

Backup for CCA Agenda 2-1-05 item submitted by Rep. Austin
In addition to Confidential material provided to City Attorney

Municipal Code Section 19.16.050(H) provides as follows:

H. Preservation of Natural Arroyos. Arroyos shall be preserved in their natural state, except that improvements or modifications may be made in accordance with designs approved by the deputy director for building services when such improvements or modifications are necessary to protect the public health, safety or welfare.

Municipal Code Section 19.04.080 “Interpretation and validity” provides as follows:

A. General. In their interpretation and application, the provisions of this title shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes within Section 19.04.030.

1. Public Provisions. These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in this title. Where any provision of this title imposes restrictions different from those imposed by any other provision of this title or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

The purposes identified in Section 19.04.030 include the following:

The provisions of this Title are adopted to protect and provide for the public health, safety, morals and general welfare of the community as provided below:

- E. To encourage appropriate development of environmentally sensitive areas;*
- L. To provide for open spaces through the most efficient design and layout of the land;*
- P. To minimize the long term costs to the city for repair and maintenance of subdivision improvements, whether public or private;*
- Q. To minimize the cost of housing construction through the reduction of subdivision development costs.*

Municipal Code Section 19.04.170 “Modifications of Conditions” provides that the city plan commission may approve modifications from the subdivision regulations under certain circumstances, and further provides that –

the city plan commission shall not approve a modification unless it shall make findings based upon the evidence presented in each specific case that:

- 1. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property; or*
- 2. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; or*
- 3. The subdivider has demonstrated an alternative method of development that will improve the aesthetic value of the subdivision while giving equal emphasis to safety, economy, tax yield, maintenance cost, response time, drainage, vehicular access and pedestrian passage.*

C. Procedure. A request for a modification pursuant to this section shall be submitted in writing by the subdivider with the filing of a subdivision application. The request shall state fully the grounds for the modification request and all of the facts relied upon by the subdivider. No modification may be considered or granted by the city plan commission unless the subdivider has made written request for such modification at the time of the subdivision application submittal, or an amended subdivision application submittal.

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Municipal Code Section 19.04.100 provides as follows:

A subdivision, or any portion thereof, which is within a floodplain as identified in the Flood Insurance Rate Maps shall meet any Federal Emergency Management Agency (FEMA) requirements for stormwater drainage facilities. To the extent that there is any conflict between any of the minimum standards provided in the subdivision improvement design standards and the FEMA requirements, the FEMA requirements shall control with respect to floodplain areas.

Municipal Code Section 19.08.060 provides as follows:

19.08.060 Major subdivision.

B. Purpose and Intent. No major subdivision application shall be approved by the city plan commission unless the subdivider has evidenced all of the following:

3. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider;

D. Major Subdivision Contents.

1. Preliminary Plat Submittal. The subdivider shall submit a preliminary plat which provides all of the following information:

h. Location, type, material and size of existing culverts, drain pipes, watercourses, natural drainage channels, and site of their relocation, if proposed;

i. Approximate location of areas subject to inundation or stormwater overflow, and the location, widths and direction of flow of all watercourses and location, type, material and size of any proposed stormwater drainage facilities;

j. Location and outline, to scale, of each building or other structure existing within the proposed subdivision, noting whether such building or structure is to be removed or remain in the development, and other physical features which would influence the layout or design;