

**REPORT TO MAYOR AND COUNCIL****TO THE HONORABLE MAYOR AND COUNCIL:**

DATE: June 24, 2014

SUBJECT: INTRODUCE ORDINANCE NO. 14-06 AMENDING THE CONCORD MUNICIPAL CODE BY ADOPTING A DEVELOPMENT CODE UPDATE TEXT AMENDMENT TO THE DEVELOPMENT CODE TO REVISE VARIOUS ARTICLES AND SECTIONS BY ADDING MICRO-BREWERIES/MICRO-DISTILLERIES AND TASTING ROOM AND BY AMENDING TITLE 12 (STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES); AND MODIFY THE RULES FOR KEEPING NON-COMMERCIAL ANIMALS BY AMENDING TITLE 6 (ANIMALS)

Report in Brief

On July 24, 2012, the City Council adopted a new Chapter 122 of the Concord Municipal Code known as the “Development Code”, which became effective on August 23, 2012. The intent of the Development Code was that it be an up to date, user-friendly document. Due to the size and scale of the project, it was expected that a number of amendments would be needed during the initial phase of implementation. This is a subsequent Development Code Update Amendment which clarifies certain provisions and includes new use categories for micro-breweries/micro-distilleries and tasting rooms as well as mobile food vendors. These changes will further streamline permit processes and support the economic growth of the City of Concord by creating a permit process for these emerging new land uses which are not currently included in the Development Code. On May 7, 2014, the Planning Commission recommended that the City Council approve the amendment. In addition, staff has proposed revisions to Municipal Code Title 6 (Animals), Chapter 6.10 (Keeping Non-Commercial Animals), Sections 16.10.020 (Definitions) and 6.10.030 (General conditions for keeping livestock, companion animals, and fowl) in order to prohibit newly hatched or acquired roosters within City limits.

Staff recommends that the City Council adopt Resolution No. 14-44, approving the Negative Declaration prepared for this action pursuant to the California Environmental Quality Act (CEQA) and introduce Ordinance No. 14-06 Adopting Development Code Amendment (PL131356-DC, MC) to revise various articles and sections by adding Micro-Breweries/Micro-Distilleries and Tasting Rooms; and amending Concord Municipal Code Title 12 (Streets, Sidewalks, and Other Public Places), Chapter 12.50 (Vendors), Section 12.50.030 (Vending locations; permits and business licenses; vendor operations) and Title 6 (Animals), including Chapter 6.10 (Keeping Non-commercial Animals), Section 6.10.030 (General Conditions for Keeping Livestock)..

Background

The first Development Code “Clean-Up” Amendment involved sign regulations for auto dealerships, which were reviewed by the Planning Commission on September 12, 2012 and adopted by the City Council on October 23, 2012. A second Development Code Amendment to correct minor errors and inconsistencies in

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the code was reviewed by the Planning Commission on July 17, 2013 and adopted by the City Council on September 24, 2013.

With the implementation of the Development Code over the past two years, staff continues to identify provisions that need clarification, further refinement, or inclusion. Due to the size and scale of the Development Code project, it was expected that adjustments would be necessary as the new regulations were applied. Following the adoption of the Code, regular updates have been and will continue to be scheduled to address changing conditions and new best business practices, while maintaining consistency with the *2030 General Plan*. Staff will continue to prioritize Development Code updates based upon Council direction and bring them forward for consideration as time and workload permits.

On May 7, 2014, the Planning Commission held a public hearing on the proposed Development Code Update Amendment and recommended that the City Council approve the amendment by a 4-0-1 vote with Commissioner Hoag absent. Three members of the public spoke in support of the proposed Development Code amendments including a restaurant and mobile food truck owner as well as a business person seeking to locate a micro-brewery within Concord.

Discussion

A. California Environmental Quality Act (CEQA)¹

An Initial Study for the Development Code Update Amendment was prepared in accordance with CEQA. The Initial Study did not identify any potentially significant impacts associated with the action and therefore no mitigation measures were identified. Based on the findings of the Initial Study, a Negative Declaration was identified as the appropriate environmental document. On March 21, 2014, a Notice of Intent to adopt a Negative Declaration (Exhibit B, Resolution 14-44, Attachment A) was filed with the Contra Costa County Clerk and published in the Contra Costa Times beginning a 20-day review period which ended on April 9, 2014 per CEQA requirements. No public comments were received.

The proposed amendments to Municipal Code Title 6 (Animals) do not constitute a “project” within the meaning of Section 15378 of the CEQA Guidelines, because they have no potential for resulting in physical change in the environment, directly or ultimately. Even assuming the proposed amendments do comprise a project for CEQA analysis, staff believes that they come within the “common sense” CEQA exemption set forth in 14 Cal Code Regs. Section 15061(b) (3), excluding projects where “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.”

B. Overview of Amendments

The proposed amendments are shown in legislative format in Exhibit A and in final format in Ordinance 14-06 (Exhibit C). In these exhibits the amendments are organized in sequential order, by Article, as they appear in the Development Code (Code). For clarification, legislative edit format identifies deletions in red/strikeout, additions in blue underline, and changed lines or moved text in green double

¹ California Environmental Quality Act of 1970, Public Resources Code § 21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, “CEQA”).

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underline and strikethrough. The proposed amendments result from staff's experience working with the new Code, comments from members of the public, and input from stakeholders.

This report primarily focuses on amendments to allow two new land uses, micro-breweries/micro-distilleries and tasting rooms, and mobile food vendors, both of which have broader policy implications. The other proposed amendments to the Code do not have policy implications and therefore, are not discussed in detail. These minor amendments generally fall into the following categories: (1) correction of minor technical errors and omissions, (2) correction of minor inconsistencies within the Code, (3) clarification of terms and procedures, and (4) new or expanded provisions. The minor amendments do not modify major policy decisions or directives that were made by the Planning Commission and/or City Council at the study sessions and public hearings held prior to the adoption of the Development Code on July 24, 2012.

A brief summary of all the proposed amendments::

- Minor revisions to the uses that are allowed in specific zoning districts;
- Update of access requirements for access to landlocked parcels to achieve consistency with current fire safe standards;
- New specific uses section to address food vendor group sites (discussed below);
- Refinement of bar, night club, lounge definition to maintain consistency with applicable California Department of Alcoholic Beverage Control (ABC) requirements;
- Inclusion of definitions for micro-breweries/micro-distilleries and tasting rooms (discussed below); and
- Minor revisions to the City's Municipal Code regarding vendors to maintain consistency with the proposed Development Code language concerning food vendor group sites.

Should more detail be desired on any of the recommended changes not discussed further in this agenda report, please review the Planning Commission staff report, dated May 7, 2014, which is attached as Exhibit G.

C. Food Vendor Group Sites

In the proposed Code, 'food vendor group sites' are defined as sites with the stationary operation of one or more mobile food vendors clustered together on a single private or public property site during a specified time and in accordance with an approved permit. This new use section includes language which addresses location requirements, restrooms, hours of operation, site circulation, site conditions, security, the display and appearance of mobile food vendor units, and alcohol. Permit requirements and standard conditions of approval are also included.

Staff proposes that this new use, 'food vendor group site,' be allowed on private property or on public sites such as at the BART station. The use would not be allowed on a full time basis and each permit approval would specify the number and types of vendors, specific days, and hours of operation. The permit would provide an opportunity to ensure the site could accommodate the use and set forth operating conditions. Each permit would be subject to specific conditions of approval, as appropriate for the site.

On December 11, 2013, staff made a presentation to the Todos Santos Business Association (TSBA) concerning the proposed Development Code changes to address mobile food vendors and solicited their feedback via a brief survey. An advertised Open House was held on March 4, 2014 to obtain additional

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feedback from stakeholder groups regarding the proposed mobile food vendor regulations. Both the TSBA and Open House attendees were generally supportive of the proposed Development Code revisions.

As all other vendor sites and sales would need to continue to comply with the requirements in Concord Municipal Code Chapter 12.50 (Vendors), revised language is proposed and discussed below to maintain consistency with the proposed Code changes regarding mobile food vendors.

D. Micro-Breweries/Micro-Distilleries and Tasting Rooms

This proposed Code amendment expands the use classifications to include ‘micro-breweries/micro-distilleries’ and ‘tasting rooms.’ The new definitions address the size of such facilities, use requirements, compliance with ABC regulations, and outdoor seating areas. Micro-breweries/distilleries up to 3,000 square feet in size would be permitted within the Service Commercial, Regional Commercial, Downtown Pedestrian, Downtown Mixed Use, West Concord Mixed Use, Office Business Park, Industrial Business Park, and Industrial Mixed Use zoning districts subject to an approved Minor Use Permit. Tasting rooms would be allowed within these same zoning districts via an Administrative Permit. As proposed, micro-breweries/distilleries could exceed 3,000 square feet in size subject to an approved Use Permit within the same zoning districts identified above.

On December 4, 2013, staff conducted a Planning Commission Study Session regarding the proposed micro-brewery/distillery and tasting room regulations, where the Planning Commission affirmed their support for the proposed Code revisions. More information can be found in the Planning Commission staff report which is Exhibit G.

E Roosters

The proposed amendments limit the ability to keep roosters within City limits. Existing roosters will be “grandfathered in” and may be retained for the duration of their life. Roosters which are hatched or otherwise acquired on or after August 7, 2014 (i.e. the anticipated effective date of the proposed ordinance) will be prohibited.

Fiscal Impact

The adoption of this Development Code Update Amendment is anticipated to have a beneficial fiscal impact on the City by encouraging the location of new revenue-generating land uses to the City.

Public Contact

As referenced above, staff discussed the proposed Development Code revisions regarding mobile food vendors with the Todos Santos Business Association on December 11, 2013 and held an Open House to hear from interested stakeholders on March 4, 2014. A study session concerning the micro-breweries/distilleries and tasting rooms was held with the Planning Commission on December 4, 2013. The Planning Commission review of these changes occurred on May 7, 2014 and was publicly noticed. Three individuals spoke. Notice of the June 24th City Council hearing was published in the Contra Costa Times, as required by State Law and the Concord Municipal Code. Notice of this item was also posted at the Concord Civic Center at least 10 days prior to the hearing.

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Recommendation for Action

Staff recommends that the City Council approve Resolution No. 14-44, adopting the Negative Declaration for the Development Code Update Amendment (PL131356-DC, MC) and introduce Ordinance No. 14-06 amending the Development Code and Municipal Code by reading the title and waiving further reading. To the extent that the City Council chooses not to adopt certain aspects of the proposed Ordinance, City Council may so announce, and proceed to adopt the remainder of the Ordinance.



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- Exhibit A – Development Code Amendment (PL131356-DC, MC) List of Revisions, May 7, 2014
- Exhibit B – Resolution 14-44 Adopting the Negative Declaration for Development Code Amendment (PL131356-DC, MC) (Attachment A: NOI, Attachment B: Negative Declaration)
- Exhibit C – Ordinance 14-06 Adopting Development Code Amendment (PL131356-DC, MC) to Revise Various Articles and Sections by adding Micro-Breweries/Micro-Distilleries and Tasting Rooms, and amending Title 12 (Streets, Sidewalks, and Other Public Places), and Title 6 (Animals).
- Exhibit D – May 7, 2014 Planning Commission minutes
- Exhibit E – Resolution 14-08 PC recommending City Council adoption of the Negative Declaration for Development Code Amendment (PL131356-DC, MC)
- Exhibit F – Resolution 14-09 PC recommending City Council adoption of Development Code Amendment (PL131356-DC, MC)
- Exhibit G – May 7, 2014 Planning Commission Staff Report

**Development Code and Municipal Code Amendment List of Revisions
May 7, 2014**

- 1) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 2 Residential Districts (RR, RS, RL, RM, and RH)), Table 122-78.1 (Residential Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Residential Uses; Office, Commercial, and Retail Services; and Open Space and Agricultural Uses; Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-78.1 Residential Districts Allowed Uses and Permit Requirements						ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District					Additional Requirements
	RR	RS	RL	RM	RH	
Office, Commercial, and Retail Services						
Eating and Drinking Establishments						
Food Vendor Group Site	--	--	--	--	--	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	--	--	--	--	--	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large	--	--	--	--	--	§122-617 Alcoholic Beverage Sales
Tasting Room	--	--	--	--	--	§122-617 Alcoholic Beverage Sales

- 2) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 3 North Todos Santos District (NTS), Table 122-1031.1 (North Todos Santos District - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Services, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-103.1 North Todos Santos District Allowed Uses and Permit Requirements		ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- Use Not Allowed
Land Use Classifications	Permit Required by District	Additional Requirements
	NTS	
Office, Commercial, and Retail Services		
Eating and Drinking Establishments		
Food Vendor Group Site	--	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	--	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large	--	§122-617 Alcoholic Beverage Sales
Tasting Room	--	§122-617 Alcoholic Beverage Sales

- 3) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 4 Office and Commercial Districts (CO, CMX, NC, SC, RC), Table 122-131.1 (Office and Commercial Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Services, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-131.1 Office and Commercial Districts Allowed Uses and Permit Requirements						ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- Use Not Allowed
Land Use Classifications	Permit Required by District					Additional Requirements
	CO	CMX	NC	SC	RC	
Office, Commercial, and Retail Uses						
Eating and Drinking Establishments						
Food Vendor Group Site	--	MP	MP	MP	MP	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	--	--	--	MP	MP	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large⁽¹¹⁾	--	--	--	UP	UP	§122-617 Alcoholic Beverage Sales
Tasting Room	--	--	--	AP	AP	§122-617 Alcoholic Beverage Sales
Personal Services						
General	-- ZC	ZC	ZC ⁽³⁾	ZC ⁽³⁾	ZC ⁽³⁾	

- (1) Not allowed on ground floor.
- (3) Allowed to occupy up to 20 % gross area of shopping center or multi-tenant building or 20% street frontage of one building.
- (5) No outdoor facilities, storage, or activities are allowed.
- (9) Requires a minimum lot size of 10,000 sq. ft.
- (10) Allowed with residential use only.
- [\(11\) A facility which exceeds 3,000 square feet.](#)

- 4) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 5 (Downtown Districts (DP, DMX, WMX), Table 122-154.1 (Office and Commercial Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Services, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-154.1 Downtown Districts Allowed Uses and Permit Requirements				ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- Use Not Allowed
Land Use Classifications	Permit Required by District			Additional Requirements
	DP	DMX	WMX	
Office, Commercial, and Retail Uses				
Eating and Drinking Establishments				
Food Vendor Group Site	--	MP	MP	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	MP	MP	MP	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large⁽¹⁴⁾	UP	UP	UP	§122-617 Alcoholic Beverage Sales
Tasting Room	AP	AP	AP	§122-617 Alcoholic Beverage Sales
Media Production Facility	ZC ⁽⁴⁾	ZC	ZC	

- (1) Not allowed on ground floor.
- (2) Allowed on upper floors subject to Use Permit Approval.
- (3) Allowed to occupy up to 20 % gross area of shopping center or multi-tenant building or 20% street frontage of one building.
- (7) Allowed on ground floor subject to Minor Use Permit approval.
- (8) Allowed on upper floors subject to an Administrative Permit approval.
- (10) Allowed with residential use only.
- [\(14\) A facility which exceeds 3,000 square feet.](#)

- 5) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 6 Business Park and Industrial Districts (OBP, IBP, IMX, HI), Table 122-177.1 (Business Park and Industrial Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Uses, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-177.1 Business Park and Industrial Districts Allowed Uses and Permit Requirements					ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District				Additional Requirements
	OBP	IBP	IMX	HI	
Office, Commercial, and Retail Uses					
Eating and Drinking Establishments					
Food Vendor Group Site	AP	AP	AP	--	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	MP	MP	MP	--	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large ⁽¹¹⁾	UP	UP	UP	--	§122-617 Alcoholic Beverage Sales
Tasting Room	AP	AP	AP	--	§122-617 Alcoholic Beverage Sales

- (3) Allowed to occupy up to 20% of: gross area of shopping center, multi-tenant building or 20% street frontage of one building.
- (4) Outdoor sales, activities, or storage allowed inside or rear yards when enclosed by an eight-foot tall masonry wall and materials do not exceed wall height.
- (5) No outdoor facilities, storage, or activities are allowed.
- (6) Allowed if occupying less than 80,000 square feet of gross floor area.
- (10) Allowed with residential use only
- [\(11\) A facility which exceeds 3,000 square feet.](#)

- 6) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 7 Public/Quasi-Public Districts (PQP), Table 122-200.1 (Public/Quasi-Public Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Uses, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-200.1 Public/Quasi-Public Districts Allowed Uses and Permit Requirements		ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District	Additional Requirements
	PQP	
Office, Commercial, and Retail Uses		
Eating and Drinking Establishments		
Food Vendor Group Site	AP	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	--	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large	--	§122-617 Alcoholic Beverage Sales
Tasting Room	--	§122-617 Alcoholic Beverage Sales

- 7) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 8 Community Land Districts (OS, PR, RLC, AND WRC), Table 122-223.1 (Community Land Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Uses, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-223.1 Community Land Districts Allowed Uses and Permit Requirements					ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District				Additional Requirements
	OS	PR	RLC	WRC	
Office, Commercial, and Retail Uses					
Eating and Drinking Establishments					
Food Vendor Group Site	--	AP	--	--	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	--	--	--	--	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large	--	--	--	--	§122-617 Alcoholic Beverage Sales
Tasting Room	--	--	--	--	§122-617 Alcoholic Beverage Sales

- 8) *Development Code, Article IV. Development Standards, Division 3. Parking, Loading, and Access, Section 122-390(d)(5)a. Access to Landlocked Parcels is amended as follows:*

- (5) **Access to Landlocked Parcels.** Access to landlocked parcels without direct frontage on a public or private street may be created for up to four lots or parcels if the developer or property owner records an access easement that meets the following conditions:
- a. Access to one lot, servicing no more than two dwelling units, shall be at least 16 feet wide, ~~(with including a 14-foot-wide~~ travel surface of a width to be determined by the Fire District), connecting the landlocked parcel to a public or private street through an intervening lot or parcel. The easement shall provide emergency access with no parking;

- 9) *Development Code, Article V. Standards for Specific Uses, Division 1. Standards for Specific Uses, add new Section 122-634 "Food Vendor Group Sites", as follows:*

122-634 **Food Vendor Group Sites**

Where allowed by Article II (Zoning Districts – Uses and Standards), Food Vendor Group Sites shall comply with the requirements of this section.

- (a) **Purpose.** This Section provides standards for Food Vendor Group Sites, established on private or public property, where allowed by Article II (Zoning Districts - Uses and Standards). Food vendors can bring vitality, pedestrian activity, and spillover economic activity to the surrounding areas while protecting the health, safety, convenience, prosperity, and general welfare of the city and surrounding businesses. It is the intent of these regulations to assure a minimum level of cleanliness, quality, and security.

(b) **Applicability**

- (1) This section shall only apply to Food Vendor Group Sites, which are sites with the stationary operation of one or more mobile food vendors clustered together on a single private or public property site during a specified time and in accordance with an approved permit. All other vendor sites and sales shall comply with the provisions in Concord Municipal Code (CMC) Vendor Ordinance Sections 12.50.010 through 12.50.040.

- (2) Notwithstanding the provisions in this section, all vendors shall also comply with the requirements in CMC Sections 12.50.010 through 12.50.040.
(3)

(c) **Definition**

- (1) **Food Vending.** The sale of prepared foods from a food vendor unit. Food vending activities may include, but are not limited to, the following:
- a. The sale of food prepared off-site in a commercial kitchen and/or prepared on-site within the food vendor unit kitchen, per Contra Costa County Health Regulations.
 - b. Food ordered and served from the food vendor unit.
 - c. Take-out counter and space for customer queuing.
 - d. Prepared food served in disposable wrappers, plates, or containers and sold for on-site or off-site consumption.
- (2) **Food Vendor Unit.** A mobile truck, trailer, vendor cart, or other movable wheeled equipment or vehicle from which food vending occurs.
- (3) **Food Vendor.** A person who is engaged in food vending.
- (4) **Food Vendor Group Site.** A site approved for a specified number of food vendors, where allowed by Article II (Zoning Districts Uses and Standards), for a specific duration and frequency and subject to specific conditions of approval.
- (5) **Food Vendor Group Site Operator.** The individual directly responsible for organizing and/or conducting the Food Vendor Group Site and/or the facility manager, or respective designee, for the purpose of determining liability for damage to City or public facilities as a result of a food vendor group site.

(d) **General Requirements**

- (1) **Location.** Food Vendor Group Sites shall be located a minimum distance of 100 feet from the following (as measured in a straight line from the property line of the Food Vendor Group Site to the nearest property line of the following):
- a. **Schools.** Any public school, unless specifically authorized by the School District, indicating that the school has no objections to the proposed Food Vendor Group Site locating on school grounds or within 100 feet of the school grounds.
 - b. **Parks.** Any public park or recreation area unless specifically authorized by the City.
 - c. **Restaurants.** Any Full Service, Limited Service, or Drive through, restaurant, unless specifically authorized by the restaurant.
 - d. Any Bar, Nightclub, Lounge.
- (2) **Restrooms.** Food Vendor Group Sites shall be located within 200 feet of an available functioning restroom facility, which is available for the vendors and their employees, and customers, unless otherwise set forth in the permit approval for the Food Vendor Group Site.

- (3) **Hours of Operation.** Food Vendor Group Site activities shall not be conducted before 7:00 a.m. or after 9:00 p.m., any day of the week, and all vendor units shall be cleared from the site by 10:00 p.m., unless otherwise set forth in the permit approval for the Food Vendor Group Site.

- (4) **Site Circulation**
 - a. Food vendor units shall not impede circulation, block driveways, drive aisles, parking, or other site improvements which are required for other businesses
 - b. Food Vendor Group Sites shall not locate or block parking spaces which serve as required parking for any other business or use on the property;
 - c. Each food vendor unit at a Food Vendor Group Site shall be sited in a manner to insure that the customer queue maintains a minimum five feet of unobstructed clear path along any public sidewalk or right-of-way when the service window faces the street or sidewalk.
 - d. Safe and adequate parking shall be provided for customers of the Food Vendor Group Site, the number of spaces and the layout shall be submitted with the application for a Food Vendor Group Site.

- (5) **Site Conditions.** The Food Vendor Group Site operator shall be responsible for the improvement, maintenance, and compliance with the conditions of approval, as follows:
 - a. Installation of improvements and maintenance of the site, adjacent right-of-way, and properties within 100 feet of the site in a safe, litter free, and clean manner at all times.
 - b. Installation of dust-proof surfacing of all areas of the site to be used by vendor units and as needed for parking. Dust-proof surfacing shall be defined as paving, asphaltic concrete, cement concrete, porous asphalt/porous concrete or functional equivalent approved by the City Engineer.
 - c. Installation and maintenance of adequate lighting to ensure vendor and customer safety. All lighting shall be directed downwards and away from adjacent properties and public streets.
 - d. On-going arrangements and costs for the collection and disposal of waste and trash after each Food Vendor Group Site event.
 - e. The layout of the Food Vendor Group Site shall comply with the approved permit and maintain site circulation and access consistent with the Americans with Disabilities Act (ADA).
 - f. Installation, maintenance, and storage of other site amenities such as tables and chairs, portable restroom facilities, and/or temporary shade structures, as required.

- (6) **Security.** The Food Vendor Group Site operator shall ensure that adequate safety and security measures are implemented.

- (7) **Display and Appearance of Mobile Food Vendor Units**

- a. Each food vendor unit shall display a current business license and current health department permit in plain view, as required by the health department.
 - b. Food vendor units shall be maintained in movable condition at all times.
 - c. Each food vendor shall provide at least one 32 gallon trash receptacle within 15 feet of their food vendor unit.
- (8) **Alcohol.** The serving or consumption of alcohol is prohibited at Food Vendor Group Sites.
- (e) **Permit requirements.** Where allowed by Article II (Zoning Districts – Uses and Standards), an Administrative Permit or Minor Use Permit shall be required, in accordance with Article VII. (Permits and Permit Requirements).
- (f) **Conditions of Approval.** In addition to the requirements in this section, additional conditions may be required as determined necessary to protect the public health, safety, welfare, and order, and to minimize adverse impacts upon the surrounding neighborhood and the general community. Additional conditions may be added to address noise, lighting, odors, or smoke. The following conditions shall apply to all Food Vendor Group Sites:
- (1) No more than one Food Vendor Group Site shall be allowed on any single property.
 - (2) Any exterior storage of refuse, equipment, or materials associated with the Food Vendor Group Site and each food vendor unit shall be prohibited on the site except during operating hours.
- 10) *Development Code, Article IX General Terms, Division 1. Use Classifications, Section 122-1580 Use Classifications, is amended as follows:*

Eating and Drinking Establishments

Bar, Night Club, Lounge. An establishment that sells beer, wine, and distilled spirits in accordance with applicable California Department of Alcoholic Beverage Control regulations, ~~on-site consumption~~ and may include live entertainment.

Micro-Brewery/Micro-Distillery. A facility for the production and packaging of alcoholic beverages for distribution, retail, or wholesale, on or off premises and which meets all applicable California Department of Alcoholic Beverage Control regulations. Outdoor eating areas shall be permitted as an accessory use to a micro-brewery/micro-distillery consistent with Section 122-632, Sidewalk Cafes and Outdoor Eating Areas.

Restaurant, Full Service. A restaurant that prepares food, may include alcoholic drinks, and serves seated customers who select food from a menu. Take out service is optional and may not be available.

Restaurant, Limited Service. An establishment that prepares food or sells packaged food for on-site consumption, take out, or delivery. Typically customers self-serve or are served partially. This classification includes cafeterias, delicatessens, fast-food restaurants, sandwich shop, pizza parlors, snack bars, takeout restaurants, and catering businesses or bakeries that have a storefront restaurant component.

Restaurant with Drive-Through. A restaurant where food or coffee type beverages may be purchased by motorists who remain in their vehicles during the sales transaction.

Restaurant with Live Entertainment. A full service or limited service restaurant that also provides live music, a disc jockey, karaoke, dancing to live or recorded music, and/or comedy or theatrical performances to patrons. This classification does not include coin-operated music player machines, i.e., jukeboxes, or other recorded music.

[Tasting Room.](#) A facility allowing on-site tasting of alcoholic beverages and retail sales directly to the public and possessing the appropriate California Department of Alcoholic Beverage Control license type. The tasting room may be operated within a micro-brewery/micro-distillery facility, accessory to a separate on-site use, or as a stand-alone retail use. Outdoor eating areas shall be permitted as an accessory use to a tasting room consistent with Section 122-632, Sidewalk Cafes and Outdoor Eating Areas.

11) *Concord Municipal Code Section 12.50.030 is amended as follows:*

Chapter 12.50 Vendors

Sec. 12.50.030. Vending locations; permits and business licenses; vendor operations.

(a) Authority to vend on public or private property. A vendor may be permitted to operate only at public and private property authorized by this section, subject to first obtaining a written city permit. This section does not apply to a vendor on public property not owned by the city if permission to vend has been granted by the property owner or on private property where permission to vend has been granted by city permit.

(1) Vendor motor vehicles. On private property, [which is not an approved Food Vendor Group Site](#), vendor motor vehicles are allowed only at construction sites. Such vehicles may stop at a construction site for no more than 30 minutes without moving to a new location at least 300 feet removed therefrom. Such vehicles may not return to a location where they have previously stopped to vend within the previous three hours.

(2) Nonmotorized carts. Vendor carts are allowed on private property only pursuant to a city ~~use-administrative~~ permit or ~~Zoning-Administrator's~~ [minor use](#) permit. Vendor carts are allowed on construction sites only pursuant to an administrative ~~occupancy~~ permit. The approving authority may impose reasonable conditions as provided in subsection (g)(2). At construction sites on private property, vendor carts may stop for no more than 30 minutes without moving to a new location at least 300 feet removed therefrom. Such carts may not return to a location where they have been previously stopped to vend within the previous three hours.

(3) Vendors prohibited in Downtown ~~Business~~ [Pedestrian](#) Zoning District. Vendors shall not be permitted to operate at any publicly owned location in the Downtown ~~Business~~ [Pedestrian](#) Zoning District except as authorized by section 90-103(b)(2) pursuant to a valid [minor](#) use permit.

**BEFORE THE CITY COUNCIL
OF THE CITY OF CONCORD,
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A RESOLUTION ADOPTING A NEGATIVE
DECLARATION FOR DEVELOPMENT CODE
UPDATE TEXT AMENDMENT (PL131356-DC,
MC) TO REVISE VARIOUS ARTICLES AND
SECTIONS BY ADDING MICRO-
BREWERIES/MICRO-DISTILLERIES AND
TASTING ROOMS; AND AMENDING TITLE 12
(STREETS, SIDEWALKS, AND OTHER PUBLIC
PLACES; AND TITLE 6 ANIMALS**

Resolution No. 14-44

WHEREAS, the City of Concord adopted the 2030 Urban Area General Plan on October 2, 2007; and

WHEREAS, the City of Concord concurrently certified the Final Environmental Impact Report for the 2030 Urban Area General Plan on October 2, 2007; and

WHEREAS, the City of Concord amended the 2030 General Plan on January 24, 2012 to incorporate an Area Plan for the Concord Reuse Project; and

WHEREAS, the City of Concord certified a Final Environmental Impact for the Concord Reuse Project Plan in February 2010 and an Addendum to that FEIR which covered the Area Plan and related 2030 General Plan Amendment on January 24, 2012; and

WHEREAS, the General Plan FEIR and Reuse Plan FEIR/Addendum together constitute a comprehensive evaluation of the environmental impacts of the Concord General Plan; and

WHEREAS, on July 10, 2012, the City Council certified the Concord Development Code Final Supplemental Environmental Impact Report and Mitigation Monitoring and Reporting Program, and adopted Findings and a Statement of Overriding Considerations; and

WHEREAS, on July 24, 2012, the City Council adopted Chapter 122 of the Concord Municipal Code (“Development Code”), to ensure consistency with General Plan policies, and an update of its zoning maps to ensure consistency with the adopted General Plan Map; and

WHEREAS, on October 9, 2012, the City Council adopted Resolution 12-74, adopting a

1 Negative Declaration for the First Development Code Clean-Up Amendment; and

2 **WHEREAS**, on October 23, 2012, the City Council adopted Ordinance No. 12-5 approving
3 the First Development Code Clean-Up Amendment; and

4 **WHEREAS**, on September 24, 2013, the City Council adopted Ordinance No. 13-71 adopting
5 a Negative Declaration for the Second Development Code Clean-Up Amendment; and

6 **WHEREAS**, the City has proposed additional amendments to the Development Code in the
7 form of proposed Development Code Amendment (“Amendment”), PL131356-DC, MC, (attached as
8 Exhibit “C,” Draft Ordinance 14-6, to the June 24, 2014, City Council Report,) in order to improve
9 the accuracy of the Development Code and its standards and further achieve internal consistency with
10 the Concord Municipal Code and with the General Plan; and

11 **WHEREAS**, on March 20, 2014, the City conducted an Initial Study pursuant to the
12 California Environmental Quality Act of 1970, Public Resources Code § 21000, et seq., as amended
13 and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations
14 (collectively, “CEQA”) to determine if the Amendment would have any significant effect on the
15 environment; and

16 **WHEREAS**, the Initial Study concluded that the Amendment would have no significant
17 environmental impacts; and

18 **WHEREAS**, on March 21, 2014 a Notice of Intent to Adopt a Negative Declaration (attached
19 hereto at Attachment A) was prepared, posted with the Contra Costa County Clerk, and circulated for
20 a 20 day public review period, through April 9, 2014, in accordance with CEQA; and

21 **WHEREAS**, the Initial Study and Negative Declaration (collectively, “Negative Declaration”)
22 are attached hereto as Attachment B and incorporated by reference; and

23 **WHEREAS**, no comments were received from the public during the public review period; and

24 **WHEREAS**, the Planning Commission, after giving all public notices required by State law
25 and the Concord Municipal Code, held a duly noticed public hearing on May 7, 2014 to consider the
26 Amendment and the Negative Declaration; and

27 //

1 **WHEREAS**, at such public hearing, the Planning Commission considered all testimony and
2 information received at the public hearing, the oral report from City staff, the written report from City
3 staff, dated May 7, 2014, exhibits presented, pertinent plans and documents, the Negative Declaration,
4 and other materials and information contained in the record of proceedings relating to the
5 Amendment, which are maintained at the offices of the City of Concord Planning Division
6 (collectively, “PC Environmental Information”) and adopted Resolution No. 14-08PC recommending
7 that the City Council adopt the Negative Declaration for the Amendment, pursuant to 14 Cal. Code of
8 Regs. §§ 15070-15075, as the appropriate environmental document, which resolution is hereby
9 incorporated by reference; and.

10 **WHEREAS**, after giving all notice required by State and local law, the City Council held a
11 public hearing on June 24, 2014; and

12 **WHEREAS**, the City Council, after consideration of all pertinent documents and testimony
13 including the PC Environmental Information, testimony and information received at the June 24,
14 2014 public hearing, the oral report from City staff, the written report from City staff, dated June 24,
15 2014, exhibits presented, pertinent plans and documents, the Negative Declaration, and other materials
16 and information contained in the record of proceedings relating to the Amendment, which are
17 maintained at the offices of the City of Concord City Clerk (collectively, “Environmental
18 Information”), declared its intent to adopt the Negative Declaration as the appropriate environmental
19 document.

20 **WHEREAS**, the proposed amendments to Municipal Code Title 6 (Animals) do not constitute
21 a “project” within the meaning of Section 15378 of the CEQA Guidelines, because they have no
22 potential for resulting in physical change in the environment, directly or ultimately. Even assuming
23 the proposed amendments do comprise a project for CEQA analysis, staff believes that they come
24 within the “common sense” CEQA exemption set forth in 14 Cal Code Regs. Section 15061(b)(3.),
25 excluding projects where “it can be seen with certainty that there is no possibility that the activity in
26 question may have a significant effect on the environment.”

27 //

28 //

1 **PASSED AND ADOPTED** by the City Council of the City of Concord this 24th day of June,
2 2014, by the following vote:

3 **AYES:** Councilmembers -

4 **NOES:** Councilmembers -

5 **ABSTAIN:** Councilmembers -

6 **ABSENT:** Councilmembers –

7 **I HEREBY CERTIFY** that the foregoing Resolution No. 14-44 was duly and regularly
8 adopted at a regular meeting of the City Council of the City of Concord on this 24th day of June, 2014.

9
10
11 _____
12 Mary Rae Lehman, CMC
13 City Clerk

14 **APPROVED AS TO FORM:**

15 _____
16 Mark Coon
17 City Attorney

18 Attachments:

- 19 A. Notice of Intent to Adopt a Negative Declaration
- 20 B. Negative Declaration

ORDINANCE NO. 14-6

AN ORDINANCE AMENDING THE CONCORD MUNICIPAL CODE BY ADOPTING CLEAN UP AMENDMENTS TO THE 2012 DEVELOPMENT CODE; VOLUME 1, DATED JULY 24, 2012 (FORMERLY CHAPTER 122 (ZONING) OF THE CONCORD MUNICIPAL CODE) TO REVISE VARIOUS ARTICLES AND SECTIONS; AND AMENDING TITLE 12 (STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES), CHAPTER 12.50 (VENDORS), SECTION 12.50.030 (VENDING LOCATIONS; PERMITS AND BUSINESS LICENSES; VENDOR OPERATIONS), SUBSECTION (a)

THE CITY COUNCIL OF THE CITY OF CONCORD DOES ORDAIN AS FOLLOWS:

Section 1. Development Code, Article II (Zoning Districts - Uses and Standards), Division 2 Residential Districts (RR, RS, RL, RM, and RH)), Section 122-78 (Table 122-78.1 - Residential Districts - Allowed Uses and Permit Requirements); Office, Commercial, and Retail Services; Eating and Drinking Establishments is amended to read as follows:

Table 122-78.1 Residential Districts Allowed Uses and Permit Requirements						ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District					Additional Requirements
	RR	RS	RL	RM	RH	
Office, Commercial, and Retail Services						
Eating and Drinking Establishments						
Bar, Night Club Lounge	--	--	--	--	--	§122-621 Entertainment Uses
Food Vendor Group Site	--	--	--	--	--	§122-622 Food Vendor Group Site
Micro-Brewery/Distillery	--	--	--	--	--	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large	--	--	--	--	--	§122-617 Alcoholic Beverage Sales
Restaurant, Full Service	--	--	--	--	--	
Restaurant, Limited Service	--	--	--	--	--	
Restaurant, w/Drive-Through	--	--	--	--	--	§122-619 Drive-Through Facilities
Restaurant, w/Live Entertainment	--	--	--	--	--	§122-621 Entertainment Uses
Tasting Room	--	--	--	--	--	§122-617 Alcoholic Beverage Sales

Section 2. Development Code, Article II (Zoning Districts - Uses and Standards), Division 3 North Todos Santos District (NTS), Section 122-103 – (Table 122-103.1 - North Todos Santos District – Allowed Uses and Permit Requirements); Office, Commercial and Retail Services; Eating and Drinking Establishments is amended to read as follows:

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Table 122-103.1 North Todos Santos District Allowed Uses and Permit Requirements		ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- Use Not Allowed	
Land Use Classifications	Permit Required by District		Additional Requirements
	NTS		
Office, Commercial, and Retail Services			
Eating and Drinking Establishments			
Bar, Night Club Lounge	--		§122-621 Entertainment Uses
Food Vendor Group Site	--		§122-622 Food Vendor Group Site
Micro-Brewery/Distillery	--		§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large	--		§122-617 Alcoholic Beverage Sales
Restaurant, Full Service	--		
Restaurant, Limited Service	--		
Restaurant, w/Drive-Through	--		§122-619 Drive-Through Facilities
Restaurant, w/Live Entertainment	--		§122-621 Entertainment Uses
Tasting Room	--		§122-617 Alcoholic Beverage Sales

Section 3. Development Code, Article II (Zoning Districts - Uses and Standards), Division 4 Office and Commercial Districts (CO, CMX, NC, SC, and RC), Section 122-131 - (Table 131.1 – Office and Commercial Districts – Allowed Uses and Permit Requirements); Office, Commercial, and Retail Sales; Eating and Drinking Establishments is amended to read as follows:

Table 122-131.1 Office and Commercial Districts Allowed Uses and Permit Requirements							ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required - Use Not Allowed
Land Use Classifications	Permit Required by District					Additional Requirements	
	CO	CMX	NC	SC	RC		
Office, Commercial, and Retail Uses							
Eating and Drinking Establishments							
Bar, Night Club Lounge	--	UP	UP	UP	UP	§122-621 Entertainment Uses	
Food Vendor Group Site	--	MP	MP	MP	MP	§122-622 Food Vendor Group Site	
Micro-Brewery/Distillery	--	--	--	MP	MP	§122-617 Alcoholic Beverage Sales	
Micro-Brewery/Distillery, Large ⁽¹⁾	--	--	--	UP	UP	§122-617 Alcoholic Beverage Sales	
Restaurant, Full Service	--	AP	AP	UP	ZC		
Restaurant, Limited Service	--	ZC ⁽⁹⁾	ZC	AP	ZC		
Restaurant, w/Drive-Through	--	UP	UP	UP	UP	§122-619 Drive-Through Facilities	
Restaurant, w/Live Entertainment	--	--	UP	UP	UP	§122-621 Entertainment Uses	
Tasting Room	--	--	--	AP	AP	§122-617 Alcoholic Beverage Sales	

(1) Not allowed on ground floor.

- (3) Allowed to occupy up to 20% gross area of shopping center or multi-tenant building or 20% street frontage of one building.
- (5) No outdoor facilities, storage, or activities are allowed.
- (9) Requires a minimum lot size of 10,000 sq. ft.
- (10) Allowed with residential use only.
- (11) A facility which exceeds 3,000 square feet.

Section 4. Development Code, Article II (Zoning Districts - Uses and Standards), Division 4 Office and Commercial Districts (CO, CMX, NC, SC, and RC), Section 122-131 - (Table 131.1 – Office and Commercial Districts – Allowed Uses and Permit Requirements); Office, Commercial, and Retail Sales; Personal Services is amended to read as follows:

Table 122-131.1 Office and Commercial Districts Allowed Uses and Permit Requirements						ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required - Use Not Allowed
Land Use Classifications	Permit Required by District					Additional Requirements
	CO	CMX	NC	SC	RC	
Office, Commercial, and Retail Uses						
Personal Services						
General	ZC	ZC	ZC ⁽³⁾	ZC ⁽³⁾	ZC ⁽³⁾	
Improvement, Instructional	--	ZC	ZC ⁽³⁾	ZC	ZC	
Restricted	--	--	MP	MP	MP	

Section 5. Development Code, Article II (Zoning Districts - Uses and Standards), Division 5 Downtown Districts (DP, DMX, and WMX), Section 122-154 (Table 122-154.1 – Downtown Districts – Allowed Uses and Permit Requirements); Office, Commercial and Retail Uses; Eating and Drinking Establishments is amended to read as follows:

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Table 122-154.1 Downtown Districts Allowed Uses and Permit Requirements				ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District			Additional Requirements
	DP	DMX	WMX	
Office, Commercial, and Retail Uses				
Eating and Drinking Establishments				
Bar, Night Club, Lounge	AP	AP	AP	§122-621 Entertainment Uses
Food Vendor Group Site	-	MP	MP	§122-622 Food Vendor Group Site
Micro-Brewery/Distillery	MP	MP	MP	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large ⁽¹⁴⁾	UP	UP	UP	§122-617 Alcoholic Beverage Sales
Restaurant, Full Service	ZC	ZC	ZC	
Restaurant, Limited Service	ZC	ZC	ZC	
Restaurant, w/Drive-Through	--	--	UP	§122-619 Drive Through Facilities
Restaurant, w/Live Entertainment	AP	AP	UP	§122-621 Entertainment
Tasting Room	AP	AP	AP	§122-617 Alcoholic Beverage Sales

- (1) Not allowed on ground floor.
- (2) Allowed on upper floors subject to Use Permit Approval.
- (3) Allowed to occupy up to 20 % gross area of shopping center or multi-tenant building or 20% street frontage of one building.
- (7) Allowed on ground floor subject to Minor Use Permit approval.
- (8) Allowed on upper floors subject to an Administrative Permit approval.
- (10) Allowed with residential use only.
- (14) A facility which exceeds 3,000 square feet.

Section 6. Development Code, Article II (Zoning Districts - Uses and Standards), Division 5 Downtown Districts (DP, DMX, and WMX), Section 122-154 (Table 122-154.1 – Downtown Districts – Allowed Uses and Permit Requirements); Business Park and Industrial Uses; Media Production Facility is amended to read as follows:

Table 122-154.1 Downtown Districts Allowed Uses and Permit Requirements				ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District			Additional Requirements
	DP	DMX	WMX	
Business Park and Industrial Uses				
Media Production Facility	ZC	ZC	ZC	

Section 7. Development Code, Article II (Zoning Districts - Uses and Standards), Division 6 Business Park and Industrial Districts (OBP, IBP, IMX, and HI), Section 122-177 (Table 122-177.1 – Business Park and Industrial Districts – Allowed Uses and Permit Requirements); Office, Commercial and Retail Uses; Eating and Drinking Establishments is amended to read as follows:

Table 122-177.1 Business Park and Industrial Districts Allowed Uses and Permit Requirements					ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District				Additional Requirements
	OBP	IBP	IMX	HI	
Office, Commercial, and Retail Uses					
Eating and Drinking Establishments					
Bar, Night Club, Lounge	--	--	--	--	§122-621 Entertainment Uses
Food Vendor Group Site	AP	AP	AP	--	§122-622 Food Vendor Group Site
Micro-Brewery/Distillery	MP	MP	MP	--	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large ⁽¹¹⁾	UP	UP	UP	--	§122-617 Alcoholic Beverage Sales
Restaurant, Full Service	AP ⁽³⁾	AP ⁽³⁾	AP ⁽³⁾	--	
Restaurant, Limited Service	ZC ⁽³⁾	ZC ⁽³⁾	ZC ⁽³⁾		
Restaurant, w/Drive-Through	--	--	--	--	§122-619 Drive Through Facilities
Restaurant, w/Live Entertainment	--	--	--	--	§122-621 Entertainment
Tasting Room	AP	AP	AP	--	§122-617 Alcoholic Beverage Sales

- (1) Allowed to occupy up to 20% of: gross area of shopping center, multi-tenant building or 20% street frontage of one building.
- (2) Outdoor sales, activities, or storage allowed inside or rear yards when enclosed by an eight-foot tall masonry wall and materials do not exceed wall height.
- (5) No outdoor facilities, storage, or activities are allowed.
- (6) Allowed if occupying less than 80,000 square feet of gross floor area.
- (10) Allowed with residential use only.
- (11) A facility which exceeds 3,000 square feet.

Section 8. Development Code, Article II (Zoning Districts - Uses and Standards), Division 7 Public/Quasi-Public District (PQP), Section 122-200 (Table 122-200.1 – Public/Quasi-Public District – Allowed Uses and Permit Requirements); Office, Commercial and Retail Uses; Eating and Drinking Establishments is amended to read as follows:

Table 122-200.1 Public/Quasi-Public Districts Allowed Uses and Permit Requirements			ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District		Additional Requirements
	PQP		
Office, Commercial, and Retail Uses			
Eating and Drinking Establishments			
Bar, Night Club, Lounge	--		§122-621 Entertainment Uses
Food Vendor Group Site	AP		§122-622 Food Vendor Group Site
Micro-Brewery/Distillery	--		§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large ⁽¹¹⁾	--		§122-617 Alcoholic Beverage Sales
Restaurant, Full Service	--		
Restaurant, Limited Service	--		
Restaurant, w/Drive-Through	--		§122-619 Drive Through Facilities
Restaurant, w/Live Entertainment	--		§122-621 Entertainment
Tasting Room	--		§122-617 Alcoholic Beverage Sales

Section 9. Development Code, Article II (Zoning Districts - Uses and Standards), Division 8 Community Land Districts (OS, PR, RLC and WRC), Section 122-223 (Table 122-223.1 – Community Land Districts – Allowed Uses and Permit Requirements); Office, Commercial and Retail Uses; Eating and Drinking Establishments is amended to read as follows:

Table 122-223.1 Community Land Districts Allowed Uses and Permit Requirements					ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District				Additional Requirements
	OS	PR	RLC	WRC	
Office, Commercial, and Retail Uses					
Eating and Drinking Establishments					
Bar, Night Club, Lounge	--	--	--	--	§122-621 Entertainment Uses
Food Vendor Group Site	--	AP	--	--	§122-622 Food Vendor Group Site
Micro-Brewery/Distillery	--	--	--	--	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large ⁽¹⁾	--	--	--	--	§122-617 Alcoholic Beverage Sales
Restaurant, Full Service	--	--	--	--	
Restaurant, Limited Service	--	--	--	--	
Restaurant, w/Drive-Through	--	--	--	--	§122-619 Drive Through Facilities
Restaurant, w/Live Entertainment	--	--	--	--	§122-621 Entertainment
Tasting Room	--	--	--	--	§122-617 Alcoholic Beverage Sales

Section 10. Development Code, Article IV (Development Standards), Division 3 (Parking, Loading, and Access), Section 122-390 (Parking Design Standards), Subsection (d)(5) a (Access to Landlocked Parcels) is amended to read as follows:

(5) **Access to Landlocked Parcels.** Access to landlocked parcels without direct frontage on a public or private street may be created for up to four lots or parcels if the developer or property owner records an access easement that meets the following conditions:

- a. Access to one lot, serving no more than two dwelling units, shall be at least 16 feet wide, (including a travel surface of a width to be determined by the Fire District), connecting the landlocked parcel to a public or private street through an intervening lot or parcel. The easement shall provide emergency access with no parking;

1 **Section 11.** Development Code, Article V (Standards for Specific Uses), Division 1
2 (Standards for Specific Uses), is hereby amended to add new Section 122-634 (Food Vendor Group
3 Sites) to read as follows:

4 **122-634 Food Vendor Group Sites**

5 Where allowed by Article II (Zoning Districts – Uses and Standards), Food Vendor Group
6 Sites shall comply with the requirements of this section.

7 (a) **Purpose.** This Section provides standards for Food Vendor Group Sites, established on
8 private or public property, where allowed by Article II (Zoning Districts - Uses and
9 Standards). Food vendors can bring vitality, pedestrian activity, and spillover economic
10 activity to the surrounding areas while protecting the health, safety, convenience,
11 prosperity, and general welfare of the city and surrounding businesses. It is the intent
12 of these regulations to assure a minimum level of cleanliness, quality, and security.

13 (b) **Applicability**

14 (1) This section shall only apply to Food Vendor Group Sites, which are sites with
15 the stationary operation of one or more mobile food vendors clustered together
16 on a single private or public property site during a specified time and in
17 accordance with an approved permit. All other vendor sites and sales shall
18 comply with the provisions in Concord Municipal Code (CMC) Vendor
19 Ordinance Sections 12.50.010 through 12.50.040.

20 (2) Notwithstanding the provisions in this section, all vendors shall also comply
21 with the requirements in CMC Sections 12.50.010 through 12.50.040.

22 (c) **Definition**

23 (1) **Food Vending.** The sale of prepared foods from a food vendor unit. Food
24 vending activities may include, but are not limited to, the following:

25 a. The sale of food prepared off-site in a commercial kitchen and/or
26 prepared on-site within the food vendor unit kitchen, per Contra Costa
27 County Health Regulations.
28

- b. Food ordered and served from the food vendor unit.
- c. Take-out counter and space for customer queuing.
- d. Prepared food served in disposable wrappers, plates, or containers and sold for on-site or off-site consumption.

(2) **Food Vendor Unit.** A mobile truck, trailer, vendor cart, or other movable wheeled equipment or vehicle from which food vending occurs.

(3) **Food Vendor.** A person who is engaged in food vending.

(4) **Food Vendor Group Site.** A site approved for a specified number of food vendors, where allowed by Article II (Zoning Districts Uses and Standards), for a specific duration and frequency and subject to specific conditions of approval.

(5) **Food Vendor Group Site Operator.** The individual directly responsible for organizing and/or conducting the Food Vendor Group Site and/or the facility manager, or respective designee, for the purpose of determining liability for damage to City or public facilities as a result of a food vendor group site.

(d) **General Requirements**

(1) **Location.** Food Vendor Group Sites shall be located a minimum distance of 100 feet from the following (as measured in a straight line from the property line of the Food Vendor Group Site to the nearest property line of the following):

- a. **Schools.** Any public school, unless specifically authorized by the School District, indicating that the school has no objections to the proposed Food Vendor Group Site locating on school grounds or within 100 feet of the school grounds.
- b. **Parks.** Any public park or recreation area unless specifically authorized by the City.
- c. **Restaurants.** Any Full Service, Limited Service, or Drive through, restaurant, unless specifically authorized by the restaurant.
- d. Any Bar, Nightclub, Lounge.

1 (2) **Restrooms.** Food Vendor Group Sites shall be located within 200 feet of an
2 available functioning restroom facility, which is available for the vendors and
3 their employees, and customers, unless otherwise set forth in the permit
4 approval for the Food Vendor Group Site.

5 (3) **Hours of Operation.** Food Vendor Group Site activities shall not be conducted
6 before 7:00 a.m. or after 9:00 p.m., any day of the week, and all vendor units
7 shall be cleared from the site by 10:00 p.m., unless otherwise set forth in the
8 permit approval for the Food Vendor Group Site.

9 (4) **Site Circulation**

10 a. Food vendor units shall not impede circulation, block driveways, drive
11 aisles, parking, or other site improvements which are required for other
12 businesses.

13 b. Food Vendor Group Sites shall not locate or block parking spaces which
14 serve as required parking for any other business or use on the property.

15 c. Each food vendor unit at a Food Vendor Group Site shall be sited in a
16 manner to insure that the customer queue maintains a minimum five feet
17 of unobstructed clear path along any public sidewalk or right-of-way
18 when the service window faces the street or sidewalk.

19 d. Safe and adequate parking shall be provided for customers of the Food
20 Vendor Group Site, the number of spaces and the layout shall be
21 submitted with the application for a Food Vendor Group Site.

22 (5) **Site Conditions.** The Food Vendor Group Site operator shall be responsible for
23 the improvement, maintenance, and compliance with the conditions of
24 approval, as follows:

25 a. Installation of improvements and maintenance of the site, adjacent right-
26 of-way, and properties within 100 feet of the site in a safe, litter free,
27 and clean manner at all times.
28

- b. Installation of dust-proof surfacing of all areas of the site to be used by vendor units and as needed for parking. Dust-proof surfacing shall be defined as paving, asphaltic concrete, cement concrete, porous asphalt/porous concrete or functional equivalent approved by the City Engineer.
- c. Installation and maintenance of adequate lighting to ensure vendor and customer safety. All lighting shall be directed downwards and away from adjacent properties and public streets.
- d. On-going arrangements and costs for the collection and disposal of waste and trash after each Food Vendor Group Site event.
- e. The layout of the Food Vendor Group Site shall comply with the approved permit and maintain site circulation and access consistent with the Americans with Disabilities Act (ADA).
- f. Installation, maintenance, and storage of other site amenities such as tables and chairs, portable restroom facilities, and/or temporary shade structures, as required.

(6) **Security.** The Food Vendor Group Site operator shall ensure that adequate safety and security measures are implemented.

(7) **Display and Appearance of Mobile Food Vendor Units**

- a. Each food vendor unit shall display a current business license and current health department permit in plain view, as required by the health department.
- b. Food vendor units shall be maintained in movable condition at all times.
- c. Each food vendor shall provide at least one 32 gallon trash receptacle within 15 feet of their food vendor unit.

(8) **Alcohol.** The serving or consumption of alcohol is prohibited at Food Vendor Group Sites.

1 (e) **Permit requirements.** Where allowed by Article II (Zoning Districts – Uses and
2 Standards), an Administrative Permit or Minor Use Permit shall be required, in
3 accordance with Article VII. (Permits and Permit Requirements).

4 (f) **Conditions of Approval.** In addition to the requirements in this section, additional
5 conditions may be required as determined necessary to protect the public health, safety,
6 welfare, and order, and to minimize adverse impacts upon the surrounding
7 neighborhood and the general community. Additional conditions may be added to
8 address noise, lighting, odors, or smoke. The following conditions shall apply to all
9 Food Vendor Group Sites:

10 (1) No more than one Food Vendor Group Site shall be allowed on any single
11 property.

12 (2) Any exterior storage of refuse, equipment, or materials associated with the
13 Food Vendor Group Site and each food vendor unit shall be prohibited on the
14 site except during operating hours.

15 **Section 12.** Development Code, Article IX (General Terms), Division 1 (Use
16 Classifications), Section 122-1580 (Use Classifications) is amended to read as follows:

17
18 **Eating and Drinking Establishments**

19 **Bar, Night Club, Lounge.** An establishment that sells beer, wine, and distilled spirits in
20 accordance with applicable California Department of Alcoholic Beverage Control regulations,
21 and may include live entertainment.

22 **Micro-Brewery/Micro-Distillery.** A facility for the production and packaging of alcoholic
23 beverages for distribution, retail, or wholesale, on or off premises and which meets all
24 applicable California Department of Alcoholic Beverage Control regulations. Outdoor eating
25 areas shall be permitted as an accessory use to a micro-brewery/micro-distillery consistent
26 with Section 122-632, Sidewalk Cafes and Outdoor Eating Areas.
27
28

1 **Restaurant, Full Service.** A restaurant that prepares food, may include alcoholic drinks, and
2 serves seated customers who select food from a menu. Take out service is optional and may
3 not be available.

4 **Restaurant, Limited Service.** An establishment that prepares food or sells packaged food for
5 on-site consumption, take out, or delivery. Typically customers self-serve or are served
6 partially. This classification includes cafeterias, delicatessens, fast-food restaurants, sandwich
7 shop, pizza parlors, snack bars, takeout restaurants, and catering businesses or bakeries that
8 have a storefront restaurant component.

9
10 **Restaurant with Drive-Through.** A restaurant where food or coffee type beverages may be
11 purchased by motorists who remain in their vehicles during the sales transaction.

12 **Restaurant with Live Entertainment.** A full service or limited service restaurant that also
13 provides live music, a disc jockey, karaoke, dancing to live or recorded music, and/or comedy
14 or theatrical performances to patrons. This classification does not include coin-operated music
15 player machines, i.e., jukeboxes, or other recorded music.

16
17 **Tasting Room.** A facility allowing on-site tasting of alcoholic beverages and retail sales
18 directly to the public and possessing the appropriate California Department of Alcoholic
19 Beverage Control license type. The tasting room may be operated within a micro-
20 brewery/micro-distillery facility, accessory to a separate on-site use, or as a stand-alone retail
21 use. Outdoor eating areas shall be permitted as an accessory use to a tasting room consistent
22 with Section 122-632, Sidewalk Cafes and Outdoor Eating Areas.

23 **Section 13.** Concord Municipal Code Title 12 (Streets, Sidewalks, and Other Public
24 Places), Chapter 12.50 (Vendors), Section 12.50.030 (Vending locations; permits and business
25 licenses; vendor operations), subsection (a) is hereby amended to read as follows:

- 26 (a) *Authority to vend on public or private property.* A vendor may be permitted to operate
27 only at public and private property authorized by this section, subject to first obtaining
28 a written city permit. This section does not apply to a vendor on public property not

1 owned by the city if permission to vend has been granted by the property owner or on
2 private property where permission to vend has been granted by city permit.

3 (1) *Vendor motor vehicles.* On private property, which is not an approved Food
4 Vendor Group Site, vendor motor vehicles are allowed only at construction
5 sites. Such vehicles may stop at a construction site for no more than 30 minutes
6 without moving to a new location at least 300 feet removed therefrom. Such
7 vehicles may not return to a location where they have previously stopped to
8 vend within the previous three hours.

9 (2) *Nonmotorized carts.* Vendor carts are allowed on private property only pursuant
10 to a city administrative permit or minor use permit. Vendor carts are allowed on
11 construction sites only pursuant to an administrative permit. The approving
12 authority may impose reasonable conditions as provided in subsection (g)(2).
13 At construction sites on private property, vendor carts may stop for no more
14 than 30 minutes without moving to a new location at least 300 feet removed
15 therefrom. Such carts may not return to a location where they have been
16 previously stopped to vend within the previous three hours.

17 (3) *Vendors prohibited in Downtown Business Zoning District.* Vendors shall not
18 be permitted to operate at any publicly owned location in the Downtown
19 Pedestrian Zoning District except as authorized by section [12.50.030\(b\)\(2\)](#)
20 pursuant to a valid minor use permit.

21 **Section 14.** Concord Municipal Code Title 6 (Animals), Chapter 6.10 (Keeping
22 Noncommercial Animals), Section 6.10.020 (Definitions) is hereby amended to redefine “Fowl” to
23 read as follows:

24 (1) Any domesticated chicken, duck, goose, guinea fowl, peafowl, turkey, or pigeon, but
25 shall not include roosters, racing pigeons or pigeons classified as fancy birds kept by members
26 of recognized racing pigeon clubs, fancy/show/exotic fowl not intended for human consumption
27 or for the production of eggs for human consumption, avicultural birds, pet birds, and other
28 nonfowl birds.

(2) Racing pigeons and fancy birds kept by members of recognized racing pigeon clubs,
birds kept by aviculturalists, pet birds, fancy/show/exotic birds not meant for human

1 consumption or for the production of eggs for human consumption, and other nonfowl birds
2 shall be subject to the provisions of section [6.10.130](#) and section [6.10.140](#) of this Code.

3 **Section 15.** Concord Municipal Code Title 6 (Animals), Chapter 6.10 (Keeping
4 Noncommercial Animals), Section 6.10.030 (General conditions for keeping livestock, companion
5 animals and fowl) is amended to read Section 6.10.030 *General conditions for keeping livestock,*
6 *companion animals, fowl, and roosters.*

7
8 **Section 16.** Concord Municipal Code Title 6 (Animals), Chapter 6.10 (Keeping
9 Noncommercial Animals), Section 6.10.030 (General conditions for keeping livestock, companion
10 animals, fowl, and roosters) is hereby amended to add Subsection (c) as follows:

11 (c) It shall be unlawful for any person to maintain, keep, or board any rooster within the
12 City of Concord, to the extent such rooster is hatched or otherwise acquired on or after August 7, 2014.

13 **Section 17.** This Ordinance No. 14-6 shall become effective thirty (30) days following its
14 passage and adoption. In the event a summary of said Ordinance is published in lieu of the entire
15 Ordinance, a certified copy of the full text of this Ordinance shall be posted in the office of the City
16 Clerk at least five (5) days prior to its adoption and within fifteen (15) days after its adoption,
17 including the vote of the Councilmembers. Additionally, a summary prepared by the City Attorney's
18 Office shall be published once at least five (5) days prior to the date of adoption of this Ordinance and
19 once within fifteen (15) days after its passage and adoption, including the vote of the
20 Councilmembers, in the Contra Costa Times, a newspaper of general circulation in the City of
21 Concord.

22
23 _____
Timothy S. Grayson
Mayor

24 ATTEST:

25
26 _____
Mary Rae Lehman, CMC
27 City Clerk

28 (Seal)

1 Ordinance No. 14-6 was duly and regularly introduced at a regular meeting of the City Council
2 of the City of Concord held on June 24, 2014, and was thereafter duly and regularly passed and
3 adopted at a regular meeting of the City Council of the City of Concord on July 8, 2014, by the
4 following vote:

5 **AYES:** Councilmembers -

6 **NOES:** Councilmembers –

7 **ABSTAIN:** Councilmembers –

8 **ABSENT:** Councilmembers -

9 **I HEREBY CERTIFY** that the foregoing is a true and correct copy of an ordinance duly and
10 regularly introduced, passed, and adopted by the City Council of the City of Concord, California.

11
12
13 _____
14 Mary Rae Lehman, CMC
15 City Clerk
16
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REGULAR MEETING OF THE
CITY OF CONCORD PLANNING COMMISSION
COUNCIL CHAMBER, 1950 PARKSIDE DRIVE
CONCORD, CALIFORNIA

WEDNESDAY, MAY 7, 2014

A regular meeting of the Planning Commission, City of Concord, was called to order by Chair Carlyn Obringer at 7:00 P.M., Wednesday, May 7, 2014, in the City Council Chamber.

I. ROLL CALL

All were present except Commissioner Hoag, who had an excused absence.

COMMISSIONERS PRESENT:

Chair Carlyn Obringer
Vice Chair John Mercurio
Commissioner Ernie Avila
Commissioner Tim McGallian

STAFF PRESENT:

Carol Johnson, Planning Manager
Andrew Mogensen, Principal Planner
Jason Hade, Associate Planner
Joan Ryan, Senior Planner
Mark Boehme, Acting Assistant City Attorney

II. PLEDGE TO THE FLAG

Vice Chair Mercurio led the pledge.

III. PUBLIC COMMENT PERIOD

Carol Johnson announced her pending departure from the City and introduced Andrew Mogensen as the interim Planning Manager and Planning Commission Secretary.

IV. ADDITIONS / CONTINUANCES / WITHDRAWALS

Staff reported there were no changes to the agenda.

V. CONSENT CALENDAR

APPROVAL OF MINUTES

Motion was made by Vice Chair Mercurio, and seconded by Commissioner McGallian to approve the meeting minutes of April 16, 2014 with benched corrections. The motion was passed by the following vote:

AYES: Avila, McGallian, Mercurio, Obringer
 NOES: None
 ABSTAIN: None
 ABSENT: Hoag

VI. PUBLIC HEARINGS

The notice of this public hearing was published in the Contra Costa Times and posted in the City’s posting cabinet on May 2, 2014.

1. DEVELOPMENT CODE CLEAN-UP TEXT AMENDMENT (PL131356 - DC, MC)

Project Planner Jason Hade presented the staff report. The main focus is primarily on the Food Vendor Group Sites such as micro-brewery/micro-distilleries and tasting rooms as well as mobile food vendors. Miscellaneous other changes are proposed to create processes for emerging new land uses which are not currently included in the Development Code. Staff conducted public outreach to the community and received positive feedback. Micro-breweries and micro distilleries would be permitted within certain areas subject to a Minor Use Permit. The micro-breweries and micro distilleries are limited to no more than 3,000 square feet of floor area for the production and packaging of alcoholic beverages from distribution, retail, or wholesale, on or off premises consistent with ABC regulations. The Text Amendment would permit tasting rooms in zoning districts to be identified via an Administrative Permit. Staff recommended adoption of Resolution No. 14-08PC and Resolution No. 14-09PC.

The following are comments by the Commissioners and clarifications by Project Planner Hade.

Commissioner Avila questioned if staff had received any comments from California Environmental Quality Act (CEQA). Associate Planner Hade responded that there had been no additional comments. Commissioner McGallian asked for clarification on the downtown Pedestrian zoning district usage public versus private property. Ms. Johnson explained the Downtown Pedestrian zoning for private property would not be allowed to have Food Vendor Group Sites. Vice Chair Mercurio inquired about the restroom requirements and the code enforcement. Mr. Hade responded by saying a condition of approval would be requested and the applicant would need to address the restroom situation and perhaps need to provide portable

restrooms. Hade also assured Vice Chair Mercurio that codes violations are being enforced. Vice Chair Mercurio also addressed the condition in regard to paving and Planning Manager Johnson suggested the wording be changed to “dust proof surface.” Chair Obringer had a few follow up questions about the construction site and if there would be a special permit granted. Chair Obringer asked when this would go in effect should it be approved by the City Council and the next steps. Planner Hade stated that the owner of the construction site would obtain a permit for Food Vendor Site from the city. Planning Manger Johnson explained the process for adoption and that an effective date would be close to August 1.

Public Comment

Hector Barragan, restaurant and commissary owner on Monument addressed the Commission. Mr. Barragan operates a food truck and believes the amendment would bring economic growth. Mr. Barragan stated his support for the amendment. Commissioner McGallian addressed the relationship of food truck to brick and mortar restaurant since Mr. Barragan runs both. Mr. Barragan believes that the food trucks attract people to come into the city.

Erin Schally, Concord resident, stated that she and her partners would like to open up a micro-brewery in Concord Industrial area with tasting room and a brewery.

Ray Barbour, Concord resident, stated support for the amendment.

Motion was made by Commissioner Avila and seconded by Commissioner McGallian to adopt Resolution No. 14-08PC recommending City Council adoption of the Negative Declaration for the Development Code Clean-Up Amendment which was circulated for public review on March 21, 2014 with a review period through April 9, 2014. The motion passed by the following vote:

AYES: Avila, McGallian, Mercurio, Obringer,
 NOES: None
 ABSTAIN: None
 ABSENT: Hoag

Motion was made by Vice Chair Mercurio and seconded by Commissioner Avila to adopt Resolution No. 14-09PC recommending City Council adopt an Ordinance approving the Development Code Clean-Up Amendment with a change to allow vendor trucks to operate on a dust proof surface. The motion passed by the following vote:

AYES: Avila, McGallian, Mercurio, Obringer,
 NOES: None
 ABSTAIN: None
 ABSENT: Hoag

2. DOWNTOWN CONCORD SPECIFIC PLAN (PL14160 – GP)

Chair Obringer recused herself from hearing item two due to the potential appearance of a conflict of interest.

Joan Ryan, Senior Planner, presented the staff report. Mrs. Ryan stated the goals were to increase job creation, enhance business climate, expand the economic base, jump start land use, increase BART ridership and efficiency, construct housing projects, and promote mid and high-density housing. Staff has been incorporating changes based on the comments from Transform Summary, Frank J. Dodd Summary, CCSC Summary, and ULI Summary. The staff would also like to include a monitoring plan to demonstrate progress that has been made. The Environmental Addendum to the General Plan states no proposed rezoning, no increase in traffic, climate action plan adopted, improves timing for incorporation with Housing Element. Staff recommended that the Commission approves carrying over the meeting to discussion on May 21, 2014.

Commissioner McGallian requested clarification on resident Adam Foster's comments in the errata sheet. He voiced his concerns with a plan-proposed mid-block crossing on Willow Pass. Commissioner McGallian pointed out strengthening connection between Park N Shop and downtown. He suggested the Park N Shop be renamed and branded as part of the downtown.

Commissioner Avila stated his key focus on two anchors to catalyze the plan and asked if there was much discussion about a sports complex. Mrs. Ryan only remembers discussions about schools and that younger parents needed to get involved. Ryan stated the Open Space was not discussed outside of Todos Santos Plaza. Commissioner Avila asked what we can do to be a sparkplug to make this a reality. Commissioner Avila spoke about a lack of sports facilities, which could be a great benefit to draw people in. The second issue of concern for Commissioner Avila was the integration and the future plan of John Muir and the Concord hospital campus. Planner Ryan confirmed there had been some discussion.

Commissioner McGallian stated he liked the great comments like sports facility. McGallian mentioned there is a piece of Redevelopment land on Concord Ave. that could be used as the entry way to the sports complex and this could possibly be the spark plug referenced by Commissioner Avila.

Vice Chair Mercurio mentioned the Reuse Area has a plan for a tournament facility. Mercurio asked how the development community has reacted to the plan. Planner Ryan stated they are very interested. Ryan noted that perception matters and schools are some potential reasons the developers

are passing on Concord. There have been many developers interested. Vice Chair Mercurio had questions about the bike facilities on Grant Street, the bike route into Mt. Diablo High School, and the gate being closed during a school session. Mercurio wants to see route adjusted and wants to see a continuous network. Vice Chair Mercurio questioned if the separate owners at Park N Shop could possibly be the holdup on development. Planner Ryan confirmed the ownership issues makes development there challenging.

Public Comment

Joel Devalcourt, of Greenbelt Alliance states the current plan will move Concord forward. Two recommendations were provided. Mr. Devalcourt stated they were very excited about the upcoming bicycle master plan project. They want the downtown area to set the vision. Devalcourt shared a quote from Mayor Grayson that stated Concord should be a place for all people. Currently there is no vision for all people. The plan should say housing is available at a range of income levels.

Comments from the Commissioners

Commissioner McGallian pointed out the ULI presentation has a handout that goes along with the presentation link, which is very useful. Vice Chair Mercurio stated he will be asking about Clay Alley next time.

Motion was made by Commissioner McGallian and seconded by Commissioner Avila to continue this item to May 21, 2014. The motion passed by the following vote:

AYES:	Avila, McGallian, Mercurio,
NOES:	None
ABSTAIN:	Obringer (recused)
ABSENT:	Hoag

Chair Obringer rejoined the Commission.

VII. COMMISSION CONSIDERATIONS

There were no items to be considered.

VIII. STAFF REPORTS / ANNOUNCEMENTS

Ms. Johnson referenced a new process for future use of action minutes and that Andrew Mogensen would be serving as Secretary to the Commission. The Commissioners asked questions regarding the retention schedule for videos.

IX. COMMISSION REPORTS/ANNOUNCEMENTS

Commissioner Avila complemented Joan Ryan and thanked Carol Johnson for her service. Commissioner McGallian thanked Joan Ryan and Carol Johnson. Vice Chair Mercurio thanked Carol Johnson. Chair Obringer thanked Carol Johnson and mentioned the 2nd annual Art, Wine and Beer Walk.

X. FUTURE PUBLIC HEARING ITEMS

Planning Manager Carol Johnson announced that Planner Mogensen will be the secretary on May 21, 2014 that there will be a continuance for the Downtown Concord Specific Plan. Also the revised resolution regarding the Fast Auto Loans will be a consent item and on June 4, 2014 HSG Element Review will take place.

XI. ADJOURNMENT

Commissioner McGallian moved to adjourn at 9:03 P.M. Vice Chair Mercurio seconded the motion. Motion to adjourn was passed by unanimous vote of the Commissioners present.

APPROVED:

Andrew J. Mogensen, AICP
Planning Commission Secretary

Transcribed by Toi Wells

1 **BEFORE THE PLANNING COMMISSION**
2 **OF THE CITY OF CONCORD,**
3 **COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

4 **A RESOLUTION RECOMMENDING CITY**
5 **COUNCIL ADOPTION OF THE NEGATIVE**
6 **DECLARATION FOR DEVELOPMENT**
7 **CODE CLEAN-UP AMENDMENT**
8 **(PL131356-DC, MC)**

Resolution No. 14-08PC

9 **WHEREAS**, the City of Concord adopted the 2030 Urban Area General Plan on October 2,
10 2007; and

11 **WHEREAS**, the City of Concord concurrently certified the Final Environmental Impact
12 Report for the 2030 Urban Area General Plan on October 2, 2007; and

13 **WHEREAS**, the City of Concord amended the 2030 General Plan on January 24, 2012 to
14 incorporate an Area Plan for the Concord Reuse Project; and

15 **WHEREAS**, the City of Concord certified a Final Environmental Impact for the Concord
16 Reuse Project Plan in February 2010 and an Addendum to that FEIR which covered the Area Plan and
17 related 2030 General Plan Amendment on January 24, 2012; and

18 **WHEREAS**, the General Plan FEIR and Reuse Plan FEIR/Addendum together constitute a
19 comprehensive evaluation of the environmental impacts of the Concord General Plan; and

20 **WHEREAS**, on July 10, 2012, the City Council certified the Concord Development Code
21 Final Supplemental Environmental Impact Report and Mitigation Monitoring and Reporting Program,
22 and adopted the Findings and the Statement of Overriding Considerations; and

23 **WHEREAS**, on July 24, 2012, the City Council adopted Chapter 122 of the Concord
24 Municipal Code (“Development Code”), to ensure consistency with General Plan policies, and an
25 update of its zoning maps to ensure consistency with the adopted General Plan Map; and

26 **WHEREAS**, on October 9, 2012, the City Council adopted Resolution 12-74, adopting a
27 Negative Declaration for the First Development Code Clean-Up Amendment; and

28 **WHEREAS**, on September 24, 2013, the City Council adopted Resolution 13-71, adopting a
Negative Declaration for the Second Development Code Clean-Up Amendment; and

WHEREAS, the City has proposed additional text amendments to the Development Code in

1 the form of the proposed Development Code Clean-Up Amendment PI131356-DC, MC
2 (“Amendment”) attached to the May 7, 2014 staff report as Exhibit “A” and incorporated by
3 reference, in order to improve the accuracy of the Development Code and its standards and further
4 achieve internal consistency and consistency with the rest of the Concord Municipal Code; and

5 **WHEREAS**, on March 21, 2014 the City conducted an Initial Study pursuant to the California
6 Environmental Quality Act of 1970, Public Resources Code § 21000, et seq., as amended and
7 implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations
8 (collectively, “CEQA”) to determine if the Amendment would have any significant effect on the
9 environment; and

10 **WHEREAS**, the Initial Study concluded that the Amendment would have no significant
11 environmental impacts; and

12 **WHEREAS**, on March 21, 2014 a Notice of Intent to Adopt a Negative Declaration (“NOI”)
13 was prepared, posted with the Contra Costa County Clerk, and circulated for a 20 day public review
14 period, through April 9, 2014, in accordance with CEQA; a copy of the NOI is attached hereto as
15 Attachment A and incorporated by reference; and

16 **WHEREAS**, the Initial Study and Negative Declaration (collectively, “Negative Declaration”)
17 is attached hereto as Attachment B and is hereby incorporated by reference; and

18 **WHEREAS**, no comments were received from the public during the public review period; and

19 **WHEREAS**, the Planning Commission, after giving all public notices required by State law
20 and the Concord Municipal Code, held a duly noticed public hearing on May 7, 2014 to consider the
21 Amendment and the Negative Declaration; and

22 **WHEREAS**, at such public hearing, the Planning Commission considered all testimony and
23 information received at the public hearing, the oral report from City staff, the written report from City
24 staff, dated May 7, 2014, exhibits presented, pertinent plans and documents, the Negative Declaration,
25 and other materials and information contained in the record of proceedings relating to the
26 Amendment, which are maintained at the offices of the City of Concord Planning Division
27 (collectively, “Environmental Information”).
28

1 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

- 2 1. The Planning Commission does hereby make the following findings:
- 3 a. The recitals above are true and correct and are incorporated herein by reference.
- 4 b. The Negative Declaration is the appropriate environmental document for the
- 5 Amendment.
- 6 c. The environmental documents for the Amendment have been prepared, published,
- 7 circulated, and reviewed in accordance with CEQA.
- 8 d. The Planning Commission has reviewed, considered, and evaluated all of the
- 9 Environmental Information.
- 10 e. The Negative Declaration reflects the independent judgment and analysis of the City as
- 11 the lead agency for the Amendment.
- 12 f. There is no substantial evidence in light of the whole record before the Planning
- 13 Commission that the Amendment will have a significant effect on the environment.
- 14
- 15 2. The Planning Commission does hereby recommend that the City Council adopt the Negative
- 16 Declaration as part of its consideration and approval of the Amendment.

17 This resolution shall become effective immediately upon its passage and adoption.

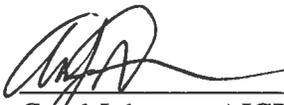
18 **PASSED AND ADOPTED** this 7th day of May, 2014, by the following vote:

19 **AYES:** Commissioners Avila, McGallian, Mercurio, Obringer

20 **NOES:** None

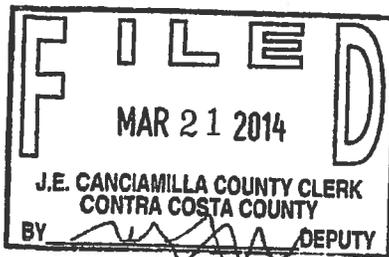
21 **ABSTAIN:** None

22 **ABSENT:** Commissioner Hoag

23  on behalf of
24 Carol Johnson, AICP
25 Secretary to the Planning Commission

26 Attachments:

- 27 A. NOI
- 28 B. Negative Declaration



**NOTICE OF INTENT TO ADOPT A
NEGATIVE DECLARATION**
California Environmental Quality Act



CITY OF CONCORD
Community Development Dept.
1950 Parkside Drive, MS/53
Concord CA 94519
PHONE: (925) 671-3152
FAX: (925) 671-3381

Pursuant to the State of California Public Resources Code and the "Guidelines for Implementation of the California Environmental Quality Act of 1970" as amended to date, this is to advise you that the City of Concord has prepared an initial study and intends to adopt a Negative Declaration for the following project.

PROJECT

Development Code Clean-Up Amendment

LOCATION/ADDRESS

City of Concord

PROJECT DESCRIPTION

In July 2012, the City of Concord adopted a new comprehensive Development Code and certified a Supplemental Environmental Impact Report for the project which also included a number of amendments to the General Plan. This is a subsequent City initiated "clean-up" amendment to correct minor technical errors and inconsistencies, and to add clarifying language to the recently adopted code. This amendment does not contain changes to any of the major policy issues discussed at numerous study sessions and public hearings. The amendment does not specifically apply to any one property or zoning district. This amendment also adds two new use categories, Micro-Brewery/Micro-Distillery and Tasting Rooms and Food Vendor Group Sites, to the use tables, subject to an Administrative Permit or Minor Use Permit. Any application would also be subject to CEQA review for that specific site. Minor changes to the Vending section of the Municipal Code are also proposed to maintain consistency with the proposed Development Code changes regarding mobile food vendors.

PUBLIC COMMENT PERIOD

From March 21, 2014 to April 9, 2014, the public and all affected agencies are hereby invited to review the Negative Declaration and Initial Study Checklist and submit written comments. Comments must be submitted by April 9, 2014 at 5:00 p.m. Comments can be mailed, faxed, or emailed.

DOCUMENT AVAILABILITY

The Negative Declaration and Initial Study Checklist and other supporting environmental documents are available for public review at the City of Concord Permit Center, Planning Division, located at 1950 Parkside Drive, Building D, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday excluding holidays. The document may also be accessed on the City's website during the public comment period at <http://www.cityofconcord.org/citygov/dept/planning/>.

CONTACT PERSON AND PHONE NUMBER

Carol Johnson, AICP, Planning Manager
(925) 671-3369
City of Concord
1950 Parkside Drive, MS/53
Concord, CA 94519
Fax: (925) 671-3381
E-Mail: carol.johnson@cityofconcord.org

PLANNING COMMISSION PUBLIC HEARING 7:00 p.m. – May 7, 2014

The proposed Development Code Clean-Up Amendment and Negative Declaration will be considered by the City of Concord Planning Commission, for recommendation to the City Council.

Signature

Date



NEGATIVE DECLARATION
California Environmental Quality Act

Based on the attached Initial Study and Environmental Checklist, the City of Concord has determined that the following project does not require preparation of an environmental impact report because it will not have a significant effect on the environment.

The reasons supporting this finding and the Negative Declaration are discussed further in the Initial Study.

PROJECT

Development Code Clean-Up Amendment

LOCATION/ADDRESS

City of Concord

APPLICANT

City of Concord

PROJECT DESCRIPTION

In July 2012, the City of Concord adopted a new comprehensive Development Code and certified a Supplemental Environmental Impact Report for the project which also included a number of amendments to the General Plan. This is a subsequent City initiated "clean-up" amendment to correct minor technical errors and inconsistencies, and to add clarifying language to the recently adopted code. This amendment does not contain changes to any of the major policy issues discussed at numerous study sessions and public hearings. The amendment does not specifically apply to any one property or zoning district. This amendment also adds two new use categories, Micro-Brewery/Micro-Distillery and Tasting Rooms and Food Vendor Group Sites, to the use tables, subject to an Administrative Permit or Minor Use Permit. Any application would also be subject to CEQA review for that specific site. Minor changes to the Vending section of the Municipal Code are also proposed to maintain consistency with the proposed Development Code changes regarding mobile food vendors.

Additional project details are described in the Initial Study.

NEGATIVE DECLARATION PREPARED BY

City of Concord
Community and Economic Development
1950 Parkside Drive, MS/53
Concord, CA 94519

Contact: Carol Johnson, AICP
Title: Planning Manager
Telephone: (925) 671-3369
Fax: (925) 671-3381

Signature _____

Carol Johnson

Date _____

March 19, 2014

Initial Study and Environmental Checklist
California Environmental Quality Act



1. Project Title: **Development Code Clean-Up Amendment**
2. Lead Agency Name and Address: **City of Concord
1950 Parkside Drive, MS/53
Concord, CA 94519**
3. Contact Person and Phone Number: **Carol Johnson, AICP
Planning Manager
925-671-3369**
4. Project Location: **Citywide**
5. Project Sponsor's Name and Address: **City of Concord**
6. General Plan Designation: **N/A (Citywide)**
7. Zoning: **N/A (Citywide)**
8. Description of Project:
In July 2012, the City of Concord adopted a new comprehensive Development Code and certified a Supplemental Environmental Impact Report for the project which also included a number of amendments to the General Plan. This is a subsequent City initiated "clean-up" amendment to correct minor technical errors and inconsistencies, and to add clarifying language to the recently adopted code. This amendment does not contain changes to any of the major policy issues discussed at numerous study sessions and public hearings. The amendment does not specifically apply to any one property or zoning district. This amendment also adds two new use categories, Micro-Brewery/Micro-Distillery and Tasting Rooms and Food Vendor Group Sites, to the use tables, subject to an Administrative Permit or Minor Use Permit. Any application would also be subject to CEQA review for that specific site. Minor changes to the Vending section of the Municipal Code are also proposed to maintain consistency with the proposed Development Code changes regarding mobile food vendors.
9. Surrounding Land Uses and Setting (Briefly describe the project's surroundings):
N/A (Citywide)
10. Other agencies whose approval may be required (e.g. permits, financing approval, or participation agreement.):
None.

Environmental Factors Potentially Affected:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Agriculture and Forest Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Utilities/Service Systems |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Mandatory Findings of Significance |
| <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Population/Housing | <input checked="" type="checkbox"/> None |

Evaluation of Environmental Impacts:

Issues:

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
Discussion: The project includes a series of technical corrections and clarification to the City's Development Code provisions and does not include any physical improvements to properties in the City. Future micro-brewery/micro-distillery or tasting rooms, or food vendor group sites would be subject to an Administrative or Minor Use Permit to ensure compliance with the City's policies. No impacts would occur.				
II. AGRICULTURE AND FOREST RESOURCES --Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined by Public Resources Code section 4526)?				X
d) Results in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X
Discussion: The project includes a series of technical corrections and clarification to the City's Development Code provisions and does not include any physical improvements to properties in the City. Future micro-brewery/micro-distillery or tasting rooms, or food vendor group sites would be subject to an Administrative or Minor Use Permit to ensure compliance with the City's policies. No impacts would occur.				
III. AIR QUALITY -- Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative threshold for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X
Discussion: The project includes a series of technical corrections and clarification to the City's Development Code provisions and does not include any physical improvements to properties in the City. Future micro-brewery/micro-distillery or tasting rooms, or food vendor group sites would be subject to an Administrative or Minor Use Permit to ensure compliance with the City's policies. No impacts would occur.				

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
Discussion: The project includes a series of technical corrections and clarification to the City's Development Code provisions and does not include any physical improvements to properties in the City. Future micro-brewery/micro-distillery or tasting rooms, or food vendor group sites would be subject to an Administrative or Minor Use Permit to ensure compliance with the City's policies. No impacts would occur.				
VII. GREENHOUSE GAS EMISSIONS -- Would the project:				
a) Generate greenhouse gases, either directly or indirectly, that may have a significant impact on the environment?				X
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?				X
Discussion: The project includes a series of technical corrections and clarification to the City's Development Code provisions and does not include any physical improvements to properties in the City. Future micro-brewery/micro-distillery or tasting rooms, or food vendor group sites would be subject to an Administrative or Minor Use Permit to ensure compliance with the City's policies. No impacts would occur.				
VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code §65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X
Discussion: The project includes a series of technical corrections and clarification to the City's Development Code provisions and does not include any physical improvements to properties in the City. Future micro-brewery/micro-distillery or tasting rooms, or				

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
recovery site delineated on a local general plan, specific plan or other land use plan?				
Discussion: The project includes a series of technical corrections and clarification to the City's Development Code provisions and does not include any physical improvements to properties in the City. Future micro-brewery/micro-distillery or tasting rooms, or food vendor group sites would be subject to an Administrative or Minor Use Permit to ensure compliance with the City's policies. No impacts would occur.				
XII. NOISE -- Would the project:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
Discussion: The project includes a series of technical corrections and clarification to the City's Development Code provisions and does not include any physical improvements to properties in the City. Future micro-brewery/micro-distillery or tasting rooms, or food vendor group sites would be subject to an Administrative or Minor Use Permit to ensure compliance with the City's policies including standard conditions of approval regarding hours of operation intended to address potential noise impacts. No impacts would occur.				
XIII. POPULATION AND HOUSING -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
Discussion: The project includes a series of technical corrections and clarification to the City's Development Code provisions and does not include any physical improvements to properties in the City. Future micro-brewery/micro-distillery or tasting rooms, or food vendor group sites would be subject to an Administrative or Minor Use Permit to ensure compliance with the City's policies. No impacts would occur.				
XIII. PUBLIC SERVICES -- Would the project:				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				X
Fire protection?				X
Police protection?				X

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X
Discussion: The project includes a series of technical corrections and clarification to the City's Development Code provisions and does not include any physical improvements to properties in the City. Future micro-brewery/micro-distillery or tasting rooms, or food vendor group sites would be subject to an Administrative or Minor Use Permit to ensure compliance with the City's policies. No impacts would occur.				
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X
b) Does the project have impacts that are individually limited, but cumulatively considerable ("cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?				X
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X
Discussion: The project includes a series of technical corrections and clarification to the City's Development Code provisions and does not include any physical improvements to properties in the City. Future micro-brewery/micro-distillery or tasting rooms, or food vendor group sites would be subject to an Administrative or Minor Use Permit to ensure compliance with the City's policies. No impacts would occur.				
Exhibits:				

- A) List of Proposed Code Amendments (incorporated by reference, on file with the Planning Division, Attn: Jason Hade at 1950 Parkside Drive, Concord, CA 94519)
- B) Final Supplemental Environmental Impact Report for the Development Code Project SCH#20060062093 (incorporated by reference, document on file at the Concord Planning Division at 1950 Parkside Drive, Concord, CA 94519)

1 **WHEREAS**, the Planning Commission, after giving all public notices required by State Law
2 and the Concord Municipal Code, held a duly noticed public hearing on May 7, 2014, on the proposed
3 Amendment and the Initial Study and Negative Declaration (collectively, “Negative Declaration”; the
4 Negative Declaration is Attachment 2 to Resolution 14-08PC, and is hereby incorporated by
5 reference); and

6 **WHEREAS**, the Planning Commission has reviewed the proposed Amendment; and

7 **WHEREAS**, prior to recommending that the City Council act on the Amendment, on May 7,
8 2014, the Planning Commission adopted Resolution No. 14-08 PC, recommending that the City
9 Council adopt the Negative Declaration, which resolution is hereby incorporated by reference; and

10 **WHEREAS**, on May 7, 2014, the Planning Commission, after consideration of all pertinent
11 plans, documents, and testimony, declared their intent to recommend approval of the Amendment.

12 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

- 13 1. The Planning Commission does hereby make the following findings:
- 14 a. The recitals above are true and correct and are incorporated herein by reference.
- 15 b. The proposed Amendment is consistent with the policies in the 2030 General Plan and
16 is necessary in order to improve the accuracy of the Development Code and its
17 standards and further achieve internal consistency and consistency with the rest of the
18 Concord Municipal Code.
- 19 c. The proposed Amendment would not be detrimental to the public interest, health,
20 safety, convenience, or welfare of the City.
- 21 2. The Planning Commission does hereby recommend that the City Council adopt an Ordinance
22 to approve the Amendment, consistent with the revisions in Exhibit A to the May 7, 2014,
23 Planning Commission Staff Report.

24 This resolution shall become effective immediately upon its passage and adoption.

25 **PASSED AND ADOPTED** this 7th day of May, 2014 by the following vote:

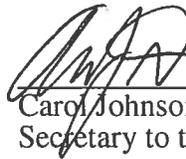
26 **AYES:** Commissioners Mercurio, Avila, McGallian, Obringer

27 **NOES:** None

28 **ABSTAIN:** None

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ABSENT: Commissioner Hoag

 on behalf of
Carol Johnson, AICP
Secretary to the Planning Commission

Attachments:

1 – Amendment (Exhibit A to the May 7, 2014, Planning Commission Staff Report).

Exhibit A Development Code Amendment List of Revisions

May 7, 2014

- 1) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 2 Residential Districts (RR, RS, RL, RM, and RH)), Table 122-78.1 (Residential Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Residential Uses; Office, Commercial, and Retail Services; and Open Space and Agricultural Uses; Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged.*

Table 122-78.1 Residential Districts Allowed Uses and Permit Requirements						ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District					Additional Requirements
	RR	RS	RL	RM	RH	
Office, Commercial, and Retail Services						
Eating and Drinking Establishments						
Food Vendor Group Site	--	--	--	--	--	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	--	--	--	--	--	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large	--	--	--	--	--	§122-617 Alcoholic Beverage Sales
Tasting Room	--	--	--	--	--	§122-617 Alcoholic Beverage Sales

- 2) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 3 North Todos Santos District (NTS), Table 122-1031.1 (North Todos Santos District - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Services, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-131.1 North Todos Santos District Allowed Uses and Permit Requirements		ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- Use Not Allowed
Land Use Classifications	Permit Required by District	Additional Requirements
	NTS	
Office, Commercial, and Retail Services		
Eating and Drinking Establishments		
Food Vendor Group Site	--	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	--	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large	--	§122-617 Alcoholic Beverage Sales
Tasting Room	--	§122-617 Alcoholic Beverage Sales

- 3) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 4 Office and Commercial Districts (CO, CMX, NC, SC, RC), Table 122-131.1 (Office and Commercial Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Services, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-131.1 Office and Commercial Districts Allowed Uses and Permit Requirements						ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- Use Not Allowed
Land Use Classifications	Permit Required by District					Additional Requirements
	CO	CMX	NC	SC	RC	
Office, Commercial, and Retail Services						
Eating and Drinking Establishments						
Food Vendor Group Site	--	MP	MP	MP	MP	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	--	--	--	MP	MP	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large ⁽¹⁾	--	--	--	UP	UP	§122-617 Alcoholic Beverage Sales
Tasting Room	--	--	--	AP	AP	§122-617 Alcoholic Beverage Sales
Personal Services						
General	-- ZC	ZC	ZC⁽³⁾	ZC⁽³⁾	ZC⁽³⁾	

- (1) Not allowed on ground floor.
 (3) Allowed to occupy up to 20 % gross area of shopping center or multi-tenant building or 20% street frontage of one building.
 (5) No outdoor facilities, storage, or activities are allowed.
 (9) Requires a minimum lot size of 10,000 sq. ft.
 (10) Allowed with residential use only.
 (11) [A facility which exceeds 3,000 square feet.](#)

- 4) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 5 (Downtown Districts (DP, DMX, WMX), Table 122-154.1 (Office and Commercial Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Services, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-154.1 Downtown Districts Allowed Uses and Permit Requirements				ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District			Additional Requirements
	DP	DMX	WMX	
Office, Commercial, and Retail Services				
Eating and Drinking Establishments				
Food Vendor Group Site	-	MP	MP	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	MP	MP	MP	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large ⁽¹⁾	UP	UP	UP	§122-617 Alcoholic Beverage Sales
Tasting Room	AP	AP	AP	§122-617 Alcoholic Beverage Sales
Media Production Facility	ZC⁽⁷⁾	ZC	ZC	

- (1) Not allowed on ground floor.
 (2) Allowed on upper floors subject to Use Permit Approval.
 (3) Allowed to occupy up to 20 % gross area of shopping center or multi-tenant building or 20% street frontage of one building
 (7) Allowed on ground floor subject to Minor Use Permit approval.
 (8) Allowed on upper floors subject to an Administrative Permit approval.

(10) Allowed with residential use only.

(14) A facility which exceeds 3,000 square feet.

- 5) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 6 Business Park and Industrial Districts (OBP, IBP, IMX, HI), Table 122-177.1 (Business Park and Industrial Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Services, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-177.1 Business Park and Industrial Districts Allowed Uses and Permit Requirements					ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District				Additional Requirements
	OBP	IBP	IMX	HI	
Office, Commercial, and Retail Services					
Eating and Drinking Establishments					
<u>Food Vendor Group Site</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>--</u>	<u>§122-634 Food Vendor Group Site</u>
<u>Micro-Brewery/Distillery</u>	<u>MP</u>	<u>MP</u>	<u>MP</u>	<u>--</u>	<u>§122-617 Alcoholic Beverage Sales</u>
<u>Micro-Brewery/Distillery, Large</u> ⁽¹⁴⁾	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>--</u>	<u>§122-617 Alcoholic Beverage Sales</u>
<u>Tasting Room</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>--</u>	<u>§122-617 Alcoholic Beverage Sales</u>

(3) Allowed to occupy up to 20% of: gross area of shopping center, multi-tenant building or 20% street frontage of one building.

(4) Outdoor sales, activities, or storage allowed inside or rear yards when enclosed by an eight-foot tall masonry wall and materials do not exceed wall height.

(5) No outdoor facilities, storage, or activities are allowed.

(6) Allowed if occupying less than 80,000 square feet of gross floor area.

(10) Allowed with residential use only

(14) A facility which exceeds 3,000 square feet.

- 6) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 7 Public/Quasi-Public Districts (PQP), Table 122-280.1 (Public/Quasi-Public Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Services, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-200.1 Public/Quasi-Public Districts Allowed Uses and Permit Requirements		ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District	Additional Requirements
	PQP	
Office, Commercial, and Retail Services		
Eating and Drinking Establishments		
<u>Food Vendor Group Site</u>	<u>AP</u>	<u>§122-634 Food Vendor Group Site</u>
<u>Micro-Brewery/Distillery</u>	<u>--</u>	<u>§122-617 Alcoholic Beverage Sales</u>
<u>Micro-Brewery/Distillery, Large</u>	<u>--</u>	<u>§122-617 Alcoholic Beverage Sales</u>
<u>Tasting Room</u>	<u>--</u>	<u>§122-617 Alcoholic Beverage Sales</u>

- 7) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 8 Community Land Districts (OS, PR, RLC, AND WRC), Table 122-280.1 (Community Land Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Services, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-223.1 Community Land Districts Allowed Uses and Permit Requirements					ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District				Additional Requirements
	OS	PR	RLC	WRC	
Office, Commercial, and Retail Services					
Eating and Drinking Establishments					
Food Vendor Group Site	--	AP	--	--	§122-634 Food Vendor Group Site
Micro-Brewery/Distillery	--	--	--	--	§122-617 Alcoholic Beverage Sales
Micro-Brewery/Distillery, Large	--	--	--	--	§122-617 Alcoholic Beverage Sales
Tasting Room	--	--	--	--	§122-617 Alcoholic Beverage Sales

- 8) *Development Code, Article IV. Development Standards, Division 3. Parking, Loading, and Access, Section 122-930(d)(5)a. Access to Landlocked Parcels is amended as follows:*

- (5) **Access to Landlocked Parcels.** Access to landlocked parcels without direct frontage on a public or private street may be created for up to four lots or parcels if the developer or property owner records an access easement that meets the following conditions:
- a. Access to one lot, [serving no more than two dwelling units](#), shall be at least 16 feet wide, [\(with including a 14-foot-wide travel surface of a width to be determined by the Fire District\)](#), connecting the landlocked parcel to a public or private street through an intervening lot or parcel. The easement shall provide emergency access with no parking;

- 9) *Development Code, Article V. Standards for Specific Uses, Division 1. Standards for Specific Uses, add new Section 122-622 "Food Vendor Group Sites", as follows:*

[122-622 Food Vendor Group Sites](#)

[Where allowed by Article II \(Zoning Districts – Uses and Standards\), Food Vendor Group Sites shall comply with the requirements of this section.](#)

- (a) [Purpose. This Section provides standards for Food Vendor Group Sites, established on private or public property, where allowed by Article II \(Zoning Districts - Uses and Standards\). Food vendors can bring vitality, pedestrian activity, and spillover economic activity to the surrounding areas while protecting the health, safety, convenience, prosperity, and general welfare of the city and surrounding businesses. It is the intent of these regulations to assure a minimum level of cleanliness, quality, and security.](#)

(b) [Applicability](#)

- (1) [This section shall only apply to Food Vendor Group Sites, which are sites with the stationary operation of one or more mobile food vendors clustered together on a single private or public property site during a specified time and in accordance with an](#)

approved permit. All other vendor sites and sales shall comply with the provisions in Concord Municipal Code (CMC) Vendor Ordinance Sections 12.50.010 through 12.50.040.

(2) Notwithstanding the provisions in this section, all vendors shall also comply with the requirements in CMC Sections 12.50.010 through 12.50.040.

(3)

(c) **Definition**

(1) **Food Vending.** The sale of prepared foods from a food vendor unit. Food vending activities may include, but are not limited to, the following:

- a. The sale of food prepared off-site in a commercial kitchen and/or prepared on-site within the food vendor unit kitchen, per Contra Costa County Health Regulations.
- b. Food ordered and served from the food vendor unit.
- c. Take-out counter and space for customer queuing.
- d. Prepared food served in disposable wrappers, plates, or containers and sold for on-site or off-site consumption.

(2) **Food Vendor Unit.** A mobile truck, trailer, vendor cart, or other movable wheeled equipment or vehicle from which food vending occurs.

(3) **Food Vendor.** A person who is engaged in food vending.

(4) **Food Vendor Group Site.** A site approved for a specified number of food vendors, where allowed by Article II (Zoning Districts Uses and Standards), for a specific duration and frequency and subject to specific conditions of approval.

(5) **Food Vendor Group Site Operator.** The individual directly responsible for organizing and/or conducting the Food Vendor Group Site and/or the facility manager, or respective designee, for the purpose of determining liability for damage to City or public facilities as a result of a food vendor group site.

(d) **General Requirements**

(1) **Location.** Food Vendor Group Sites shall be located a minimum distance of 100 feet from the following (as measured in a straight line from the property line of the Food Vendor Group Site to the nearest property line of the following):

- a. **Schools.** Any public school, unless specifically authorized by the School District, indicating that the school has no objections to the proposed Food Vendor Group Site locating on school grounds or within 100 feet of the school grounds.
- b. **Parks.** Any public park or recreation area unless specifically authorized by the City.
- c. **Restaurants.** Any Full Service, Limited Service, or Drive through, restaurant, unless specifically authorized by the restaurant.
- d. **Any Bar, Nightclub, Lounge.**

(2) **Restrooms.** Food Vendor Group Sites shall be located within 200 feet of an available functioning restroom facility, which is available for the vendors and their employees.

and customers, unless otherwise set forth in the permit approval for the Food Vendor Group Site.

- (3) Hours of Operation. Food Vendor Group Site activities shall not be conducted before 7:00 a.m. or after 9:00 p.m., any day of the week, and all vendor units shall be cleared from the site by 10:00 p.m., unless otherwise set forth in the permit approval for the Food Vendor Group Site.
- (4) Site Circulation
 - a. Food vendor units shall not impede circulation, block driveways, drive aisles, parking, or other site improvements which are required for other businesses
 - b. Food Vendor Group Sites shall not locate or block parking spaces which serve as required parking for any other business or use on the property;
 - c. Each food vendor unit at a Food Vendor Group Site shall be sited in a manner to insure that the customer queue maintains a minimum five feet of unobstructed clear path along any public sidewalk or right-of-way when the service window faces the street or sidewalk.
 - d. Safe and adequate parking shall be provided for customers of the Food Vendor Group Site, the number of spaces and the layout shall be submitted with the application for a Food Vendor Group Site.
- (5) Site Conditions. The Food Vendor Group Site operator shall be responsible for the improvement, maintenance, and compliance with the conditions of approval, as follows:
 - a. Installation of improvements and maintenance of the site, adjacent right-of-way, and properties within 100 feet of the site in a safe, litter free, and clean manner at all times.
 - b. Installation of paving of all areas of the site to be used by vendor units and as needed for parking, shall be paved.
 - c. Installation and maintenance of adequate lighting to ensure vendor and customer safety. All lighting shall be directed downwards and away from adjacent properties and public streets.
 - d. On-going arrangements and costs for the collection and disposal of waste and trash after each Food Vendor Group Site event.
 - e. The layout of the Food Vendor Group Site shall comply with the approved permit and maintain site circulation and access consistent with the Americans with Disabilities Act (ADA).
 - f. Installation, maintenance, and storage of other site amenities such as tables and chairs, portable restroom facilities, and/or temporary shade structures, as required.
- (6) Security. The Food Vendor Group Site operator shall ensure that adequate safety and security measures are implemented.
- (7) Display and Appearance of Mobile Food Vendor Units

- a. Each food vendor unit shall display a current business license and current health department permit in plain view, as required by the health department.
- b. Food vendor units shall be maintained in movable condition at all times.
- c. Each food vendor shall provide at least one 32 gallon trash receptacle within 15 feet of their food vendor unit.

(8) Alcohol. The serving or consumption of alcohol is prohibited at Food Vendor Group Sites.

(e) Permit requirements. Where allowed by Article II (Zoning Districts – Uses and Standards), an Administrative Permit or Minor Use Permit shall be required, in accordance with Article VII. (Permits and Permit Requirements).

(f) Conditions of Approval. In addition to the requirements in this section, additional conditions may be required as determined necessary to protect the public health, safety, welfare, and order, and to minimize adverse impacts upon the surrounding neighborhood and the general community. Additional conditions may be added to address noise, lighting, odors, or smoke. The following conditions shall apply to all Food Vendor Group Sites:

(1) No more than one Food Vendor Group Site shall be allowed on any single property.

(2) Any exterior storage of refuse, equipment, or materials associated with the Food Vendor Group Site and each food vendor unit shall be prohibited on the site except during operating hours.

10) *Development Code, Article IX General Terms, Division 1. Use Classifications, Section 122-1580 Use Classifications, is amended as follows:*

Eating and Drinking Establishments

Bar, Night Club, Lounge. An establishment that sells beer, wine, and distilled spirits in accordance with applicable California Department of Alcoholic Beverage Control regulations. ~~on-site consumption~~ and may include live entertainment.

Micro-Brewery/Micro-Distillery. A facility for the production and packaging of alcoholic beverages for distribution, retail, or wholesale, on or off premises and which meets all applicable California Department of Alcoholic Beverage Control regulations. Outdoor eating areas shall be permitted as an accessory use to a micro-brewery/micro-distillery consistent with Section 122-632. Sidewalk Cafes and Outdoor Eating Areas.

Restaurant, Full Service. A restaurant that prepares food, may include alcoholic drinks, and serves seated customers who select food from a menu. Take out service is optional and may not be available.

Restaurant, Limited Service. An establishment that prepares food or sells packaged food for on-site consumption, take out, or delivery. Typically customers self-serve or are served partially. This classification includes cafeterias, delicatessens, fast-food restaurants, sandwich shop, pizza parlors, snack bars, takeout restaurants, and catering businesses or bakeries that have a storefront restaurant component.

Restaurant with Drive-Through. A restaurant where food or coffee type beverages may be purchased by motorists who remain in their vehicles during the sales transaction.

Restaurant with Live Entertainment. A full service or limited service restaurant that also provides live music, a disc jockey, karaoke, dancing to live or recorded music, and/or comedy or theatrical performances to patrons. This classification does not include coin-operated music player machines, i.e., jukeboxes, or other recorded music.

[Tasting Room. A facility allowing on-site tasting of alcoholic beverages and retail sales directly to the public and possessing the appropriate California Department of Alcoholic Beverage Control license type. The tasting room may be operated within a micro-brewery/micro-distillery facility, accessory to a separate on-site use, or as a stand-alone retail use. Outdoor eating areas shall be permitted as an accessory use to a tasting room consistent with Section 122-632, Sidewalk Cafes and Outdoor Eating Areas.](#)

11) *Concord Municipal Code Section 12.50.030 is amended as follows:*

Chapter 12.50 Vendors

Sec. 12.50.030. Vending locations; permits and business licenses; vendor operations.

(a) Authority to vend on public or private property. A vendor may be permitted to operate only at public and private property authorized by this section, subject to first obtaining a written city permit. This section does not apply to a vendor on public property not owned by the city if permission to vend has been granted by the property owner or on private property where permission to vend has been granted by city permit.

(1) Vendor motor vehicles. On private property, [which is not an approved Food Vendor Group Site](#), vendor motor vehicles are allowed only at construction sites. Such vehicles may stop at a construction site for no more than 30 minutes without moving to a new location at least 300 feet removed therefrom. Such vehicles may not return to a location where they have previously stopped to vend within the previous three hours.

(2) Nonmotorized carts. Vendor carts are allowed on private property only pursuant to a city ~~use~~ [administrative](#) permit or ~~Zoning Administrator's~~ [minor use](#) permit. Vendor carts are allowed on construction sites only pursuant to an administrative ~~occupancy~~ permit. The approving authority may impose reasonable conditions as provided in subsection (g)(2). At construction sites on private property, vendor carts may stop for no more than 30 minutes without moving to a new location at least 300 feet removed therefrom. Such carts may not return to a location where they have been previously stopped to vend within the previous three hours.

(3) Vendors prohibited in Downtown ~~Business Pedestrian~~ [Business Pedestrian](#) Zoning District. Vendors shall not be permitted to operate at any publicly owned location in the Downtown ~~Business Pedestrian~~ [Business Pedestrian](#) Zoning District except as authorized by section 90-103(b)(2) pursuant to a valid [minor](#) use permit.

**REPORT TO PLANNING COMMISSION**

DATE: May 7, 2014

SUBJECT: Development Code Clean-Up Amendment (PL131356-DC, MC)**Recommendation: Adopt Resolution No. 14-08PC recommending City Council adoption of the Negative Declaration and
Adopt Resolution No. 14-09PC recommending City Council adoption of the Development Code Clean-Up Amendment.****I. Background**

On July 23, 2012, the City Council adopted a new Chapter 122 of the Concord Municipal Code, known as the "Development Code", which became effective on August 23, 2012. The intent of the Development Code was that it be an up to date, user-friendly document. Due to the size and scale of the project, it was expected that a number of amendments would be needed during the initial phase of implementation. It was recognized that certain Code provisions still needed further work, such as aspects of the sign regulations and vendor provisions. The First Development Code "Clean-Up" Amendment was reviewed by the Planning Commission on September 19, 2012 and adopted by the City Council on October 23, 2012. A Second Development Code Clean-Up Amendment was reviewed by the Planning Commission on July 17, 2013 and adopted by the City Council on September 24, 2013.

This is a subsequent Development Code Clean-Up Amendment clarifies certain provisions and includes new use categories for micro-breweries/distilleries and tasting rooms as well as mobile food vendors. These changes will further streamline permit processes and support the economic growth of the City of Concord by creating a permit process for these emerging new land uses which are not currently included in the Development Code.

II. California Environmental Quality Act (CEQA)

Staff prepared an Initial Study on the proposed amendment in accordance with the California Environmental Quality Act (CEQA). Based on the findings of the Initial Study, a Negative Declaration was recommended as the appropriate course of action. On March 21, 2014, a Notice of Intent to adopt a Negative Declaration (Exhibit B, Resolution 14-08PC, Attachment A) was filed with the Contra Costa County Clerk and published in the Contra Costa Times beginning a 20-day review period which ended on April 9, 2014, per CEQA requirements. The City did not receive any comments.

III. Discussion of Exhibit A

Exhibit A is a list of the proposed amendments, in legislative edit format that constitute the Development Code Clean-Up Amendment. These amendments are discussed individually, below, in

the same sequence as they appear in Exhibit "A", except for related amendments, which are grouped together.

Article II. Zoning Districts – Uses and Standards

#1. Division 2. Table 122-78.1 Residential Districts - Allowed Uses and Permit Requirements

Food vendor group sites, micro-breweries/distilleries, and tasting rooms are excluded and prohibited within all residential zoning districts.

#2. Division 3. Table 122-131.1 North Todos Santos District - Allowed Uses and Permit Requirements

Food vendor group sites, micro-breweries/distilleries, and tasting rooms are excluded and prohibited within the North Todos Santos zoning district.

#3. Division 4. Table 122-131.1 Office and Commercial Districts - Allowed Uses and Permit Requirements

The proposed amendment would permit food vendor group sites within the Commercial Mixed Use, Neighborhood Commercial, Service Commercial, and Regional Commercial zoning districts subject to an approved Minor Use Permit.

Micro-breweries/distilleries under or equal to 3,000 square feet would be permitted within the Service Commercial and Regional Commercial zoning districts subject to an approved Minor Use Permit while tasting rooms would be allowed within these same zoning districts via an Administrative Permit. Footnote 11 indicates that micro-breweries/distilleries could exceed 3,000 square feet in size subject to an approved Use Permit.

Neither food vendor group sites nor micro-breweries/distilleries would be permitted within the Community Office zoning district.

Lastly, general personal services, such as tanning salons and barber and beauty shops, would be permitted via a Zoning Clearance in the Community Office zoning district as they currently are within all other commercial zoning districts.

#4. Division 5. Table 122-154.1 Downtown Districts - Allowed Uses and Permit Requirements

The proposed amendment would permit food vendor group sites within the Downtown Mixed Use and West Concord Mixed Use zoning districts subject to an approved Minor Use Permit. However, this use would not be permitted within the Downtown Pedestrian zoning district.

Micro-breweries/distilleries under or equal to 3,000 square feet would be permitted within all downtown zoning districts subject to an approved Minor Use Permit while tasting rooms would be allowed within these same zoning districts via an Administrative Permit. Footnote

14 indicates that micro-breweries/distilleries could exceed 3,000 square feet in size subject to an approved Use Permit.

Lastly, staff suggests permitting media production facilities on the ground floor by deleting the reference to footnote 1 for such uses.

#5. Division 6. Table 122-177.1 Business Park and Industrial Districts - Allowed Uses and Permit Requirements

As proposed, the amendment would permit food vendor group sites via an approved Administrative Permit within all business park and industrial zoning districts.

Micro-breweries/distilleries under or equal to 3,000 square feet would be authorized through an approved Minor Use Permit while tasting rooms would be permitted via an Administrative Permit in these same zoning districts.

As with the zoning districts identified above, footnote 11 would allow micro-breweries/distilleries to exceed 3,000 square feet with an approved Use Permit.

#6. Division 7. Table 122-200.1 Public/Quasi-Public Districts - Allowed Uses and Permit Requirements

Within the Public/Quasi-Public districts, food vendor group sites would be permitted via an Administrative Permit while micro-breweries/distilleries and tasting rooms would not be permitted.

#7. Division 8. Table 122-2023.1 Community Land Districts - Allowed Uses and Permit Requirements

Within the Community Land districts, only the Parks and Recreation zoning district would allow food vendor group sites through an Administrative Permit. Micro-breweries/distilleries and tasting rooms would not be permitted within the Community Land zoning districts.

Article IV. Development Standards

#8. Division 3. Parking, Loading, and Access Section 122-930(d)(a) Access to Landlocked Parcels

In order to achieve consistency with the current fire safe standards, the reference to a 14-foot wide travel surface would be deleted and deferred to a determination to be made by the Fire District.

Article V. Standards for Specific Uses

#9. Section 122-622 Food Vendor Group Sites

Staff is proposing that this new use be allowed on private property or on public sites such as at the BART station. The use would not be allowed on a full time basis and each permit approval would specify the number and types of vendors, specific days, and hours of operation. The permit would provide an opportunity to ensure the site could accommodate the use and set forth operating conditions. Each permit would be subject to specific conditions of approval, as appropriate for the site.

A food vendor group sites would be defined as sites with the stationary operation of one or more mobile food vendors clustered together on a single private or public property site during a specified time and in accordance with an approved permit. This new use section includes language which addresses location requirements, restrooms, hours of operation, site circulation, site conditions, security, the display and appearance of mobile food vendor units, and alcohol. Permit requirements and standard conditions of approval are also included.

As all other vendor sites and sales would need to continue to comply with the requirements in Concord Municipal Code Chapter 12.50 (Vendors), revised language is discussed below to maintain consistency with the proposed Development Code changes regarding mobile food vendors.

Article IX. Terms

Division 1. Section 122-1580 Use Classifications

#10. Eating and Drinking Establishments

The definition for a bar, night club, or lounge would be amended to delete the reference to “on-site consumption” and include a reference to the applicable California Department of Alcoholic Beverage Control (ABC) regulations. This would achieve consistency with the current ABC license provisions.

A new definition for the previously discussed micro-brewery/distillery would be included which addresses the size of such facilities, use requirements, compliance with ABC regulations, and outdoor seating areas. A tasting room definition is also included.

Concord Municipal Code

#11. Section 12.50.030 Vending Locations; permits and business licenses; vendor operations

The proposed minor changes shown in Exhibit A would update the City’s Municipal Code to reflect consistency with the proposed Development Code changes discussed above. Additionally, the proposed revision would remove the reference to the Downtown Business zoning district and replace it with a reference to the current Downtown Pedestrian zoning district.

IV. Fiscal Impact

The adoption of this Development Code Clean-Up Amendment will have a beneficial fiscal impact on the City by encouraging the location of new revenue-generating land uses to the City.

V. Public Contact

On December 4, 2013, staff conducted a study session regarding the proposed micro-brewery/distillery and tasting room regulations at which time the Planning Commission affirmed their support for the proposed revisions. On December 11, 2013, staff made a presentation to the Todos Santos Business Association concerning the proposed mobile food vendors Development Code changes and solicited their feedback via a brief survey. An open house was held on March 4, 2014 to obtain additional feedback from stakeholder groups regarding the proposed mobile food vendors regulations.

Notice of this hearing was published on a 1/8 page advertisement in the Contra Costa Times, as required by State Law and the Concord Municipal Code. Notice for this meeting has also been posted at the Civic Center.

VI. Summary and Recommendations

1. Adopt Resolution No 14-08PC recommending City Council adopt the Negative Declaration for the Development Code Clean-Up Amendment.
2. Adopt Resolution No 14-09PC recommending City Council adopt an Ordinance, approving the Development Code Clean-Up Amendment.

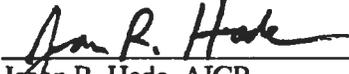
VII. Motion

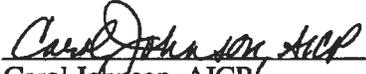
CEQA Action

I (Comm. _____) hereby move that the Planning Commission adopt Resolution 14-08PC recommending City Council adoption of the Negative Declaration for the Development Code Clean-Up Amendment which was circulated for public review on March 21, 2014 with a review period through April 9, 2014. (Seconded by Comm. _____.)

Planning Action

I (Comm. _____) hereby move that the Planning Commission adopt Resolution 14-09PC recommending City Council adopt an Ordinance approving the Development Code Clean-Up Amendment. (Seconded by Comm. _____.)

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Exhibits:

- A - List of proposed amendments in legislative format
- B - PC Resolution 14-08 PC (Attachment 1: NOI, Attachment 2: Negative Declaration)
- C - PC Resolution 14-09 PC (Attachment 1: Exhibit A to this Staff Report)