

ORDINANCE NO. 2006-062

Adopted by the Sacramento City Council

October 24, 2006

AMENDING CHAPTER 17.132 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO DESIGN REVIEW AND ESTABLISHING THE DESIGN COMMISSION (M06-017)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Chapter 17.132 of Title 17 of the Sacramento City Code (the Zoning Code) is repealed and reenacted in its entirety to read as follows:

Chapter 17.132 DESIGN REVIEW

17.132.010 Findings and declaration of purpose.

- A. The city council finds and declares that a high regard for the integration of design with the general appearance, scale, capacity, use and character of neighborhoods, districts, and environments within the city promotes the health, safety, welfare and economy of the residents of the city in the following manner:
1. The desirability of adjacent and surrounding properties is enhanced;
 2. The benefits of occupancy of adjacent and surrounding properties are improved;
 3. The value of surrounding properties is increased;
 4. Appropriate development of adjacent and surrounding properties is encouraged;
 5. The maintenance and improvement of surrounding properties is encouraged, resulting in the enhancement of the health, safety, aesthetics, and general welfare of the inhabitants of the area and the inhabitants of the city at large.
- B. The city council further finds and declares that the city is the capital city of the state of California; that as the capital city, Sacramento should reflect the values, beauty and heritage of the entire state to the rest of the state; and that the physical appearance and quality of design should epitomize these values and should serve as a valuable asset and benefit for the citizenry.

- C. The city council further finds and declares that the administrative responsibilities of the design review program established under this chapter shall be assigned to a design commission, a design director, and design review staff as follows:
1. The design commission's primary responsibilities shall be to develop and recommend to the council urban design policies appropriate for inclusion in the General Plan and other regulatory plans and programs of the city, and to develop and recommend design guidelines for the implementation of this chapter. The design commission's role in reviewing development projects shall be limited to hearing projects of major significance and appeals of the design director's decisions.
 2. The primary responsibilities of the design director and design review staff shall be to review and take action on development project design review applications, as set forth in this chapter.

17.132.020 Definitions.

For the purpose of this chapter, the following words and phrases are defined as follows. The definitions in this section shall supersede the provisions of Section 17.16.010 in the case of conflict. The terms are in alphabetical order.

"Building height" or "height" means the dimension measured from mean finish grade to top of parapet or top of the highest ridge line for projects with pitched roofs.

"Design commission" means the design commission created and composed under this Chapter 17.132.

"Design director" means the individual designated by the city manager to carry out the functions of the design director under this Chapter 17.132 and this code.

"District" means design review districts created under this Chapter 17.132.

"Development project" or "project" shall be liberally interpreted and shall include the new construction of a building or structure and the addition to, remodel, repair, or relocation of any existing building or structure, along with all associated facilities and appurtenances, such as walls, fences, and signs.

"LEED accredited architect" means an architect accredited by the US Green Building Council for proficiency in and understanding of green building practices and principles and familiarity with LEED ("Leadership in Energy and Environmental Design") requirements, resources, and processes.

"New construction" means the construction of a new building or structure, along with all associated facilities and appurtenances, such as walls, fences, and signs. New construction does not include additions to existing buildings or structures.

“Registered house plans” means house plans that have been previously approved and registered with the City pursuant to this chapter.

17.132.030 Design commission—Established

The design commission is established.

17.132.040 Design commission--Appointment and qualifications.

- A. Members of the design commission shall be appointed by the mayor, with the consent of the city council. The general requirements of Article XV of the city charter and of Chapter 2.40 of this code governing the appointment of board and commission members, attendance at board and commission meetings, voting, term limits, and removal shall apply to the design commission. A member is subject to removal for good cause, neglect of duty or misconduct as provided in City Charter Section 232.
- B. All members of the design commission shall be residents of or the owner of a business located in the city.
- C. The design commission shall consist of seven members. Each member of the design commission shall have demonstrated interest in urban design, landscape or architectural design, or the physical development of the city. The seven members of the design commission shall be qualified by reason of training or professional experience and demonstrated leadership as follows:
 - 1. Seat 1: an individual who is a licensed architect with training or experience in mid- and high-rise urban, commercial, institutional, and mixed use projects;
 - 2. Seat 2: an individual who is a licensed, LEED (or equivalent) accredited architect;
 - 3. Seat 3: an individual who is a licensed landscape architect with training or experience in mid- and high-rise urban, commercial, institutional, and mixed use projects;
 - 4. Seat 4: an individual who is a licensed contractor with training or experience in mid- and high-rise urban, commercial, institutional, and mixed use projects;
 - 5. Seat 5: an individual who is a licensed engineer with training or experience in mid- and high-rise urban, commercial, institutional, and mixed use projects, with a preference for a structural engineer;

6. Seat 6: an at-large member with a preference for an individual with training or experience in urban planning and urban design;
7. Seat 7: an at-large member with a preference for an individual with training or experience in real estate development, real estate brokerage, or real estate financing.

17.132.050 Design commission--Term of office.

Except as provided in this section for the terms of the initial members, the term of office for each member of the design commission shall be three years. Terms shall be staggered. In selecting the initial members of the design commission, the mayor shall appoint two to each serve a term of two years, two to each serve a term of three years, and three to each serve a term of four years. Thereafter, members shall be appointed to serve three year terms. If a vacancy occurs during the term of any member, the mayor shall appoint, with the approval of the city council, a successor to serve during the unexpired term. The successor shall possess the qualifications required for the seat being filled.

17.132.060 Design commission--Conflict of interest and financial disclosure statements.

All appointees to the design commission shall be subject to Chapter 2.16 of this code relating to conflicts of interest and shall be required to file statements disclosing financial interests pursuant to the city's conflict of interest code.

17.132.070 Design commission--Compensation.

Each member of the design commission shall receive compensation as determined by the compensation commission under Section 29 of the city charter.

17.132.080 Design commission--Organization and procedures.

- A. At its first meeting, and annually thereafter, the design commission shall elect from among its membership a design commission chairperson and a vice chairperson, who shall each hold office at the pleasure of the design commission. When there is a vacancy in the office of chairperson or vice chairperson, the design commission shall fill that office from among its members.
- B. The design commission shall establish a time and place for regular meetings to be held not less frequently than monthly. Each meeting shall be noticed and held in accordance with the Ralph M. Brown Act (Government Code section 54950 *et seq.*). The design commission chairperson shall have the authority to notice and hold special meetings in the manner specified in the Ralph M. Brown Act.

- C. A quorum comprised of design commission members present and qualified to act shall be required for the design commission to conduct a meeting and take action. A quorum shall consist of four members. The affirmative vote of a majority of the members present and qualified to vote shall be necessary to pass any motion.
- D. The design commission shall adopt such rules and regulations as it shall deem necessary, and consistent with the provisions of this chapter, for the conduct of its business.

17.132.090 Design commission--Powers and duties.

Unless otherwise specified herein the powers and duties of the design commission shall be as follows:

- A. Exercise the authority set forth in this chapter and as otherwise provided in this code;
- B. Recommend to the city council policies and programs in support of the urban design program established under this chapter, including but not limited to urban design policies appropriate for inclusion in the General Plan and other regulatory plans and programs of the city;
- C. Develop and recommend standards for review of development projects in addition to those standards set forth herein, and forward the recommended policies and standards to the city council for the city council's consideration and adoption;
- D. Evaluate and submit comments and recommendations on proposed plans, public and private development projects, and environmental reviews that are not subject to review under this chapter and that may affect the physical development of and urban design in the city, in coordination with the review and action by the city council, planning commission, or other public agencies on the plan, project, or environmental review;
- E. Consult with, advise, and report to the city council on an annual basis in connection with the exercise of the design commission's duties and functions;
- F. Any other powers and duties conferred upon the design commission by the city council.

17.132.100 Design commission--Secretary.

The design director, or his or her designee, shall serve as a non-voting secretary to the design commission.

17.132.110 Design director—Office established.

To assist in the implementation of the purpose and objectives of this chapter and to assist the design commission in the performance of its duties, there is created the position of design director.

17.132.120 Design director—Authority.

The design director shall have the authority to:

- A. Exercise the authority set forth in this chapter and as otherwise provided in this code.
- B. Oversee the operation of the city's design review program established by this chapter.
- C. Advise the city council, planning commission, the preservation commission, the design commission, the housing code advisory and appeals board, and city staff on urban design issues;
- D. Perform such other functions as may be assigned by the city council.

17.132.130-17.132.150 Reserved.

17.132.160 Design review districts.

A. Purpose.

Design review districts established under the provisions of this section are for the protection and enhancement of the value, appearance, economic development and vitality, and use of public and private property; the maintenance of a high level of community development and the achievement of orderly, harmonious and integrated development in specific areas within the city.

B. Procedure for Establishing, Amending, and Dissolving Design Review Districts.

- 1. The city council and the design commission each shall have the authority to initiate the establishment of a new design district and the amendment or dissolution of an existing design review district by filing a statement of initiation describing the proposed new district or the proposed amendment or dissolution of an existing district with the secretary of the design commission.
- 2. The design commission shall hold a public hearing on the statement of initiation filed under subsection (B)(1) of this section. The procedural

requirements for the hearing shall be governed by Chapter 17.200. Notice of the hearing shall be given by publication pursuant to subsection (C)(2)(a) of Section 17.200.010. In addition, mailed notice shall be given at least ten days prior to the hearing to those persons requesting notice in writing. After completion of the public hearing, the design commission shall issue a determination concurring, in whole or in part, or not concurring in the statement of initiation and forward the determination to the city council for action.

3. Upon receipt of the determination of the design commission on the statement of initiation, the city council shall hold a public hearing. The procedural requirements for the hearing shall be governed by Chapter 17.200. Notice of the hearing shall be given by publication pursuant to subsection (C)(2)(a) of Section 17.200.010. After completion of the public hearing, the city council may, by ordinance, establish the boundaries of a new design review district or approve the amendment to or dissolution of an existing design review district.

17.132.170 Guidelines for design review districts.

- A. Design review guidelines may be adopted for each design review district in accordance with the notice and hearing procedures prescribed in Section 17.132.160, except that the council may adopt the design guidelines by resolution.
- B. Design review guidelines for a design review district shall be consistent with the general plan, applicable community plan, and the intent of this chapter and shall contain all of the following elements:
 1. A statement of the goals for design review within the design review district;
 2. A statement of the standards and criteria to be utilized in determining the appropriateness of any proposed building or structure or alteration thereof within the design review district;
 3. Any additional material as may, in the judgment of the city council, be required for the systematic execution of the purpose enumerated in subsection (A) of Section 17.132.160.

17.132.180 Design requirements for areas outside of design review districts.

- A. In addition to establishing design review districts and design review guidelines for design review districts, the council may establish minimum design requirements applicable to development projects of a specified size, type, or location. The design requirements may be made applicable to either ministerial or discretionary project applications.

B. Minimum Design Requirements: Ministerial Projects.

1. Minimum design requirements for ministerial projects shall be adopted by the city council by resolution in the same manner as design review guidelines under Section 17.132.170. The resolution shall specify by size, type and/or location the development projects that will be subject to the design requirements. The minimum design requirements shall not apply to projects that are subject to discretionary design review or that require a special permit under this code.
2. Minimum design requirements for ministerial projects shall be mandatory in nature, and review for consistency with these requirements shall be ministerial and nondiscretionary.
3. No building permit shall be issued for a development project that is subject to the minimum design requirements unless the project is consistent with the applicable requirements.
4. The design commission and the director shall have the authority to vary the minimum design requirements for a development project upon application for discretionary design review in accordance with and subject to the requirements of this chapter.
5. An applicant for a development project subject to the minimum design requirements for ministerial projects who disagrees with an interpretation or application of a design requirement made applicable under this subsection may file a written request for review of that interpretation with the design director. The design director shall review the interpretation or application described in the request for review and render his or her decision on the request within a reasonable period of time. No hearing shall be required, and the decision of the design director shall be final.

C. Minimum Design Requirements: Discretionary Projects.

1. Minimum design requirements for discretionary projects shall be adopted by the city council by resolution in the same manner as design review guidelines under Section 17.132.170. The resolution shall specify by size, type and/or location the development projects that will be subject to the minimum design requirements. The minimum design requirements may be made to apply only to projects that are subject to discretionary design review or that require a special permit or plan review under this code.
2. A finding of consistency with the applicable minimum design requirements shall be required in addition to the findings required for approval of the

design review, special permit, or plan review, in the manner specified in the resolution adopting the minimum design requirements.

17.132.190 Approval and use of registered house plans.

- A. The design commission shall have the authority to approve registered house plans for one or more design review districts as set forth in this section. Use of registered house plans for development in the designated design review district will exempt the development from further design review as provided in Section 17.132.290.
1. Any person may request approval of registered house plans by filing an application with the design director. The application shall be subject to and governed by Chapter 17.196.
 2. A request to approve registered house plans may also be initiated by the design director.
 3. The design director shall conduct a preliminary review of the proposed registered house plans and prepare a written evaluation and recommendation of approval, conditional approval, or disapproval of the proposed plans. A copy of the written evaluation and recommendation shall be submitted to the applicant, if any, and shall be forwarded to the design commission for hearing and decision.
 4. At least one public hearing shall be held by the design commission on a request to approve registered house plans. The procedural requirements for the hearing shall be governed by Chapter 17.200. Notice of the hearing shall be given by publication pursuant to subsection (C)(2)(a) of Section 17.200.010. In addition, mailed notice shall be given at least ten days prior to the hearing to those persons requesting notice in writing. At the conclusion of the hearing, the design commission may approve, conditionally approve, or deny the request for approval of registered house plans.
 5. In reaching its decision, the design commission shall evaluate each proposal for registered house plans in accordance with the citywide design review guidelines, the design review guidelines for the district or districts for which the registered house plan is intended, the findings and declaration of purpose contained in Section 17.132.010 of this chapter, and any other applicable adopted land use plans. The design commission shall not approve a proposal for registered house plans unless it finds that the design (as it may have been modified or conditioned by the design commission) is consistent with the applicable guidelines and plans and the purpose of this chapter. The design commission shall specify for which design review district or districts the registered house plan is approved for

purposes of the exemption from further design review under Section 17.132.290.

6. On its own initiative, or at the request of the director, the design commission may cancel the registration of registered house plans as it deems appropriate to ensure a variety in the housing stock and to otherwise further the purpose of this chapter. The cancellation of the registration of registered house plans shall be subject to the same notice and hearing requirements as apply to the approval of registered house plans.

- B. The design director shall establish policies and procedures addressing the development, approval, and use of registered house plans consistent with the purpose of this chapter.

17.132.200-17.132.270 Reserved.

17.132.280 Review of development projects required.

Except as to those exemptions provided in subsection (F) of Section 17.132.290, no building permit shall be issued for any development project that is located in a design review district or that is otherwise made subject to design review under any other provision of this code, and no person shall commence construction of a development project requiring a building permit that is located in a design review district or that is otherwise made subject to design review under any other provision of this code, unless and until an application for design review of the proposed project is reviewed and approved or conditionally approved as required by this chapter. Design review conducted under this chapter shall have review authority over all urban design elements, including by not limited to exterior architectural design, site design, landscape design, and sign design.

17.132.290 Review of development projects—Authority to review.

- A. Projects Subject to Design Commission Review and Hearing.

The following development projects subject to design review under this chapter or under any other provision of this code shall be subject to design review by the design commission and shall require a public hearing:

1. New construction of, or an addition to an existing, building or structure that
 - a. Exceeds four stories, or
 - b. Exceeds sixty feet in height, or

- c. Is located inside the Central Business District and exceeds a total of 75,000 gross square feet of floor area or is located outside the Central Business District and exceeds a total of 40,000 gross square feet of floor area.
2. Any project for which design review by the design commission is required as a condition of approval of a discretionary entitlement issued under this Title 17 or required under any other provision of this code.
3. Any project subject to design director review under this chapter that the design director, in his or her sole discretion, elects to elevate to the design commission for hearing and decision.

B. Projects Subject to Design Director Review and Hearing.

The following projects subject to design review under this chapter or under any other provision of this code shall be subject to design review by the design director and shall require a public hearing:

1. New construction of, or an addition to an existing, building or structure that is not subject to design review by the commission under subsection (A) of this section, and that the design director determines is not in substantial compliance with applicable design guidelines. No hearing shall be required on the issue of whether the project is in substantial compliance with applicable design guidelines, and the decision of the design director shall be final and shall not be subject to appeal.
2. Any project for which design review by the design director is required as a condition of approval of a discretionary entitlement issued under this Title 17 or required under any other provision of this code.
3. Any project subject to staff review under the general direction of the design director under this chapter that the design director, in his or her sole discretion, elects to elevate to the design director for hearing and decision.

C. Projects Subject to Staff Review Under the General Direction of the Design Director.

1. All projects subject to design review under this chapter or under any other provision of this code that are not required to be reviewed by either the design commission or the design director shall be subject to staff review under the general direction of the design director and shall not require a public hearing.

2. Building moves subject to design review under Section 15.48.010 shall be subject to staff review under the general direction of the design director and shall not require a public hearing.

D. Projects Exempt from Design Review.

Notwithstanding the provisions of subsections (A), (B), and (C) of this section to the contrary, design review shall not be required for the following projects:

1. Remodels or repairs to the interior of any existing building or structure;
2. The following repair and replacement projects, provided the value of the work does not exceed ten thousand dollars (\$10,000.00), and the work proposed does not alter, expand or otherwise modify the existing structure:
 - a. The repair or replacement of stairs, rails and porches to match the design and materials existing at the time of the proposed work, provided the portion to be repaired or replaced when added to the portion(s) repaired or replaced in the previous thirty-six (36) months does not exceed fifty (50) percent of the existing porch or stair area of the structure,
 - b. The repair or replacement of roofing to match the design and materials existing at the time of the proposed work, provided the portion to be repaired or replaced when added to the portion(s) repaired or replaced in the previous thirty-six (36) months does not exceed twenty-five (25) percent of the existing roof area of the structure,
 - c. The repair or replacement of exterior siding materials to match the design and materials existing at the time of the proposed work, provided the portion to be repaired or replaced when added to the portion(s) repaired or replaced in the previous thirty-six (36) months does not exceed twenty-five (25) percent of the existing siding area of the structure,
 - d. The repair or replacement of windows and exterior doors to match the design and materials existing at the time of the proposed work, provided the portion to be repaired or replaced when added to the portion(s) repaired or replaced in the previous thirty-six (36) months does not exceed fifty (50) percent of the existing windows or fifty (50) percent of the existing doors of the structure.

3. New construction of single-family residential units utilizing, without substantial deviation, registered house plans approved for use in the design review district where the proposed construction is located.
4. The construction or installation of public utility boxes and public utility sheds.
5. Billboards.
6. Properties located within a Planned Unit Development subject to Chapter 17.180.

E. Design Director Determination.

The design director shall review and determine whether a development project application is subject to staff review under the general direction of the design review director, a design director hearing, a design commission hearing, or is exempt from review under this chapter. The determination of the design director on this issue shall be final and shall not be subject to appeal.

F. Determination Regarding Applicability of Chapter 17.132 and Chapter 17.134.

An application for a development project that is subject to both design review under this Chapter 17.132 and preservation review under Chapter 17.134 shall be accepted, processed, and reviewed under Chapter 17.134 only, and not under Chapter 17.132; provided, that the review and decision shall be made in consultation with the design director or his or her designee and shall be based on the applicable standards and criteria of both Chapter 17.132 and Chapter 17.134.

G. Expanded North Area Design Review District.

Notwithstanding the provisions of subsections (A) and (B) of this section to the contrary, design review of development projects in the Expanded North Area Design Review District shall be subject to staff review under the general direction of the design director under subsection (C) of this section.

17.132.300 Standards and criteria for evaluation.

A. The design commission or design director shall evaluate each application for design review in accordance with the applicable design review guidelines for the district in which the project is located, the findings and declaration of purpose contained in

Section 17.132.010 of this chapter, and any other applicable adopted land use plans. The design commission or director shall not approve an application for design review unless it finds that the design, as it may have been modified or conditioned by the design commission or design director, is consistent with the applicable plans, findings and declaration of purpose listed above. These standards are intended to provide a frame of reference for the applicant as well as a method of review for the design commission and the design director. These standards and criteria shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, and innovation.

B. The design commission may from time to time promulgate more specific criteria and standards for design review. It is the intent of this paragraph that additional standards and criteria will serve to clarify and elucidate the standards and criteria contained in this section and not modify, supersede, or alter said standards and criteria beyond the scope of design review. Such additional standards shall be adopted by resolution of the design commission.

17.132.310 Procedures for design review.

A. Design Review Applications.

Any person proposing a development project subject to design review under the provisions of this chapter or any other provision of this code shall file an application for design review with the director prior to filing for a building permit or entitlement of use. Such application shall be in the form as required by the director.

B. Early Notice.

The design director shall establish policies and procedures to provide early notification and information to the public regarding the filing and acceptance of an application for design review as determined appropriate by the design director. In developing the policies and procedures for early notice under this section, the design director shall seek to accomplish the following objectives:

1. Encourage applicants to contact, obtain input from, and work out differences with affected neighbors and neighborhood associations early in the project design process;
2. Garner the support of affected neighbors and neighborhood associations for the project through the creation of a transparent process that encourages mutual trust and minimizes adversarial hearings and appeals;
3. Improve the quality of projects and the built environment.

C. Procedures for Staff Review Under the General Direction of the Design Director.

1. Review and Decision.

Except as provided in subsections (C)(2), (3), and (4) of this section, an application for design review that requires staff review under the general direction of the design director under subsection (C) of Section 17.132.290 shall not require notice or hearing. In considering approval of an application, the standards set forth in Sections 17.132.010 and 17.132.300 shall be applied. Such conditions as may be required to ensure conformance with the applicable design review guidelines and standards of review may be imposed. The decision made under this subsection (C)(1) shall be final and shall not be subject to appeal.

2. Special Notice and Reconsideration Procedures.

- a. The following projects that are subject to staff review under the general direction of the design director shall be subject to the notice and reconsideration procedures established pursuant to this subsection (C)(2). The design director shall determine whether a development project application is subject to the special notice and reconsideration procedures under this subsection, and the determination of the design director on this issue shall be final and shall not be subject to appeal.
- i. New construction of, or the exterior remodel of or an addition to an existing, commercial building or structure.
 - ii. New construction of, or the exterior remodel of or an addition to an existing, single family or duplex dwelling unit that is greater than two stories and is greater than 35 feet in height.
 - iii. New construction of, or the exterior remodel of or an addition to an existing, single family or duplex dwelling unit located within a design review district.
 - iv. An addition to an existing building or structure that increases the square footage of the existing building or structure by fifty percent (50%) or more.
 - v. The relocation of a nonresidential building.
 - vi. The relocation of a residential building in or into a design review district.

- b. In addition to the early notice provided pursuant to subsection (B) of this section, the design director shall establish policies and procedures to provide notice and reconsideration of the design review decision made under this subsection (C)(2), including at a minimum the following:
 - i. notification of staff action on the application, including all conditions and findings; and
 - ii. an opportunity for any person dissatisfied with the decision to request review and reconsideration of the decision by the design director before the decision is final.
- c. The decision of the design director after reconsideration under this subsection (C)(2) shall be final and shall not be subject to appeal.

3. Review by Zoning Administrator.

If a project subject to staff review under the general direction of the design director also requires approval of one or more zoning administrator entitlements, the zoning administrator shall act on the design review in conjunction with the other entitlements, in consultation with the design director or his or her designee.

4. Elevation to Design Director Hearing.

At the discretion of the design director, the application for staff review under the general direction of the design director may be elevated to the design director for hearing and decision, and the application shall be heard and decided by the design director in the same manner as design director design review under subsection (D) of this section. No hearing shall be required on the decision by the design director to elevate an application subject to staff review to the design director hearing level, and this decision of the design director shall be final and shall not be subject to appeal.

D. Procedures for Design Review by the Director.

1. Notice—Hearings.

At least one public hearing shall be held on an application for design review that requires action by the design director under subsection (B) of Section 17.132.290. The procedural requirements for the hearing and the contents of the notice required by the provisions of this chapter shall be governed by the provisions of Chapter 17.200 of this title. Notice of the hearing shall be given by posting the property and by mail pursuant to subsections (C)(2)(b) and (c) of Section 17.200.010.

2. Decision and Notification.

At the conclusion of the hearing, the design director shall issue a written decision setting forth approval, conditional approval, or disapproval of the application, and the findings supporting the decision, and shall transmit or cause to be transmitted to the applicant written notice of its decision pursuant to section 17.200.020(C).

3. Elevation to Design Commission.

At the discretion of the design director, the application for design review by the design director may be elevated to the design commission for hearing and decision, and the application shall be heard and decided by the design commission in the same manner as design commission design review under subsection (E) of this section. No hearing shall be required on the decision by the design director to elevate a design review application to the design commission, and this decision of the design director shall be final and shall not be subject to appeal.

4. Appeal.

Except as provided in subsection (D)(3) of this section, any person dissatisfied with the decision of the design director made under this subsection (D) may appeal the decision to the design commission. The appeal shall be noticed, heard, and otherwise governed by Section 17.200.030.

E. Procedures for Design Review by the Design Commission.

1. Notice—Hearings.

At least one public hearing shall be held on an application for design review that requires action by the design commission under subsection (A) of section 17.132.290. The procedural requirements for the notice and hearing shall be governed by the provisions of Chapter 17.200 of this title. Notice of the hearing shall be given by posting the property and by mail pursuant to subsections (C)(2)(b) and (c) of Section 17.200.010.

2. Decision and Notification.

At the conclusion of the hearing, the design commission shall issue its written decision setting forth its approval, conditional approval, or its disapproval of the application, and the findings supporting the decision, and shall transmit or cause to be transmitted to the applicant written notice of its decision pursuant to section 17.200.020(C).

3. Appeal.

- a. Any person dissatisfied with the decision by the design commission on an application described in subsection (A) of Section 17.132.290 may appeal the decision to the city council. The appeal shall be noticed, heard, and otherwise governed by Section 17.200.030.
- b. A decision by the design commission on an appeal of a decision of the design director under subsection (D)(4) if this section shall be final and shall not be subject to appeal, but shall be subject to call-up for consideration by the city council under Section 17.200.040.

F. Final plan certification.

Upon final approval of a design review plan and acceptance by the applicant of the conditions of approval, the applicant shall file final working drawings and a landscaping plan. The design director, upon receipt of said drawings and plans, shall certify that the final plans submitted under this paragraph are in accord with the approved architectural and design plans. After such certification any permits or entitlements may thereafter be issued in accordance with the provisions of this code.

17.132.320 Term--Extension--Modification.

A. Term.

Approval of an application for design review under this chapter shall expire at the end of three years from the date of final approval unless a building permit has been obtained and exercised for the project. For purposes of this section, the term "exercised" shall mean substantial expenditures in good faith reliance upon the building permit. The burden of proof in showing substantial expenditures in good faith reliance upon the building permit shall be placed upon the permit holder.

B. Extension.

Approval of an application for design review under this chapter may be extended for a period of up to an additional two years upon application to the design director filed no later than thirty days prior to expiration. The application for extension of design review approval shall be subject to staff review under the general direction of the design director pursuant to subsection (C) of Section 17.132.310.

C. Modification.

An application for a modification to an approved design review plan or a condition of approval of a design review plan shall be heard and/or considered in the same manner and by the same body as the original design review application.

SECTION 2. Adoption of this ordinance repealing and reenacting Sacramento City Code Chapter 17.132 is not intended to and does not affect any approvals made, and entitlements issued, with attendant conditions, by the Design Review and Preservation Board prior to the effective date of this ordinance and prior to dissolution of the Design Review and Preservation Board under the terms of Ordinance No. 2006-XXX. All such approvals and entitlements shall continue in effect subject to the terms and conditions established by the Design Review and Preservation Board and the provisions of Chapter 17.132 as they existed prior to the effective date of this ordinance.

SECTION 3. Adoption of this ordinance repealing and reenacting Sacramento City Code Chapter 17.132 is not intended to and does not affect any administrative, civil, or criminal prosecutions or proceedings brought or to be brought pursuant to Chapter 17.132 or other provisions of the Sacramento City Code, or pursuant to applicable federal, state, or local laws, to enforce the provisions of Chapter 17.132 as they existed prior to the effective date of this ordinance. The provisions of Chapter 17.132, as they exist on the effective date of this ordinance, shall continue to be operative and effective with regard to any acts occurring prior to the effective date of this ordinance.

SECTION 4. This ordinance shall take effect on January 1, 2007, the same date that Ordinance No. ____ enacted on the same date as this ordinance takes effect. Upon the effective date of this ordinance and Ordinance No. ____, the Design Review and Preservation Board, created and existing pursuant to Sacramento City Code Chapter 15.124 as formerly written, shall dissolve and no longer exist or exercise authority. All matters then pending under the jurisdiction of the Design Review and Preservation Board pursuant to Chapter 15.124 shall be transferred to the Preservation Commission, and all matters then pending under the jurisdiction of the Design Review and Preservation Board pursuant to Chapter 17.132 shall be transferred to the Design Commission, as determined by the city manager's designee.

Adopted by the City of Sacramento City Council on October 24, 2006 by the following vote:

Ayes: Councilmembers, Cohn, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters and Vice Mayor Fong.

Noes: None.

Abstain: None.

Absent: Mayor Fargo.

Attest:


Shirley Concolino, City Clerk


Robert King Fong, Vice Mayor

Passed for Publication October 17, 2006
Published October 20, 2006
Effective October 24, 2006