

Article IV - Land Use and Development Permit Procedures

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Chapter 17.70 - Applications, Processing, and Fees

Sections:

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17.70.010 - Purpose of Article

This Article provides procedures and requirements for the preparation, filing and processing of applications for land use permits and other entitlements required by this Development Code.

17.70.020 - Authority for Land Use and Zoning Decisions

Land use and development decisions are under the jurisdiction of the City Council, Planning Commission, City Manager, City Planner, Building Official, City Engineer, Site Plan Review Committee (consisting of the City Planner, City Engineer, and Building Official) and Design Review Committee. For more information regarding administrative responsibilities, refer to Chapter 17.120 (Administrative Responsibilities). Table 4-1 (Review Authority) identifies the City official or body responsible for reviewing and making decisions on each type of application, land use permit, and other entitlements required by this Development Code.

17.70.030 - Concurrent Permit Processing

When a single project incorporates different land uses or features so that this Development Code requires multiple land use permit applications, and/or the project involves a land use permit application and a Tentative Map, all the applications shall be reviewed, and approved or denied, concurrently by the highest level review authority assigned by Table 4-1 to any of the required applications. (For example, a project that requires a Zoning Map amendment and a Use Permit shall be reviewed, and approved or denied by the City Council, where a Use Permit application by itself would normally be reviewed and acted upon by the Planning Commission.)

TABLE 4-1					
REVIEW AUTHORITY					
Role of Review Authority (1)					
Type of Decision	Design Review Committee (2)	City Planner (3)	Site Plan Review Committee (3)	Planning Commission	City Council
Administrative and Amendments					
Development Code amendment				Recommend	Decision
General Plan amendment				Recommend	Decision
Interpretations		Decision		Appeal	Appeal
Zoning Map amendment				Recommend	Decision
Land Use Permits/Development Approvals					
Demolition Review	Recommend			Decision	Appeal
Development Agreement				Recommend	Decision
TABLE 4-1					
REVIEW AUTHORITY					

Role of Review Authority (1)					
Type of Decision	Design Review Committee (2)	City Planner (3)	Site Plan Review Committee (3)	Planning Commission	City Council
Development Permit				Decision	Appeal
Historic Design Review	Decision			Appeal	Appeal
Historic Variance	Decision			Appeal	Appeal
Master Plan	Recommend			Recommend	Decision
Minor Use Permit			Decision	Appeal	Appeal
Planned Development				Decision	Appeal
Planned Development Amendment				Decision	Appeal
Sign Permit		Decision		Appeal	Appeal
Specific Plan				Recommend	Decision
Temporary Use Permit			Decision	Appeal	Appeal
Use Permit				Decision	Appeal
Variance				Decision	Appeal
Zoning Clearance		Decision		Appeal	Appeal
Subdivision Applications					
Certificate of Compliance			Decision		Appeal
Final Map					Notification (4)

TABLE 4-1					
REVIEW AUTHORITY					
Role of Review Authority (1)					
Type of Decision	Design Review Committee (2)	City Planner (3)	Site Plan Review Committee (3)	Planning Commission	City Council
Lot Line Adjustment					Decision
Reversions, 2-4 parcels			Decision	Appeal	Appeal
Reversions, 5+ parcels				Decision	Appeal
Tentative Map, 2-4 parcels				Decision	Appeal
Tentative Map, 5+ parcels				Decision	Appeal
Voluntary Parcel Merger			Decision	Appeal	Appeal

Notes:

(1) "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals of an earlier decision, in compliance with Chapter 17.140 (Appeals).

(2) In the event there is no Design Review Committee, the Planning Commission will have authority.

(3) The City Planner and Site Plan Review Committee may refer any matter under their jurisdiction directly to the Commission, so that the Commission may instead make the decision.

(4) The review authority for parcel map and final map is the City Engineer.

17.70.040 - Application Preparation and Filing

- A. Application contents. The preparation and filing of applications for land use permits, amendments (e.g., General Plan, Zoning Map, or Development Code), and any other matters pertaining to this Development Code shall comply with the following requirements:
1. Applications shall include the forms provided by the Planning Department, and all information and materials required by the Application Content Requirements list provided by the Planning Department for the specific type of application;
 2. Applications shall be filed with the Department; and
 3. It is the applicant's responsibility to provide evidence in support of the findings required for the approval of the application by this Article.
- B. Eligibility for filing. Applications may be made by the owner of the subject property or by a lessee or any other person, with the written consent of the property owner.
- C. Time for filing. Any land use permit required by this Development Code shall be filed with the City Planner, processed and approved before the approval of any Building, Grading, or other construction permit or other authorization required by the Municipal Code or this Development Code for the proposed use or structure.

17.70.050 - Application Fees

The City Council shall, by resolution, establish a schedule of fees for permits, amendments, and other matters pertaining to this Development Code. The schedule of fees may be changed or modified only by resolution of the City Council. Processing shall not commence on any application until all required fees have been paid.

- A. Refunds and withdrawals. Recognizing that filing fees cover the costs of public hearings, mailing, posting, transcripts, and staff time involved in processing applications, refunds due to a denial are not allowed, except in the case of an appeal hearing by the City Council in compliance with Section 17.140.030 (Filing and Processing of Appeals). In the case of a withdrawal, the City Planner may authorize a partial refund based upon the City Planner's determination of pro-rated costs to-date and the status of the application at the time of withdrawal.
- B. City Council payment of fees. The City Council may elect to pay the filing fees in only the following situations:
1. Applications made by tax supported Governmental agencies (e.g., school district, etc.);

2. Applications made by charitable organizations as defined by resolution of the City Council; or
3. Applications made in compliance with established City Council policy on the City Council's payment of fees.

17.70.060 - Initial Application Review/Environmental Assessment

All applications filed with the Planning Department in compliance with this Development Code shall be initially processed as follows:

- A. Completeness review. The City Planner shall review all applications for completeness and accuracy before they are accepted as being complete for processing.
 1. Notification of applicant. The applicant shall be informed within 30 days of submitting an application, as required by the State law (Government Code Section 65943), either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in writing, shall be provided before it can be accepted for processing.
 2. Appeal of determination. Where the City Planner has determined that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the City Planner is not required, the applicant may appeal the determination in compliance with Chapter 17.140 (Appeals).
 3. Environmental information. The City Planner may require the applicant to submit additional information needed for the environmental review of the project in compliance with Subsection C., below.
 4. Expiration of application. If the applicant does not provide sufficient information to complete an application within 90 days after notification that the application is incomplete, the application shall be deemed withdrawn, unless an extension is granted by the City Planner. A new application, including fees, plans, exhibits, and other materials that will be required to commence processing of any development project on the same property, may then be filed in compliance with this Article.
- B. Referral of application. At the discretion of the City Planner, or where otherwise required by this Development Code, State or Federal law, any application filed in compliance with this Development Code may be referred to any public agency that may be affected by or have an interest in the proposed land use activity.
- C. Environmental assessment.

1. All development applications shall be reviewed as required by the California Environmental Quality Act (CEQA), to determine whether the proposed project is exempt from the requirements of CEQA or is not a project as defined by CEQA, whether a Negative Declaration may be issued, or whether an Environmental Impact Report (EIR) shall be required.
2. These determinations and, where required, the preparation of environmental documents shall comply with the CEQA Guidelines.

17.70.070 - Application Review and Decision

- A. Project review procedures. Each application shall be analyzed by the City Planner to ensure that the proposed uses/activities and development are consistent with the content, purpose, and intent of this Development Code, any applicable design guidelines, the CEQA Guidelines, the General Plan, and any applicable Specific Plan. Additionally, any application which may involve substantial grading shall require the submittal of preliminary grading plans for review and recommendation by the City Engineer.
- B. Notice and hearings. A land use permit application will be scheduled for a public hearing only after the City Planner has determined the application complete, in compliance with Section 17.70.060.A (Initial Application Review/Environmental Assessment - Completeness Review). Noticing of the public hearing will be given in compliance with Chapter 17.180 (Public Hearings).

17.70.080 - Appeals

The decision of the City Planner, Site Plan Review Committee, Design Review Committee or Planning Commission, as applicable, to approve or deny any land use permit shall be considered final unless an appeal is filed in compliance with Chapter 17.140 (Appeals). The decision of the City Planner, Site Plan Review Committee, Design Review Committee, or Planning Commission, or any condition of approval, is appealable to the City Council.

17.70.090 - Post Approval Procedures

The following procedures shall apply following the approval of the permit or entitlement.

- A. Expiration and extensions. Time limits for the expiration of approved land use permits, and procedures for obtaining extensions of time are established by Chapter 17.84 (Permit Implementation, Time Limits, and Extensions).
- B. Phasing. Requirements for the development of approved projects in multiple phases are established by Chapter 17.84 (Permit Implementation, Time Limits, and Extensions).

- C. Building Permit. Building Permits may be issued after all applicable terms and conditions of the land use permit approval have been satisfied. Any land use permit issued in compliance with this Development Code shall conform to all applicable provisions of this Development Code.
- D. Certificate of Occupancy. The Certificate of Occupancy may be issued after all conditions have been fulfilled to the satisfaction of the City Planner.
- E. Minor changes. The City Planner may approve minor changes (e.g., colors, elevations, exterior materials, hours of operation, landscaping, walls/fences, etc.) to required conditions and operating standards of an approved land use permit. The minor changes shall be in compliance with Section 17.84.070 (Changes to an Approved Project).
- F. Major changes. The original review authority may approve major changes to required conditions and operating standards of an approved permit or entitlement, in compliance with Section 17.84.070 (Changes to an Approved Project). The requirements and procedures contained in this Development Code shall apply to any application for a major change, which shall constitute a project requiring environmental review under CEQA.
- G. Performance guarantee. The applicant/owner may be required to provide adequate performance security in compliance with Section 17.84.040 (Performance Guarantees) for the faithful performance of any/all conditions of approval imposed by the review authority.
- H. Revocation. The original review authority may revoke or modify a land use permit approval in compliance with Chapter 17.190 (Revocations and Modifications).

Chapter 17.72 - Zoning Clearance

Sections:

- 17.72.010 - Purpose of Chapter
- 17.72.020 - Applicability
- 17.72.030 - Review and Decision
- 17.72.040 - Conditions of Approval

17.72.010 - Purpose of Chapter

This Chapter establishes procedures for the review, and approval or denial of Zoning Clearances, which are required by the City to verify that a requested land use activity and/or structure is an allowed land use within the applicable zoning district, and complies with the development standards and any design guidelines applicable to the land use or the zoning district of the site.

17.72.020 - Applicability

Where Article II (Zoning Districts and Allowable Land Uses) requires Zoning Clearance, the City Planner shall evaluate the proposed use or structure in compliance with this Chapter.

- A. Eligibility for Zoning Clearance. A Zoning Clearance may be issued by the City Planner where an existing, new, or modified non-residential structure(s) containing up to 7,500 square feet of total gross floor area (5,000 square feet in the Historic Commercial and Industrial/Manufacturing zoning districts) or disturbing up to 26,000 square feet of total site area is proposed to be used or constructed or where an existing, new, or modified residential structure(s) with ten or less residential units is proposed to be used or constructed. Refer to Section 17.06.040(B)(1)(a) (Zoning District Regulations).
- B. Other permits. A Zoning Clearance shall be required before the approval of a Building, Grading, or other construction permit or other authorization required by the Municipal Code or this Development Code for the proposed use or construction.
- C. Incremental or phased development projects. Incremental or phased developments shall be treated on a cumulative basis. The approval of a Development Permit, in compliance with Chapter 17.74 (Development Permits) shall be required for additions to projects that would bring (1) the total project floor area for non-residential structure(s) to 7,500 square feet or more (5,000 square feet or more for projects located within the Historic Commercial and Industrial zoning districts); (2) the total disturbance area to 26,000 square feet or more; or (3) the total number of residential units to eleven or more units.

17.72.030 - Review and Decision

- A. Project review procedures. Each application shall be analyzed by the City Planner to ensure that the application is consistent with the content, purpose, and intent of this Chapter, this Development Code, any applicable design guidelines, the General Plan, and any applicable Specific Plan.
- B. Issuance of a Zoning Clearance.
 - 1. Time for decision. The City Planner shall take appropriate action on the Zoning Clearance within 30 days of finding the application complete in compliance with Section 17.70.060 (Initial Application Review/Environmental Assessment).
 - 2. Public notice. Notice of the City Planner's intent to take action on the issuance of a Zoning Clearance shall be required for all new multi-family residential, commercial, and industrial projects and substantial additions (e.g., an addition

of at least 25 percent of the gross floor area of the existing structure) in the following manner:

- a. Notice shall include:
 - (1) A general explanation of the matter to be considered; and a general description, in text or by diagram, of the location of the real property that is the subject of the notice;
 - (2) The date on which the City Planner may take action on the issuance of the Zoning Clearance; and
 - (3) The location and available times that the application may be reviewed by the public.
- b. The notice shall be mailed or delivered to:
 - (1) The owner(s) of the property being considered or the owner's agent, and the applicant, if different from the owner;
 - (2) All owners of real property as shown on the County's latest equalized assessment roll within 500 feet of the boundary of the property which is the subject of the Zoning Clearance; and
 - (3) Any person who has filed a written request for notice with the City Planner and has paid the fee set by the most current Schedule of Fees for the notice.
- c. The notice shall be posted in City Hall; and
- d. The notice shall be mailed, delivered, and posted at least 14 days prior to the City Planner taking action on the issuance of the Zoning Clearance.

3. Required findings. The City Planner shall issue the Zoning Clearance, with or without conditions, only if all of the following findings can be made:

- a. The proposed development is allowed by Article II (Zoning Districts and Allowable Land Uses) within the applicable zoning district, and complies with all applicable provisions of this Development Code, the Municipal Code, and the Public Improvement and Engineering Standards;
- b. If applicable, the proposed development is consistent with the design guidelines, achieves the overall design objectives of the design

guidelines, and would not impair the design and architectural integrity and character of the surrounding neighborhood;

- c. The Zoning Clearance approval is in compliance with the requirements of the California Environmental Quality Act (CEQA) and there would be no potential significant adverse effects upon environmental quality and natural resources that would not be properly mitigated and monitored, unless a Statement of Overriding Considerations is adopted; and
- d. There are adequate provisions for public and emergency vehicle access, fire protection, sanitation, water, and public utilities to ensure that the proposed development would not be detrimental to public health and safety. Adequate provisions shall mean that distribution and collection facilities and other infrastructure are installed at the time of development and in operation prior to occupancy of buildings and the land, and all development fees have been paid prior to occupancy of buildings and the land.
- e. The proposed development is consistent with all applicable regulations of the Amador County Department of Environmental Health and the City of Jackson Fire Department for the transport, use, and disposal of hazardous materials.

- 4. Effective date. The Zoning Clearance shall not be valid until the companion Building and/or Grading Permit is issued or, where no Building and/or Grading Permit is required, a written determination is made by the City Planner.
- 5. Appeals. Appeals shall be submitted in writing, and filed with the City Clerk, on a City application form, within 10 days from the date of the City Planner's action on the issuance of the Zoning Clearance, in compliance with Chapter 17.140 (Appeals).

C. Time limits, expiration. The Zoning Clearance shall be valid for the same time period that the companion Building and/or Grading Permit is in force or 120 days, where no Building and/or Grading Permit is required. Construction shall commence and shall be completed in accordance with the time limits established by Section 17.84.050 (Time Limits, Phasing, and Extensions).

17.72.040 - Conditions of Approval

In approving a Zoning Clearance, the City Planner may impose specific development conditions relating to the construction (both on- and off-site improvements), establishment, maintenance, location, and operation of the proposed activity, as the City Planner finds are reasonable and necessary to ensure that the approval will be in

compliance with the findings required by Section 17.72.030.B.3 (Review and Decision - Issuance of a Zoning Clearance - Required Findings).

17.73 – Site Plan Review

Sections:

- 17.73.010 - Purpose
- 17.73.020 - Site Plan Review Committee
- 17.73.030 - Site Plan Review
- 17.73.040 - Site Plan Approval
- 17.73.050 - Administration
- 17.73.060 - Exceptions
- 17.73.065 - Review Period
- 17.73.070 - Appeals

17.73.010 - Purpose

This Chapter establishes procedures for the review and approval or denial of a Site Plan, which is required by the City to verify that a requested land use activity and / or structure is an allowed land use within the applicable zoning designation and complies with the development standards and any design guidelines applicable to the land use or the zoning designation of the site.

17.73.020 - Site Plan Review Committee

The Site Plan Review Committee, comprised of the City Planner, City Engineer and City Building Inspector, is established for the purpose of investigating the land use, design layout and other features of proposed development in keeping with the purpose set forth in Section 17.73.010 (Purpose).

17.73.030 - Site Plan Review

Each development site plan submitted to the City shall be analyzed by the Site Plan Review Committee to ensure that the application is consistent with the content, purpose, and intent of this Chapter, this Development Code, any applicable design guidelines, the landscaping ordinance, the General Plan and any applicable Specific or Master Plan except as otherwise provided in Government Code 65961 or any successor section thereto.

17.73.040 - Site Plan Approval

The Site Plan Review Committee shall approve a site plan if the following findings can be made:

- A. The proposed development is:
 - 1. An allowed use within the applicable zoning district, and complies with all applicable provisions of this Title, the Development Code, and the Standard Specifications; and
 - 2. Consistent with the General Plan, and any Specific or Master Plan.
- B. The Site Plan is in compliance with the requirements of the California Environmental Quality Act (CEQA); and
- C. There are adequate provisions for public and emergency vehicle access, pedestrian access, fire protection, sanitation, water, drainage, erosion control, and public utilities to ensure that the proposed development would not be detrimental to public health and safety. Adequate provisions shall mean that distribution and collection facilities and other infrastructure are installed at the time of development and in operation prior to occupancy of buildings and the land, and all development fees have been paid prior to occupancy of buildings and the land.
- D. In approving a site plan, the Site Plan Review Committee shall have authority to impose such conditions as it deems necessary to protect the best interests of the surrounding neighborhood and the public health, safety, and welfare in line with the standards set forth in this title and with the general plan.

17.73.050 - Administration

The provisions of this Chapter shall be administered by the Building Official and his or her authorized representatives. All other officers and employees of the City shall assist and cooperate with the Building Official in administering and enforcing the provisions of this Chapter. No permits shall be issued to start construction, reconstruction, alteration, remodeling or any other change to any building or site layout until the site plan has been approved pursuant to the provisions of this chapter and to applicable provisions of this title.

17.73.060 - Exceptions

It is not possible to anticipate all situations that may arise or to prescribe standards applicable to every situation. Therefore, the Site Plan Review Committee shall have the authority to vary from the strict application of the applicable Municipal Codes and standards where the Committee finds that the proposed project substantially complies with the applicable City standards and allowing such an exception to be approved will result in an environmentally or aesthetically superior project than would have otherwise been authorized.

17.73.065 - Review Period

Upon receipt of a complete site plan review application, the Site Plan Review Committee shall have sixty (60) days to review the application and approve, conditionally approve, or deny it unless prevented to do so for reasons beyond the City's control. If no action is taken within that time, or any mutually agreed extension, the application shall be deemed approved.

Site plan review approvals shall be valid for a period of one (1) year, but may be extended without the filing of a new application for an additional one (1) year period by a written agreement between the City Manager (or his/her designee) and the applicant.

17.73.070 - Appeals

- A. Any applicant for a building permit under the provisions of this Chapter who is dissatisfied with the decision of the Site Plan Review Committee may appeal such decision to the Planning Commission by filing with the City Clerk a written notice of appeal. Such notice must be filed within ten (10) calendar days after the date on which the decision of the Site Plan Review Committee is made, and shall set forth the specific ground or grounds of such appeal. The City Clerk shall forthwith set the matter for hearing before the Planning Commission and shall cause notice thereof to be mailed to the applicant not less than five (5) days before such hearing. Such hearing may be continued from time to time, and upon the conclusion thereof, the Planning Commission shall promptly make a final decision in the matter.
- B. Any applicant dissatisfied with the decision of the Planning Commission may appeal such decision to the City Council by following the same procedure as described above.

Chapter 17.74 - Development Permits

Sections:

- 17.74.010 - Purpose of Chapter
- 17.74.020 - Applicability
- 17.74.030 - Findings and Decision
- 17.74.040 - Conditions of Approval

17.74.010 - Purpose of Chapter

- A. This Chapter establishes procedures for the review, and approval or denial of Development Permits, which are required by Article II (Zoning Districts and Allowable Land Uses) for land use activities with total project floor area of 7,500 square feet or more or total disturbance area of 26,000 square feet or more, or eleven or more residential units.

- B. The review process begins with the recognition that the proposed use/construction is allowed in the zoning district, and focuses on issues related to site layout and design in order to arrive at the best utilization of the subject site and compatibility of design with surrounding properties.
- C. The process includes the filing of a site plan with the City Planner to verify compliance with all applicable land use development standards, any applicable design guidelines, and the requirements of other City departments.

17.74.020 - Applicability

- A. When required. Development Permit approval may be granted by the Planning Commission for land use activities or structure(s) identified in Article II (Zoning Districts and Allowable Land Uses) as an allowed use as follows:
 - 1. An existing, new, or modified non-residential structure(s) that contains or would contain 7,500 square feet or more of total gross floor area is proposed to be used or constructed;
 - 2. Disturbance of 26,000 square feet or more of the subject site. Disturbance includes graded areas, landscaped areas, parking and access areas, structures, and other portions of the site to be improved; and/or
 - 3. An existing, new, or modified residential structure(s) that contains or would contain eleven or more residential units is proposed to be used or constructed.
- B. Incremental or phased development projects. Incremental or phased developments shall be treated on a cumulative basis. Additions to projects that would bring the total project square footage to 7,500 square feet or the total disturbance area to 26,000 square feet or more, or the total number of multi-family residential units to eleven or more requires the approval of a Development Permit. Modifications or additions to non-residential structure(s) that contain 7,500 square feet or more of total gross floor area or residential structure(s) that contain eleven or more residential units shall require the approval of a new Development Permit or modifications of a Development Permit unless the modifications or additions may be authorized by the City Planner as a minor change to an approved project in compliance with Section 17.84.070(B)(1) (Changes to an Approved Project - Extent of changes allowed-Minor changes).
- C. Other permits. A Development Permit shall be required before the approval of any Building, Grading, or other construction permit, or other authorization required by the Municipal Code or this Development Code for the proposed use or construction.

17.74.030 - Findings and Decision

Following a public hearing, the Planning Commission shall record the decision in writing with the findings upon which the decision is based. The Planning Commission may approve a Development Permit application, with or without conditions, only if all of the following findings can be made:

- A. The proposed development is:
 - 1. Allowed by Article II (Zoning Districts and Allowable Land Uses) within the applicable zoning district with the approval of a Development Permit, and complies with all applicable provisions of this Development Code, the Municipal Code, and the Public Improvement and Engineering Standards; and
 - 2. Consistent with the General Plan, and any applicable Specific Plan.
- B. The proposed development is consistent with the design guidelines, achieves the overall design objectives of the design guidelines, and would not impair the design and architectural integrity and character of the surrounding neighborhood;
- C. The Development Permit approval is in compliance with the requirements of the California Environmental Quality Act (CEQA) and there would be no potential significant adverse effects upon environmental quality and natural resources that would not be properly mitigated and monitored, unless a Statement of Overriding Considerations is adopted; and
- D. There are adequate provisions for public and emergency vehicle access, fire protection, sanitation, water, and public utilities and services to ensure that the proposed development would not be detrimental to public health and safety. Adequate provisions shall mean that distribution and collection facilities and other infrastructure are installed at the time of development and in operation prior to occupancy of buildings and the land, and all development fees have been paid prior to occupancy of buildings and the land;
- E. The subject site is:
 - 1. Physically suitable for the type and density/intensity of development being proposed;
 - 2. Adequate in size and shape to accommodate the use and all fences and walls, landscaping, loading, parking, yards, and other features required by this Development Code; and
 - 3. Served by streets adequate in width and pavement type to carry the quantity and type of traffic generated by the proposed development.

- F. The proposed development is consistent with all applicable regulations of the Amador County Department of Environmental Health and the City of Jackson Fire Department for the transport, use, and disposal of hazardous materials.

17.74.040 - Conditions of Approval

In approving a Development Permit, the Planning Commission may impose specific development conditions relating to the construction (both on- and off-site improvements), establishment, maintenance, location, and operation of the proposed activity, as it finds are reasonable and necessary to ensure that the approval will be in compliance with the findings required by Section 17.74.030 (Findings and Decision).

Chapter 17.76 - Use Permits and Minor Use Permits

Sections:

- 17.76.010 - Purpose of Chapter
- 17.76.020 - Applicability
- 17.76.030 - Findings and Decision
- 17.76.040 - Conditions of Approval

17.76.010 - Purpose of Chapter

- A. This Chapter establishes procedures for the review, and approval or denial of Use Permits and Minor Use Permits, which are required by Article II (Zoning Districts and Allowable Land Uses) for land use activities which may be desirable in the applicable zoning district and compatible with adjacent land uses, but whose effects on a site and surroundings cannot be determined before being proposed for a particular location.
- B. The review process begins with the evaluation of the proposed use/construction to determine if the activity should be allowed on the subject site.
- C. The process includes the review of the configuration, design, location, and potential impact(s) of the proposed use/construction by comparing it to established development standards and design guidelines.

17.76.020 - Applicability

A Use Permit shall be required before the approval of any Building, Grading, or other construction permit or other authorization required by the Municipal Code or this Development Code for the proposed use or construction in the following manner:

- A. Minor Use Permits. A Minor Use Permit may be granted by the Site Plan Review Committee for the following land use activities or structure(s) in addition to those

listed in Article II (Zoning Districts and Allowable Land Uses) as requiring a Minor Use Permit:

1. Soil remediation activities which are intended to last 30 days or more; and
2. Any existing, new, or modified land use activity or structure(s) identified in Article II (Zoning Districts and Allowable Land Uses) as requiring a Minor Use Permit where a structure(s) that contains or would contain up to 7,500 square feet in total gross floor area or disturbs or would disturb up to 26,000 square feet of total site area is proposed to be used or constructed.

B. Use Permits. Use Permits may be granted by the Planning Commission for:

1. Any land use activity or structure(s) identified in Article II (Zoning Districts and Allowable Land Uses) as requiring a Use Permit; and
2. Any existing, new, or modified land use activities or structure(s) identified in Article II as requiring a Minor Use Permit that contains or would contain 7,500 square feet or more in total gross floor area (5,000 square feet or more in the Historic Commercial and Industrial/Manufacturing zoning districts) or disturbs or would disturb 26,000 square feet or more of total site area.

C. Other permits. A Use Permit or Minor Use Permit shall be required before the approval of any Building, Grading, or other construction permit, or other authorization required by the Municipal Code or this Development Code for the proposed use or construction.

17.76.030 - Findings and Decision

Following a public hearing, the Site Plan Review Committee (Minor Use Permit) or Planning Commission (Use Permit), as applicable, shall record the decision in writing with the findings upon which the decision is based. The Site Plan Review Committee may refer the application to the Planning Commission for review and decision. The Site Plan Review Committee or Planning Commission may approve a Use Permit application, with or without conditions, only if all of the following findings can be made:

A. The proposed development is:

1. Allowed by Article II (Zoning Districts and Allowable Land Uses) within the applicable zoning district with the approval of a Use Permit and complies with all other applicable provisions of this Development Code, the Municipal Code, and the Public Improvement and Engineering Standards; and
2. Consistent with the General Plan and any applicable Specific Plan.

- B. The proposed development is consistent with the design guidelines, achieves the overall design objectives of the design guidelines, and would not impair the design and architectural integrity and character of the surrounding neighborhood;
- C. The Use Permit approval is in compliance with the requirements of the California Environmental Quality Act (CEQA) and there would be no potential significant adverse effects upon environmental quality and natural resources that would not be properly mitigated and monitored, unless a Statement of Overriding Considerations is adopted;
- D. The design, location, size, and operating characteristics of the proposed development would be compatible with the existing and future land uses in the vicinity;
- E. Granting the Use Permit would not be detrimental to the public health, safety, or welfare of the City, or injurious to the property or improvements in the vicinity and zoning district in which the property is located;
- F. The site for the proposed use is:
 - 1. Physically suitable for the type and density/intensity of development being proposed;
 - 2. Adequate in size and shape to accommodate the use and all fences and walls, landscaping, loading, parking, yards, and other features required by this Development Code; and
 - 3. Served by streets adequate in width and pavement type to carry the quantity and type of traffic generated by the proposed development.
- G. There are adequate provisions for public and emergency vehicle access, fire protection, sanitation, water, and public utilities and services to ensure that the proposed development would not be detrimental to public health and safety. Adequate provisions shall mean that distribution and collection facilities and other infrastructure are installed at the time of development and in operation prior to occupancy of buildings and the land, and all development fees have been paid prior to occupancy of buildings and the land.
- H. The proposed development is consistent with all applicable regulations of the Amador County Department of Environmental Health and the City of Jackson Fire Department for the transport, use, and disposal of hazardous materials.

17.76.040 - Conditions of Approval

- A. Review authority may impose conditions. In approving a Use Permit, the Site Plan Review Committee or Planning Commission may impose specific development conditions relating to the construction (both on- and off-site improvements),

establishment, maintenance, location, and operation of the proposed activity, as it finds are reasonable and necessary to ensure that the approval will be in compliance with the findings required by Section 17.76.030 (Findings and Decision).

- B. Examples of appropriate conditions. Appropriate conditions may include but not be limited to buffers, hours of operation, landscaping and maintenance, lighting, off-site improvements, parking, performance guarantees, periodic review of the permit with authority to modify or add new conditions based on the results of the review, property maintenance, signs, specified duration for the permit, surfacing, traffic circulation, etc.

Chapter 17.77 - Historic Design Review

Sections:

- 17.77.010 - Purpose of Chapter
- 17.77.020 - Applicability of Historic Design Review
- 17.77.030 - Historic Design Review Procedures
- 17.77.040 - Findings and Decision for Certificate of Appropriateness
- 17.77.050 - Conformance to Plans

17.77.010 - Purpose of Chapter

This Chapter establishes procedures for the comprehensive review of development to implement the requirements of the Historic Commercial (HC) Zone and the goals and policies of the General Plan.

17.77.020 - Applicability of Historic Design Review

- A. When required. All projects that require a land use or building permit or will affect the exterior appearance of any building or property within the HC zone shall be subject to Historic Design Review in compliance with this Chapter. In addition, public projects such as sidewalk installation, traffic circle installation, and other streetscape and pedestrian / bicycle improvement projects within the HC district shall be subject to Historic Design review.
- B. Building permits. No building permit shall be issued for any project until the project has been evaluated through the Historic Design Review process, and a Certificate of Appropriateness has been granted, and the appropriate land use permit has been issued.

17.77.030 - Historic Design Review Procedures

- A. Commencement of review. The Historic Design Review process is initiated when the City Planner receives a complete application. The application package shall include

all plans, elevations, specifications, sample materials, signage, etc. as specified in the application and any additional information required by the City Planner in order to conduct a thorough review of the proposed project. The materials in the application should be of presentation quality.

- B. Review with other permits. Historic Design Review for projects that require the approval of a discretionary permit (e.g. Conditional Use Permit, Variance, etc.) shall occur concurrently with the review of the discretionary permit application, and the final determination shall be made by the highest level of review authority acting on the project application. The City Planner shall prepare a report for the review authority outlining the findings and any conditions relating to the Historic Design Review prior to the review authority's consideration of the project. The report containing findings and any conditions shall also be forwarded to the applicant prior to consideration by the review authority.
- C. Review by Design Review Committee. The Historic Design Review application shall be forwarded to the Design Review Committee (DRC) for review. The DRC shall review the application in accordance with the requirements of this Chapter and the Historic Design Guidelines and forward a recommendation of approval, conditional approval, or denial to the City Planner. The City Planner may exempt applications from review by the DRC if the application is minor in nature or a quorum of the DRC cannot be called within a reasonable period of time for the City Planner to review the land use permit within the time limits imposed by this Development Code.
- D. Factors to be considered. In conducting a Historic Design Review for a particular project, the City Planner shall consider the location, design, site plan configuration and the overall effect of the proposed project upon surrounding properties in general. Historic Design Review shall be conducted by comparing the proposed project to applicable General Plan policies, adopted development standards, Historic Design Guidelines, and other applicable ordinances of the City.
- E. Reference to Historic Design Guidelines. In reviewing projects subject to the requirements of this Section, the City Planner shall refer to Chapter 17.20.080 (Historic Corridor (hc) Overlay) in order to provide guidance to applicants seeking to comply with the requirements of this Chapter.
- F. Action, conditions. The City Planner may approve or recommend approval of a Certificate of Appropriateness in accordance with Section 17.77.040 (Findings and Decision for Certificate of Appropriateness). The City Planner may impose conditions to ensure that the project would meet all of the required findings. Conditions may relate to both on- and off-site improvements that are necessary to mitigate project-related impacts, and to carry out the purpose and requirements of the respective zoning district.

- G. Revised plans. Where conditions are imposed that may substantially alter a proposed project, the applicant may be requested to submit revised plans at the discretion of the City Planner.

17.77.040 - Findings and Decision for Certificate of Appropriateness

- A. Approval. The City Planner or review authority may grant a Certificate of Appropriateness with or without conditions, only if all of the following findings can be made:
4. The project, including its character, scale and quality of design, is consistent with the purpose of this Chapter, and all applicable development standards and historic design guidelines;
 5. With regard to a designated historic resource, the proposed work will neither adversely affect the significant architectural features of the designated historic resource nor adversely affect the character of historical, architectural, or aesthetic interest or value of the designated resource and its site;
 6. With regard to any property located within the Historic Commercial Zone, the proposed work conforms to the Historic Design Guidelines for the district and does not adversely affect the character of the district;
 7. In case of construction of a new improvement, addition, building, or structure upon a designated historic resource site, the exterior of such improvements will not adversely affect and will be compatible with the use and exterior of existing designated historic resources, improvements, buildings, natural features, and structures on said site.
 8. The proposed project is consistent with the General Plan.
- B. Denial. A denial of a Certificate of Appropriateness shall be accompanied by a statement of the reasons for denial. The City Planner shall make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the City Planner to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the owner and the City Planner. The applicant may resubmit an amended application or reapply for a building or demolition permit that takes into consideration the recommendations of the City Planner.

17.77.050 - Conformance to Plans

- A. All work performed under a Building Permit for which project drawings and plans received a Certificate of Appropriateness shall conform to the approved drawings and plans and any conditions of approval.

- B. Any modifications to or deviations from the drawings and plans approved under this Chapter shall be approved by the City Planner. In the case of a discretionary permit, the City Planner may approve minor modifications but the original review authority shall review and approve any major modifications.

Chapter 17.78 - Planned Developments

Sections:

- 17.78.010 - Purpose of Chapter
- 17.78.020 - Applicability
- 17.78.030 - Application Filing
- 17.78.040 - Findings and Decision
- 17.78.050 - Conditions of Approval

17.78.010 - Purpose of Chapter

- A. This Chapter is intended to promote and encourage maximum flexibility in site planning, property development, design, and open space areas, while protecting the public health, safety, welfare, integrity, and character of the City, and ensuring consistency with the General Plan and any applicable Specific Plan.
- B. Planned Developments are encouraged and expected to produce a comprehensive development of greater quality than those normally resulting from the more traditional development review process.
- C. Project review shall determine whether the proposed planned development should be approved by weighing the public need for, and the benefit(s) to be derived from, the proposed development against the potential negative effect(s) it may cause.

17.78.020 - Applicability

A. Use of Planned Development. A Planned Development may be requested by a property owner for any residential development project in any residential zoning district, any commercial development in any commercial zoning district, any industrial/manufacturing development project in any manufacturing zoning district, or any development in the Public zoning district.

- 9. The approval of a Planned Development may adjust or modify, where necessary and justifiable, all applicable development standards (e.g., building envelope, off-street parking, street layout, etc.) identified in this Development Code, with the exception of density/intensity provisions;
- 10. A Planned Development may authorize a land use activity that is not otherwise allowed in the applicable zoning district by Article II (Zoning Districts and Allowable Land Uses) provided the review authority finds that

the primary uses of the planned development are allowed in the applicable zoning district and the planned development maintains the characteristics and purpose of the applicable zoning district; and

11. Approval of a Planned Development shall be required before the approval of any Building, Grading, or other construction permit, or other authorization required by the Municipal Code or this Development Code for the proposed use or construction.

B. Compliance with General Plan. Strict compliance with the purpose and intent of the General Plan and any applicable Specific Plan shall be required.

17.78.030 - Application Filing

The applicant shall prepare and submit an application and project plan to the Planning Department. The project plan shall be professionally prepared and shall include all information required by the City Planner.

17.78.040 - Findings and Decision

Following a hearing the Planning Commission shall record the decision in writing with the findings upon which the decision is based. The Planning Commission may approve and/or modify, in whole or in part, with specific development conditions or deny a Planned Development. The Planning Commission may approve a Planned Development, only if all of the following findings can be made:

A. The proposed development is:

12. Allowed within the subject zoning district;
13. Generally complies with all of the applicable provisions of this Development Code and Public Improvement and Engineering Standards relating to both on- and off-site improvements that are necessary to accommodate maximum flexibility in site planning and property development and to carry out the purpose, intent, and requirements of the respective zoning district, including prescribed development standards and applicable design guidelines; and
14. Consistent with the General Plan and any applicable Specific Plan.

B. The proposed project would produce a comprehensive development of superior quality (e.g., appropriate variety of structure placement and orientation opportunities, appropriate mix of land uses and structure sizes, high quality architectural design, increased amounts of landscaping and open space, improved solutions to the design and placement of parking facilities, etc.) than which might otherwise occur from the strict application of the provisions and standards identified in this Development Code;

- C. The proposed development is consistent with the design guidelines, achieves the overall design objectives of the design guidelines, and would not impair the design and architectural integrity and character of the surrounding neighborhood;
- D. There are adequate provisions for public and emergency vehicle access, sanitation, water, and public utilities and services to ensure that the proposed development would not be detrimental to public health and safety. Adequate provisions shall mean that distribution and collection facilities and other infrastructure are installed at the time of development and in operation prior to occupancy of buildings and the land, and all development fees have been paid prior to occupancy of buildings and the land;
- E. The design, location, size, and operating characteristics of the proposed development would not be detrimental to the public health, safety, or welfare of the City, or injurious to the property or improvements in the vicinity and zoning district in which the property is located;
- F. The approval of the Planned Development is in compliance with the requirements of the California Environmental Quality Act (CEQA) and there would be no potential significant adverse effects upon environmental quality and natural resources that could not be properly mitigated and monitored, unless a Statement of Overriding Considerations is adopted; and
- G. The subject site is:
 - 15. Physically suitable for the type and density/intensity of development being proposed;
 - 16. Adequate in size and shape to accommodate the use and all fences and walls, landscaping, loading, parking, yards, and other features required by this Development Code; and
 - 17. Served by streets adequate in width and pavement type to carry the quantity and type of traffic generated by the proposed development.
- H. The proposed development is consistent with all applicable regulations of the Amador County Department of Environmental Health and the City of Jackson Fire Department for the transport, use, and disposal of hazardous materials.

17.78.050 - Conditions of Approval

In approving a Planned Development, the Planning Commission may impose specific development conditions relating to the construction (both on- and off-site improvements), maintenance, on-site location, and operation of the proposed activity, as it finds are reasonable and necessary to ensure that the approval will be in compliance with the findings required by Section 17.78.040 (Findings and Decision). The conditions may relate to improvements that are necessary to accommodate maximum flexibility in site

planning and property development and to carry out the purpose, intent, and requirements of the respective zoning district.

Chapter 17.80 - Temporary Use Permits

Sections:

- 17.80.010 - Purpose of Chapter
- 17.80.020 - Applicability
- 17.80.030 - Findings and Decision
- 17.80.040 - Conditions of Approval
- 17.80.050 - Post Approval Procedures

17.80.010 - Purpose of Chapter

This Chapter provides for short-term commercial activities that may not meet the normal development or use standards of the applicable zoning district, but may otherwise be acceptable because of their temporary nature.

17.80.020 - Applicability

- A. City Planner's review. This Chapter establishes a process for the City Planner's review of a proposed temporary use to ensure basic health, safety, and community welfare standards are met, and only suitable temporary uses with the minimum necessary conditions or limitations consistent with the temporary nature of the use are approved.
- B. Related provisions. This Chapter shall be considered and used together with the Allowed Uses and Permit Requirements tables in Article II (Zoning Districts and Allowable Land Uses) and Chapter 17.62 (Temporary Uses and Events), which identifies the following additional information regarding the applicability of a Temporary Use Permit:
 - 1. Exempt Temporary Uses and Events;
 - 2. Allowable Temporary Uses and Events; and
 - 3. General Requirements for all Temporary Uses.

17.80.030 - Findings and Decision

The City Planner may approve or conditionally approve a Temporary Use Permit application if the following findings can be made. The City Planner may instead refer any Temporary Use Permit application to the Site Plan Review Committee or Planning Commission for review and decision.

- A. Adequate parking would be provided in areas not located within the public right-of-way or affecting an existing parking area so as to interfere with more than 10 percent of on-site parking, established disabled accessible parking, or with vehicular or pedestrian circulation;
- B. The proposed temporary use is in compliance with all applicable City, State, and Federal laws;
- C. The Fire Chief has determined that the proposed use would not create a fire safety hazard;
- D. The subject property is located within a commercial, industrial, or public use zoning district;
- E. If the use is occurring on City owned property, permission from the City Manager or his/her designee has been obtained;
- F. Operation of the use would not create adverse traffic safety impacts nor result in detrimental impacts upon the neighborhood in which it is to be located;
- G. The establishment, maintenance, or operation of the temporary use would not be detrimental to the public health, safety, or welfare of persons residing or working in the neighborhood of the proposed use; and
- H. Approved measures for removal of the use and site restoration have been required to ensure that no changes to the site will limit the range of possible future land uses otherwise allowed by this Development Code.

17.80.040 - Conditions of Approval

In approving a Temporary Use Permit, the City Planner may impose any conditions deemed reasonable and necessary to ensure that the approval will be in compliance with the findings required by Section 17.80.030 (Findings and Decision). Standards for floor areas, heights, landscaping areas, off-street parking, setbacks, and other structure and property development standards that apply to the category of use or the zoning district of the subject site shall be used as a guide for determining the appropriate development conditions/standards for the temporary use. However, the City Planner may grant an adjustment from the specific requirements as deemed necessary or appropriate.

17.80.050 - Post Approval Procedures

The following procedures, in addition to those identified in Chapters 17.70 (Applications, Processing, and Fees) and 17.84 (Permit Implementation, Time Limits, and Extensions), shall apply following the approval of a Temporary Use Permit:

- A. Condition of site following temporary use. Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used in compliance with the provisions of this Development Code. The City Planner may require a cash surety as a condition of approval to ensure the site restoration and adequate cleanup after the use is finished; and
- B. Revocation. The City Planner may revoke or modify a Temporary Use Permit with only a 24-hour notice, in compliance with Chapter 17.190 (Revocations and Modifications).

Chapter 17.82 - Variances and Historic Variances

Sections:

- 17.82.010 - Purpose of Chapter
- 17.82.020 - Applicability
- 17.82.030 - Findings and Decision
- 17.82.040 - Conditions of Approval
- 17.82.050 - Historic Variances

17.82.010 - Purpose of Chapter

This Chapter provides for modifications and adjustments of the standards of this Development Code only when, because of special circumstances applicable to the property, including location, shape, size, surroundings, or topography, the strict application of this Development Code deprives the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.

17.82.020 - Applicability

- A. Adjustments allowed. The Site Review Committee may grant an adjustment from the requirements of this Development Code governing only the following development standards, unless the requested adjustment(s) involves a project that is otherwise part of a permit, entitlement, or modification requiring Planning Commission action. In those instances, the Planning Commission shall have the authority to review and decide the Variance application at the same time that they consider the companion permit, entitlement, or modification:
 - 18. Dimensional standards (e.g., building coverage, distance between structures, landscape, parcel area and paving requirements, parcel dimensions, setbacks, and structure heights);
 - 19. Number and dimensions of off-street parking and drive areas, loading spaces, and landscaping, lighting, or parking requirements, except as otherwise provided in this Development Code; and

20. Sign regulations (other than prohibited signs).
- B. Adjustments prohibited. The power to grant Variances does not include the authority to allow a use of land not normally allowed in the applicable zoning district by Article II (Zoning Districts and Allowable Land Uses), or to modify residential density regulations.
- C. Historic Variances. Variances from the requirements of this Development Code applicable to historic resources are subject to Section 17.82.050 (Historic Variances).

17.82.030 - Findings and Decision

Following a public hearing, the Site Plan Review Committee shall record the decision in writing with the findings upon which the decision is based, in compliance with State law (Government Code Section 65906). The Site Plan Review Committee may refer the application to the Planning Commission for review and decision. The Site Plan Review Committee or Planning Commission may approve a Variance with or without conditions, only if all of the following findings can be made:

- A. General findings. The following findings are required for all Variances:
1. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, or topography), so that the strict application of this Development Code deprives the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts;
 2. The Variance authorized does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and in the same zoning district;
 3. The approval of the Variance is in compliance with the requirements of the California Environmental Quality Act (CEQA) and there would be no potential significant adverse effects upon environmental quality and natural resources that could not be properly mitigated and monitored, unless a Statement of Overriding Considerations is adopted;
 4. Granting the Variance:
 - a. Does not allow a use or activity which is not otherwise expressly allowed in the applicable zoning district;
 - b. Would not be detrimental to the public health, safety, or welfare, or injurious to the property or improvements in the vicinity and zoning district in which the property is located; and

- c. Is consistent with the General Plan and any applicable Specific Plan.
5. The Variance is the minimum departure from the requirements of this Development Code necessary to grant relief to the applicant, consistent with Subsections 1. and 2., above.
- B. Findings for off-street parking variances. For a nonresidential development project proposing to locate a portion of the required parking at an off-site location, or provide in-lieu fees or facilities instead of the required on-site parking spaces, the following findings shall be made in a positive manner, in compliance with State law (Government Code Section 65906.5):
1. The Variance will be an incentive to, and a benefit for, the subject nonresidential development; and
 2. The Variance will facilitate access to the subject nonresidential development by patrons of public transit facilities.

17.82.040 - Conditions of Approval

In approving an application for a Variance, the Site Plan Review Committee or Planning Commission may impose conditions relating to the construction (both on- and off-site improvements), establishment, maintenance, location, and operation of the proposed activity, as it finds are reasonable and necessary to ensure that the approval will be in compliance with the findings required by Section 17.82.030 (Findings and Decision).

17.82.050 - Historic Variances

- A. Purpose. This Section provides for modifications and adjustments of the development standards of this Development Code only when the strict application of this Development Code may impair the ability of a historic resource to be properly used for adaptive reuse and/or to be altered in a manner that will have the least impact upon its historic character and the surrounding area. The intent of this Chapter is to grant Historic Variances only to the extent that they are necessary to achieve the objectives stated and no further.
- B. Applicability.
1. No property shall be eligible for a Historic Variance unless and until such property is designated as a historic resource by the City Council.
 2. In the event that a property loses its status as a historic resource, the provisions of this Chapter shall thereafter be rendered inapplicable to such property.

3. Variances to the development standards of Chapter 17.77 (Historic Design Review) and Chapter 17.20.060 (Historic Corridor (hc) Overlay) shall be processed in accordance with their respective provisions.
- C. Application filing, processing, and review. An application for Historic Variance shall be processed in the same manner as Variances as described in Section 17.82.030 (Findings and Decision), except as modified by the requirements of this Section. Prior to the Site Plan Review Committee taking action on the application, the application shall be forwarded to the Design Review Committee (DRC) for review. The DRC shall review the application in accordance with the requirements of this Section and Chapter 17.20.060 (Historic Corridor (hc) Overlay) and forward a recommendation to the review authority.
- D. Findings and decision. Following a public hearing, the Site Plan Review Committee shall record the decision in writing with the findings upon which the decision is based. The Site Plan Review Committee may refer the application to the Planning Commission for review and decision. The Site Plan Review Committee or Planning Commission may approve a Historic Variance with or without conditions, only if all of the following findings can be made:
1. The Historic Variance is necessary to provide for the appropriate adaptive reuse of an existing historic resource building, and/or to provide for the design and alteration of a historic resource building in a manner that will enhance its historic and functional use and utility;
 2. The historic resource is being preserved or will retain its integrity as a historic resource. Any improvements, alterations, or modifications will not cause the survey rating category of the historic resource to be downgraded;
 3. The Historic Variance will not prevent the use from being able to adequately function on the site;
 4. The Historic Variance will not adversely impact property or public rights-of-way within the neighborhood and Historic Commercial Zone;
 5. The Historic Variance is the minimum departure from the requirements of this Development Code necessary to grant relief to the applicant, consistent with subsections D.1 and D.2 above; and
 6. The granting of the Historic Variance is consistent with the General Plan.
- E. Conditions of approval. In approving an application for a Historic Variance, the Site Plan Review Committee or Planning Commission may impose conditions relating to the construction (both on- and off-site improvements), establishment, maintenance, location, and operation of the proposed activity, as it finds are reasonable and

necessary to ensure that the approval will be in compliance with the findings required by Section 17.82.050(D) (Variances and Historic Variances - Findings and Decision).

Chapter 17.83 - Demolition Review

Sections:

- 17.83.010 - Purpose of Chapter
- 17.83.020 - Applicability of Demolition Review
- 17.83.030 - Demolition Review Procedures
- 17.83.040 - Findings and Decision
- 17.83.050 – Enforcement

17.83.010 - Purpose of Chapter

This Chapter establishes procedures and criteria for the review of demolition requests of historic resources in order to implement the requirements General Plan.

17.83.20 - Applicability of Demolition Review

- A. When required. Any and all actions that will result in the removal, relocation, tearing down, or demolition of a historic resource, or portion thereof, shall be subject to Demolition Review in compliance with this Chapter. This includes but is not limited to total demolition of a resource, or portion thereof, or partial demolition that is so extensive that it would result in the lowering of the survey rating for the resource.

Section 15064.5(a) of the California Environmental Quality Act Guidelines shall be used to determine what should be considered a historic resource.

- B. Building permits. No building permit shall be issued for any demolition until the demolition has been evaluated through the Demolition Review process.

17.83.030 - Demolition Review Procedures

- A. Commencement of review. The Demolition Review process is initiated when the City Planner receives completed applications for Demolition Review. The application packages shall include all plans, elevations, specifications, sample materials, etc. as specified in the application and any additional information required by the City Planner in order to conduct a thorough review of the proposed demolition.
- B. Review with other permits. Demolition Review in conjunction with projects that require the approval of a discretionary permit (e.g. Conditional Use Permit, Variance, etc.) shall occur concurrently with the review of the discretionary permit application, and the final determination shall be made by the highest level of review authority in compliance with Table 4-1 (Review Authority) and Section 17.70.030 (Concurrent Permit Processing). The City Planner shall prepare a report for the review authority

outlining the findings and any conditions relating to the Demolition Review prior to the review authority's consideration of the project. The report containing findings and any conditions shall also be forwarded to the applicant prior to consideration by the review authority.

- C. Review by Design Review Committee. The Demolition Review application shall be forwarded to the Design Review Committee for review. The Committee shall review the application in accordance with the requirements of this chapter and the Historic Design Guidelines and forward a recommendation of approval, conditional approval, or denial to the Planning Commission.
- D. Factors to be considered. In conducting a Demolition Review for a particular project, the Planning Commission shall consider the classification category of the historic resource (Category A, B, or C below) and the location and the overall effect of the proposed demolition upon surrounding properties and the Historic Corridor in general. Demolition Review shall be conducted by comparing the proposed demolition to applicable General Plan policies, adopted development standards, design guidelines, CEQA Guidelines Section 15064.5 (Determining the Significance of Impacts to Archeological and Historical Resources), and other applicable ordinances of the City. The Planning Commission may require an Environmental Impact Report be prepared for demolition of structures listed on the National Register.
- E. Action, conditions. The Planning Commission may approve or recommend approval of the design of a proposed demolition in compliance with Section 17.83.040 (Findings and Decision). The Planning Commission may impose conditions upon the demolition to ensure that the project would meet all of the required findings.
- F. Exemption. The Planning Commission may exempt a Demolition Review application from the requirements of this Chapter and authorize the removal or demolition of a historic resource if the historic resource poses an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, and immediate action must be taken on the application to safeguard the public health, safety, and welfare.

17.83.040 - Findings and Decision

- A. The Design Review Committee may refer any application to the Planning Commission for review and decision.
- B. Category A (Essential Rating) and Category B (Contributing Rating) Resources. The Demolition Review Committee may grant Demolition Review approval with or without conditions, only if one of the following findings can be made:
 - 1. The historic resource poses an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public; there are no

other reasonable actions that may be taken by the City or property owner to eliminate or reduce the immediate danger to an acceptable and safe level; and the historic resource must be demolished immediately to safeguard the public health, safety, and welfare; or

2. The historic resource must be removed from the site in order for the property to be utilized for a public structure or use which substantially benefits the public.

C. Category C (Supporting Rating) Resources. The Design Review Committee may grant Demolition Review approval with or without conditions, only if one of the following findings can be made:

1. Maintaining the resource is not economically feasible based on policies, criteria, and guidelines adopted by the City Council.
2. Within one year of the demolition of the resource, the resource will be replaced by a building reconstructed to replicate the resource from a period of the historic significance of the resource and the reconstruction of the building is done in accordance with the "Standards for Reconstruction and Guidelines for Reconstructing Historic Buildings" as set forth in the Secretary of the Interior's Standards for the Treatment of Historic Properties.
3. The historic resource poses an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public; there are no other reasonable actions that may be taken by the City or property owner to eliminate or reduce the immediate danger to an acceptable and safe level; and the historic resource must be demolished immediately to safeguard the public health, safety, and welfare.
4. The historic resource must be removed from the site in order for the property to be utilized for a public structure or use which substantially benefits the public.
5. The project is not considered historic as defined by Section 15064.5(a) (Determining the Significance of Impacts to Archeological and Historical Resources) of the California Environmental Quality Act Guidelines.

In those cases where the Design Review Committee authorizes the demolition of a Category C historic resource, the City Planner or review authority shall, to the satisfaction of the City Planner, require that as much of the materials from the original structure be used in a new building on the site and/or that the historic building form of the original be replicated in development on the site.

17.83.050 - Enforcement

In addition to the legal remedies set forth in Section 17.200.070 (Legal Remedies), the City may choose to undertake any or all of the following legal actions to impose sanctions for violations of this Chapter.

- A. Any conviction of an infraction or misdemeanor under the provisions of this Development Code for violating any provision of this Chapter shall be punishable by a fine of not more than One Thousand Dollars (\$1,000).
- B. Within 18 months of the date of demolition of a historic resource demolished in violation of this Chapter, or permits issued in compliance with this Chapter, the owner of the property shall replace the historic resource with a building reconstructed to replicate the resource from a period of the historic significance of the resource, and the reconstruction of the building shall be done in accordance with the "Standards for Reconstruction and Guidelines for Reconstructing Historic Buildings" as set forth in the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- C. On properties on which an historic resource has been demolished in violation of this Chapter, or permits issued in compliance with this Chapter, the City shall not approve or authorize any change in the use of land or structures, including such non-structural uses such as parking lots, for a period of five years from the date of demolition of the historic resource. The City shall not approve or authorize an increase in floor area or lot coverage which was in existence prior to demolition of the historic resource for an approved replacement use for a period of five years from the date of demolition of the historic resource.

Chapter 17.84 - Permit Implementation, Time Limits, and Extensions

Sections:

- 17.84.010 - Purpose of Chapter
- 17.84.020 - Effective Date of Permits
- 17.84.030 - Applications Deemed Approved
- 17.84.040 - Performance Guarantees
- 17.84.050 - Time Limits, Phasing, and Extensions
- 17.84.060 - Time Extensions for Building Permits
- 17.84.070 - Changes to an Approved Project
- 17.84.080 - Resubmittals
- 17.84.090 - Covenants of Easement

17.84.010 - Purpose of Chapter

This Chapter provides requirements for the implementation or "exercising" of the land use permits or entitlements specified by this Development Code, including time limits and procedures for granting extensions of time.

17.84.020 - Effective Date of Permits

- A. Effective after appeal period. Development Permits, Planned Developments, Temporary Use Permits, Use Permits, and Variances shall become effective the day after the appeal period has ended, provided that no appeal of the review authority's approval has been filed in compliance with Chapter 17.140 (Appeals).
- B. Appeal of City Planner's action. If the appeal of a decision by the City Planner is filed in a timely manner, the permit or entitlement shall be placed on hold pending the final decision on the appeal by the Planning Commission.
- C. Planning Commission's action. If the appeal of a decision by the City Planner is denied by the Planning Commission, the permit or entitlement shall become effective on the day after the appeal period has ended, provided that no appeal of the Planning Commission's action has been filed.
- D. Appeal of Site Plan or Design Review Committees and Planning Commission's action. If the appeal of a decision by the Site Plan or Design Review Committees or Planning Commission is filed in a timely manner, the permit or entitlement shall be placed on hold pending the final decision on the appeal by the City Council.
- E. City Council's action is final.
- F. If the City Council denies the appeal on a decision by the Site Plan or Design Review Committees or Planning Commission, or modifies the approval of the permit or entitlement, the permit or entitlement shall become effective immediately following the City Council's action.
- G. If the appeal of a decision by the Planning Commission is approved and the permit or entitlement is denied by the City Council on appeal, the permit or entitlement shall be deemed void.

17.84.030 - Applications Deemed Approved

Any land use permit application deemed approved in compliance with State law (Government Code Section 65956) shall be subject to all applicable provisions of this Development Code, which shall be satisfied by the applicant before any Building Permit is issued or a land use not requiring a Building Permit is established.

17.84.040 - Performance Guarantees

A permit applicant may be required by conditions of approval, or by action of the City Planner, to provide adequate performance guarantees (e.g., bonds, cash deposits, certified letter of credit, etc.) to ensure the faithful performance of any or all conditions of approval imposed by the review authority. The City Planner shall be responsible for

setting the amount of the required performance guarantee, after consultation with the City Building Official.

17.84.50 - Time Limits, Phasing, and Extensions

- A. Time limits. Unless conditions of approval establish a different time limit, any land use permit or entitlement, except a Zoning Clearance, not exercised within two years of approval, including any extension(s), whichever is greater, shall be deemed expired. A Zoning Clearance not exercised within one year of the issuance of the building and/or grading permit, or 120 days where no building and/or grading permit is required, shall be deemed expired.
6. The permit shall not be deemed exercised until the permittee has obtained a Building Permit and diligently pursued construction, or has actually commenced the allowed use on the subject property in compliance with the conditions of approval, for uses that do not require a Building Permit. Diligent pursuit shall require, at a minimum, the completion of the installation of the foundation(s) for all structure(s) on the property.
 7. Any permit or entitlement which was approved before the adoption of this Development Code without a specific time limit, shall be exercised within two years of approval, or the time periods allowed to complete a Building Permit, including any extensions, whichever is greater, or the permit shall be deemed expired.
 8. For permits or entitlements without provisions for phasing, the use of the property including the construction of all structures and other features of the project, as shown in the approved permit, shall be completed within four years from the date of approval of the permit. Projects granted one two-year extension, in compliance with Subsection C., below, shall require completion within six years from the original date of approval of the permit. Permits not completed within these time periods shall be deemed expired.
- B. Phasing.
9. Authorization for phasing required. Where the permit or entitlement provides for development in two or more phases or units in sequence, the permit or entitlement shall not be approved until the review authority has approved the final development plan for the entire project site. The project applicant shall not be allowed to develop one phase in compliance with the pre-existing base zoning district and development standards and then develop the remaining phases in compliance with this Development Code.
 10. Maximum interval between phases. Construction shall commence for each phase of a multi-phase project within two years after construction has commenced on the previous phase, or the land use permit shall be deemed

expired. If the application for the permit also involves the approval of a Tentative Map, the phasing shall be consistent with the Tentative Map and the permit or entitlement shall be exercised before the expiration of the companion Tentative Map.

- C. Extensions of time. Upon the filing of a request for extension by the applicant, the original review authority may extend the time to establish an approved use.
11. The applicant shall file a written request for an extension of time with the City Planner in advance of the expiration date, together with the filing fee required by the City's Schedule of Fees. If the application also involves the approval of a tentative map, the extension shall be consistent with the tentative map extension, in compliance with State law (Government Code Section 66452.12) and Section 17.96.150 (Extensions of Time for Tentative Maps).
 12. If the permit or approval being considered for extension originally required a noticed public hearing, the review authority shall hold a public hearing on the proposed extension of a permit, and give notice, in compliance with Chapter 17.180 (Public Hearings).
 13. Consideration of extension.
 - a. The review authority shall determine whether the permittee has made a good faith effort to exercise the permit and that the request is still in compliance with this Development Code, the General Plan, and any applicable Specific Plan.
 - b. The burden of proof is on the permittee to establish, with substantial evidence, why the permit should be extended.
 - c. If the review authority determines that the permittee has proceeded in good faith, has exercised due diligence in seeking to establish the permit and that the request is still in compliance with this Development Code, the General Plan, and any applicable Specific Plan, the review authority may grant an extension of the permit for a period of up to a total of two additional years.
 - d. The review authority may impose conditions on the approved extension deemed reasonable and necessary to ensure that the approval will remain in compliance with the findings required by this Article for the applicable land use permit, and to bring the project into compliance with the General Plan and this Development Code.
 - e. On Tentative Map extensions, the review authority shall either approve, without new conditions, or deny the extension.

17.84.060 - Time Extensions for Building Permits

- A. City Planner's review. The City Planner shall review all applications for time extensions for Building Permits before they are granted by the Building Official.
- B. Purpose of review. The City Planner's review shall determine that the development project, covered by the Building Permit, remains in full compliance with this Development Code.
- C. Findings. The Building Official shall not grant the requested time extension if:
 - 1. Substantial work in compliance with the original permit has not occurred; and
 - 2. The City Planner finds that the project described in the Building Permit is not in compliance with any applicable provision of this Development Code.

17.84.070 - Changes to an Approved Project

Any development or new land use authorized through a Development Permit, Planned Development, Temporary Use Permit, Use Permit, or Variance shall be established only as approved by the review authority and subject to any conditions of approval imposed on the project, except where changes to the project are approved in compliance with this Section.

- A. Application requirements. An applicant shall request desired changes in writing, and shall also furnish appropriate supporting materials and an explanation of the reasons for the request. Changes may be requested either before or after construction begins, or establishment and operation of the approved land use.
- B. Extent of changes allowed. Generally, minor changes to an approved project may be authorized by the City Planner while major changes shall only be authorized by the original review authority, unless expressly stated otherwise by the conditions of approval imposed on the project, as follows:
 - 3. Minor changes. The City Planner may authorize minor changes to an approved site plan, architecture, or the nature of the approved use if the changes:
 - a. Are consistent with all applicable provisions of the Development Code;
 - b. Do not involve a feature of the project that was a specific consideration by the review body in taking action in the adoption of findings in a negative declaration or environmental impact report (EIR) for the project;

- c. Do not involve a feature of the project that was a basis for conditions of approval for the project that imposed limitations, restrictions, or requirements upon the feature above and beyond the requirements of this Development Code or that was a specific consideration by the review body in taking action in the approval permit;
 - d. Do not result in an expansion of the use greater than 10 percent of the total floor area, 10 percent of any outdoor activity area(s), or 10 percent of the total site disturbance area(s); and
 - e. Do not involve a substantial change to the site plan or the building design.
4. Major changes.
- a. Major changes to the project which involve features described in Subsections B.1.b., B.1. c., B.1.d., and B.1.e, above, shall only be approved by the review authority through a new land use permit application or modification of a land use permit, processed in compliance with this Development Code.
 - b. If a new land use permit application, or modification of a land use permit, is subsequently approved by the review authority, any previously approved land use permit shall be deemed void and superseded by the new land use permit, or modification.
 - c. If any of the matters identified above originally required a noticed public hearing, the review authority shall hold a public hearing on the proposed/requested change(s), and give notice, in compliance with Chapter 17.180 (Public Hearings).

17.84.080 - Resubmittals

- A. Time limit for resubmittals. When an application for a land use permit, or modification to a land use permit, is denied, no application for the same or substantially similar permit or modification for the same site shall be filed in whole, or in part, within six months of the date of denial, except as may be specified at the time of denial.
- B. Action of City Planner. The City Planner shall determine whether the new application is for a land use permit, or modification, which is the same or substantially similar to the previously denied permit, or modification.

- C. Effective date. The decision of the City Planner shall become effective the day after the appeal period has ended, provided that no appeal of the City Planner's decision has been filed in compliance with Chapter 17.140 (Appeals).

17.84.090 - Covenants of Easement

- A. Covenant may be required. When necessary to achieve the land use goals of the City, the City may require a property owner(s) holding property in common ownership to execute and record a Covenant of Easement in favor of the City and providing for air access, emergency access, landscaping, light, and parking access, or for open space. The Covenant may be imposed as a condition of approval by the City Planner, Site Plan Review Committee, Planning Commission, or City Council.
- B. Form of Covenant. The Covenant of Easement shall describe the real property to be subject to the easement and the real property to be benefited by the easement. The Covenant shall also identify the approval or permit granted which relied upon or required the Covenant. The form of the Covenant shall be approved by the City Attorney.
- C. Effect of Covenant. The Covenant shall be effective when recorded and shall act as an easement in compliance with State law (Chapter 3 (commencing with Section 801) of Title 2 of Part 2 of Division 2 of the Civil Code), except that it shall not merge into any other interest in the real property. Civil Code Section 1104 shall be applicable to conveyance of the affected real property. From and after the time of its recordation, the Covenant shall impart notice to all persons to the extent afforded by the recording laws of the State. Upon recordation, the burdens of the Covenant shall be binding upon, and the benefits of the Covenant shall inure to, all successors-in-interest to the real property.
- D. Enforceability of Covenant. The Covenant shall be enforceable by the successor(s)-in-interest to the real property benefited by the Covenant and the City. Nothing in this Section creates standing in any person, other than the City, and any owner of the real property burdened or benefited by the Covenant, to enforce or to challenge the Covenant or any requested amendment or release.
- E. Release of Covenant. The Covenant may be released by the City at the City's discretion, at the request of any person, in accordance with Chapter 17.88 (Vacations).
- F. Fees. The City may impose fees to recover the City's reasonable cost of processing a request for a release. Fees for the processing shall be specified in the City's Schedule of Fees.

Chapter 17.86 - Lot Line Adjustments

Sections:

- 17.86.010 - Purpose of Chapter
- 17.86.020 - Applicability
- 17.86.030 - Adjustment Application and Processing
- 17.86.040 - Lot Line Adjustment Standards
- 17.86.050 - Approval or Denial of Adjustment
- 17.86.060 - Conditions of Approval
- 17.86.070 - Completion of Adjustment

17.86.010 - Purpose of Chapter

This Chapter provides procedures for the preparation, filing, review, and approval or denial of applications for Lot Line Adjustment, in compliance with Government Code Section 66412(d).

17.86.020 - Applicability

The Lot Line Adjustment procedure shall be used only for the purpose of relocating lot lines between two or more adjoining parcels, where land taken from one parcel is added to an adjacent parcel and where no more parcels are created than originally existed. A Lot Line Adjustment may result in fewer parcels than originally existed. A Lot Line Adjustment shall be processed in compliance with this Chapter. For the purposes of this Chapter, an "adjacent parcel" is one that directly touches at least one of the other parcels involved in the adjustment.

17.86.030 - Adjustment Application and Processing

A Lot Line Adjustment application shall be prepared, filed and processed in compliance with this Section.

- A. Application content. A Lot Line Adjustment application shall include all information and other materials prepared as required by the Lot Line Adjustment Preparation and Contents instruction list, provided by the Planning Department.
- B. Processing. Lot Line Adjustment applications shall be submitted to the City Planner and shall be processed according to the procedures specified by Chapter 17.70 (Applications, Processing and Fees). An environmental assessment in compliance with Section 17.70.060 (Initial Application Review/Environmental Assessment) may be required or may be waived in compliance with Section 15305 of the CEQA Guidelines.

17.86.040 - Lot Line Adjustment Standards

The parcels proposed in a Lot Line Adjustment shall be designed to conform with all applicable standards of Articles II (Zoning Districts and Allowable Land Uses) and III (Site Planning and General Development Standards); except that an adjustment involving existing nonconforming parcels and/or parcels with existing nonconforming development may be approved provided that:

- A. The adjustment will not have the effect of creating a greater number of nonconforming parcels than exist before adjustment and will not cause a parcel that was nonconforming before the adjustment to become more nonconforming as a result of the adjustment, except where the review authority determines that the adjustment will substantially improve the conditions of the pre-adjustment parcel and development;
- B. Any existing conforming development on a parcel will not become nonconforming as a result of the adjustment; and
- C. Where existing development was nonconforming before the adjustment, the adjustment itself will not increase the nonconformity, except where the review authority determines that the adjustment will substantially improve the conditions of the pre-adjustment parcel and development.

17.86.050 - Approval or Denial of Adjustment

- A. Public hearing. A public hearing shall not be required for a Lot Line Adjustment.
- B. Findings and decision. The City Council, may approve a Lot Line Adjustment, with or without conditions, only if all of the following findings can be made:
 - 1. The Lot Line Adjustment does not create a greater number of parcels than originally existed;
 - 2. The parcels resulting from the Lot Line Adjustment and development on those parcels conform to all applicable requirements of this Chapter, this Development Code, and Title 14 (Building and Construction) of the Municipal Code;
 - 3. Existing utilities, infrastructure, and easements, including but not limited to streets, driveways, sewer mains, water mains, and electrical lines, will not be adversely affected by the Lot Line Adjustment, or if utilities, infrastructure, or easements will be adversely affected, conditions have been applied to the approval of the Lot Line Adjustment to facilitate their relocation.

17.86.060 - Conditions of Approval

In approving a Lot Line Adjustment, the City Council as applicable may impose specific development conditions as it finds are reasonable and necessary to ensure that the approval will be in compliance with the findings required by Section 17.86.050.B (Approval or Denial of Adjustment - Findings and Decision).

17.86.070 - Completion of Adjustment

Within 24 months after approval of a Lot Line Adjustment, the adjustment process shall be completed as set forth in this Section through the recordation of a deed, after all conditions of approval have been satisfied.

A. Completion by deed.

1. A Lot Line Adjustment shall not be considered legally completed until either a grant deed or a quit claim deed signed by the record owners has been recorded in compliance with this Section.
2. The applicant shall submit deeds and a plat map to the City Engineer for review, approval, and signature in compliance with Subsection C., below, before recordation of the grant deed or quit claim deed.
3. The legal descriptions provided in the deeds shall be prepared by a qualified registered civil engineer, or a licensed land surveyor licensed or registered in California.

B. Completion by record of survey. If the City Engineer determines that a record of survey is required by Section 8762 et seq. of the Business and Professions Code, a Lot Line Adjustment shall not be considered legally completed until a record of survey has been checked by the City Surveyor and sent to the County Surveyor for approval and to the County Recorder for recordation.

C. Review and approval by City Engineer. The City Engineer shall:

1. Examine the deeds to ensure that all record title owners have consented to the adjustment;
2. Examine the deeds to ensure that any deeds of trust or similar encumbrances will be modified to reflect the new parcel descriptions;
3. Verify that all conditions of approval have been satisfactorily completed and that the deeds and plat map are in substantial compliance with the Lot Line Adjustment as approved by the review authority;
4. If satisfied that the deeds and plat map comply with the above requirements, place an endorsed approval upon the plat map; and

5. After approval of the legal descriptions and plat map, assemble the deeds and return them to the applicant for recordation.

D. Expiration. The approval of a Lot Line Adjustment, including a Lot Line Adjustment that was approved before the effective date of this Development Code, shall expire and become void if the adjustment has not been completed in compliance with this Section within 24 months of approval.

Chapter 17.88 - Vacations

Sections:

- 17.88.010 - Purpose of Chapter
- 17.88.020 - Applicability
- 17.88.030 - Findings and Decision

17.88.010 - Purpose of Chapter

This Chapter establishes procedures for the review, and approval or denial of the vacation of streets and public easements and the release of covenants of easements, which is required by State law and the City to ensure that the street or easement is not necessary for present or prospective public use.

17.88.020 - Applicability

Any and all requests for the abandonment, vacation, and/or release of streets and public easements shall be evaluated in compliance with this Chapter and Section 8300 of the Streets and Highways Code.

17.88.030 - Findings and Decision

A request for the vacation of a street or public service easement or the release of a covenant of easement shall be reviewed and processed in compliance with this section.

A. Minor street vacation. A request for the vacation of a street may be approved, with or without conditions, by the City Council by resolution without public hearing or notice only if the conformity of the request with the General Plan has been considered and one of the following findings can be made:

1. The street has been superseded by relocation of the street and utilities; the relocation of the street would not cut off all access to a person's property which, prior to relocation, adjoined the street; and the street is not necessary for present or prospective public use;
2. The street has been impassable for vehicular traffic for a period of five consecutive years, no public money was expended for maintenance on the

street during such period, there are no in-place public utility facilities that are in use or would be affected by the vacation, and the street is not necessary for present or prospective public use; or

3. The excess right-of-way of the street is not required for street purposes, there are no in-place public utility facilities that are in use or would be affected by the vacation, and the excess right-of-way is not necessary for present or prospective public use.

The resolution of summary vacation shall be recorded by the City with the Office of the County Recorder.

B. Minor public service easement vacation. A request for the vacation of a public service easement may be approved, with or without conditions, by the City Council by resolution without public hearing or notice only if the conformity of the request with the General Plan has been considered and one of the following findings can be made:

1. The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the requested vacation, and the easement is not necessary for present or prospective public use;
2. The date of dedication or acquisition of the easement is less than five years, and more than one year, immediately preceding the requested vacation, the easement was not used continuously since that date, and the easement is not necessary for present or prospective public use; or
3. The easement has been superseded by relocation, there are no other public facilities located within the easement, and the easement is not necessary for present or prospective public use.

The resolution of summary vacation shall be recorded by the City with the Office of the County Recorder.

C. Major street and public service easement vacation. A request for the vacation of a street or public service easement not meeting the requirements of Subsections A. and B. may be approved, with or without conditions, by the City Council by resolution if all of the findings can be made:

1. The request was considered at a public hearing and noticed in accordance with the requirements of Sections 8322 and 8323 of the Streets and Highways Code;
2. The request was referred to the Planning Commission for their review, and the Planning Commission reported on the conformity of the request with the General Plan;

3. The street or public service easement is not necessary for present or prospective public use.

The resolution of summary vacation shall be recorded by the City with the Office of the County Recorder.

D. Release of covenant of easement. A covenant of easement may be released, with or without conditions, by the review body if all of the findings can be made:

1. A public hearing was held and noticed in accordance with Chapter 17.180 (Public Hearings) to consider the release of the covenant of easement;
2. The covenant of easement and the restriction on the property are no longer necessary to achieve the land use goals of the City, and the approval of the release is consistent with the General Plan.

The release may be affected either by the Site Plan Review Committee, Planning Commission, or City Council, depending upon which review body imposed the requirement of the covenant. A notice of the release of the covenant of easement shall be recorded by the City Clerk with the Office of the County Recorder.