

19.6.19 NC-1 Neighborhood Commercial Zone Overlay (5-2-071-16-19)

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19.6.19.1 Purpose and Zone Overlay Characteristics
The NC-1 Neighborhood Commercial Zone Overlay is established to provide areas within the City where limited commercial uses conducive to residential uses can be integrated into predominantly residential areas. These uses are limited in scope to those the city has determined conducive to the nature of the residential neighborhood, especially those uses that provide local services. The application is project and use specific. The hours of operation, noise generated by business activities, emissions, parking, and lighting are all primary concerns in the zone.

To determine whether application of the overlay is appropriate, the city council shall weigh all factors that could impact the neighborhood and determine that the overlay will not detrimentally impact the neighborhood and will be in the best interest of the city. The Rezoning to council shall err on the side of the NC-1 Zone should be carefully reviewed to ensure protection of the existing neighborhoods and residential uses. Among any other factors the council determines helpful to analyze whether to apply the overlay, Council shall analyze building design, massing, and orientation, hours of operation, maximum potential number of employees on site and square footage of the business, noise generated by business activities, proximity to similar services, nature of vehicular access, impact on and increase in traffic, emissions, parking, lighting, signage, landscaping, projections into setbacks, build-to-lines, lot size, accessory structures, and neighborhood characteristics. Some, but not necessarily all of the items that will be considered Other considerations by the Planning Commission and City Council in the determination of a zone change include:

1. Whether the proposed use, layout, or design will disrupt or otherwise negatively impact the residential character of the neighborhood.
- 4.2. Whether the proposed use would be more appropriate in another commercial zone or would serve to undermine the intention of other commercial zoning districts.
- 2.3. The impact the commercial use would have on the circulation vehicular and pedestrian safety and the traffic pattern of the neighborhood and how the transportation network could accommodate any increase in traffic.
- 3.4. The impact of the commercial use on the infrastructure in the general vicinity.
- 4.5. The use of the NC-1 Zone overlay should not be granted simply to avoid compliance with any other development regulation or to simply appease a landowner who should be operating a commercial business in a more appropriate location.
- 5.6. The effect anticipated at the rezone stage is intended to the maximum potential impact the project could will have on the neighborhood. The overlay is limited to the approved use and concept plan. Site plan modifications or other land use applications shall require additional approvals. Additional structures, subdivision of property and other development approvals will be strictly limited and only if it can be shown that the additional approval will serve to reduce impact on the neighborhood.
- 6.7. The configuration and design of the NC-1 Zone project must complement the residential character of the neighborhood. In some instances, the overlay area zone will be very compact and located in the heart of residential development and in other locations instances the area may be larger along an arterial road.

19.6.19.2 Permitted, Conditional and Accessory Uses and Structures

The following uses are allowed NC Overlay only may be applied to operate the following uses in the NC-1 Zone. The overlay shall not be applied to operate if a use is not listed below, the use is not allowed in the zone. The uses listed uses are meant to be specific and narrowly defined to be construed narrowly. If there is any question of whether the use is appropriate, the applicant will be required to process a Zoning Ordinance amendment in conjunction with the request.

1. Business and management consulting services
2. Travel agencies and arrangement services
3. Insurance and real estate services
4. Art, crafts and hobby shopstores
5. ~~Local government structures~~

- ~~6-5.~~ Florists
- ~~7-6.~~ Gifts and souvenirs shops
- ~~8-7.~~ Beauty and barber services
- ~~9-8.~~ Health spas
- ~~10-9.~~ Physician and dental services
- ~~11-10.~~ Chiropractic, massage therapy and osteopath
- ~~12-11.~~ Legal services, ~~therapists,~~ and adoption agencies
- ~~13-12.~~ Accounting, auditing and bookkeeping
- ~~14-13.~~ Interior design studios, not to include warehousing
- ~~14.~~ Structures for fruit, vegetable, and flower sales
- ~~15.~~ Reception centers
- ~~15-16.~~ Any use permitted under the base zone ~~(10-1-08)~~

In order to maintain the residential character of the area, ~~drive-throughs are expressly prohibited.~~

~~Accessory structures are only allowed for greenhouses and fruit stands, or as otherwise approved by City Council as part of the overlay request. Outdoor storage is not allowed and commercial uses shall be wholly conducted within an enclosed building. The following uses are expressly prohibited:~~

- ~~1. Subdivision of property is not a permitted use in the zone~~
- ~~2. Drive-up windows~~

19.6.19.3 Lot Area

There is no minimum lot area requirement ~~in the NC-1 Zone.~~ However, the parcel must be large enough to accommodate required off-street parking, building setbacks, landscaping, lot improvements and other development regulations. The maximum ~~overlay project area in the NC-1 Zone is~~ one (1) acre.

19.6.19.4 Lot Width and Frontage

~~Any parcel smaller in width and/or frontage than the base zone and the average on that block shall only be approved if the legislative body finds that the smaller lot width and/or frontage is necessary under the circumstances and would not detract from the neighborhood.~~

~~There shall be no minimum width requirement in the NC-1 Zone, except that any parcel smaller in width than the average of the parcels on that block shall be reviewed and approved by the City Council. If the Council finds that the width is insufficient or undesirable, the Council may require that the massing, uses, and other design characteristics be compatible with surrounding uses.~~

19.6.19.5 Lot Frontage

~~There shall be no frontage requirement in the NC-1 Zone, except that any parcel with less frontage than the~~

~~average of the parcels on that block shall be reviewed and approved by the City Council. If the Council finds that the frontage is insufficient or undesirable, the Council may require that the massing, uses, and other design characteristics be compatible with surrounding uses.~~

19.6.19.6 Setback and Build-To-Line Requirements

The following ~~minimum~~ setback and build-to-line requirements shall apply ~~for primary and accessory structures in the NC-1 Zone. Each setback is measured from the property line of the lot or parcel.~~ (4-15-15)

1. Front setback ~~-- Each lot or parcel in the NC-1 Zone shall have a minimum front setback of twenty y-five (205) feet.~~
2. Side setback ~~-- Each lot or parcel in the NC-1 Zone shall have a minimum side setback of fifteen (15) feet except as follows:~~
 - a. Side setback for structures constructed adjacent to residentially uses shall be a minimum of twenty (20) feet.
 - b. ~~Corner lot sSide setback--for corner lot-- Each corner lot or parcel in the NC-1 Zone shall have a minimum setback on the non-frontage side of twenty (20) feet.~~
 - c. Side setback for driveway - ~~Each side setback, when used for access to a parking area shall have a minimum setback of twenty (20) feet and shall be hard surfaced.~~
3. Rear setback - ~~Each lot or parcel in the NC-1 Zone shall have a minimum rear setback of twenty (20) feet.~~
4. The land use authority may impose a build-to-line that represents the distance from the property line that a structure will be constructed. The build-to-line may be imposed on any side of the structure. The build-to-line may be imposed ~~in order to~~ reduce the parking adjacent to the street, improve aesthetics of the site, or ~~for improve~~ circulation purposes. The imposition of a build-to-line ~~may override required setbacks but~~ does not reduce the amount of required off-street parking or landscaping. (4-15-15)

19.6.19.7 Projections into Setbacks

The following structures may project into a required setback upon the completion of a survey, ~~or other acceptable means,~~ to accurately determine the property line:

- ~~1. Fences and walls in conformance with applicable City ordinances and resolutions.~~
- ~~2. Landscaping and irrigation systems.~~
- ~~3. Necessary appurtenances for utility service.~~
- ~~1. Cornices, eaves, sills, buttresses, awnings, planter boxes or other similar architectural features may~~

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project up to four (4) feet into any required front or rear setback or up to two (2) feet into a side setback.

2. Any projection allowed under Chapter 19.9.23 "Projections into Setbacks."

4.3. Any projection approved by the legislative authority when the projection consists primarily of architectural features or other elements that help the project blend into the residential neighborhood.

19.6.19.8 Building Requirements, Massing and Scale

A primary building or structure may not exceed thirty-five (35) feet in height, nor be lower than ten (10) feet in height. Buildings shall reflect the character of the neighborhood in terms of massing and scale, specifically with immediately adjacent structures. For instance, where single story structures exist, a commercial use should be conducted in a single story structure. Where a mixture of buildings heights and sizes exist, the commercial structure shall provide a transition between the various building scales.

An accessory structure ~~in the NC-1 Zone~~ may not exceed eighteen (18) feet in total height as defined in Chapter 19.28 herein and shall not be larger than the primary structure. If an accessory structure is larger than 200 sq ft it shall incorporate design elements that substantially match or complement the primary structure and cause it to blend into the site. ~~(4-15-12)~~

19.6.19.9 Permissible Lot Coverage

The sum total of all buildings, structures, and impervious material on any parcel ~~in the NC-1 Zone~~ shall not be greater than sixty (60) percent of the total area of the parcel. ~~(4-15-15)~~

19.6.19.10 Parking, Loading and Access

Each project ~~in the NC-1 Zone~~ shall satisfy the off-street parking requirements found in Chapter 19.4 herein. The spaces shall be hard surfaced with asphalt or concrete and be accessed from a public road by a hard surfaced, composed of asphalt or concrete, drive approach. The city council may authorize the use of on-street or off-site parking to help meet the parking requirements if the applicant can demonstrate the arrangement will have minimal to no detrimental impacts on adjacent properties and the neighborhood at large and that any potential parking needs will not interfere with snow removal.

19.6.19.11 Project Plan Approval

Any request for project plan approval in the NC Overlay is subject to all applicable City resolutions and ordinances including, but not limited to, Chapter 19.8 "Commercial and Industrial Development", the

Subdivision Ordinance, Development Guidelines, and the Payson City General Plan.

Application of the NC Overlay is a request for a use that the city views as an increase in intensity compared to the residential uses allowed in the underlying zone. The development rights on the subject property are those found in the underlying zone until, and unless, city council approves the overlay. After approval, the overlay remains tied to the specific proposal and is site specific. In other words, the overlay will not transfer to another property if the business relocates nor will the overlay allow a new business with a different use or allow a site modification without new approvals.

The NC Overlay may be employed in any residential zone. Approval for the use of the NC Overlay shall be processed in the same manner as a zone change in accordance with Section 19.2.8 herein, with the exception that approval for the use of the overlay need not be shown on the Zoning Map.

To obtain overlay approval, applicants shall present a concept plan showing the proposed project. If the overlay is approved, the applicant will submit complete project plans.

Unless otherwise specified by the city council, approval of the overlay shall lapse after one year if substantial construction of the proposed structure has not been completed. If this occurs, the approval for use of the overlay shall be null and void.

~~Projects in the NC-1 Zone will be reviewed and approved in accordance with Chapter 19.8, Commercial Development, Site Plans, herein.~~

~~Any request for project plan approval in the NC-1 Zone is subject to any and all applicable City resolutions and ordinances including the Subdivision Ordinance, Development Guidelines, and the Payson City General Plan. (12-19-18)~~

19.6.19.12 Other Requirements

The following requirements are in addition to ~~all other~~ the requirements: ~~found in this Chapter, the General Provisions or Supplementary Provisions of this ordinance, or any other applicable resolution or ordinance.~~

1. Signs – Signs shall not distract from the residential character of the area. Sign size, lighting and location must be compatible with surrounding uses. Sign locations shall be shown on the concept plan and approved with the overlay. Electronic signs are not permitted. All signs must be consistent with the regulations of Chapter 19.15 herein.

2. Landscaping - ~~Each lot or parcel shall be completely landscaped except those areas used for buildings or parking. Each project application shall be accompanied by a~~The applicant shall submit a complete landscaping plan that detailsing the types and sizes of planting materials to be used. ~~Each lot or parcel shall be completely landscaped except those areas used for buildings or parking.~~ The landscaping shall be maintained using an automatic sprinkling system and shall be completed prior to issuance of a Certificate of Occupancy.
- ~~3. Accessory structures are not allowed in the NC-1 Zone. Outdoor storage is not allowed and commercial uses shall be wholly conducted within an enclosed building.~~
- ~~4.3.~~Trash, junk, and other debris - No trash, used materials, unsightly storage of any kind, or non-licensed or abandoned vehicles are allowed on site.
- ~~1.~~Design Guidelines - The City Council may require specific design guidelines~~be employed in~~

~~the project.~~ The design guidelines may include, but are not limited to, architectural controls, colors, materials, building mass and orientation, innovative design of buildings and access, and any other features deemed appropriate by the City Council. The design guidelines apply to all structures in a development including accessory structures.

- ~~4.~~
~~2-5.~~No dust, odor, smoke, vibration, intermittent light, glare, or noise shall be emitted which is discernible beyond the premises, except for normal traffic movements.

19.6.19.13 Parcels Constricted by Land Constraints
~~In order to~~To effectively protect the residential character of the surrounding area, any project that cannot comply with the requirements on this Section concerning parking, access, landscaping or other constraints based on lot size, location, or configuration will not be allowed.

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