

## Chapter 18.76

### PERMITS AND APPROVALS

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**18.76.010 Conditional Use Permit (CUP)****(a) Purpose**

The purpose of a conditional use permit is to provide for uses and accessory uses that are necessary or desirable for the development of the community or region but cannot readily be classified as permitted uses in individual districts by reason of uniqueness of size, scope, or possible effect on public facilities or surrounding uses.

**(b) Applicability**

- (1) A conditional use permit may be granted for any use or purpose for which such permit is required or permitted by the provisions of this title; or
- (2) Any expansion in the building size or site area of an existing conditional use shall necessitate the amendment of the conditional use permit. Denial of an application for amendment of a conditional use permit does not constitute a revocation of the original conditional use permit.
- (3) No application for a conditional use permit is necessary for existing uses which were lawful conforming permitted uses and which were rendered conditional by reason of rezoning or changes to this title, provided that any expansion in the building site or site area of such a use shall be subject to the issuance of a conditional use permit.

**(c) Findings**

Neither the director, nor the city council on appeal, shall grant a conditional use permit, unless it is found that the granting of the application will:

- (1) Not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;
- (2) Be located and conducted in a manner in accord with the Palo Alto Comprehensive Plan and the purposes of this title (Zoning).

**(d) Conditions**

In granting conditional use permits, reasonable conditions or restrictions may be imposed if appropriate or necessary to protect the public health, safety, general welfare, or convenience,

to secure the purposes of this title, and to assure operation of the use in a manner compatible with existing and potential uses on adjoining properties and in the general vicinity.

**(e) Application Review and Action**

Applications for conditional use permits shall be reviewed and acted upon as set forth in Section 18.77.060 (Standard Staff Review Process).

(Ord. 4826 § 117 (Exh. 2 (part)), 2004)

## **18.76.020 Architectural Review**

**(a) Purpose**

The purpose of architectural review is to:

- (1) Promote orderly and harmonious development in the city;
- (2) Enhance the desirability of residence or investment in the city;
- (3) Encourage the attainment of the most desirable use of land and improvements;
- (4) Enhance the desirability of living conditions upon the immediate site or in adjacent areas; and
- (5) Promote visual environments which are of high aesthetic quality and variety and which, at the same time, are considerate of each other.

**(b) Applicability**

No permit required under Title 2, Title 12 or Title 16 shall be issued for a major or minor project, as set forth in this section, unless an application for architectural review is reviewed, acted upon, and approved or approved with conditions as set forth in Section 18.77.070.

- (1) Exempt Projects. Single-family and two-family residences do not require architectural review, except as provided under subsections (2)(C) and (2)(D).
- (2) Major Projects. The following are “major projects” for the purposes of the architectural review process set forth in Section 18.77.070, and are subject to review by the architectural review board:
  - (A) New construction, including private and public projects, that:
    - (i) Includes a new building or building addition of five thousand square feet or more; or
    - (ii) Is not exempt under the California Environmental Quality Act (CEQA) (Section 21000 *et seq.* of the California Public Resources Code); or
    - (iii) Requires one or more variances or use permits and, in the judgment of the director, will have a significant effect upon the aesthetic character of the city or the surrounding area;
  - (B) Any multiple-family residential construction project that contains three or more units;

- (C) Construction of three or more adjacent single-family homes or duplexes;
  - (D) In the Neighborhood Preservation Combining District (NP), properties on which two or more residential units are developed or modified, except when one of those units is a “second dwelling unit,” as described in Section 18.10.140(d);
  - (E) Any project using transferred development rights, as described in Chapter 18.87;
  - (F) A master sign program, pursuant to Chapter 16.20;
  - (G) Signs that do not meet all applicable design guidelines adopted by the city council or do not conform to a previously approved master sign program;
  - (H) Signs requiring a sign exception pursuant to Chapter 16.20;
  - (I) Any minor project, as defined in subsection (3), that the director determines will significantly alter the character or appearance of a building or site.
- (3) Minor Projects. The following are “minor projects” for the purposes of the architectural review process set forth in Section 18.77.070, except when determined to be major pursuant to subsection (2)(I):
- (A) New construction, including private and public projects, that involves a new building or building addition of fewer than 5,000 square feet, and which is exempt under the California Environmental Quality Act (CEQA) (division 13 of the Public Resources Code, commencing with section 21000);
  - (B) Signs that meet all applicable guidelines and conform to any previously approved master sign program;
  - (C) Landscape plans, fences, exterior remodeling, and design of parking areas, when not part of a major project;
  - (D) Any project relating to the installation of cabinets containing communications service equipment or facilities, pursuant to any service subject to Chapter 2.11, Chapter 12.04, Chapter 12.08, Chapter 12.09, Chapter 12.10, or Chapter 12.13.
  - (E) Minor changes to the following:
    - (i) Plans that have previously received architectural review approval;
    - (ii) Previously approved planned community district development plans;
    - (iii) Plans that have previously received site and design approval;
    - (iv) Previously approved plans for projects requiring council approval pursuant to a contractual agreement, resolution, motion, action or uncodified ordinance;
    - (v) Existing structures requiring council site and design approval or approval pursuant to a contractual agreement, resolution, motion, action, or uncodified ordinance.

As used in this subsection, the term “minor” means a change that is of little visual significance, does not materially alter the appearance of previously approved improvements, is not proposed for the use of the land in question, and does not alter the character of the structure involved. If the cumulative effect of multiple minor changes would result in a major change, a new application for Architectural

Review approval of a major project, Site and Design approval, Planned Community District approval, or other applicable approval is required.

- (F) Any changes to previously approved plans requiring architectural review as a minor project as part of the conditions of a permit or approval.

**(c) Preliminary Review**

For the purpose of securing the advice of the architectural review board prior to making an application for the board's recommendation on a project, an applicant, upon paying a preliminary application fee, as set forth in the municipal fee schedule, may bring a design before the board for preliminary review. If the applicant wishes to proceed with the project, he or she must then file an application and pay a regular application fee. The comments of the architectural review board members during a preliminary review shall not be binding on their formal recommendation.

**(d) Findings**

Neither the director, nor the city council on appeal, shall grant architectural review approval, unless it is found that:

- (1) The design is consistent and compatible with applicable elements of the Palo Alto Comprehensive Plan;
- (2) The design is compatible with the immediate environment of the site;
- (3) The design is appropriate to the function of the project;
- (4) In areas considered by the board as having a unified design character or historical character, the design is compatible with such character;
- (5) The design promotes harmonious transitions in scale and character in areas between different designated land uses;
- (6) The design is compatible with approved improvements both on and off the site;
- (7) The planning and siting of the various functions and buildings on the site create an internal sense of order and provide a desirable environment for occupants, visitors and the general community;
- (8) The amount and arrangement of open space are appropriate to the design and the function of the structures;
- (9) Sufficient ancillary functions are provided to support the main functions of the project and the same are compatible with the project's design concept;
- (10) Access to the property and circulation thereon are safe and convenient for pedestrians, cyclists and vehicles;
- (11) Natural features are appropriately preserved and integrated with the project;
- (12) The materials, textures, colors and details of construction and plant material are appropriate expression to the design and function and whether the same are compatible with the adjacent and neighboring structures, landscape elements and functions;

- (13) The landscape design concept for the site, as shown by the relationship of plant masses, open space, scale, plant forms and foliage textures and colors create a desirable and functional environment and whether the landscape concept depicts an appropriate unity with the various buildings on the site;
- (14) Plant material is suitable and adaptable to the site, capable of being properly maintained on the site, and is of a variety which would tend to be drought-resistant and to reduce consumption of water in its installation and maintenance;
- (15) The project exhibits green building and sustainable design that is energy efficient, water conserving, durable and nontoxic, with high-quality spaces and high recycled content materials. The following considerations should be utilized in determining sustainable site and building design:
  - (A) Optimize building orientation for heat gain, shading, daylighting, and natural ventilation;
  - (B) Design of landscaping to create comfortable micro-climates and reduce heat island effects;
  - (C) Design for easy pedestrian, bicycle and transit access;
  - (D) Maximize on site stormwater management through landscaping and permeable paving;
  - (E) Use sustainable building materials;
  - (F) Design lighting, plumbing and equipment for efficient energy and water use;
  - (G) Create healthy indoor environments; and
  - (H) Use creativity and innovation to build more sustainable environments.
- (16) The design is consistent and compatible with the purpose of architectural review as set forth in subsection (a).

**(e) Conditions**

In granting architectural review approval, reasonable conditions or restrictions may be imposed if appropriate or necessary to protect the public health, safety, general welfare, or convenience, to secure the purposes of this title, and to:

- (1) Promote the internal integrity of the design of the project;
- (2) Assure compatibility of the proposed project's design with its site and surroundings;
- (3) Minimize the environmental effects of the proposed project; provided, however, that the architectural review board's sole responsibility with respect to the storage of hazardous materials is to require compliance with Title 17 (Hazardous Materials Storage).

**(f) Application Review and Action**

Applications for Architectural Review shall be reviewed and acted upon as set forth in Section 18.77.070 (Architectural Review Process).

**(g) Phased Projects and Enforcement of Approval Conditions**

An application for a phased project may be submitted and a specific development schedule may be considered and approved. In no event, however, shall such a development schedule exceed five years from the original date of approval. Approved project plans and conditions of approval imposed through the architectural review process shall be enforceable as approved unless the application is revised or withdrawn in accordance with this title.

**(h) Architectural Review Approval Prior to Demolition**

No building demolition, except for tenant improvements or where necessary for health and safety purposes (as determined by the director), shall be permitted on any site requiring architectural review approval, until such architectural review approval is granted by the director, including review of subsequent conditions by the architectural review board, where required.

(Ord. 4966 § 1, 2007: Ord. 4964 §§ 19, 20, 2007: Ord. 4959 § 1, 2007: Ord. 4826 § 117 (Exh. 2 (part)), 2004)

## **18.76.030 Variance**

**(a) Purpose**

The purpose of a variance is to:

- (1) Provide a way for a site with special physical constraints, resulting from natural or built features, to be used in ways similar to other sites in the same vicinity and zoning district; and
- (2) Provide a way to grant relief when strict application of the zoning regulations would subject development of a site to substantial hardships, constraints, or practical difficulties that do not normally arise on other sites in the same vicinity and zoning district.

**(b) Applicability**

Variances may be granted to the following:

- (1) Site development regulations (except limitations on residential density and size of establishment) and parking and loading regulations (except those accessible parking regulations mandated by state and/or federal law and contained in Chapter 18.54) applicable within any district established by this title (Zoning);
- (2) The special requirements that apply to site development and parking and loading regulations applicable within any district established by this title (Zoning), except provisions which restrict expansion of grandfathered uses that are subject to the special requirements of a specific zoning district. Special requirements in any district do not include special provisions and exceptions as set forth in Chapters 18.40 and 18.42 except for the location of accessory buildings;
- (3) The requirements of Title 20 (Precise Plans);

- (4) The requirements of Chapter 16.24 (Fences) except Sections 16.24.040 (Fences at Intersections) and 16.24.070 (Prohibited Fences);

**(c) Findings – General**

Neither the director, nor the city council on appeal, shall grant a variance, unless it is found that:

- (1) Because of special circumstances applicable to the subject property, including (but not limited to) size, shape, topography, location, or surroundings, the strict application of the requirements and regulations prescribed in this title substantially deprives such property of privileges enjoyed by other property in the vicinity and in the same zoning district as the subject property. Special circumstances that are expressly excluded from consideration are:
  - (A) The personal circumstances of the property owner, and
  - (B) Any changes in the size or shape of the subject property made by the property owner or his predecessors in interest while the property was subject to the same zoning designation.
- (2) The granting of the application shall not affect substantial compliance with the regulations or constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and in the same zoning district as the subject property, and
- (3) The granting of the application is consistent with the Palo Alto Comprehensive Plan and the purposes of this title (Zoning), and
- (4) The granting of the application will not be detrimental or injurious to property or improvements in the vicinity, will not be detrimental to the public health, safety, general welfare, or convenience.

**(d) Findings – Flag Lot**

In addition to the above-listed findings, in the case of a flag lot, neither the director, nor the city council on appeal, shall grant a variance, unless it is found that:

- (1) The granting of the application will not disrupt established neighborhood character and aesthetics, and will not affect the health of the residents by significantly blocking out light and air;
- (2) The granting of the application will not result in excessive paving, parking, potential traffic conflicts on busy streets, street tree removal or loss of private landscaping;
- (3) The granting of the application will not negatively impact the privacy and quiet enjoyment of adjoining single-family residences, for both indoor and outdoor use.

**(e) May Not be Granted for Unauthorized Use**

A variance shall not be granted for a parcel that authorizes a use or activity that is not otherwise expressly authorized by the zone regulations governing the subject property.

**(f) Conditions**

In granting variances, reasonable conditions or restrictions may be imposed if appropriate or necessary to protect the public health, safety, general welfare, or convenience, and to secure the purposes of this title (Zoning).

**(g) Application Review and Action**

Applications for variances shall be reviewed and acted upon as set forth in Section 18.77.060 (Standard Staff Review Process).

(Ord. 4826 § 117 (Exh. 2 (part)), 2004)

**18.76.040 Neighborhood Preservation Exception****(a) Purpose**

The purpose of the neighborhood preservation exception is to foster retention of existing single-family structures and to maintain the existing historic and general character of neighborhoods in the neighborhood preservation (NP) combining district.

**(b) Applicability**

For properties within the neighborhood preservation (NP) combining district, a neighborhood preservation exception may be granted to site development regulations (except limitations on residential density), parking regulations, and special setback requirements of Title 20 (Precise Plans).

**(c) Findings**

Neither the director, nor the city council on appeal, shall grant a neighborhood preservation exception unless it is found that:

- (1) The granting of the application will facilitate the preservation of an existing residential structure on the same property and will be of benefit in maintaining the existing historic and general character of the surrounding neighborhood; and
- (2) The granting of the application will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convenience.

**(d) Conditions**

In granting neighborhood preservation exceptions, reasonable conditions or restrictions may be imposed as deemed appropriate or necessary to protect the public health, safety, general welfare, or convenience, and to secure the purposes of this title.

**(e) Application Review and Action**

Applications for neighborhood preservation exceptions shall be reviewed as set forth in Section 18.77.060 (Standard Staff Review Process).

(Ord. 4826 § 117 (Exh. 2 (part)), 2004)

**18.76.050 Design Enhancement Exception (DEE)****(a) Purpose**

The purpose of a design enhancement exception is to permit a minor exception to zoning regulations when doing so will:

- (1) Enhance the design of a proposed project without altering the function or use of the site, or its impact on surrounding properties; or
- (2) Enable the preservation of the architectural style of existing improvements on the site.

**(b) Applicability**

- (1) Design enhancement exceptions may be granted to the site development and parking and loading requirements otherwise applicable under this title (Zoning), as part of the architectural review process, when such exceptions will enhance the appearance and design of commercial and multiple-family development and other development subject to architectural review.
- (2) Items for which design enhancement exceptions may be granted include, but are not limited to, dormers, eave lines, roof design, bay windows, cornices, parapets, columns, arcades, fountains, art, ornamentation, atriums, balconies, trellises, moldings, balustrades, stairs, entry features, and other minor architectural elements and design features.
- (3) Generally, design enhancement exceptions are limited to minor changes to the setback, daylight plane, height, lot coverage limitations, parking lot design and landscaping configuration, and additional flexibility in the required proportion between private and common open space.
- (4) No design enhancement exception shall be granted under this section that would increase floor area, decrease the number of required parking spaces, decrease the amount of required on-site landscaping, or decrease the required open space.

**(c) Findings**

Neither the director, nor the city council on appeal, shall grant a design enhancement exception unless it is found that:

- (1) There are exceptional or extraordinary circumstances or conditions applicable to the property or site improvements involved that do not apply generally to property in the same zone district;
- (2) The granting of the application will enhance the appearance of the site or structure, or improve the neighborhood character of the project and preserve an existing or proposed architectural style, in a manner which would not otherwise be accomplished through strict application of the minimum requirements of this title (Zoning) and the architectural review findings set forth in Section 18.76.020(d); and
- (3) The exception is related to a minor architectural feature or site improvement that will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare or convenience.

**(d) Conditions**

In granting design enhancement exceptions, reasonable conditions or restrictions may be imposed if appropriate or necessary to protect the public health, safety, general welfare, or convenience, and to secure the purposes of this title.

**(e) Application Review and Action**

Applications for a design enhancement exception shall be reviewed and acted upon as set forth in Section 18.77.070 (Architectural Review).

(Ord. 4826 § 117 (Exh. 2 (part)), 2004)

**18.76.060      Reserved**

Editor's Note: Former Section 18.76.060, *Home improvement exception (HIE)*, derived from Ord. 4826 § 117 (Exh. 2), was repealed by § 38 of Ord. 4869.