

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ... 428 J STREET, STE 800, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

September 18, 1985

Carol B. Tanenbaum
Allard, Shelton & O'Connor
100 Pomona Mall West, Sixth Floor
Pomona, CA 91766-1788

Re: Your Request for Advice
Our File No. A-85-129 - /

Dear Ms. Tanenbaum:

This letter is sent in response to your request for advice on behalf of Claremont City Councilmember Bill McCready concerning his obligations under the conflict of interest provisions of the Political Reform Act of 1974. [1/] You provided me with additional factual information, and we have had several telephone discussions about the advice. We agreed that I would respond as soon as practicable.

The question generally concerns the extent to which Councilmember Bill McCready may participate in certain City Council decisions on the Claremont Village District (hereinafter "CV Zone") in which he owns property and operates a business. My understanding is that a parking study of the area is under way and that no specific decisions concerning the CV Zone are presently pending before the Council. Since you have not requested advice regarding a specific decision pursuant to Section 83114(b), at this point I can only offer general advice and assistance. You indicated to me that general advice would be satisfactory and that you would seek further advice when necessary or appropriate.

[1/] The Act is contained in Government Code Sections 81000-91015. All statutory references are to the Government Code, and all regulatory references are to Title 2 of the California Administrative Code.

FACTUAL BACKGROUND

1. CV Zone

The CV Zone is 38.5 acres of commercially zoned land located in Claremont's downtown area. Current uses include a range of retail and office uses. There is limited parking available in the area, and there is a clear need for more parking. The issue of parking will be coming before the Council after the parking study is completed.

City staff is also preparing a proposed Village Design Plan which will provide building improvement and development guidelines that will be used by the City in reviewing all development in the CV Zone. One possible proposal is to reduce allowable building height from three to two stories. All of these guidelines will apply only to new buildings or new proposals for improvement and alteration of existing buildings. [2/]

2. Councilmember McCready's Interests [3/]

Councilmember McCready owns property in the CV Zone located at 211-219 West First Street. He owns a business which operates on this site, Bud's Bike Shop, which sells and services bicycles. In addition, he leases space on the site to a retail clothing store (Shrimps) for \$125 per month rent on a month-to-month basis. [4/]

DISCUSSION

As you know, a public official may not make, participate in or use his official position to influence a governmental

[2/] You provided me with a draft of the Design Plan.

[3/] All of these interests are disclosed on Councilmember McCready's 1984 Statement of Economic Interests (Form 721).

[4/] Councilmember McCready also owns a tandem bicycle manufacturing business in the City (Santana Cycles, Inc.) which sells bicycles to his bike shop. It does not appear that the manufacturing business would be affected by the decisions on the CV Zone.

decision in which the official has a financial interest in the income. Section 87100. An official has a financial interest in a decision when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

Section 87103.

Based on his interests in the First Street Property and the bike shop, Councilmember McCreedy should not participate in or attempt to influence a City Council decision on the CV Zone where it is reasonably foreseeable that the decision will materially affect any of those interests. [5/]

As you noted in your letter dated May 24, 1985, generally each City decision should be analyzed separately to determine whether disqualification is required. However, if certain decisions are related and, as a legal and practical manner, cannot be isolated from each other for resolution, then where

[5/] Based both on the small size of the CV Zone and the nature of Councilmember McCreedy's interests (commercial property ownership), the exception for decisions which affect the official in the same or similar manner as the "public generally" does not apply.

disqualification is required for one decision, it will be required for all of the decisions. This is often the case where the decisions involve one goal such as the approval of a development project.

1. Design Plan Decisions

In the present matter, it is not clear yet whether it is reasonably foreseeable that the Village Design Plan decisions will materially affect the fair market value of Councilmember McCready's real property. His property is fully improved and was recently renovated. Both of the buildings have local historic significance, and therefore, it is unlikely that he would remove them or make major alterations.[6/] However, the various building improvement guidelines may affect any future renovations and would certainly affect any proposed change in the actual use of the property. Absent additional information on the specific nature of proposed Council decisions, I would generally advise that he could participate in all of the Design Plan decisions except those on the actual building improvement guidelines.

2. Parking Decisions

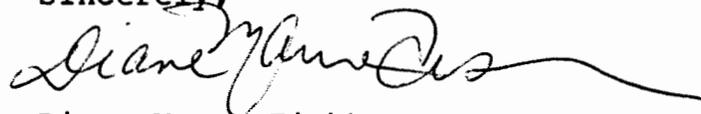
At this point, it seems probable that the Council will make a decision concerning the parking situation in the CV Zone; however, it is not clear what the proposed decision will entail. There are several possibilities including a proposal to authorize the payment of fees in lieu of providing on-site parking spaces and a proposal to provide additional public parking. The outcome of the parking study will be an analysis of the current situation and recommendations on these proposals and others. Thus, it seems premature at this point to give Councilmember McCready definitive advice. However, it is clear that the resolution of the parking issues may affect his retail business and, consequently, the value of his real property. It is also possible that the City decisions on parking may directly affect whether he has to make additional expenditures. I suggest that these decisions be analyzed very closely for potential conflicts of interest since it seems more likely than not that disqualification will be required on some of these decisions.

[6/] You mentioned in your letter dated July 9, 1985, that if the existing buildings are destroyed in a fire or similar catastrophe, then the development guidelines would be more significant. We would not normally consider a fire or similar event to be reasonably foreseeable.

Carol B. Tanenbaum
September 18, 1985
Page 5

I trust that the foregoing discussion has been helpful to you. Please feel free to contact me if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script, reading "Diane Maura Fishburn", with a long horizontal flourish extending to the right.

Diane Maura Fishburn
Staff Counsel
Legal Division

DMF:plh

ALLARD, SHELTON & O'CONNOR

ATTORNEYS AT LAW

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JOSEPH A. ALLARD
(1987-1988)

May 24, 1985

Fair Political Practices Commission
1100 K Street
Sacramento, California 95814

Attention: Barbara Milman
General Counsel

Re: Request for Advice on Behalf of Councilman
Bill McCready of Claremont, California

Dear Ms. Milman:

I.
FACTS PRESENTED

The City of Claremont, California, has zoned, as commercial, a total of 319 acres of land. The commercial area zoned as "Claremont Village District" (hereinafter the "CV Zone") has approximately 38.5 acres. The entire CV Zone is in the Claremont Redevelopment Agency project area. Councilman McCready owns the following real property in the CV Zone:

211-219 West First Street, presently valued in excess of \$100,000.00.

The site square footage for these buildings is 8,625 square feet. The existing building square footage is approximately 7,500 square feet. Councilman McCready's property has eight parking credits from an earlier zoning provision, plus an additional three credits purchased at a later date.

The councilman is the owner of a business which is on this site, Bud's Bike Shop, which sells and services bicycles. Bud's Bike Shop occupies 6,500 square feet of the building area, and the remaining 1,000 square feet is leased to a retail clothing store, for which the councilman receives \$125.00 per month rent on a month-to-month basis.

II.
QUESTIONS PRESENTED

Councilman McCready wishes to know whether he can participate in the deliberations and decisions concerning the following five items:

1. Proposed amendments to the existing provision of CV Zone Ordinance which authorizes the payment of fees in lieu of providing parking spaces on-site in the Village with the consent of the City;
2. Decisions to permit the payment of fees in lieu of parking spaces at particular locations within the Village;
3. Participation in a review by the City Council of a parking study for the CV Zone;
4. The review and adoption of a design plan for the CV Zone;
5. Decisions to refer violations of the CV Zone Ordinance to the District Attorney for prosecution.

III.
BACKGROUND INFORMATION

The parking study will deal with the following issues: the payment of fees in lieu of parking spaces at particular locations within the Village, where more parking should be developed, the uses of payments made for parking, other kinds of financing for parking, employee versus customer parking, and long-term versus short-term parking locations. The design plan for the CV Zone will deal with the following: signs, design of storefronts if upgraded, restored or rehabilitated, setbacks, street furniture and public improvements, colors and materials to be used in private and public improvements, and the size of buildings and number of stories to be allowed.

IV.
ANALYSIS

California Government Code Section 87100 states the basic rule regarding governmental conflicts of interest. The section provides as follows:

No public official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

Government Code Section 87103 specifically defines the term "financial interest" to mean, in pertinent part:

An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on:

(a) Any business entity in which the public official has a direct or indirect investment worth more than one thousand dollars (\$1,000).

(b) Any real property in which the public official has a direct or indirect interest worth more than one thousand dollars (\$1,000).

(c) Any source of income, other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee or holds any position of management.

The regulations promulgated under these statutes provide guidelines for determining whether a decision will have a "material financial effect, distinguishable from its effect on the public generally" on a public official's financial interest, as defined above. These regulations provide as follows:

18702. Material Financial Effect.

(a) The financial effect of a governmental decision on a financial interest of a public official is material if the decision will have a significant

effect on the business entity, real property or source of income in question.

(b) In determining whether it is reasonably foreseeable that the effects of a governmental decision will be significant within the meaning of the general standard set forth in paragraph (a), consideration should be given to the following factors:

(1) Whether, in the case of a business entity in which the public official holds a direct or indirect investment of one thousand dollars (\$1,000) or more, or in the case of a business entity in which the public official is a director, officer, partner, employee, trustee or holds any position of management, the effect of the decision will be to increase or decrease:

(A) The annualized gross revenues by the lesser of:

(1) One hundred thousand dollars (\$100,000); or

(2) One percent if the effect is one thousand dollars (\$1,000) or more;

(B) Annual net income by the lesser of:

(1) Fifty thousand dollars (\$50,000);
or

(2) One half of one percent if the effect is one thousand dollars (\$1,000) or more; or

(C) Current assets or liabilities by the lesser of:

(1) One hundred thousand dollars (\$100,000); or

(2) One half of one percent if the effect is one thousand dollars (\$1,000) or more.

Current assets are deemed to be decreased by the amount of any expenses incurred as a result of a governmental decision.

(2) Whether, in the case of a direct or indirect interest in real property of one thousand dollars (\$1,000) or more held by a public official, the effect of the decision will be to increase or decrease:

(A) The income-producing potential of the property by the lesser of:

(1) One thousand dollars (\$1,000) per month; or

(2) Five percent per month if the effect is fifty dollars (\$50) or more per month; or

(B) The fair market value of the property by the lesser of:

(1) Ten thousand dollars (\$10,000); or

(2) One half of one percent if the effect is one thousand dollars (\$1,000) or more.

(3) Whether, in the case of a source of income as defined in Government Code Section 87103(c) of two hundred fifty dollars (\$250) or more received by or promised to a public official within 12 months prior to the time the decision is made:

(A) The effect of the decision will be to directly increase or decrease the amount of income (other than rents) to be received by the official, or to confer a financial benefit or detriment upon the official or a member of the official's immediate family, in an amount of one hundred dollars (\$100) or more; or

(B) There is a nexus between the governmental decision and the purpose for which the official receives income; or

(C) In the case of a source of income which is a business entity, the business entity will be affected in a manner described in subsection (b)(1) above; or

(D) If the source of income is not a business entity, the decision will have a significant effect on the source

2 California Administrative Code, Section 18702
(effective 5/28/82)

The analysis of a public official's potential conflict of interest involves a two-step procedure. First, it must be determined whether a public figure possesses a financial interest of the type which may give rise to a potential conflict. Once the existence of such a financial interest has been established, it must be determined whether a particular decision will "materially affect" such interest, in a manner distinguishable from the decision's effect upon the general public.

In the event of a violation of these conflict-of-interest provisions, a court may set aside the official action of a public body pursuant to Government Code Section 91003. A court may also issue a restraining order regarding the execution of any official action pending final adjudication of an alleged conflict situation.

Councilman McCreedy owns a fully-improved lot within the area, the site of his bicycle shop, and he has a month-to-month lease on 10,000 square feet of light industrial warehouse space in the CV Zone as well. His holdings, his ownership of the bicycle shop, his derivation of income from that shop, his management position with respect to the shop, and his receipt of rent in the sum of \$125.00 a month from a retail shop, are all financial interests under Government Code Section 87100. However, it is our understanding that it is the Commission's position that the mere possession of property by a public official within an area does not lead to automatic disqualification with respect to all decisions affecting that area. Thus, it is necessary to analyze the foreseeable effect on each decision on a case-by-case basis on Councilman McCreedy's business income and real estate investment. The determination as to whether such a foreseeable effect will be "material", in the sense of creating a conflict of interest, involves two elements: it must be determined whether a decision's impact upon a public official is "distinguishable in kind" from its effect upon the public generally, and then the potential monetary value of that impact must be determined.

Recent Commission opinions have taken a narrow view in determining whether commercial property owners are, for the purposes of the conflict-of-interest law, members of the

general public, and whether they are affected by land-use decisions in the same manner as the general public. In 4 FPPC Opinions 19 (No. 77-024, Feb. 7, 1978), the Commission determined that decisions concerning the formation of and assessment for a municipal improvement district would have a material effect, distinguishable from their effect upon the public generally, on the interests in real property owned by two city councilmembers. Councilmembers owned the properties in which their respective businesses were located. Neither official was in the business of leasing out commercial property. The Commission categorized the effect of the decision to form an assessment district as follows:

In this case, the relevant category of downtown commercial property owners is a small one relative to either the class of all [City] commercial property owners or the entire [City] business community. Approximately 50% of the commercial property in the city is located outside the proposed assessment district we do not believe that the class of downtown commercial property owners can be considered a significant segment of the public. Because the improvement project is limited to the downtown area, commercial property in the improvement district will reap direct benefits and incur direct costs that will not be shared by other commercial property in the city. In fact, increased downtown business and the concomitant increase in downtown property values may be gained at the expense of commercial property in other parts of the city. Therefore, the effect of the proposed decisions will be distinguishable from their effect on the public generally. Consequently, the two councilmembers must disqualify themselves from decisions concerning the creation of the improvement district.

See, also, 2 FPPC Opinions 77 (No. 76-005, June 2, 1976), in which the Commission held that retail merchants whose business establishments were located within a "core" planning area were members of the general public for the purpose of adopting a specific plan for that area in light of the substantial number and variety of such business establishments. In contrast, the same opinion determined that commercial property lessors were not members of the general public. The opinion did not discuss the status of merchants who owned their own establishments.

Whether Councilman McCready, as a commercial property owner and merchant within the CV Zone, is a part of a special class which will be uniquely benefited by resolution of the questions presented in this letter, on the basis of the information set forth above, depends upon the number and diversity of merchants within the area. If he is indeed a member of a "special class", the resolution of questions 1 through 3 will be of special benefit to him and will create a conflict-of-interest problem for him. However, it is unclear as to whether your office views this to be the case with respect to question 4. While questions 1 through 3 all deal particularly with parking in the CV Zone, question 4 deals with a proposed design plan which does not directly address itself to parking; it does address other aspects of land use regulation. Councilman McCready is unlikely to be "materially" affected by resolutions of question 5.

Any change in the existing Code concerning parking may have an effect on the cost and the possibility of developing more intense uses on particular pieces of property, including property owned by Mr. McCready. Alternatively, increased parking standards may make existing improvements in the Village increasingly valuable. Therefore, it appears to us that Mr. McCready should not make decisions on the parking plan for the Village. Because parking is a scarce good in the Village, he would not participate in decisions about particular requests for such spaces, because that could affect his business in the Village. However, the situation is quite different when the ordinance and its application have already been decided upon by Council, and the question before Council concerns the delay in compliance with the ordinance. If the City Council is debating enforcement, that does not involve long-term allocation of parking spaces, and therefore there is no material financial effect upon Councilman McCready's interest. We conclude that he could vote on proceeding with enforcement.

V. CONCLUSION

In summary, it appears to us that Councilman McCready should not participate in questions 1 through 3, and may participate in question 5. We seek your advice on these questions. Since we have reached no conclusion with respect to question 4, we ask that you address that as well. If you require more information concerning the proposed questions raised, or concerning Mr. McCready's interests, before you are able to

Fair Political Practices Commission
May 24, 1985
Page 9

respond to this request for advice, please call me at
714-622-1041.

Thank you for your attention to this matter.

Very truly yours,

Carol B. Tanenbaum

Carol B. Tanenbaum
of
ALLARD, SHELTON & O'CONNOR

CBT:lhc

CORRESPONDENCE TRANSMITTAL

CORRESPONDENT Jensenbaum, Carol ADVICE # 85-129
RE 9/1 Councilmbr. McCready, Pomona
DATE REC'D 5/29 DATE DUE 6/25

 LEGAL TA & A ENFORCEMENT

 BARBARA

 KATHY

 BOB

DIANE

 JEANETTE

They are K City Atty.
Bill McCready
217 W. First St.
Claremont, Calif.
91711

 ACKNOWLEDGMENT SENT
 REQUEST SEI

c.c: Acknowledgment to. 

ALLARD, SHELTON & O'CONNOR

ATTORNEYS AT LAW

LEONARD A. SHELTON
MAURICE O'CONNOR
WYNNE S. FURTH
KEITH A. JOHNSON
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JOSEPH A. ALLARD
(1887-1988)

June 11, 1985

Cynthia A. Cooke
Law Clerk, Legal Division
Fair Political Practices Commission
P.O. Box 807
Sacramento, California 95804

Re: Councilman Bill McCready
Your File No. A-85-129

Dear Ms. Cooke:

Thank you for your letter of June 6, 1985. I will provide you with as much information as I can at the earliest possible date.

Very truly yours,

Carol B. Tanenbaum

Carol B. Tanenbaum
of
ALLARD, SHELTON & O'CONNOR

CBT:ldc

cc: Councilman Bill McCready
Sharon Wood, Claremont

State of California



Fair Political Practices Commission

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May 31, 1985

Carol B. Tanenbaum
Allard, Shelton & O'Connor
100 Pomona Mall West, Sixth Floor
Pomona, CA 91766-1788

Re: A-85-129

Dear Ms. Tanenbaum:

Your letter, received on May 29, 1985, requesting advice under the Political Reform Act has been referred to Diane Fishburn, an attorney in the Legal Division of the Fair Political Practices Commission. If you have any questions about your advice request, you may contact this attorney directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

A handwritten signature in cursive script that reads "Barbara A. Milman".

Barbara A. Milman
General Counsel

BAM:plh
cc: Bill McCready

ALLARD, SHELTON & O'CONNOR P P C

ATTORNEYS AT LAW

100 POMONA MALL WEST, SIXTH FLOOR

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JOSEPH A. ALLARD
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JUL 15 1 59 PM '85

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CAROL B. TANENBAUM
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DONALD K. BYRNE

July 9, 1985

Fair Political Practices Commission
1100 K Street
Sacramento, California 95814

Attention: Barbara Milman
General Counsel

Re: Request for Advice on Behalf of Councilman
Bill McCready of Claremont, California

Your File No. A-85-129

Dear Ms. Milman:

On June 6, 1985, Cynthia A. Cooke, a law clerk in your legal division, requested further information on the above-captioned matter for review by attorney Diane Fishburn. In response to that letter, I am forwarding to you a draft of the Village Design Plan prepared by Architectural Resources Group with staff and Architectural Commission comments for further revision.

Mr. McCready's property is in Area I, the Central Commercial Core on which discussion begins at page 11 (hand-written). He owns two buildings in that area which are defined in the draft plan as types I and III. Discussions of these are on pages 31 and 33. In addition, the building improvement guideline (pages 38 and 39) and the general guidelines (beginning on page 40) would apply to Mr. McCready's property.

I have obtained this information and the accompanying draft from Sharon Wood, Director of Community Development. She has also informed me that it is staff's intention to propose that the City Council adopt this design plan and amend Section 614 of the Land Use and Development Code (a copy of which is enclosed) to direct the Architectural Commission to consider the guidelines contained in the design plan when reviewing development in the Village. As far as she knows, no other code amendments are anticipated to go along with the design plan. However, the City has retained another consultant, Barton-Aschman Associates, Inc., to do a parking study in the

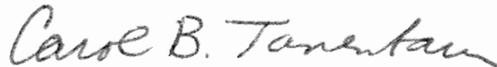
Barbara Milman, General Counsel
July 9, 1985
Page 2

Village. Ms. Wood informs me that their work will probably result in changes to the code regarding parking requirements and the ways in which they may be met. Any additional land use analysis by staff may result in other code amendments. The most significant one foreseen by Ms. Wood is the reduction of allowable building height from three to two stories.

Finally, Ms. Wood states in her memo to me, "It is doubtful that any of these actions would require property owners to alter or add to their buildings. However, all of the proposed guidelines . . . would be applied if Mr. McCready were to propose some renovation to his properties. He recently did undertake some improvements, so this is probably a likely possibility. The possible reduction in allowable building height is less likely to affect his property, since both structures are of local historic significance and adding a story would probably not ever be considered. If the existing structures were lost in a fire, etc., then the number of stories allowed would be more significant. In that situation, or if the use of the structures were to be changed, the code amendments regarding parking would also affect the property."

If you require any further information, please let me know.

Very truly yours,



Carol B. Tanenbaum
of
ALLARD, SHELTON & O'CONNOR

CBT:dp

Enclosures

cc: Sharon Wood
Barbara Hallamore
Councilman Bill McCready

7. Such other plans as the Architectural Commission may reasonably require to assure that the preliminary plans meet the architectural review criteria in Section 614.

(The Director may waive any of the above items upon the finding that it is unnecessary for a complete preliminary presentation of the proposed development.)

C. Director or Architectural Commission Review of Final Detailed Plans

The following plans shall be reviewed and approved by the Director of Community Development or, if applicant desires, the Architectural Commission.

Formal action by the Director or the Architectural Commission is required. Plans approved by the Director must correspond with the preliminary plans approved by the Architectural Commission.

Any decision by the Director may be appealed to the Architectural Commission.

Final detailed plans shall include all of the information listed under "Architectural Commission Review of Plans for Approval", plus the following:

1. Twelve (12) copies of the final site plan showing all site features and details, including: parking lot striping, thickness of paving (3" min.), locations and dimensions of planters and curbing, drive approaches and other off-site improvements, street dedications; locations and detailed plans of walls and fences, benches, walkways, all exterior lighting fixtures (including details of supports, shielding, diffusers and type and wattage of bulbs), and all other site features.
2. Eight (8) copies of final elevation drawings including all exterior details, materials, and samples of materials and colors.
3. Eight (8) copies of final floor plans.
4. Three (3) copies of the final grading and drainage plan, including method of carrying water to the street.
5. Nine (9) copies of complete detailed, prepared landscape plans, including botanical names and sizes of all plant materials, and full-coverage irrigation plans.
6. Eight (8) copies of plans for all mechanical equipment and method of screening from view.
7. Eight (8) copies of proposed signs which may be approved by the Director per Chapter 4, Part 4, if applicant desires approval of signs at this stage.
8. Such other plans or specifications as the Director may determine to be reasonably necessary for a complete understanding of the proposed development.

(The Director may waive any of the above items upon the finding that it is unnecessary or non-applicable.)

614 ACTION ON APPLICATIONS AND REVIEW CRITERIA

The Architectural Commission, or the Director where authorized, may approve, approve with conditions, or disapprove any application based on the following criteria. In case of denial the applicant shall be notified of any criteria which are deemed by the Architectural Commission or the Director not to be met. Any non-compliance with any condition on an approval by the Architectural Commission or the Director shall constitute a violation of the Zoning Ordinance.

- A. The plans indicate proper consideration for the relationship between the proposed building and site development and the buildings and site developments that exist or have been approved for the general neighborhood;
- B. The plan for the proposed building and site development indicates the manner in which the proposed development and surrounding properties are protected against noise, vibrations and other factors which may have an adverse effect on the environment, and the manner of screening mechanical equipment, trash, storage and loading areas;
- C. The proposed building or site development is not, in its exterior design and appearance, so at variance with the appearance of other existing buildings or site developments in the neighborhood as to cause the nature of the local environment to materially depreciate in appearance and value;
- D. The proposed building or structure is in harmony with the proposed developments on land in the general area, especially in those instances where buildings are within or adjacent to land shown on the General Plan as being part of the Civic Center or in public or educational use, or are within or immediately adjacent to land included within any precise plan which indicates building shape, size or style;
- E. The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved;
- F. The site plan and the design of the buildings, parking areas, signs, landscaping, luminaires, and other site features indicates that proper consideration has been given to both the functional aspects of the site development, such as automobile, pedestrian and bicycle circulation, and the visual effect of the development from view of the public streets; and
- G. The proposed building and site development considers proper solar design to provide maximum energy conservation through the use of architectural features, landscaping, and proper interior design maximizing solar orientation.

615 APPEALS

The petitioner or any other interested person may appeal any decision of the Architectural Commission or any condition imposed by the Architectural Commission by filing a written request, on forms provided by the Director, together with an appeal fee established by resolution of the City Council, with the City Clerk. The appeal shall be filed within ten (10) calendar days of the decision of the Architectural Commission. The period shall commence on the first day after the action of the Architectural Commission and shall terminate at the end of the tenth day, including therein the first day.

Appeals shall set forth alleged inconsistency or non-conformity with procedures or criteria set forth in or pursuant to this Code.

Said filing shall suspend any building permit issued pursuant to the ruling of the Architectural Commission until the Council has taken action on the appeal. The Council shall take action within forty (40) days of the filing of said appeal and may do one of the following: