

SUPREME COURT
FILED

DEC 05 2017

Jorge Navarrete Clerk

Case No. S238563

IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA

Deputy

UNION OF MEDICAL MARIJUANA PATIENTS, INC.,

Plaintiff and Appellant,

v.

CITY OF SAN DIEGO,

Defendant Respondent,

CALIFORNIA COASTAL COMMISSION,

Real Party in Interest.

After A Decision by the Court of Appeal of the State of California
Fourth District, Division One, D068185

San Diego County Superior Court
The Honorable Joel Wohlfeil (Case No. 37-2014-00013481-CU-TT-CTL)

**AMICI CURIAE LEAGUE OF CALIFORNIA CITIES
AND CALIFORNIA STATE ASSOCIATION OF COUNTIES'
REQUEST FOR JUDICIAL NOTICE
(DOCUMENTS ATTACHED EXHIBIT A THROUGH EXHIBIT D)**

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Attorneys for Amici Curiae LEAGUE OF CALIFORNIA CITIES and CALIFORNIA
STATE ASSOCIATION OF COUNTIES

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CLERK SUPREME COURT

TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES
OF THE SUPREME COURT OF CALIFORNIA:

Amici Curiae League of California Cities and California State Association of Counties (Amici) herein moves this court, pursuant to California Rules of Court, rule 8.252 and Evidence Code section 459, for an order granting the Amici's request for judicial notice of the following documents attached hereto as Exhibits "A" through "D."

Exhibit A: City of Ontario Chapter 2.0 "Administration and Procedures" of the Ontario Development Code. Exhibit A consists of 46 pages, Bates labeled 0001 through 0046 in the upper right corner of the pages.

Exhibit B: Oakland Planning Code Chapter 17.05, "Landmarks Preservation Advisory Board," Chapter 17.132, "Administrative Appeal Procedure;" and Chapter 17.150, "Fee Schedule." Exhibit B consists of 5 pages, Bates labeled 0047 through 0051 in the upper right corner of the pages.

Exhibit C: County of Riverside section 1.2, "Planning Agency," Section 1.2 "County Board of Supervisors," Section 1.3 "County Planning Commission," Section 1.4 "Planning Department," and Sections 1.6 through 1.11 regarding notices of public hearings in the Riverside County Zoning Ordinance. Exhibit C consists of 4 pages, Bates labeled 0052 through 0055 in the upper right corner of the pages.

Exhibit D: County of Los Angeles Registrar/Recorder/County Clerk's Fee Schedule re Notice of Exemption posting fee. Exhibit D consists of 1 page, Bates labeled 0056 in the upper right corner of the page.

Dated: November 17 2017 BEST BEST & KRIEGER LLP

By: Michelle Ouellette

MICHELLE OUELLETTE

CHARITY SCHILLER

SARAH E. OWSOWITZ

Attorneys for *Amici Curiae* League of
Cities and California State Association
of Counties

MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATUTORY AUTHORITY GOVERNING JUDICIAL NOTICE FOR A REVIEWING COURT

Evidence Code section 459, subd. (a) states that the reviewing court may take judicial notice of any matter specified in Section 452. California Rules of Court, rule 8.252, subd. (a) sets forth the following procedure for the motion:

(a) Judicial notice

(1) To obtain judicial notice by a reviewing court under Evidence Code section 459, a party must serve and file a separate motion with a proposed order.

(2) The motion must state:

(A) Why the matter to be noticed is relevant to the appeal;

(B) Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court;

(C) If judicial notice of the matter was not taken by the trial court, why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453; and

(D) Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.

(3) If the matter to be noticed is not in the record, the party must serve and file a copy with the motion or explain why it is not practicable to do so.

(Cal. Rules of Court, rule.. 8.252, subd. (a).)

A. **Rule 8.252(a)(2) Showing for Exhibits A-C – City and County Codes**

1. **Why the matter to be noticed is relevant to the appeal.**

At issue is the application of Public Resources Code section 21065 to zoning amendments. Section 21065 defines “projects” under the California Environmental Quality Act (CEQA). Only “projects” are subject to CEQA. Petitioner argues that, under Public Resources Code Section 21080, subd. (a), certain listed activities including zoning amendments qualify as “projects” and are therefore subject to CEQA regardless of whether they meet the “project” definition set forth in Section 21065. The City and County codes in Exhibits “A” through “C” are instructive because none of these ordinances — concerning topics such as the establishment and administration of commissions and planning agencies, the administration of various types of permits, the payment of application and appeal fees, and the processing and noticing of appeals — would meet the test for “projects” in Public Resources Code section 21065, as they could not result in any direct or reasonably foreseeable indirect impact on the environment. The ordinances simply do not concern the environment. For instance, ordinances establishing planning commissions and historic preservation boards, or setting appeal or public hearing noticing procedures do not authorize any physical activity, and certainly none that could impact the environment — not now and not ever in the future.

2. **Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court.**

No, this material was not presented to the trial court as the Amici were not parties to the state court proceeding.

3. **If judicial notice of the matter was not taken by the trial court, why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453.**

Evidence Code section 452, subd. (c) permits a court to take judicial notice of the official acts of the legislative and executive departments of California.

4. **Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.**

This matter does not relate to proceedings occurring after judgment.

B. Rule 8.252(a)(2) Showing for Exhibits D – County of Los Angeles Fee Schedule

1. **Why the matter to be noticed is relevant to the appeal.**

If, as Petitioner argues, under Public Resources Code Section 21080, subd. (a), certain listed activities including zoning amendments qualify as “projects” and are therefore subject to CEQA regardless of whether they meet the “project” definition set forth in Section 21065, as detailed in the County of Los Angeles Fee Schedule with regard to the \$75.00 cost to file and post Notice of Exemption, cities and counties would be required to spend significant amounts of staff time and resources on environmental review for any ordinance that is a “project” under CEQA.

2. **Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court.**

No, this material was not presented to the trial court as the *Amici* were not parties to the state court proceeding.

3. **If judicial notice of the matter was not taken by the trial court, why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453.**

Evidence Code section 452, subd. (c) permits a court to take judicial

notice of the official acts of the legislative and executive departments of California.

4. **Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.**

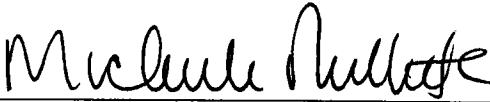
This matter does not relate to proceedings occurring after judgment.

II.

CONCLUSION

For the reasons set forth above, the Amici respectfully request the court grant the Amici's Request for Judicial Notice of Exhibits A through D attached hereto.

Dated: November 17 2017 BEST BEST & KRIEGER LLP

By: 
MICHELLE OUELLETTE
CHARITY SCHILLER
SARAH E. OWSOWITZ
Attorneys for Amici Curiae League of
Cities and California State Association
of Counties

[PROPOSED]

ORDER TAKING JUDICIAL NOTICE OF DOCUMENTS

Good cause appearing,

IT IS HEREBY ORDERED that Amici Curiae League of California Cities and California State Association of Counties' Motion for Judicial Notice in support of its Amicus Curiae Brief is granted.

IT IS SO ORDERED that this Court shall take judicial notice of the following:

1. City of Ontario Chapter 2.0 "Administration and Procedures" of the Ontario Development Code.
2. Oakland Planning Code Chapter 17.05, "Landmarks Preservation Advisory Board," Chapter 17.132, "Administrative Appeal Procedure;" and Chapter 17.150, "Fee Schedule."
3. County of Riverside section 1.2, "Planning Agency," Section 1.2 "County Board of Supervisors," Section 1.3 "County Planning Commission," Section 1.4 "Planning Department," and Sections 1.6 through 1.11 regarding notices of public hearings in the Riverside County Zoning Ordinance.
4. County of Los Angeles Registrar/Recorder/County Clerk's Fee Schedule re Notice of Exemption posting fee.

DATED: _____

By: _____

Chief Justice of the
Supreme Court of California

CERTIFICATE OF COMPLIANCE

I certify that the text of this brief consists of 848 words as counted by the Microsoft Word word-processing program used to generate this brief.

Dated: November 17 2017 BEST BEST & KRIEGER LLP

By: Michelle Ouellette
MICHELLE OUELLETTE
CHARITY SCHILLER
SARAH E. OWSOWITZ
Attorneys for Amici Curiae League of
Cities and California State Association
of Counties

EXHIBIT A

Chapter 2.0:
Administration and Procedures

Division 2.01—Planning Agency

Division 2.02—Application Filing and Processing

Division 2.03—Public Hearings

Division 2.04—Appeals

Division 2.05—City Initiated Modification or Revocation

Division 2.06—Performance Guarantees

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Division 2.01—Planning Agency

Sections:

- 2.01.000: Purpose
- 2.01.005: Applicability
- 2.01.010: City Council
- 2.01.015: Planning Commission
- 2.01.020: Historic Preservation Commission
- 2.01.025: Historic Preservation Subcommittee
- 2.01.030: Development Advisory Board
- 2.01.035: Zoning Administrator

2.01.000: Purpose

GC Section 65100 provides that each city and county establish a planning agency with the powers necessary to carry out the planning and zoning functions of the jurisdiction. The purpose of this Division is to identify and establish bodies, commissions, committees, positions, boards, and departments responsible for carrying out the powers and duties of the planning agency.

2.01.005: Applicability

The functions of the planning agency are hereby assigned to the following bodies, commissions, committees, positions, boards, and departments:

- A. City Council;
- B. Planning Commission;
- C. Historic Preservation Commission;
- D. Historic Preservation Subcommittee;
- E. Development Advisory Board;
- F. Zoning Administrator;
- G. Planning Department.

2.01.010: City Council

A. Established. The City Council's establishment, membership, and operation are recognized by OMC Title 2 (Administration), Chapter 1 (City Council), commencing with Article 1, Section 2-1.101.

B. Powers and Duties. The City Council shall have the authority to hear and decide on those application types established by Table 2.02-1 (Review Matrix) of this Development Code and shall

have review and final authority on all appeals of Planning Commission or Historic Preservation Commission actions.

2.01.015: Planning Commission

A. Established. The Planning Commission's establishment, membership and operation are recognized by OMC Title 2 (Administration), Chapter 2 (Commissions and Boards), Article 3 (Planning Commission), commencing with OMC Section 2-2.301.

B. Powers and Duties. The Planning Commission shall have the authority to hear, recommend, and decide on those application types identified in Table 2.02-1 (Review Matrix) of this Development Code. In addition, the Planning Commission shall have the authority to act upon an appeal of any order, requirement, permit, decision or determination concerning zoning, land use or development, made by an administrative or appointed official or body, such as the Planning Director, Zoning Administrator, or Development Advisory Board, pursuant to the provisions of this Development Code.

C. Meetings. The Planning Commission shall adopt rules as necessary to the conduct of its affairs and in keeping with the provisions of this Development Code. Meetings shall be held on a regular basis and open to the public. The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, and shall keep records of its own examinations and other official actions, which shall be filed with the Planning Department.

2.01.020: Historic Preservation Commission

A. Established. In accordance with the authority granted to municipalities by State Planning and Zoning Law, pursuant to GC Division 1, Chapter 3 (commencing with GC Section 65100), there is hereby created and established in the City of Ontario, an Historic Preservation Commission.

B. Membership. The Historic Preservation Commission shall consist of the 7 standing members of the Planning Commission.

C. Powers and Duties. The Historic Preservation Commission shall have the following powers and duties:

1. Establish criteria for and conduct or cause to be conducted a comprehensive survey in conformance with state survey standards and guidelines of Historical Resources within the boundaries of the City, and publicize and periodically update the survey results;

2. The authority to hear make recommendations and/or decide on those application types established by Table 2.02-1 (Review Matrix) of this Development Code;

3. Authority to act upon an appeal of any order, requirement, permit, decisions, or determination concerning Historic Resources under this Development Code, made by the Historic Preservation Subcommittee;

4. Maintain a local register of Designated Historic Landmarks and Districts consistent with the National Register of Historic Places criteria, including all information required for each designation; and

5. Undertake any other action or activity necessary or appropriate to implement its powers or duties to fulfill the objectives of the Historic Preservation program.

D. Meetings. The Historic Preservation Commission shall adopt rules and procedures governing meeting business, conduct, and actions within the Historic Preservation Commission's jurisdiction and setting timeframes for such meetings.

2.01.025: Historic Preservation Subcommittee

A. Established. In accordance with the authority granted to municipalities by State Planning and Zoning Law, pursuant to GC Division 1, Chapter 3 (commencing with GC Section 65100), there is hereby created and established in the City of Ontario, an Historic Preservation Subcommittee.

B. Membership. The Historic Preservation Subcommittee shall consist of 3 members of the Historic Preservation Commission, to be appointed pursuant to the Historic Preservation Commission rules and procedures.

C. Powers and Duties. The Historic Preservation Subcommittee shall have the following powers and duties:

1. The authority to hear make recommendations and/or decide on those application types established by Table 2.02-1 (Review Matrix) of this Development Code;

2. The authority to review historic preservation work program, assist staff in any survey or historic research being conducted, and review of the City's list of Historical Resources; and

3. The authority to act upon appeals of administrative permits, decisions and actions concerning Historical Resources under this Development Code, made by any City Department.

D. Meetings. The Historic Preservation Commission shall adopt rules and procedures governing meeting business, conduct, and actions within the Historic Preservation Subcommittee's jurisdiction and setting timeframes for such meetings.

2.01.030: Development Advisory Board

A. Established. In accordance with the authority granted to municipalities by State Planning and Zoning Law, pursuant to GC Division 1, Chapter 3 (commencing with GC Section 65100), there is hereby created and established in the City of Ontario, a Development Advisory Board.

B. Membership. The Development Advisory Board shall include those representatives of certain City departments and/or agencies as established by resolution of the City Council.

C. Powers and Duties. The Development Advisory Board shall have the authority to hear, recommend and decide on those application types identified in Table 2.02-1 (Review Matrix) of this Development Code.

D. Meetings. The Development Advisory Board shall adopt rules and regulations to govern the procedures at meetings within the Board's jurisdiction and to set a time for such meetings.

2.01.035: Zoning Administrator

- A. Established.** In accordance with the authority granted to municipalities by State Planning and Zoning Law, pursuant to GC Division 1, Chapter 3 (commencing with GC Section 65100), there is hereby created and established in the City, the position of Zoning Administrator.
- B. Membership.** The Zoning Administrator position shall be filled by the Planning Director or the Zoning Administrator's designee, who shall fill the position of Deputy Zoning Administrator.
- C. Powers and Duties.** The Zoning Administrator shall have the power and duty to review and make decisions on those application types identified in Table 2.02-1 (Review Matrix) of this Development Code.
- D. Meetings.** The Zoning Administrator shall adopt rules and procedures governing meeting business, conduct, and actions within the Zoning Administrator's jurisdiction and setting timeframes for such meetings.

Division 2.02—Application Filing and Processing

Sections:

- 2.02.000: Purpose
- 2.02.005: Applicability
- 2.02.010: Applications and Fees
- 2.02.015: Application Processing Procedures
- 2.02.020: Environmental Review
- 2.02.025: Time Limits and Extensions
- 2.02.030: Failure by Applicant to Complete Application Processing
- 2.02.035: Limitations on Application Refiling
- 2.02.040: Indemnification

2.02.000: Purpose

The purpose of this Division is to establish procedures and requirements for the preparation, filing and processing of applications for permits, amendments, and approvals stipulated by this Development Code.

2.02.005: Applicability

Table 2.02-1 (Review Matrix), below, establishes the recommending, approving, and appeal authorities for all permits, amendments, and approvals stipulated by this Development Code. The symbols used within the Table have the following meanings:

- R = Advisory (Recommending) Authority
- X = Approving Authority
- A = Appeal Authority

Table 2.02-1: Review Matrix

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | |
|---------------------------------------------------------------------------------------|---------------------------|---------------|-------------------|--------------------------|----------------------------|----------------------------------------|----------------------------------|---------------------|--------------|
| | Planning Director | City Engineer | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] | Historic Preservation Commission | Planning Commission | City Council |
| A. LEGISLATIVE ACTIONS | | | | | | | | | |
| 1. Airport Land Use Compatibility Plan and Amendments [1] (Ref: ODC Section 4.01.010) | | | | | | | | R | X |
| 2. Development Agreements [1] (Ref: ODC Section 4.01.015) | | | | | | | | R | X |
| 3. Development Code Amendments [1] (Ref: ODC Section 4.01.020) | | | | | | | | R | X |

Table 2.02-1: Review Matrix

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------|---------------------------|---------------|-------------------|--------------------------|----------------------------|----------------------------------------|----------------------------------|---------------------|--------------|
| | Planning Director | City Engineer | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] | Historic Preservation Commission | Planning Commission | City Council |
| 4. Amendment to the Policy Plan (General Plan) Component of The Ontario Plan [1] (Ref: ODC Section 4.01.025) | | | | | | | | R | X |
| 5. Planned Unit Developments and Amendments [1] (Ref: ODC Section 4.01.030) | | | | | | | | R | X |
| 6. Specific Plans and Amendments [1] (Ref: ODC Section 4.01.035) | | | | | | | | R | X |
| 7. Williamson Act Contract Cancellations [1] (Ref: GC Section 51200 et seq.) | | | | | | | | R | X |
| 8. Zone Changes [1] (Ref: ODC Section 4.01.040) | | | | | | | | R | X |
| B. DISCRETIONARY PERMITS AND ACTIONS | | | | | | | | | |
| 1. Administrative Exceptions (Ref: ODC Section 4.02.020.C) | | | | X | | | | A | A |
| 2. Billboard Relocation Agreements [1] (Ref: ODC Section 4.02.010) | | | | | | | | R | X |
| 3. Conditional Use Permits (Ref: ODC Section 4.02.015) | | | | | | | | | |
| a. Hotels, Motels and Residence Inns [1] | | | | | | | | R | X |
| b. Use established in conjunction with a Development Plan [1] | | | | | R | | | X | A |
| c. Use established within an existing structure [1] | | | | X | | | | A | A |
| d. Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | | | | | X | A |
| e. Revocation due to abandonment of use per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | X | | | | A | A |
| 4. Density Bonus and Other Incentives per ODC Section 6.01.010.G (Density Bonus and Other Incentives) [1] | | | | | | | | R | X |
| 5. Development Plans (Ref: ODC Section 4.02.025) | | | | | | | | | |
| a. Residential developments totaling 5 or more dwelling units or the development of 3 or more dwelling units on a single lot or parcel | | | | | R | | | X | A |

Table 2.02-1: Review Matrix

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | |
|------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|---------------|-------------------|--------------------------|----------------------------|----------------------------------------|----------------------------------|---------------------|--------------|
| | Planning Director | City Engineer | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] | Historic Preservation Commission | Planning Commission | City Council |
| b. Commercial developments, and developments in the CIV, OS-R, OS-C and UC zoning districts, greater than 500 SF in area | | | | | X | | | A | A |
| c. Industrial developments equal to or less than 0.45 FAR | | | | | X | | | A | A |
| d. Industrial developments exceeding 0.45 FAR | | | | | R | | | X | A |
| e. Wireless telecommunications facilities pursuant to Section 5.03.415 (Wireless Telecommunications Facilities) of this Development Code | | | | | | | | | |
| (1) Tier 2 facilities | | | | | X | | | A | A |
| (2) Tier 3 facilities [1] | | | | | R | | | X | A |
| f. All others | | | | | X | | | A | A |
| 6. Extensions of Legal Nonconforming Status [1] (Ref: ODC Section 4.02.030) | | | | X | | | | A | A |
| 7. Fair Housing and Reasonable Accommodation [1] (Ref: ODC Section 4.02.035) | | | | X | | | | A | A |
| 8. Historic Preservation | | | | | | | | | |
| a. Certificates of Appropriateness (Ref: ODC Section 4.02.050) | | | | | | | | | |
| (1) Designated Historic Landmarks and Contributors, and Architectural Conservation Areas; and Demolition of an Historic Resource [1] | | | | | | R | X | | A |
| (2) Deferral of Replacement Structure [1] | | | | | | R | X | | A |
| (3) Eligible Historic Resources [1] | | | | | | X | A | | A |
| (4) Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | | | R | X | | A |
| (5) Waivers for Minor Improvements | X | | | | | A[6] | A[6] | | |
| b. Certificates of Economic Hardship [1] (Ref: ODC Section 4.02.055) [1] | | | | | | R | X | | A |
| c. Certificates of Economic Hardship—Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | | | R | X | | A |
| d. Conservation Plans (Ref: ODC Section 4.02.060) | | | | | | X | A | | A |

Table 2.02-1: Review Matrix

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|---------------|-------------------|--------------------------|----------------------------|----------------------------------------|----------------------------------|---------------------|--------------|
| | Planning Director | City Engineer | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] | Historic Preservation Commission | Planning Commission | City Council |
| e. Historic Resource Tiering (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045) | | | | | | X | A | | A |
| f. Local Historic Landmark and Local District Designations, and Architectural Conservation Areas (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045) | | | | | | R | R | | X |
| g. Mills Act Contracts (Ref: ODC Section 4.02.065) | | | | | | R | R | | X |
| h. Mills Act Cancellations [1] (Ref: ODC Section 4.02.065) | | | | | | R | R | | X |
| i. Addition/Removal of Resources to/from the Ontario Register (Ref: ODC Section 4.02.045) | | | | | | | | | |
| (1) At the request of the property owner, or upon City initiation if the most recently prepared Historic Resource Survey evaluating the resource is more than 5 years old. | | | | | | X | A | | A |
| (2) Loss of all historic and/or cultural significance due to a catastrophe causing a loss of integrity, or due to extensive legally performed alterations performed after the property was initially surveyed. | X | | | | | | A | | A |
| 9. Interpretations and Land Use Determinations (Ref: ODC Section 1.02.010) | | | | X | | | | A | A |
| 10. Master Plans and Amendments [1] (Ref: ODC Section 4.02.070) | | | | | | | | R | X |
| 11. Minor Variances (Ref: ODC Section 4.02.020.D) | | | | X | | | | A | A |
| 12. Nonconforming Structure Reconstruction [1] (Ref: ODC Section 3.01.020) | | | | | | | | X | A |
| 13. Parking Reduction (Ref: ODC Section 6.03.025) | | | | | | | | X | A |
| 14. Sign Programs (Ref: ODC Section 4.02.075) | X | | | | | | | A | A |
| 15. Specific Plan Minor Amendments (Ref: ODC Section 4.02.080) | X | | | | | | | A | A |
| 16. Stays of Permit Approval Time Limit (Ref: ODC Section 2.02.025.A.8) | | | | X[5] | X[5] | X[5] | X[5] | X[5] | X[5] |

Table 2.02-1: Review Matrix

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | |
|-----------------------------------------------------------------------------------------|---------------------------|---------------|-------------------|--------------------------|----------------------------|----------------------------------------|----------------------------------|---------------------|--------------|
| | Planning Director | City Engineer | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] | Historic Preservation Commission | Planning Commission | City Council |
| 17. Subdivisions | | | | | | | | | |
| a. Lot Merger (Merger of Contiguous Parcels) [1] (Ref: ODC Section 4.02.085) | | | | | R | | | X | A |
| b. Reversions to Acreage [1] (Ref: ODC Section 4.02.090) | | | | | R | | | X | A |
| c. Tentative Tract and Parcel Maps, and Vesting Maps [1] (Ref: ODC Section 4.02.095) | | | | | R | | | X | A |
| d. Tentative Tract and Parcel Map Time Extensions (Ref: ODC Section 2.02.025.A.3 & 4) | | | | | R | | | X | A |
| 18. Time Extensions, excepting tentative subdivision maps (Ref: ODC Section 2.02.025) | X | | | | | | | A | A |
| 19. Variances (Ref: ODC Section 4.02.020.E) | | | | | | | | | |
| a. Homeowner [1] | | | | X | | | | A | A |
| b. Other [1] | | | | | R | | | X | A |
| C. MINISTERIAL (ADMINISTRATIVE) PERMITS AND DECISIONS | | | | | | | | | |
| 1. Administrative Use Permits (Ref: ODC Section 4.03.015) | X | | | | | | | A | A |
| 2. Airport Land Use Compatibility Plan (ALUCP) Interagency Reviews [7] (Ref: ALUCP) | X | | | | | | | | A[8] |
| 3. Business License - Zoning/Land Use Compliance (Ref: OMC 3-1.129 (Zoning Compliance)) | X | | | | | | | X | X |
| 4. Landscape and Irrigation Plans (Ref: ODC Section 6.05.005) | X | | | | | | | A | A |
| 5. Off-Site (Public) Improvement Plans (Ref: ODC Section 6.08.040) | | X | | | | | | A | A |
| 6. Other Plan Checks required by this Development Code | X | | | | | | | A | A |
| 7. Shopping Cart Retention Plans (Ref: ODC Section 6.11.020) | X | | | | | | | A | A |
| 8. Sign Plans (Ref: ODC Section 4.03.020) | X | | | | | | | A | A |
| 9. Subdivisions | | | | | | | | | |
| a. Certificates of Compliance (Ref: ODC Section 4.03.025) | | X | | | | | | A | A |
| b. Final Tract and Parcel Maps, and Vesting Maps (Ref: ODC Section 4.03.030) | | | | | | | | | X |

Table 2.02-1: Review Matrix

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | |
|---------------------------------------------------------------------------------------------------------------------------|---------------------------|---------------|-------------------|--------------------------|----------------------------|----------------------------------------|----------------------------------|---------------------|--------------|
| | Planning Director | City Engineer | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] | Historic Preservation Commission | Planning Commission | City Council |
| c. Lot Line Adjustments (Ref: ODC Section 4.03.035) | | X | | | | | | A | A |
| d. Map Corrections and Amendments (Ref: ODC Section 4.03.040) | | X | | | | | | A | A |
| e. Street Address Numbering (Ref: ODC Section 6.06.010) | | | X | | | | | A | A |
| f. Street Name Assignment (Ref: ODC Section 6.06.010) | X | | | | | | | A | A |
| g. Subdivision Improvement Agreement (Ref: ODC Section 6.08.040.G) | | X | | | | | | A | A |
| 10. Tier 1 wireless telecommunications facility pursuant to ODC Section 5.03.415 (Wireless Telecommunications Facilities) | X | | | | | | | A | A |
| 11. Wall, Fence, and Obstructions Plans (Ref: ODC Section 6.02.005) | X | | | | | | | A | A |
| D. ENVIRONMENTAL DETERMINATIONS AND ACTIONS | | | | | | | | | |
| 1. Environmental Impact Reports (EIRs) (Ref: CCR Section 15080 et seq.) | | | | | | | | X[3] | X[3] |
| 2. Exempt Projects (Ref: CCR Section 15300 et seq.) | X[3] | | | X[3] | X[3] | X[3] | X[3] | A | A |
| 3. Ministerial Projects (Ref: CCR Section 15268) | X[3] | | | | | | | | |
| 4. Negative Declarations (NDs) and Mitigated Negative Declarations (MNDs) (Ref: CCR Section 15070 et seq.) | | | | X[3] | X[3] | X[3] | X[3] | X[3] | X[3] |
| 5. Addendums to previously certified EIRs and previously adopted NDs and MNDs (Ref: CCR Section 15164) | | | | X[3] | X[3] | X[3] | X[3] | X[3] | X[3] |

Notes:

- [1] A hearing is required pursuant to the procedures set forth in Division 2.03 (Public Hearings) of this Development Code.
- [2] The Approving Authority may refer any application subject to their review to the next higher authority (Appeal Authority).
- [3] The Approving Authority for environmental determinations/actions shall be the same as the related legislative or discretionary actions. NDs and MNDs, and Addendums to previously certified EIRs, and previously adopted NDs or MNDs, which are not associated with, or are independent of, legislative or discretionary actions, shall be subject to Development Advisory Board review and adoption. EIRs that are not associated with, or are independent of, legislative or discretionary actions shall be subject to Planning Commission review and certification.

- [4] An application submitted for concurrent review and action with another application, action or decision requiring review and action by a higher Reviewing Authority shall be subject to concurrent review and action by that higher Reviewing Authority.
- [5] The Approving Authority for a Stay of Permit Approval Time Limit shall be the same as the related application, action or decision.
- [6] An appeal of an Historic Preservation—Certificate of Appropriateness—Waiver shall be considered by the Historic Preservation Subcommittee, except that an Historic Preservation—Waiver for an Historic Landmark shall be considered by the Historic Preservation Commission.
- [7] Refer to the ALUCP for procedures for application processing and administration, and appeals processing.
- [8] Appeal shall be subject to review by the Mediation Board established pursuant to ALUCP Section 4.

2.02.010: Applications and Fees

A. Application filing.

1. An application for a permit, permit modification, amendment, or any other matters pertaining to this Development Code shall be filed with the City, on a City application form, together with any required fees, plans, maps, reports, special studies, exhibits, and any other information deemed necessary by the City to process the application.

2. An application may be initiated by the City, owner(s) or lessee(s) of property, or their agent(s), or person(s) who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Development Code, or their agent(s).

3. A project requiring the filing of more than one land use or entitlement permit application shall, to the extent possible, be filed with all related applications for concurrent review and action by the highest required Reviewing Authority, except that an Administrative Exception application filed in conjunction with a Development Plan shall require separate review and action by the appropriate Reviewing Authority.

B. Filing Fees.

1. The City Council may establish by resolution, a schedule of fees for permits, amendments, inspections, licenses, services, and other matters pertaining to this Development Code. The schedule of fees may be changed or modified only by resolution of the City Council.

2. Application review and action shall not commence until such time that all applicable filing fees and/or deposits have been paid in full. An application received without all applicable filing fees and/or deposits shall be deemed incomplete for filing and further processing, and shall be deemed just cause for denial of the application. In the case of time and materials projects, the payment of additional deposits may be required to fully cover all City processing costs.

C. Refunds and Withdrawals.

1. The refund of filing fees in response to the denial of an application shall be prohibited, recognizing that filing fees are utilized to cover City costs related to public hearings, mailings, postings, transcripts, and staff time involved in processing applications.

2. An applicant wishing to withdraw their application may do so by written request to the Planning Director at any time prior to action by the Approving Authority.

3. Upon receipt of a request for application withdrawal, the Planning Director may order the refund of all or part of the filing fees, based upon the prorated costs to date and determination of the status of the application at the time of withdrawal.

2.02.015: Application Processing Procedures

This section is intended to provide general procedures for the processing of applications for legislative actions, discretionary permits and actions, and ministerial permits and decisions filed pursuant Table 2.02-1 (Review Matrix) of this Division.

A. Legislative Actions. The Advisory and Approving Authorities for legislative actions are established by Table 2.02-1 (Review Matrix) of this Division. Unless otherwise stipulated by Division 4.01 (Legislative Actions) of this Development Code, the procedure for reviewing and acting upon an application resulting in a legislative action is as follows:

1. Initial Review for Application Completeness. Legislative actions shall be initially reviewed for application completeness and acceptance, as follows:

a. *Review for Application Completeness.*

(1) Following receipt of an application filed in compliance with this Division, the Planning Department shall determine, in writing, whether the application is complete for processing and shall transmit the determination to the applicant.

(2) If an application is determined to be incomplete for processing, the Planning Department shall specify those parts of the application that are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the City in response to the list and description, which shall be reviewed pursuant to Subparagraph A.1.a(1), above.

(3) If the application, together with the submitted materials, is determined to be incomplete for processing, the applicant may appeal that decision to the Planning Commission pursuant to the provisions of Division 2.04 (Appeals) of this Development Code.

(4) Failure of an applicant to submit complete or adequate information pursuant to the provisions of Subparagraphs A.1.a(1) and (2), above, shall constitute grounds for denial of the application.

b. *Application Acceptance.*

(1) Following acceptance of an application as complete for processing, no new or additional information may be requested of the applicant; however, in the course of processing the application, the Planning Department may request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application. This provision shall not be so construed as to require an applicant to submit with the initial application, the entirety of the information that the Planning Department may require in order to take final action on the application.