



Planning Division

ZONING INTERPRETATION RECORD

ZIL18-04

June 15, 2018

SUBJECT OF INTERPRETATION:

Catlin Court Planned Area Development PAD

ZONING CODE ORDINANCE SECTIONS:

Catlin Court PAD Sections: Land Use Mix, and, Approval

CAUSE FOR INTERPRETATION:

A zoning interpretation has been requested by Chery Kappes and Linda Whittle, owners of property and operators of businesses in the Catlin Court District. This request is for an interpretation of the Planned Area Development (PAD) language of the Land Use section, Land Use Mix subsection and Approval subsection found on page 31 of the PAD document.

INTERPRETATION:

Interpretation Part 1

Applicable PAD Section:

“Land Use Mix:

Professional office use on the first floors of buildings shall be limited to a maximum of twenty-five percent of the gross square footage of the first-floor space within the district.”

Planning Administrator Interpretation:

In summary, the land use standard that is the subject of this interpretation is substantially flawed and unenforceable because it creates a floating entitlement and attempts to apply a standard on a district-wide basis.

The stated intent of the Catlin Court District is “to develop a specialty retail district including a mix of retail stores, restaurants with a percentage of office and residential use.”

The intended land use standard to control the land use mix in Catlin Court is a maximum amount (25%) of professional office use of the first floor of buildings in the Planned Area Development District. Residential use, referenced above, is not limited to a specified percent of the District and is not the subject of this interpretation. As a land use regulation, the measurement (in square feet) of a specific land use, in this case 'professional office,' would be required on a district-wide basis.

The 25% standard is flawed as it creates a 'floating' entitlement that property owners possess one day, and then potentially lose the next day. Under the intended scheme in the PAD, as uses change of over time on individual properties in Catlin Court, other property owners are not able to ascertain whether professional office is an allowed use as there is no reliable way to track the precise amount (and whether the 25% first floor area of the district has been reached) of professional office use at any one point in time.

Additionally, the amount of office use changes over time as property use changes with tenants, property owner interests, market conditions among other reasons. Property owners are not compelled to provide exact amounts of various permitted land uses because they are permitted (retail and office for example). Many owners change uses without the need for City building safety or other types of review and approval. Further, the 25% maximum also changes with new construction, demolitions, and modifications to existing buildings. It is therefore a constantly moving target- again highly unusual for land use or zoning regulations.

In good faith, the City has explored various methods of enforcing the Land Use Mix regulation of Catlin Court including: 1) a city-conducted survey of the interior all existing buildings in the District, 2) requiring applicants to perform such a survey, and 3) adding additional approval processes for businesses in Catlin Court. None of these methods can be reasonably and reliably applied to enforce the 25% office standard.

For these reasons, the land use mixture standard contained in this PAD District is unenforceable. Applications for permits involving professional office use in the Catlin Court PAD shall not be denied based on the 25% professional office use cap included in the Catlin Court Planned Area Development District.

Review of the records pertaining to the preparation and adoption of Catlin Court PAD does not provide any clear additional information on how this provision was to be measured or enforced. There was a reference to record keeping at one of the public meetings. Upon review and research of Development Services and Planning archives, no records, including permits and licenses documenting cumulative professional office use in the Catlin Court District were discovered.

Applicable PAD Section:

“Approval:

Every use shall be subject to the development plan review process. A development plan review application is required and shall be submitted for all new land uses and changes of land use prior to implementation of the use.”

Planning Administrator Interpretation:

The 'Approval' section of the Catlin Court PAD refers to the City's development review process. New business/commercial uses typically require a business license and may require a building permit. Building permits are only required when modifications or additions to the building, including interior 'tenant improvements' are intended. Depending on the use and the extent of the change to the premises, the applicant may be required to submit building plans, tenant improvement plans or simple application for the change in use. A Certificate of Occupancy is issued by the City once the plans and application are approved by the City. The City does not require property owners to provide information (such as square footage) about specific permitted uses within an entire zoning district (in this case Catlin Court PAD) and therefore cannot and does not withhold approvals of permits, plans or licenses based on permitted land uses such as professional office. A review of permit and application records indicates no such information has ever been required by the City of Glendale.

Interpretation Part 2

"Request for "Departmental Policy/Administrative Tools"

I do not believe this is an interpretation issue and is more like a public records request.

Copies of our relevant application forms for building permit, business license, use permits will be attached to this Interpretation. None of the other contemplated items exist and therefore cannot be provided.

In conclusion, the requested copy of the administration's policies and procedures for administration of the Catlin Court 25% limit on professional office use cannot be provided as none exists due to the inability to enforce this 'unique' provision.

CONCLUSION:

In conclusion, regarding Part 1 of this interpretation, the land use standard that is the subject of this interpretation is substantially flawed and unenforceable because it creates a floating entitlement and attempts to apply a standard on a district-wide basis.

With regard to the "Approvals' section of the PAD, the City does not require property owners to provide information (such as square footage) about specific permitted uses within an entire zoning district (in this case Catlin Court PAD) and therefore cannot and does not withhold approvals of permits, plans or licenses based on permitted land uses such as professional office.

Regarding Part 2, in conclusion, the requested copy of the administration's policies and procedures for administration of the Catlin Court 25% limit on professional office use cannot be provided as none exists due to the inability to enforce this 'unique' provision.

Interpretation by:



David A. Williams, AICP
Planning Administrator

Date:

6.15.18