SECTION 4: Section 17.04.695 of the Tuolumne County Ordinance Code is hereby repealed and replaced with a new Section 17.04.695 to read as follows:

- 17.04.695** **Retail sales, indoor.** "Retail sales, indoor" means a retail sales establishment within an enclosed building.

SECTION 5: A new Section 17.04.696 is added to the Tuolumne County Ordinance Code is amended to read as follows:

- 17.04.696** **Retail sales, outdoor.** "Retail sales, outdoor" means a retail sales establishment that displays and sells products and services primarily not in a building or structure.

SECTION 6: A new Section 17.04.697 is added to the Tuolumne County Ordinance Code is amended to read as follows:

17.04.697 **Retail services.** "Retail services" means an establishment primarily providing services or entertainment, as opposed to products, to the general public for personal or household use, including but not limited to eating establishments, financial services, real estate and insurance sales, personal service, theatres, amusement and recreation facilities, health, educational, and social services, and museums.

SECTION 7: A new Section 17.04.698 is added to the Tuolumne County Ordinance Code is amended to read as follows:

17.04.698 **Retail services, indoor.** "Retail services" means a retail services establishment within an enclosed building.

SECTION 8: A new Section 17.04.699 is added to the Tuolumne County Ordinance Code is amended to read as follows:

17.04.699 **Retail services, outdoor.** "Retail services, outdoor" means a retail services establishment that primarily provides services or entertainment not in a building or structure.

SECTION 9: Section 17.04.700 of the Tuolumne County Ordinance Code is hereby repealed and replaced with a new Section 17.04.700 to read as follows:

17.04.700 **Right-of-way.** "Right-of-way" means an easement to pass over an affected parcel. Rights-of-way may include the land on which public roads, railroads, public utilities, bicycle paths, pedestrian facilities or equestrian trails are located.

SECTION 10: A new Section 17.04.705 is added to the Tuolumne County Ordinance Code to read as follows:

17.04.705 **Roadside stand.** "Roadside stand" means a structure located on a farm or ranch and used or intended to be used by the owner or tenant for the farm or ranch for the sale of agricultural products primarily grown or raised on the farm or ranch.

SECTION 11: A new Section 17.04.735 is added to the Tuolumne County Ordinance Code to read as follows:

17.04.735 **Shopping center.** "Shopping center" means a group of two or more retail sales or service establishments planned, developed, owned or managed as a unit with common off-street parking provided on the site.

SECTION 12: Section 17.30.020 of the Tuolumne County Ordinance Code is amended to read as follows:

- 17.30.020 Permitted uses.** Within any mixed use (MU) district on any parcel that is less than ten (10) gross acres, the following uses are permitted unless otherwise provided in this title:
- A. One single-family dwelling per parcel;
 - B. Retail sales, indoor, retail services, indoor, shopping centers, and professional offices (under 10,000 square feet of gross floor area, maximum);
 - C. Nurseries and greenhouses;
 - D. General recreational use incidental to the primary use of the parcel;
 - E. Residential care homes, nursery schools and small family day care homes, within a permitted single-family dwelling, for not more than six persons;
 - F. Schools, churches, libraries, museums, art galleries, tourist information facilities;
 - G. Bed and breakfast establishments, within a permitted single-family dwelling, six bedrooms or less;
 - H. Public utility distribution facilities;
 - I. Prospecting;
 - J. Accessory uses and structures appurtenant to permitted uses.

SECTION 13: Section 17.30.030 of the Tuolumne County Ordinance Code is amended to read as follows:

- 17.30.030 Conditional uses.** Within any mixed used (MU) district on any parcel that is less than ten (10) gross acres, the following uses are permitted subject to first securing a use permit:
- A. Up to fifteen dwelling units per acre;
 - B. On and off-shore marina facilities;
 - C. Tent revivals, circuses and carnivals;
 - D. Development of mineral resources;
 - E. Public transportation stations or depots;
 - F. Theaters;
 - G. Places of public assembly, social clubs, lodges and clubhouses;
 - H. Health care facilities;
 - I. Residential care homes, nursery schools, and day care centers, other than family day care homes;
 - J. Mortuaries, funeral homes, mausoleums, columbaria and crematoria;
 - K. Temporary sales offices for parcels and residences;
 - L. Public utility uses;
 - M. Christmas tree farms;
 - N. Mini-mart;
 - O. Retail services, indoor, and professional offices (over 10,000 square feet of gross floor area with a maximum size of 60,000 square feet of gross floor area subject to the requirements of section 17.52.180);
 - P. Retail sales, indoor, (over 10,000 square feet of gross floor area with a maximum size of 25,000 square feet of gross floor area subject to the requirements of section 17.52.180);

- Q. Public safety facilities;
- R. Accessory uses and structures appurtenant to conditional uses.

SECTION 14: Section 17.32.020 of the Tuolumne County Ordinance Code is amended to read as follows:

- 17.32.020 Permitted uses.** Within any neighborhood commercial (C-O) district, the following uses are permitted unless otherwise provided in this chapter:
- A. One single dwelling per parcel, which shall not be converted to a commercial use unless it is brought into compliance with Title 15 of this code relative to fire safety standards;
 - B. Nurseries and greenhouses;
 - C. General recreational use incidental to the primary use of the parcel;
 - D. Firehouses and police stations;
 - E. Residential care homes, nursery schools and small family day care homes, within a permitted single-family dwelling, for not more than six persons;
 - F. Schools, churches, libraries, museums, art galleries, tourist information facilities;
 - G. Retail sales, indoor, retail services, indoor, shopping centers, and professional offices (under 10,000 square feet of gross floor area, maximum);
 - H. Bed and breakfast establishments, within a permitted single-family dwelling, six bedrooms or less;
 - I. Animal hospital, indoors;
 - J. Public utility distribution facilities;
 - K. Prospecting;
 - L. Christmas tree farms;
 - M. Accessory uses and structures appurtenant to permitted uses.

SECTION 15: Section 17.34.020 of the Tuolumne County Ordinance Code is amended to read as follows:

- 17.34.020 Permitted uses.** Within any general commercial (C-1) district, the following uses are permitted unless otherwise provided in this chapter:
- A. Hotels and motels;
 - B. One single-family dwelling per parcel, which shall not be converted to a commercial use unless it is brought into compliance with Title 15 of this code relative to fire safety standards;
 - C. Nurseries and greenhouses;
 - D. General recreational use incidental to the primary use of the parcel;
 - E. On and off-shore marina facilities;
 - F. Public safety facilities;
 - G. Public transportation stations or depots;
 - H. Places of public assembly, social clubs, lodges and clubhouses;
 - I. Residential care homes, nursery schools and small family day care homes, within a permitted single-family dwelling, for not more than six persons;
 - J. Schools, churches, libraries, museums, art galleries, tourist information facilities;

- K. Mortuaries, funeral homes, mausoleums, columbaria and crematoria;
- L. Retail sales, indoor, (under 25,000 square feet of gross floor area, maximum);
- M. Retail services, indoor, professional offices, and other business establishments in an enclosed building (under 60,000 square feet of gross floor area, maximum);
- N. Shopping centers (under 25,000 square feet of gross floor area, maximum);
- O. Bars (not permitted within two hundred feet of a residential district);
- P. Bed and breakfast establishments, within a permitted single-family dwelling, six bedrooms or less;
- Q. Animal hospital, indoors;
- R. Equipment repair facilities in an enclosed building;
- S. Enclosed storage of equipment and materials;
- T. Commercial laundry or dry cleaning plants;
- U. Public utility distribution facilities;
- V. Prospecting;
- W. Christmas tree farms;
- X. Mini-mart;
- Y. Accessory uses and structures appurtenant to permitted uses.

SECTION 16: Section 17.34.030 of the Tuolumne County Ordinance Code is amended to read as follows:

- 17.34.030 Conditional uses.** Within any general commercial (C-1) district, the following uses may be permitted subject to first securing a use permit:
- A. Recreational buildings and developments;
 - B. Tent revivals, circuses and carnivals;
 - C. Development of mineral resources.
 - D. Health care facilities;
 - E. Residential care homes, nursery schools and day care centers, other than family day care homes;
 - F. Animal hospitals, outdoors;
 - G. Kennels;
 - H. Outdoor storage;
 - I. Open storage of equipment and materials;
 - J. Flea markets;
 - K. Temporary sales offices for parcels and residences;
 - L. Storage tanks for liquids or gases;
 - M. Refuse and sewage disposal sites and water and sewer treatment plants;
 - N. Airport and heliports;
 - O. Public utility uses;
 - P. Bars for the service of beer and wine in conjunction with restaurants located within two hundred feet of a residential district in accordance with Section 17.52.020;
 - Q. Service stations;
 - R. Mini-storage facilities;
 - S. Retail services, outdoor;
 - T. Retail sales, outdoor;

- U. Retail sales, indoor, (over 25,000 square feet of gross floor area with a maximum size of 60,000 square feet of gross floor area subject to the requirements of section 17.52.180);
- V. Retail services, indoor, professional offices, and other business establishments in an enclosed building (over 60,000 square feet of gross floor area subject to the requirements of Section 17.52.180);
- W. Shopping centers (over 25,000 square feet of gross floor area subject to the requirements of section 17.52.190);
- X. Accessory uses and structures appurtenant to conditional uses.

SECTION 17: Section 17.35.020 of the Tuolumne County Ordinance Code is amended to read as follows:

17.35.020 Permitted uses. Within any heavy commercial (C-2) district, the following uses are permitted unless otherwise provided in this chapter:

- A. Hotels and motels;
- B. One single-family dwelling per parcel which shall not be converted to a commercial use unless it is brought into compliance with Title 15 of this code relative to fire safety standards;
- C. Nurseries and greenhouses;
- D. General recreational use incidental to the primary use of the parcel;
- E. On and off shore marina facilities;
- F. Public safety facilities;
- G. Public transportation stations or depots;
- H. Places of public assembly, social clubs, lodges and clubhouses;
- I. Residential care homes, nursery schools and small family day care homes, within a permitted single-family dwelling, for not more than six persons;
- J. Schools, churches, libraries, museums, art galleries, tourist information facilities;
- K. Mortuaries, funeral homes, mausoleums, columbaria and crematoria;
- L. Retail sales, indoor, (under 25,000 square feet of gross floor area, maximum);
- M. Retail services, indoor, professional offices, and other business establishments in an enclosed building (under 60,000 square feet of gross floor area, maximum);
- N. Shopping centers (under 25,000 square feet of gross floor area, maximum);
- O. Bars (the structure housing the bar shall not be permitted within two hundred feet of a residential district);
- P. Service stations;
- Q. Bed and breakfast establishments, six bedroom or less;
- R. Animal hospitals, indoors;
- S. Retail sales, outdoor;
- T. Retail services, outdoor;
- U. Outdoor storage;
- V. Equipment repair facilities;
- W. Mini-storage facilities;
- X. Storage of equipment and materials;
- Y. Commercial laundry or dry cleaning plants;
- Z. Public utility distribution facilities;

- AA. Prospecting;
- BB. Accessory uses and structures appurtenant to permitted uses.

SECTION 18: Section 17.35.030 of the Tuolumne County Ordinance Code is amended to read as follows:

- 17.35.030 Conditional uses.** Within any heavy commercial (C-2) district, the following uses are permitted subject to first securing a use permit:
- A. Recreational building and developments;
 - B. Ten revivals, circuses and carnivals;
 - C. Development of mineral resources;
 - D. Health care facilities;
 - E. Residential care homes, nursery schools and day care centers, other than family day care homes;
 - F. Animal hospitals, outdoors;
 - G. Kennels;
 - H. Flea markets;
 - I. Temporary sales offices for parcels and residences;
 - J. General manufacturing, processing and refining;
 - K. Storage tanks for liquids or gases;
 - L. Refuse and sewage disposal sites and water and sewer treatment plants;
 - M. Christmas tree farms;
 - N. Airports and heliports;
 - O. Public utility uses;
 - P. Bars for the service of beer and wine in conjunction with restaurants located within two hundred feet of a residential district in accordance with Section 17.52.020;
 - Q. Mini-mart;
 - R. Retail sales, indoor, (over 25,000 square feet of gross floor area with a maximum size of 60,000 square feet of gross floor area subject to the requirements of section 17.52.180);
 - S. Retail services, indoor, professional offices, and other business establishments in an enclosed building (over 60,000 square feet of gross floor area subject to the requirements of Section 17.52.180);
 - T. Shopping centers (over 25,000 square feet of gross floor area subject to the requirements of section 17.52.190);
 - U. Accessory uses and structures appurtenant to conditional uses.

SECTION 19: Section 17.36.020 of the Tuolumne County Ordinance Code is amended to read as follows:

- 17.36.020 Permitted uses.** Within any special commercial (C-S) district, the following uses are permitted unless otherwise provided in this chapter:
- A. Hotels and motels;
 - B. One single-family dwelling per parcel which shall not be converted to a commercial use unless it is brought into compliance with Title 15 of this code relative to fire safety standards;
 - C. Nurseries and greenhouses;
 - D. General recreational use incidental to the primary use of the parcel;
 - E. On and off-shore marina facilities;

- F. Public safety facilities;
- G. Public transportation stations or depots;
- H. Places of public assembly, social clubs, lodges and clubhouses;
- I. Residential care homes, nursery schools and small family day care homes, within a permitted single-family dwelling, for not more than six persons;
- J. Schools, churches, libraries, museums, art galleries, tourist information facilities;
- K. Mortuaries, funeral homes, mausoleums, columbaria and crematoria;
- L. Retail sales, indoor, (under 25,000 square feet of gross floor area, maximum);
- M. Retail services, indoor, professional offices, and other business establishments in an enclosed building (under 25,000 square feet of gross floor area, maximum);
- N. Shopping centers (under 25,000 square feet of gross floor area, maximum);
- O. Bars in conjunction with restaurants (the structure housing the bar/restaurant shall not be permitted within two hundred feet of a residential district);
- P. Bed and breakfast establishments, six bedrooms or less;
- Q. Animal hospitals, indoors;
- R. Equipment repair facilities;
- S. Enclosed storage of equipment and materials;
- T. Commercial laundry or dry cleaning plants;
- U. Prospecting;
- V. Restaurants, including accessory outdoor seating;
- W. Growing and harvesting of timber;
- X. Christmas tree farms;
- Y. Accessory uses and structures appurtenant to permitted uses.

SECTION 20: Section 17.36.030 of the Tuolumne County Ordinance Code is amended to read as follows:

17.36.030 Conditional uses. Within any special commercial (C-S) district, the following uses are permitted subject to first securing a use permit:

- A. Recreational buildings and developments;
- B. Tent revivals, circuses and carnivals;
- C. Development of mineral resources;
- D. Health care facilities;
- E. Residential care homes, nursery schools and day care centers, other than family day care homes;
- F. Animal hospitals, outdoors;
- G. Kennels;
- H. Outdoor storage;
- I. Open storage of equipment and materials;
- J. Flea markets;
- K. Temporary sales offices for parcels and residences;
- L. Storage tanks for liquids or gases;
- M. Refuse and sewage disposal sites and water and sewer treatment plants;
- N. Airports and heliports;
- O. Public utility uses;

- P. Bars for the service of wine or beer in conjunction with a restaurant located within two hundred feet of a residential district (refer to Section 17.52.020 for regulations relative to service of beer and wine in conjunction with restaurants);
- Q. Service stations;
- R. Mini-storage facilities;
- S. Mini-mart;
- T. Retail services, outdoor;
- U. Retail sales, outdoor;
- V. Accessory uses and structures appurtenant to conditional uses.

SECTION 21: A new Section 17.52.180 is added to the Tuolumne County Ordinance Code to read as follows:

17.52.180 Retail sales, indoor, retail services, indoor, or professional offices. Where retail sales, indoor, retail services, indoor, or professional offices are conditional uses in the M-U, C-1 or C-2 zoning districts, the application for a conditional use permit shall be referred to the planning commission as provided in section 17.68.180. Any approved conditional use permit shall include conditions to ensure compliance with the following provisions:

- A. The design and exterior materials of the retail sales or retail services establishment or professional office shall reflect the traditional architectural motif of the community in which it is proposed, blend with the surrounding neighborhood, or be consistent with any applicable design standards in the general plan or as provided in this title.
- B. The retail sales or retail services establishment or professional office shall be designed and located to be compatible with, rather than imposed on, the landscape and environment by minimizing the amount of grading and topographical alteration and shall be designed in accordance with the provisions of the Tuolumne County Hillside and Hilltop Development Guidelines.
- C. Landscaping appropriate to the building site shall be mandatory.
 1. The landscaping shall include some native trees, shrubs, and plants in keeping with the natural environment.
 2. Existing trees with a diameter of 8" or more as measured 4' above the ground shall be retained wherever practicable and incorporated into the landscaping. Trees of 8" or more in diameter that are proposed to be removed shall be identified on a tree removal plan and shall be replaced at a ratio of three trees of a species appropriate for the area in a minimum 15 gallon container for each tree removed. The replacement trees shall be incorporated into the landscaping.
 3. Landscaping of the project site shall be in place prior to issuance of an Occupancy Permit.

4. Prior to issuance of a Grading Permit or Building Permit, whichever occurs first, an agreement to implement and maintain the landscaping for a ten year period after issuance of an Occupancy Permit for the building shall be signed by the owner of the property on which the building is located and submitted with a security in the form of a letter of credit, certificate of deposit or other security as approved by the director to guarantee maintenance. The amount of the security throughout the entire ten year maintenance period shall be 125% of the landscaping contract or a professional landscaper's estimate of the cost to implement the approved landscape plan. The agreement shall also provide for implementing and maintaining landscaping to stabilize and screen the project site in the event that the project is abandoned at any time after construction has commenced and prior to issuance of an Occupancy Permit.
- D. An application for a use permit shall be referred to any jurisdictional design review or other planning advisory committee for review and recommendation to the planning commission.

SECTION 22: A new Section 17.52.190 is added to the Tuolumne County Ordinance Code to read as follows:

17.52.190 Shopping centers. Where a shopping center is a conditional use in the C-1 or C-2 zoning district, the application for a conditional use permit shall be referred to the planning commission as provided in section 17.68.180. Any approved conditional use permit shall include conditions to ensure compliance with the following provisions:

- A. The size of an individual indoor retail sales establishment within the shopping center shall not exceed sixty-thousand (60,000) square feet of gross floor area.
- B. The total gross floor area of the shopping center may be limited through a use permit.
- C. The design and exterior materials of the shopping center shall reflect the traditional architectural motif of the community in which it is proposed, blend with the surrounding neighborhood, or be consistent with any applicable design standards in the general plan or as provided in this title.
- D. The shopping center shall be designed and located to be compatible with, rather than imposed on, the landscape and environment by minimizing the amount of grading and topographical alteration and shall be designed in accordance with the provisions of the Tuolumne County Hillside and Hilltop Development Guidelines.
- E. Landscaping appropriate to the shopping center site shall be mandatory.
 1. The landscaping shall include some native trees, shrubs, and plants in keeping with the natural environment.

2. Existing trees with a diameter of 8" or more as measured 4' above the ground shall be retained wherever practicable and incorporated into the landscaping. Trees of 8" or more in diameter that are proposed to be removed shall be identified on a tree removal plan and shall be replaced at a ratio of three trees of a species appropriate for the area in a minimum 15 gallon container for each tree removed. The replacement trees shall be incorporated into the landscaping.
 3. Landscaping of the project site shall be in place prior to issuance of an Occupancy Permit.
 4. Prior to issuance of a Grading Permit or Building Permit, whichever occurs first, an agreement to implement and maintain the landscaping for a ten year period after issuance of an Occupancy Permit for the building shall be signed by the owner of the property on which the building is located and submitted with a security in the form of a letter of credit, certificate of deposit or other security as approved by the director to guarantee maintenance. The amount of the security throughout the entire ten year maintenance period shall be 125% of the landscaping contract or a professional landscaper's estimate of the cost to implement the approved landscape plan. The agreement shall also provide for implementing and maintaining landscaping to stabilize and screen the project site in the event that the project is abandoned at any time after construction has commenced and prior to issuance of an Occupancy Permit.
- F. An application for a use permit shall be referred to any jurisdictional design review or other planning advisory committee for review and recommendation to the planning commission.

SECTION 23: If any provision of the Ordinance or the application thereof to any person or circumstances is for any reason held invalid, such invalidity shall not affect other provisions of applications of the Ordinance which can be given effect without the invalid provisions or applications thereof, and to this end the provisions of this Ordinance are severable.

SECTION 24: This Ordinance shall take effect thirty (30) days after its adoption. The Clerk of the Board of Supervisors is hereby authorized and directed to publish a summary of this ordinance in the Union Democrat, a newspaper of general circulation printed and published in the County of Tuolumne, State of California, prior to fifteen (15) days after its passage.


After holding public hearings as required by law, the foregoing Ordinance passed and adopted at a regular meeting of the Board of Supervisors of the County of Tuolumne, State of California, on this 13th day of January, 2004, by the following vote, to wit:

AYES: Roddi, Maggi, Peterson, Thacker, Pland

NOES: _____

ABSTAIN: _____

ABSENT: _____


Richard H. Pland, Chairman,
Board of Supervisors,
County of Tuolumne,
State of California

ATTEST: ALICIA JAMAR,
Clerk of the Board of Supervisors

By  (SEAL)

APPROVED AS TO LEGAL FORM:
County Counsel, County of Tuolumne

By 
Paul Griebel, Deputy County Counsel

1/05/04
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