# Planning Commission

Regular Meeting
# AGENDA

***(to be held both at the physical and virtual locations below)***

***Civic Center ♦ Conference Room 3 ♦ 300 Seminary Avenue ♦ Ukiah, CA 95482***

***To participate virtually, go to the following link: https://us06web.zoom.us/j/91264543193***
***To view the meeting (without participating), go to: http://www.cityofukiah.com/meetings/***

***Or you can call in using your telephone only:***

- ***Toll-free 1-669-444-9171***
- ***Enter the Access Code: 912 6454 3193***
- ***Raise hand: After being recognized, Enter *9***
- ***To Speak after being recognized: enter *6 to unmute yourself***

**June 26, 2024 - 6:00 PM**

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. PLEDGE OF ALLEGIANCE**

**4. AB 2449 NOTIFICATIONS AND CONSIDERATIONS**

**5. APPROVAL OF MINUTES**

5.a. Approval of the Minutes for June 12, 2024, a Regular Meeting.
***Recommended Action: Approve the Minutes for June 12, 2024, a Regular Meeting.***
Attachments:
1. June 12, 2024, Minutes

**6. APPEAL PROCESS**

All determinations of the Planning Commission regarding major discretionary planning permits are final unless a written appeal stating the reasons for the appeal is filed with the City Clerk within ten (10) days of the date the decision was made. An interested party may appeal only if he or she appears and states his or her position during the hearing on the decision from which the appeal is taken. For items on this agenda, the appeal must be received by July 8, 2024.

**7. COMMENTS FROM AUDIENCE ON NON-AGENDA ITEMS**

The Planning Commission welcomes input from the audience that is within the subject matter jurisdiction of the Planning Commission. In order for everyone to be heard, please limit your comments to three (3) minutes per person and not more than ten (10) minutes per subject. The Brown Act regulations do not allow action to be taken on audience comments.

## 8. SITE VISIT VERIFICATION

## 9. VERIFICATION OF NOTICE

## 10. PLANNING COMMISSIONERS REPORT

## 11. DIRECTOR'S REPORT

11.a. Receive Community Development Director's Report.

***Recommended Action: Receive Community Development Director's Report.***

Attachments:

1. Planning-Division-Projects-Report-6-1-24

## 12. CONSENT CALENDAR

The following items listed are considered routine and will be enacted by a single motion and roll call vote by the Planning Commission. Items may be removed from the Consent Calendar upon request of a Commissioner or a citizen in which even the item will be considered at the completion of all other items on the agenda. The motion by the Commission on the Consent Calendar will approve and make findings in accordance with Administrative Staff and/or the Commission recommendations.

## 13. UNFINISHED BUSINESS

## 14. NEW BUSINESS

14.a. Planning Commission Educational Workshop: Receive Training and Discuss Planning-Related Topics of Interest with Staff

***Recommended Action: Receive training presentation and materials and discuss with Staff.***

Attachments:

1. Ukiah DZC- Table 29 Exception Procedures
2. How-to-Prepare-Findings-and-Conditions-of-Approval
3. Ukiah DZC 9231.14 Nonconforming Structures

## 15. ADJOURNMENT

Please be advised that the City needs to be notified 72 hours in advance of a meeting if any specific accommodations or interpreter services are needed for you to attend. The City complies with ADA requirements and will attempt to reasonably accommodate individuals with disabilities upon request. Materials related to an item on this Agenda submitted to the Planning Commission after distribution of the agenda packet are available at the Civic Center 300 Seminary Ave. Ukiah, CA 95482; and online at: www.cityofukiah/meetings/ at the end of the next business day.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the bulletin board at the main entrance of the City of Ukiah City Hall, located at 300 Seminary Avenue, Ukiah, California, not less than 72 hours prior to the meeting set forth on this agenda.

Dated: June 19, 2024
Stephanie Abba, Planning Commission Clerk

# CITY OF UKIAH
# PLANNING COMMISSION MINUTES
# REGULAR MEETING

***Civic Center Council Chamber ♦ 300 Seminary Avenue ♦ Ukiah, CA 95482***

**Virtual Meeting Link:** *https://zoom.us/j/91264543193*

**June 12, 2024**
**6:00 p.m.**

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**1. CALL TO ORDER**

The City of Ukiah Planning Commission held a Regular Meeting on June 12, 2024. The meeting was legally noticed on June 4, 2024. The meeting was held in person and at the following virtual link: *https://zoom.us/j/91264543193*. Chair R. Johnson called the meeting to order at 6:00 p.m.

*CHAIR R. JOHNSON PRESIDING*

**2. ROLL CALL**

Roll was taken with the following **Commissioners Present**: Thao Phi, , Alex de Grassi, Rick Johnson. **Commissioners Absent:** M. Hilliker **Staff Present:** Craig Schlatter, Community Development Director, and Stephanie Abba, Planning Commission Clerk.

**3. PLEDGE OF ALLEGIANCE**

*The Pledge of Allegiance was led by Commissioner deGrassi (double-check).*

**4. APPROVAL OF MINUTES**

**a. Approval of the Minutes of May 22, 2024, a Regular Meeting.**

**Motion/Second:** Phi/deGrassi to approve the Minutes of May 22, 2024, a Regular Meeting as submitted. Motion **carried** by the following Roll Call votes: **AYES**: T. Phi, A. de Grassi. R. Johnson **NOES**: None. **ABSENT**: M. Hilliker. **ABSTAIN**: None.

**5. APPEAL PROCESS**

*Vice Chair de Grassi stated the appeals deadline date is June 24, 2024. No appeals were received.*

**6. COMMENTS FROM THE AUDIENCE ON NON-AGENDA ITEMS**

*No Comments from Audience*

**7. SITE VISIT VERIFICATION**

*Verified by the Commissioners*

**8. VERIFICATION OF NOTICE**

*Verified by Staff*

**9. PLANNING COMMISSIONERS' REPORTS**

*None*

**10. DIRECTOR'S REPORT**

**Presenter:** Craig Schlatter, Community Development Director

- Director Schlatter stated July 10, 2024 Meeting is Canceled.
- Director Schlatter stated that the Planning Commission Meeting on June 26, 2024, will be held in Conference Room 3 in the Civc Center.



DRAFT

*Report Received.*

**11. CONSENT CALENDAR**

*No items on the Consent Calendar*

**12. UNFINISHED BUSINESS**

*No Unfinished Business items were agendized.*

**13. NEW BUSINESS**

**a.** Consideration of an offer of Public Artwork on the Mendocino County Public Library- Ukiah Branch consistent with the City's Public Art Policy.

**Motion/Second:** Phi/deGrassi Accept the Offer of Public Artwork, as presented based on the Findings in Attachment 1` and the Condidtions of Approval in Attachment 2. Motion **carried** by the following Roll Call votes: **AYES**: T. Phi, M., A. de Grassi and R. Johnson **NOES**: None. **ABSENT**: M. Hilliker. **ABSTAIN**: None.

**14. ADJOURNMENT**

There being no further business, the meeting adjourned at 6:25 p.m.

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Stephanie Abba, Planning Commission Clerk

DRAFT

**Agenda Item No:** 11.a.

**MEETING DATE/TIME:** 6/26/2024

**ITEM NO:** 2024-321

City of Ukiah

# AGENDA SUMMARY REPORT

**SUBJECT:** Receive Community Development Director's Report.

**DEPARTMENT:** Community Development

**PREPARED BY:** Craig Schlatter, Community Development Director

**PRESENTER:** Craig Schlatter, Community Development Director

**ATTACHMENTS:**

1. Planning-Division-Projects-Report-6-1-24

**Summary:** Planning Commission will receive the Community Development Director's Report.

**Background:** Director's Reports are bi-monthly oral reports given by the Community Development Director on the status of projects of the Planning Division of the Community Development Department. Updates may include, but are not limited to, application status of major and minor discretionary permits, the implementation status of advanced planning and related 2040 General Plan programs and projects, and updates related to the activities of other divisions of the Department.

**Discussion:** Please see June 2024 Planning Division Projects Report in Attachment 1. The Planning Division Projects Report is a monthly report produced on the first of each month. The June 2024 report and previous monthly reports are located on the Planning Division Services webpage, under "Current Planning Reports." See the link below.

https://cityofukiah.com/community-development/planning-services/

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**Recommended Action:** Receive Community Development Director's Report.

City of Ukiah
COMMUNITY DEVELOPMENT DEPARTMENT

# City of Ukiah
# Submitted Planning Applications

**As of 6/1/2024**

| Permit # | Site Address | Date of Submittal | Summary of Project | Status |
|---|---|---|---|---|
| 24-9253 | 734 S. State St. | 1/29/24 | Minor Site Development Permit to facilitate tenant improvements to a commercial structure associated with an existing gasoline station (MUP #93-10), implement new landscaping and undertake various site improvements, including new signage, facia, and station upgrades. | DRB Hearing: 4/25/24 (Recommended Approval to ZA); ZA Scheduled for 6/5/24. |
| 17-3069 | 1294 N. State St. | 9/13/17 | Resubmitted Major Use Permit and Site Development Permit to allow for construction of two retail suites (including one drive-through), within the Community Commercial (C1) zoning district. | DRB Hearing: 4/25/24 (Recommended Approval to PC); PC Hearing - TBD |
| 24-9265 | 195 Low Gap Rd. | 2/20/24 | A General Plan Amendment to convert the subject property from Low Density Residential (LDR) to Community Commercial (CC) land use designation, as well as a Rezone to convert the property from the Low Density Residential (R1) zoning district to the Community Commercial (C1) zoning district. If approved, the intended use of the property would be for a 'Professional Office'. | CEQA IS/MND Draft - In Process |
| 24-9277 | 961 Marlene Street | 3/14/24 | Minor Subdivision of an existing 2.3± acre lot into two (2) parcels. Parcel 1 would be 1.23 acres and feature the existing condominiums; Parcel 2 would be 1.07 acres and undeveloped. Additionally, both parcels would be rezoned to R-2, removing the Planned-Development requirements of Use Permit No. 80-40. | CEQA IS/MND Draft - In Process |
| 24-000501 | 105 North Main Street | 5/8/24 | Consideration of an offer of public artwork on the Mendocino County Public Library – Ukiah Branch consistent with the City's Public Art Policy. | DRB Hearing: 5/23/24 (Recommend Approval to PC); PC Scheduled for 6/12/24 |

# City of Ukiah
## Recently (Within Previous 90 Days) Approved Projects

City of Ukiah
COMMUNITY DEVELOPMENT DEPARTMENT

**As of 6/1/2024**

| Permit # | Site Address | Approved Date | Summary of Project | Comments |
|---|---|---|---|---|
| 23-9153 | 1230 Airport Park Blvd. Suite C | 3/14/24 | Minor Amendment to a Major Use Permit to allow 'Cannabis Distribution' within an existing structure that currently facilitates 'Cannabis Retail' located within the Airport Industrial Park Planned-Development (Light Manufacturing/Mixed-Use) zoning district. | Approved by Zoning Administator on 3/14/24. |
| 23-8972 | 441 N State St. | 4/24/24 | Major Use Permit for the development of an outdoor cannabis consumption area at an existing 'Cannabis Retail' business within the Community Commercial (C1) zoning district. | Approved by Planning Commission on 4/24/24 |
| 24-9268 | 1310 West Clay St. | 4/25/24 | Minor Subdivision of an existing .71± acre lot into two (2) parcels. Parcel 1 would be 14,424 square feet gross, while Parcel 2 would be 20,234 square feet within the Low Density Residential (R1) zoning district. | Approved by City Engineer on 4/25/24 |
| 24-9258 | 280 E. Standley St. | 5/22/24 | Major Site Development Permit to allow for the temporary installation of nine (9) single-story prefabricated modular structures (totaling approximately 1,440 square feet) to serve as supplementary counseling offices for the existing health service provider(s) requiring Major and Minor Exceptions to the Downtown Zoning Code as regulated by Ukiah City Code §9231.5. Additional site modifications include renovation of the existing parking lot, relocation of the trash enclosure, and the addition of vinyl slates to the existing perimeter fencing | DRB Hearing: 3/28/24; Approved by Planning Commission on 5/22/24 |

City of Ukiah
COMMUNITY DEVELOPMENT DEPARTMENT

# City of Ukiah
# Advanced Planning Projects

**As of 6/1/2024**

| Permit # | Site Address | Approved Date | Summary of Project | Comments |
|---|---|---|---|---|
| N/A | Citywide | N/A | Ordinance Amendment for modifications to UCC 3016 for Demolition Permit procedures | Working with Rincon Consultants, Inc. to update/streamline Demolition Permit procedures. Funded by Local Early Action Planning (LEAP) Grant. Anticipate bringing proposed amendments forward in early 2024. |
| N/A | Citywide | N/A | 2040 General Plan Implementation Programs | Climate Action Plan, Right-to-Farm Ordinance, SB 743 methodology, Update to Demo Permit Procedures in-process |
| A_2022-02 | Unincorporated Western Hills | N/A | Amendment of the Western Hills Annexation Area - Annexation Application. | Annexation application submitted to LAFCo: 6/8/22. Incomplete letter from LAFCo received 6/29/22. Planning Commission hearing for recommendation to City Council: 11/8/23; City Council hearing: 12/6/23. An amended application was submitted to LAFCo on 03/15/24. Requested revisions will be evaluated by the City Council on 06/19/24. |
| N/A | Citywide | N/A | Ordinance Amendment to residential zoning districts R1 to facilitate 'Missing Middle Housing' development, incluidng 'Cottage Court', and clarify existing regulations for ADUs & JADUs. | Ad Hoc Review Scheduled for 05/16/24; Tentative PC Hearing on 7/24/24 |

**Agenda Item No:** 14.a.

**MEETING DATE/TIME:** 6/26/2024

**ITEM NO:** 2024-322

City of Ukiah

# AGENDA SUMMARY REPORT

**SUBJECT:** Planning Commission Educational Workshop: Receive Training and Discuss Planning-Related Topics of Interest with Staff

**DEPARTMENT:** Community Development

**PREPARED BY:** Craig Schlatter, Community Development Director, Darcy Vaughn, Assistant City Attorney

**PRESENTER:** Craig Schlatter, Community Development Director; Darcy Vaughn, Assistant City Attorney

**ATTACHMENTS:**

1. Ukiah DZC- Table 29 Exception Procedures
2. How-to-Prepare-Findings-and-Conditions-of-Approval
3. Ukiah DZC 9231.14 Nonconforming Structures

**Summary:** Planning Commission will receive training and presentation materials and direct questions to and discuss training content with Staff.

**Background:** This Planning Commission Educational Workshop has been scheduled to afford the opportunity for the Planning Commission to discuss questions and concepts of note with Staff. The Commission has identified the following five topics of interest:

1. The differences between variances and exceptions, particularly within the Downtown Zoning Code.
2. How Findings should be conceived and drafted and best practices for doing so.
3. Nonconforming structures within the Downtown Zoning Code - definition and overview.
4. Barriers to redeveloping vacant commercial property throughout Ukiah and how to address barriers.
5. The challenges presented by vacant and unmaintained properties in Ukiah and what the City can do to improve these properties.

**Discussion:** As background information and to provide some resources prior to the Commission's workshop, Staff has addressed below each of the noted topics of interest, including relevant attachments for each topic. Additional information and resources may be provided at the workshop.

**1. Differences between Variances and Exceptions, particularly within the Downtown Zoning Code**

The Downtown Zoning Code (Code) is contained within Division 9, Chapter 2, Article 18 of the Ukiah City Code. Ukiah City Code can be accessed at this link: https://www.codepublishing.com/CA/Ukiah/. On the left-hand side of the Contents page, navigate to Article 18 by clicking on the relevant dropdown menu.

The Code notes within Section 9231.7: *Variances are prohibited within the boundaries of this code. Deviations from the requirements of this code are allowed through an exception as provided for in section 9231.5 of this code*.

Section 9231.5 of the Code notes: *Where this code allows specific requirements to be modified, such modification may be allowed with approval of an exception. Table 29: Exception Procedures, establishes two (2) levels of exceptions, major and minor, and the procedures for the review and processing of exceptions.* See Attachment 1 for the Table 29 Exception Procedures.

Section 9232.3(E) Definitions "E" defines "Exception" as: *A ruling that would permit a practice that is not consistent with a standard of this code. This code distinguishes between major and minor exceptions (see section 9231.5 of this code, Exceptions, and Table 29: Exception Procedures).*

The Downtown Zoning Code does not provide a definition of variance within Section 9232. However, variance is defined elsewhere in the City's zoning code. Division 9, Chapter 2, Article 21, defines *Variance or Variance Permit* as: *A permit that grants a minor modification or variation of the strict application of any of the provisions of this chapter when the strict application would deprive a property of privileges enjoyed by other property in the same vicinity, district, and zone. Variance definition shall not be construed as to permit those uses not permitted by the zone.*

**2. How Findings should be Drafted and Best Practices for Doing So**
At the March 18, 2022, Planning Commissioners Academy, the League of California Cities presented a session titled "How to Prepare Findings and Conditions of Approval." The PowerPoint slides for this presentation are included as Attachment 2.

**3. Nonconforming Structures within the Downtown Zoning Code - Definition and Overview**
Regulations pertaining to nonconforming structures in the downtown are contained within Section 9231.14 Nonconforming Structures, included as Attachment 3.

**4. Barriers to Redeveloping Vacant Commercial Property throughout Ukiah and How to Address These Barriers**
Since the loss of State redevelopment funding approximately 12 years ago, the City has had few financial resources for assisting property owners with the redevelopment of commercial properties. In this section, Staff will provide an overview of barriers to redevelopment and identify how other similarly-sized cities have addressed these barriers. The City's Economic Development Lead and Deputy City Manager, Shannon Riley, will be joining to present on this topic.

**5. The Challenge of Vacant and Unmaintained Properties in Ukiah and what the City can do to Improve these Properties**
At its June 3, 2024, special budget hearing meeting, the Ukiah City Council identified this challenge to Staff. As a result of this input, on June 4, Staff amended the Fiscal Year 2024-25 budget objectives for the Code Compliance Division to include the following new objective:

*2025-3: Collaborate with the Planning Division to assess current policies and regulations, and develop recommendations to address and prevent abandoned, neglected, blighted buildings, and underutilized properties.*

Although Staff has not yet started this task, a general overview regarding approach will be provided.

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**Recommended Action:** Receive training presentation and materials and discuss with Staff.

Table 29: Exception Procedures (1)

| Permit Type | Minor Exception | Major Exception |
|---|---|---|
| Type | Two (2) or fewer minor exceptions | More than two (2) minor exceptions<br>Exceptions as determined by the Zoning Administrator (5) |
| Application and Filing Submittal Requirements (2) | Planning permit application form<br>Application fees<br>Detailed plot plan of the subject property and surrounding land uses<br>Elevation drawings<br>Other information deemed necessary by the Planning Director | Planning permit application form<br>Application fees<br>Detailed plot plan of the subject property and surrounding land uses<br>Elevation drawings<br>Other information deemed necessary by the Planning Director |
| Approval Authority (3) | Zoning Administrator (1) | Planning Commission |
| Public Notice | As prescribed by subsection 9264B of this code | As prescribed by subsection 9264B of this code |
| Findings for Grant of Permit (4) | The request is consistent with the intent of this code and the Ukiah General Plan<br>The project is compatible with the neighborhood and design intent of this code<br>The project provides appropriate connections, transitions, and relationships between buildings and the street, adjacent properties and one another<br>The project provides adequate and appropriate pedestrian facilities and connections<br>The project would not impair the desirability of investment, employment, or residence in the neighborhood<br>The project is not detrimental to the public's health, safety and general welfare<br>Special circumstances or conditions apply to the site, building, improvement or use, such as the preservation of natural resources (creek, tree preservation), providing enhanced pedestrian facilities or enhanced outdoor areas (outdoor seating, enhanced landscaped areas) | The request is consistent with the intent of this code and the Ukiah General Plan<br>The project is compatible with the neighborhood and design intent of this code<br>The project provides appropriate connections, transitions, and relationships between buildings and the street, adjacent properties and one another<br>The project provides adequate and appropriate pedestrian facilities and connections<br>The project would not impair the desirability of investment, employment, or residence in the neighborhood<br>The project is not detrimental to the public's health, safety and general welfare<br>Special circumstances or conditions apply to the site, building, improvement or use, such as the preservation of natural resources (creek, tree preservation), providing enhanced pedestrian facilities or enhanced outdoor areas (outdoor seating, enhanced landscaped areas) |
| Appeal | As prescribed by section 9266 of this code | As prescribed by section 9266 of this code |
| Effective Date | As prescribed by subsection 9264F of this code | As prescribed by subsection 9264F of this code |

Table 29: Exception Procedures (1)

| Permit Type | Minor Exception | Major Exception |
|---|---|---|
| Expiration/Revocation | As prescribed by subsection 9264G of this code | As prescribed by subsection 9264G of this code |
| Renewal | As prescribed by subsection 9264H of this code | As prescribed by subsection 9264H of this code |
| California Environmental Quality Act (CEQA) | Planning Director shall determine the type of environmental review required or if the application is exempt from CEQA | Planning Director shall determine the type of environmental review required or if the application is exempt from CEQA |

1. Applications for multiple permits are subject to the requirements of section 9231.10 of this code, Concurrent Permits.

2. Submittal requirements for an exception depend on the standard (building, site, architectural, tree) from which the exception is requested.

3. Any exception application reviewed by the Zoning Administrator or the Planning Commission may be approved, conditionally approved, or denied.

4. Approval authority has made all applicable findings based on project plans and the documentation provided as part of the application and said findings are not vague and conclusionary. The findings shall be sufficiently detailed to apprise a reviewing court of the basis for the action by bridging the gap.

5. The Zoning Administrator may refer any application to the Planning Commission for public hearing and decision.

(Ord. 1139, §2 (Exh. A, 12.180), adopted 2012)

# HOW TO PREPARE FINDINGS AND CONDITIONS OF APPROVAL

League of California Cities
Planning Commissioners Academy
March 17, 2022

Moderator: Joel Rojas
Development Services Director, San Juan Capistrano
Immediate Past President, Planning and Community Development Department CalCities

Speaker: Patricia Curtin
Land Use and Public Agency Lawyer, Wendel Rosen LLP
Former Planning Commissioner, Lafayette

# FINDINGS

- Findings explain how a city processed evidence presented in reaching a decision.
- Documenting the city's thought process.
- "Bridge the gap" between the evidence and ultimate decision.

# PURPOSE OF FINDINGS

- Provides a framework for making decisions, thereby enhancing the integrity of the process and promotes transparency
- Facilitates orderly analysis and reducing the likelihood the city will leap randomly from evidence to conclusions
- Serves a public relations function by demonstrating that decision-making is careful, reasoned, and equitable
- Enables the parties to determine whether and on what basis they should seek judicial review and remedies
- Apprises the reviewing court of the basis for the city's decisions. See *Topanga Ass'n for a Scenic Community v. Central Los Angeles*, 11 Cal.3d 506 (1974)

# WHEN ARE FINDINGS NECESSARY?

- Decisions made in a nonlegislative/adjudicatory role (variances, use permits, subdivision maps, design proposals).

- Not **required** for legislative acts (general plan adoption, rezoning) unless required by state law or local ordinance.

- State law requires specific findings when reducing number of housing units or not approving a housing project.

- Imposing conditions/fees or requiring dedication to development. Must demonstrate the condition has a “rough functionality” to the development’s impact.

# FORM

- Provide written findings.  Generally in or attached to the resolution approving/denying the project.
- Conclusory findings are not adequate.  Need to explain how the agency derived at its decision.
- Use the word “because”  - “The proposed project subject to the use permit is consistent with the General Plan because . . . ”.
- Tie the findings to requirements in the city’s plans, standards and/or codes.

# IMPORTANT TO MAKE A CLEAR RECORD

The Planning Commission's decision is based on, but is not limited to:

- The **Environmental Impact Report (EIR)** and the appendices and technical reports cited in and/or relied upon in the EIR.
- The **staff reports**, City files and records and other documents, prepared for and/or submitted to the City relating to the EIR, and the Project.
- The evidence, facts, findings and other determinations set forth in this **resolution.**
- The **General Plan** and its related EIR, and the Municipal Code.
- All **designs, plans, studies, data and correspondence** submitted to the City in connection with the EIR and/or the Project.
- All documentary and oral **evidence received at public meetings**, and hearings or submitted to the City during the comment period relating to the EIR and/or Project.
- All **other matters of common knowledge to the City**, including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City and its surrounding areas.

# SAMPLE FINDINGS

## General Plan Consistency Findings.

**No. 1 -**

- **Poor Example** - The proposed single family project of 12 units is consistent with the General Plan land use designation.
- **Good Example**- The proposed project is consistent with the General Plan land use designation of Residential *because t*he proposed project (2 acre site) includes 10 units which is within the density range allowed by the Residential designation (0-6 units/gross acre) that is identified for the site.

# NO. 2 -

- **Poor Example** The proposed rezoning to light industrial is consistent with all applicable General Plan policies.

- **Good Example** – Re-designating the site from business/office to light industrial is consistent with the General Plan *because* it is consistent with the following applicable General Plan policies:

  - 2.1.1 - Promote a combination of employment and residential uses that provide both jobs and housing for the City's residents.
  - 2.1.4 - Promote the placement of the most intensive non-residential development (Light Industrial) in the Planning Area as defined in Figure 2-3.

- 2.4.1 - The City does not support or accommodate general Heavy Industrial uses.  The City does allow and encourage Light Industrial and uses in appropriate locations.
- 2.4.3 - Ensure there is adequate land available to accommodate industrial development.
- 5.1.3 - Actively recruit businesses and industries that are compatible with the General Plan's land use and implementation goals and policies.

# SITE DEVELOPMENT PLAN FINDINGS

**No. 1 -**

- **Poor Example** - Streets and pedestrian facilities are adequate to carry the traffic expected to be generated by the SDP.

- **Good Example** - Streets and pedestrian facilities are adequate to carry the quantity and type of traffic expected to be generated by the SDP *because* the existing streets will be improved as required by condition of approval no. 10 that requires the widening of the street to four lanes with a separate sidewalk along the eastern side of the street. These modifications to the street widths will carry traffic safely in and out of the site as explained at page 17 of the traffic report attached to the Staff Report. Furthermore, the proposed landscape buffer and meandering sidewalk will provide a connection between neighborhoods allowing for pedestrians to walk safely within and around the neighborhood.

# NO. 2 -

- **Poor Example** - The site is physically suitable for the type and density/intensity of development being proposed.

- **Good Example** - The site is physically suitable for the type and density/intensity of development being proposed *because* the proposed development is similar in size and intensity to the residential development surrounding the site. The proposed development allows 10,000 sq. ft. lots with 1 dwelling unit and the surrounding existing development consists of 10,000-12,000 sq. ft. lots with 1 dwelling unit.

# NO. 3 -

- **Poor Example** - The proposed planned unit development (PUD) would produce a development of superior quality than might otherwise occur under the standard zoning designation of R-5.

- **Good Example** - The proposed PUD would produce a comprehensive development of superior quality than might otherwise occur from the strict application of the zoning standards requiring single family homes on 5,000 sq. ft. lots *because* the proposed development clusters density at the center of the site allowing for more open space at the perimeter, thereby preserving the visual character along Main Street. In addition, the project proposal includes varied types of housing, one and two story and duplexes. This development provides an opportunity for single, elderly and first time homeowners to locate in the city. In addition, the project provides five acres of public open space with picnic facilities and bathrooms and seven miles of walking trails along the perimeter of the development.

# Housing Accountability Act ("Anti-NIMBY Law") (Gov. Code § 65589.5)

Adopted in 1982 in response to the housing crisis.

Amended over the years and most recently in 2019 (SB 330 – Housing Crisis Act).

Precludes denial of a housing project or reducing its density if it complies with "applicable, objective general plan and zoning standards and criteria, including design review standards," without making specific written findings based on a preponderance of the evidence, even if the project does not include affordable housing. Sect. 65589.5(j)

Can only deny housing project if:

A) Project would have a specific, adverse impact on public health or safety.

   A “specific adverse impact” means a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions in existence on date application was deemed complete.

B) There is no feasible way to satisfactorily mitigate or avoid the adverse impact other than disapproving the project or lowering its density.

# AFFORDABLE HOUSING PROJECTS

A City shall not disapprove an affordable project, or condition approval in a manner that renders the housing development project infeasible for development of the affordable units, unless it makes written findings, based upon a preponderance of the evidence in the record.

# CAN ONLY DENY AN AFFORDABLE HOUSING PROJECT IF:

- The City has adopted a housing element in accordance with Government Code § 65588, is in substantial compliance with the Housing Element law, and the City has met or exceeded its share of the regional housing need of the income category proposed for the housing project.
- The project would have a specific adverse impact upon the public health or safety that cannot be satisfactorily mitigate without rendering the housing development project unaffordable, or development of the emergency shelter financially infeasible; inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon public health or safety.

- The denial of the project or imposition of conditions is required in order to comply with state or federal law (e.g., CEQA), and there is no feasible method to comply without rendering the housing development project unaffordable.
- The project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agriculture or preservation purposes, or the site does not have an adequate water or wastewater facility to serve the project.
- The project is inconsistent with both the city's zoning ordinance and general plan land use designation as specified in the general plan as it existed on the date the application was deemed complete, and the city had adopted a revised housing element in accordance with §65588 that is in substantial compliance with the Housing Element law.

# CONDITIONS OF APPROVAL

# WHAT ARE CONDITIONS OF APPROVAL?

- Requirements placed on discretionary projects (use permits, development plans, etc.)
- Must be consistent with federal, state and local laws
- Detail the requirements for implementing the approved project

# WHO PREPARES CONDITIONS OF APPROVAL?

- Planning staff in coordination with other City departments
- Applicant may have input to ensure conditions of approval are feasible to implement
- Most agencies have standard conditions of approval that are provided to the applicant early in the review process
- Decisionmakers may also add conditions during the hearing process

# WHO, WHAT, WHEN, WHY AND HOW

- **Who** is responsible for reviewing and approving (local agency)?
- **What** is the condition trying to implement ?
- **When** will it be implemented (e.g., timing, triggers)?
- **Why** is the condition needed (end result)?
- **How** will compliance be demonstrated (plans, agreement, etc.)?

## GOOD EXAMPLE

- Prior to the issuance of the first building permit **[when]** the applicant shall design and submit for review plans for a pedestrian access corridor between Blocks F and G **[what]**. Approval of the access corridor shall provide connectivity between the Plaza District (Block F) and Central Park (Block G) **[why].** The corridor shall be consistent with the design of the Plaza District mixed use concept, be well lit and include appropriate site amenities as set forth in the Plaza District Master Plan in Section 3 **[how].** Prior to the submittal of construction documents, the applicant shall obtain approval of the design by the Zoning Administrator **[who].**

# SAMPLE COA #1
# WHAT IS MISSING…?

- The applicant shall submit a residential parking plan designating portions of the common area parking for exclusive use by Phase 2 residents. The plan shall specify parking allocations by unit and any restrictions necessary to preserve the parking rights established for individual residential units.

- Missing “when” and “who.”

# REVISED CONDITION

- Prior to issuance of a building permit [**when**], the applicant shall submit a residential parking plan [**how**] designating portions of the common area parking for exclusive use by the Phase 2 residents [**why**], for review and approval of the Zoning Administrator [**who**]. The plan shall specify parking allocations by unit and any restrictions necessary to preserve the parking rights established for individual residential unit [**what**].

# SAMPLE COA #2
# WHAT IS MISSING…?

- A landscaping and irrigation plan for all areas shown on the site plan shall be prepared.  The landscaping plan shall include the project's frontage and side yards.

## REVISED CONDITION

- The applicant shall prepare a landscaping and irrigation plan for all areas shown on the site plan for review and approval of the Community Development Director **[who]** prior to the issuance of the first building permit **[when].** The landscaping plan shall include the frontage and side yards **[what],** conform to the City's Water Efficient Landscape Ordinance, the Guidelines for Implementation of the City Water Efficient Landscape Ordinance **[why]** and shall be installed prior to final occupancy. The plan shall be prepared by a licensed landscape architect and shall be certified to be in compliance with the City's Water Conservation Ordinance **[what].**

# SAMPLE COA #3
# WHAT IS MISSING…?

- Public art shall be designed and located at the entry of the project so that it can be viewed by the public at large.

## REVISED CONDITION

- Prior to recordation of the final map **[when]**, the applicant shall submit a plan **[what]** for review and approval of the Zoning Administrator **[who]** showing the design and location of the public art piece. The design shall preserve the character and integrity of the historic Main Street bridge **[why]**. The art shall be located in such a manner that it is visible from the intersection of Main Street/Maple Avenue and shall not be obstructed by landscaping [**how**].

# SAMPLE COA #4
# WHAT IS MISSING…?

- Prior to building permit issuance, the applicant shall revise the project plans to demonstrate a reduced breezeway width between the existing garage and the proposed garage.

# REVISED CONDITION

- Prior to building permit issuance **[when]**, the applicant shall submit for review and approval of the Zoning Administrator **[who]** revisions to the project plans **[how]**, date-stamped "Received April 3, 2014", reducing the breezeway width to 5 feet between the existing garage and the proposed garage **[what]** to ensure architectural compatibility with the existing home **[why]**.

# SAMPLE COA #5
# WHAT IS MISSING…?

- Applicant shall investigate the historical landslide area located on the property and ensure proposed improvements will not cause any landslide risk.  Applicant will be responsible for implementation of any necessary mitigation measures.

## REVISED CONDITION

- Prior to issuance of the final map **[when]**, applicant shall contract with a licensed Geotechnical Engineer to investigate the historical landslide area located on the property **[how]** and ensure proposed improvements will not cause any landslide risk to the property or surrounding properties **[why].** The geotechnical findings and remediation recommendations **[what]** shall be submitted for review and approval of the City Engineer **[who].** The applicant will be responsible for implementation of any mitigation measures as outlined by the geotechnical engineer to ensure long term stability of the site.

# CONTACT INFORMATION

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Thank you!

## 9231.14 NONCONFORMING STRUCTURES

A. Continued, Transferred, or Sold: Nonconforming structures may be continued, transferred, or sold, but only in compliance with the provisions of this section.

B. Nonconforming Structures and Involuntary Damage: Nonconforming status shall terminate if a nonconforming structure is involuntarily damaged or destroyed by accident (e.g., fire, explosion, etc.) or natural disaster (e.g., earthquake, etc.); provided, that the structure may be repaired or reoccupied in the following manner:

1. Damage Up to Fifty Percent (50%) of Market Value:
A nonconforming structure involuntarily damaged up to fifty percent (50%) of its current market value (as defined by subsection D of this section) may be reconstructed, repaired, restored, and used as before; provided, that the restoration is initiated (as defined in subsection D of this section) within twelve (12) months, and is substantially completed within twenty-four (24) months from the date of application for the required building permit.

a. Process for Reconstruction, Repair, Restoration:

(1) The applicant provides documentation, satisfactory to the Planning Director, supporting the claim that the damage or destruction occurred involuntarily;

(2) No expansion of the gross floor area or number of dwelling units occurs;

(3) The replacement structure is in compliance with the current building code and would not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the immediate vicinity of the replacement structure;

(4) A building permit is issued no later than twelve (12) months after the date of the destruction, and construction is diligently pursued to completion.

If the preceding requirements are not met, the replacement structure shall comply with all of the regulations of the applicable zoning district in effect on the date of application for the required building permit.

2. Damage to Fifty Percent (50%) or More of Market Value:
A nonconforming structure involuntarily damaged to fifty percent (50%) or more of its current market value (as defined in subsection D of this section) shall not be reconstructed, repaired, or restored, except in conformity with the applicable requirements of the applicable zoning district.

C. Nonconforming Structures and Voluntary Repair and Maintenance: The ordinary and normal repair and maintenance work that may be required to keep a nonconforming structure in sound condition may be made in compliance with this

subsection. A nonconforming structure may undergo ordinary repair and maintenance only in the following manner:

1. Minor Repair: Minor normal repair and maintenance may be made to a nonconforming structure:

a. Provided, that no structural alterations are made (exception: see section 9231.16 of this code), and the work does not exceed fifty percent (50%) of the current market value of the structure during any calendar year;

b. For the purposes of this subsection the cost of any required foundation work shall not be counted within the fifty percent (50%) limitation.

2. Major Repair: Major repair to a nonconforming structure, when the cost of repairing or replacing the damaged portion of the structure exceeds fifty percent (50%) of the current market value of the structure before damage or destruction, may occur with Planning Commission approval of a major use permit; provided, that the Commission first determines that the major repairs are necessary to correct hazards to public health or safety.

3. Other Voluntary Modifications: The reconstruction or structural alteration of a nonconforming structure may be allowed with Zoning Administrator approval of a minor use permit; provided, that the review authority first determines that the modification is necessary to secure added safety or to reduce the fire hazard and/or to secure aesthetic advantages through the alignment, architecture, or closer conformity to surrounding allowed structures in the immediate neighborhood, and only in compliance with subsections C1 and C2 of this section.

D. Definitions:

1. Restoration Is Initiated: As used in this subsection, “restoration is initiated” requires that, at a minimum, a complete building permit application has been filed.

2. Current Market Value:

a. As used in this subsection, “current market value” is the market value of the structure immediately before the occurrence of the damage.

b. For the purposes of administering the provisions of this subsection, the applicant shall submit an appraisal from a licensed appraiser and the City’s Building Official shall verify the appraiser’s determination of the current market value of the damaged structure, which determination shall be final unless appealed in compliance with section 9266 of this code. (Ord. 1139, §2 (Exh. A, 12.140), adopted 2012)