

City of Eureka

COMMUNITY DEVELOPMENT DEPARTMENT

The Department

The Community Development Department is responsible for administering, implementing and enforcing the goals and policies of the City of Eureka's adopted General Plan, its zoning regulations, as well as other local, state, and federal land use and environmental regulations.

The Department has five divisions which are described on the following pages:

- ◊ Administrative
- ◊ Current Planning
- ◊ Long Range Planning
- ◊ Environmental Planning
- ◊ Enforcement



Mission & Goal

Our mission is to administer and implement the goals and policies of the City Council within the framework of the adopted General Plan. We strive to promote and encourage comment, understanding, and public interest in the planning process; and to explain the many and varied rules, regulations, policies and procedures in a courteous, knowledgeable and professional manner.

Our goal is to continue to provide exceptional public service even in the face of severe budget constraints.

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Community Development Department

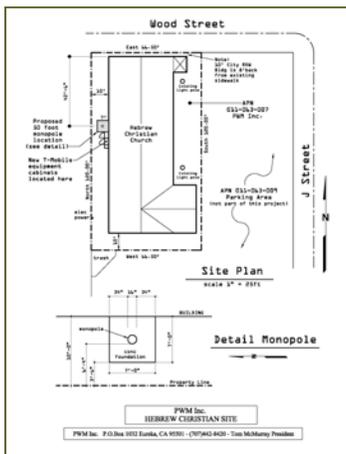
Administrative Division

The Administrative Division provides guidance and leadership for, and plans, coordinates, supports and monitors the activities of the Community Development Department. The Administrative Division provides staff support to boards, commissions, the City Manager and the City Council.

The Administrative Division also provides the administrative support for the entire Community Development Department.



Current Planning Division



The Current Planning Division administers and implements the goals and policies of the General Plan and enforces local, state, and federal zoning and land use regulations including, but not limited to, the Coastal Act, Subdivision Map Act, and CEQA.

The Current Planning Division reviews all building plan submittals for conformance with zoning and land use regulations, and reviews all business licenses for compliance with zoning regulations.

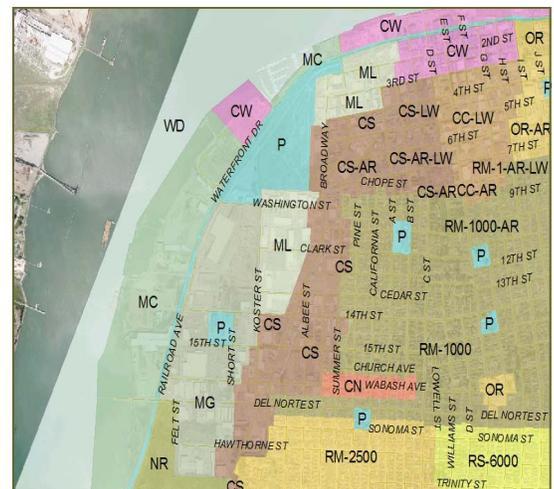
The Current Planning Division provides information services to the public and other city Departments; meets with property owners and applicants to discuss development proposals; conducts Development Coordination Committee meetings; processes all development applications; provides staff support to the Planning Commission; Historic Preservation Commission; Design Review Committee; and, a variety of ad hoc committees; and, nearly all other day-to-day planning related tasks and duties.

Long Range Planning Division

The Long Range Planning Division is responsible for updates and amendments to the General Plan; plan interpretation; ordinance implementation; General Plan compliance and consistency determinations; Housing Element review and updates; grant preparation and support; administration for Long Range City Planning; and, annexations and other City reorganization efforts through LAFCO.

In addition, the Long Range Division is responsible for flood plain management, special land use surveys, studies and reports supporting land use decisions as required.

The Long Range Planning Division also processes City projects such as the Elk River Trail and the Coastal Trail. This Division is involved in the county wide regional Blueprint Planning project.



Community Development Department

Environmental Planning Division



The Environmental Planning Division supports the Community Development Department and other City Departments through planning, implementation, management, and monitoring of a variety of complex projects, programs, and activities.

The Environmental Planning Division assists other City Departments in implementing City sponsored projects by determining, advising on, and/or completing: necessary environmental review (CEQA/NEPA); project design elements and mitigation to minimize environmental impacts and facilitate permitting; project permitting; and, mitigation compliance monitoring. The Division regularly assists City Departments with environmental and regulatory issues related to day to day City activities and programs. The Environmental Planning Division manages City environmental projects, which includes applying for and managing grants. The Environmental Planning Division also processes permits for private development projects.

Enforcement Division

The Enforcement Division implements the goals and policies of the General Plan through the enforcement of local Zoning, Land Use, Coastal Zone and Subdivision ordinances. The primary goal of the Enforcement Division is voluntary compliance.

The Enforcement Division oversees, directs and conducts the notification and inspection necessary for abatement of violations in accordance with City policies, procedures and ordinances, and state law.

The division coordinates with other City, local, state and federal regulators on enforcement actions that cross over jurisdictional boundaries.

The Enforcement Division compiles and maintains data and information for all citizen and agency filed complaints, ongoing compliance investigations, abatement proceedings, and violation compliance.



Community Development Department

Why Plan?

Planning is a proactive process that establishes goals and policies for directing and managing future growth and development within the City. Planning addresses fundamental issues such as the location of growth, housing needs, and environmental protection. Additionally, planning helps determine future demand for services, such as sewer, water, roads, and fire protection.

In addition, planning...

Saves Money.

Good planning can save on infrastructure and essential service costs, and reduce permit processing time.

Connects People to the Community.

Planning ensures that elements such as architecture, aesthetics, open space, and recreational opportunities are incorporated into projects to connect people to their community and establish a sense of place.

Sets Expectations.

Planning establishes the ground rules for development. The adopted General Plan, for example, sends a clear signal that accepted standards and procedures apply to community development. This will not eliminate

conflicts entirely, but at least sets expectations that can help minimize conflict.

Improves Economic Development and Quality of Life.

Economic development and quality of life issues go hand in hand because businesses want to locate in communities where their employees want to live. Planning outlines alternatives and choices so that the community can promote employment and economic well-being.

Provides a Forum for Reaching Consensus.

Planning processes, such as the development of the General Plan, provide a forum for seeking community consensus. Planning efforts involve broad

and diverse segments of the community to assure that the resulting plan fully addresses community needs. This will provide the public with a sense of ownership over the adopted Plan.

Protects Property Values.

Property values are enhanced when a community plans for parks, trails, playgrounds, transit, and other amenities. Planning also protects property and property values by separating incompatible land uses.

Reduces Environmental Damage and Conserves Resources.

Planning helps identify important natural and cultural resources and can channel development in a way that protects or enhances these resources.

The Police Power

The legal basis for all planning and land use regulation is the “police power.” This power emanates from the Tenth Amendment to the United States Constitution and entitles states to take actions to protect the public’s health, safety, and welfare. In turn, the California Constitution grants the same power to cities and counties, but limits the grant to the extent that local regulations may not conflict with state law. The police power is “elastic,” meaning that it can expand to meet the changing conditions of society. Thus, actions that might not have been thought of as part of the general welfare a century ago can fall within its purview today. Zoning and other forms of land use regulation are within the broad scope of the police power, and Courts have found that a wide variety of local concerns fall within the police power, including socio-economic balance, aesthetic values, residential character, and growth management.

Charter Cities

Charter cities, like Eureka, have been incorporated under their own laws rather than state laws. Charter cities have “local constitutions”—called charters—that describe the organization and fundamental policies of the city. The state constitution grants charter cities authority over “municipal affairs” even when they conflict with state law. For example, charter cities are exempt from the requirement that zoning be consistent with the general plan unless the charter city requires such consistency by its own charter or ordinance (Eureka does not). Notwithstanding, there are certain state laws, such as the Coastal Act, where even Charter Cities must make general plan/zoning consistency findings.

Community Development Department

The General Plan

The General Plan is the City's blueprint for future development. It describes our development goals and policies and it is the foundation for land use decisions made by the City Council, Planning Commission, Historic Preservation Commission, and Design Review Committee. The General Plan consists of two parts: The first is the written text describing the community's goals, objectives, and policies for development; the second part includes the General Plan map and diagrams illustrating the generalized distribution of land uses, the road system, environmental hazard areas, the open space system, and other policy statements that can be illustrated. The maps and diagrams work together with the written portions of the Plan to establish a clear view of the City's future. The General Plan contains seven mandatory elements addressing a set of basic planning issues. These elements are: Land Use and Community Design; Housing; Transportation; Public Facilities and Services; Recreational and Cultural Resources; Natural Resources; and, Health and Safety. The General Plan also contains an op-

tion element for Historic Preservation. Within each of the elements are goals (abstract and general expressions of community values), objectives (specific intermediate steps in attaining a goal), policies (specific statements that guide decision making), and implementation programs (descriptions of how the goals, objectives, and policies are to be put into action).

Each of the General Plan's seven required elements can be amended only four times per calendar year. More than one change may be considered at each of these four opportunities. Optional elements can be amended at any time. The Planning Commission and the City Council must each hold at least one public hearing prior to approving or amending the Plan. The Commission holds its hearing first and makes specific recommendations to the Council. The Council will take final action on the amendment at their hearing. If the Council makes substantial changes to any Planning Commission recommendations, those items must be sent back to the Commission for further study and recommendations before a final decision is made.

General Plan Vs. Zoning Regulations

The General Plan and zoning are not the same. The General Plan is a set of long-term goals and policies that the City uses to guide development decisions. Although the Plan establishes standards for the location and density of land uses, it does not directly regulate land use. Zoning, on the other hand, is regulatory. Under the zoning ordinance, development must comply with specific, enforceable standards such as minimum lot size, maximum building height, minimum building setback, and a list of allowable uses. Zoning is applied lot-by-lot, whereas the General Plan has a community-wide perspective.

Zoning

Zoning regulations are adopted by the City Council by ordinance and carry the weight of local law. The zoning regulations describe the numerous zone classifications, and the development standards for each zone district. Each of the zone districts identifies permitted and conditionally permitted uses, and sets standards such as minimum lot size, maximum building height, minimum parking and interior landscaping, maximum lot coverage, and minimum yards. The distribution of zoning districts is based on the pattern of land uses established by the adopted General Plan and is illustrated on the zoning map. Land may be put only to those uses permitted by the zoning designation assigned to it.

The zoning regulations list permitted uses that are allowed "by right" for each zone and those uses that are conditionally permitted. The term "by right" does not mean that the zoning regulations confer a universal right to develop a particular use; it just means that the permit is not subject to discretionary review. Conditionally permitted uses are only allowed upon approval of a conditional use permit after a public hearing. A conditional use permit may impose special development requirements to insure that the use will not be detrimental to its surroundings. Requirements might include, for example, additional landscaping, sound-proofing, limited hours of operation, additional parking, or road improvements.

Community Development Department

Planning Commission

The Planning Commission holds hearings and takes action on planning and zoning matters, such as conditional use permits and variances. They also consider and recommend to the Council the adoption or amendment of the General Plan, or the adoption or amendment of the zoning regulations. The Planning Commission advises and recommends to the Council on the acquisition, use or disposition of city-owned real property, and they review the annual Capital Improvement Plan for conformance with the adopted General Plan. There are five members of the City of Eureka Planning Commission who are appointed for a term of four years; there are no term limits. The Planning Commission meets the second Monday of each month.

Historic Preservation Commission

The Historic Preservation Commission works with property owners to minimize impacts to historic properties or districts, particularly those properties or districts listed on the "Local Register of Historic Places" (LRHP). The Historic Preservation Commission has review and approval authority for certain types of development (e.g., exterior building modifications, demolition) on property listed in the LRHP. The Historic Preservation Commission's decisions are appealable to the City Council. There are seven members of the City of Eureka Historic Preservation Commission who are appointed for a term of four years; there are no term limits. The Historic Preservation Commission meets the first Wednesday of each month.

Design Review Committee

The Design Review Committee reviews projects to ensure that they meet community aesthetic standards. The ugly, the inharmonious, the monotonous, and the hazardous shall be barred, but originality in site planning shall not be suppressed. There are five members of the City of Eureka Design Review Committee who are appointed for a term of four years; there are no term limits. The Design Review Committee meets the second and fourth Wednesday of each month.

Ministerial Vs. Discretionary

A ministerial permit is not subject to discretion. Rather, the approval of a ministerial permit is automatic if it meets certain predetermined requirements. Ministerial projects are not subject to the California Environmental Quality Act (CEQA). Examples of ministerial permits include building permits and design review. A discretionary permit is subject to the evaluation, judgment, and approval or denial of the City Council, Planning Commission, or Historic Preservation Commission. Examples of discretionary permits are conditional use permits, subdivisions, variances and coastal development permits. A discretionary permit requires a noticed public hearing and is subject to review under the California Environmental Quality Act (CEQA).



Public Involvement

Members of the public can be involved in planning in a variety of ways. They can vote for local government officials who support their vision of the community; contact City officials about planning issues; participate in a neighborhood group; learn from and educate others in the community about planning issues; and participate in government sponsored planning meetings, focus groups, and public hearings. Many local planning issues require public input before the issue can be decided upon by the City Council, the Planning Commission, Historic Preservation Commission or Design Review Committee. A public hearing is open to everyone, and offers the opportunity for the public to provide comment on the issue.

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Permit Streamlining Act

The Permit Streamlining Act is a state law that sets time limits for governmental action on some types of private development. Failure to act within those time limits can mean automatic approval of a project under certain circumstances. The Permit Streamlining Act applies to discretionary projects which are adjudicative in nature. An adjudicative decision applies existing policies and regulations to a particular situation. Use permits, subdivisions, and variances are all adjudicative actions subject to the Permit Streamlining Act. The Permit Streamlining Act does not apply to projects which are legislative in nature such as the adoption or amendment of a general plan or a zoning ordinance. A project may be automatically approved under the Permit Streamlining Act if the City fails to make a decision within the time limits specified in the Permit Streamlining Act and if the developer takes certain actions to provide public notice.

Conditional Use Permit

A Conditional Use Permit allows the City to consider special uses which may be essential or desirable to a particular neighborhood or area, but which are not allowed as a matter of right within a zoning district. A Conditional Use Permit is decided upon by the Planning Commission through a public hearing process. A Conditional Use Permit can provide flexibility within a zoning ordinance.

Subdivision

In general, land cannot be subdivided in California without local government approval. Dividing land for sale, lease or financing is regulated by City subdivision ordinances based on the state Subdivision Map Act. The adopted General Plan and the zoning, subdivision, and other ordinances govern the design of the subdivision, the size of its lots, and the types of improvements that will be required.



Variance

A Variance is a limited waiver of development standards for a use that is already permitted within a zone. There are no “use” Variances; a Variance cannot be used to allow a land use that is not otherwise permitted in a zone. Variances should only be granted in those situations where the peculiar physical characteristics of a site, including size, shape, topography, location or surroundings, make it difficult or impossible to develop the site under the adopted development standards. A Variance is granted in order to bring the disadvantaged property up to the level of use enjoyed by properties in the same zone. For instance, where the steep rear portion of a residential lot makes the site otherwise undevelopable, a Variance might be approved to reduce the front yard setback and thereby create sufficient room for a home on the lot. There is no basis for granting a Variance if the circumstances of the project site cannot be distinguished from those on surrounding lots. For example, all things being equal, in a subdivision where lots are uniformly 40 feet wide, there is no basis for granting a side-yard setback variance for one lot when all the other lots have been developed in compliance with the required side yard setbacks; granting such a Variance would be a grant of special privilege. Economic hardship alone is not sufficient justification for approval of a Variance.

Building Codes Vs. Zoning Regulations

It is easy to confuse building codes with zoning regulations, but they are not the same thing. Building codes are established at the state level and are incorporated into local codes to set structural safety requirements. They regulate details of construction, including use of materials; and electrical, plumbing, and heating specifications. Zoning ordinances, on the other hand, regulate the compatibility of neighboring land uses in terms of use, intensity, location, height and/or mass, and a number of other factors. Unlike the flexibility which the City enjoys in adopting zoning requirements, local discretion with respect to building codes is limited.

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California Environmental Quality Act (CEQA)

The purpose of CEQA is to disclose the potential impacts of a project, suggest methods to minimize those impacts, and discuss project alternatives so that the public and the decision-makers have a full understanding of the environmental consequences should a project be approved. Environmental documents prepared pursuant to CEQA are objective and informational and neither recommend approval or denial of a project.

Analyzing a project's potential environmental impacts is a multi-step process. First it must be determined whether the project is even subject to review under CEQA. Projects which require only ministerial permits, such as a building permit, are not subject to CEQA review. Once it is determined that a project is subject to CEQA, the project is evaluated to determine if it fits within specific classes of development that are exempt from further CEQA review. If a project is not exempt, an "Initial Study" is prepared to assess the potential adverse environmental impacts of the project. If the project will not result in any significant impacts on the environment, or if significant impacts of the project can be reduced below a threshold of significance by the adoption of mitigation measures, a Negative Declaration or Mitigated Negative Declaration is prepared. If the Initial Study identifies potentially significant environmental impacts that may remain significant even after adoption of feasible mitigation, then an Environmental Impact Report (EIR) must be prepared before the project can be approved.

Coastal Act



The mission of the Coastal Act is to protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations. The Coastal Act includes specific policies that address issues such as shoreline public access and recreation, lower cost visitor accommodations, terrestrial and marine habitat protection, visual resources, landform alteration, agricultural lands, commercial fisheries, industrial uses, water quality, offshore oil and gas development, transportation, development design, power plants, ports, and public works. The policies of the Coastal Act constitute the statutory standards applied to planning and regulatory decisions made by the Coastal Commission and by the City of Eureka.

The extent of the coastal zone varies but is generally the area west of Broadway, north of Third Street and east of Myrtle Avenue. In the coastal zone there are three geographic areas of jurisdiction/authority for issuing the coastal development permit:

- (1) Where the state has retained jurisdiction - these lands include tidelands and public trust lands and in these areas, the State Coastal Commission has sole authority for deciding on coastal development permits. The Commission's jurisdiction does not extend to other land use permits, such as conditional use permit, subdivisions, variances, etc.
- (2) Where the city has primary jurisdiction - in this area, the City has the authority to issue coastal development permits, but the City's decision may be appealed to the California Coastal Commission.
- (3) Where the city has full jurisdiction - in this area, the City has full authority to issue coastal development permits, and the City's decision is not appealable to the California Coastal Commission.

There are also mapped areas within the City where certain classes of development (e.g., principally permitted development and lot line adjustments) are Categorical Excluded from the requirement of obtaining a coastal development permit.

The City's Coastal Zoning Regulations currently specify that the Director of Community Development and the City Council have the authority to issue coastal development permits. Presently, the Planning Commission does not have such authority.

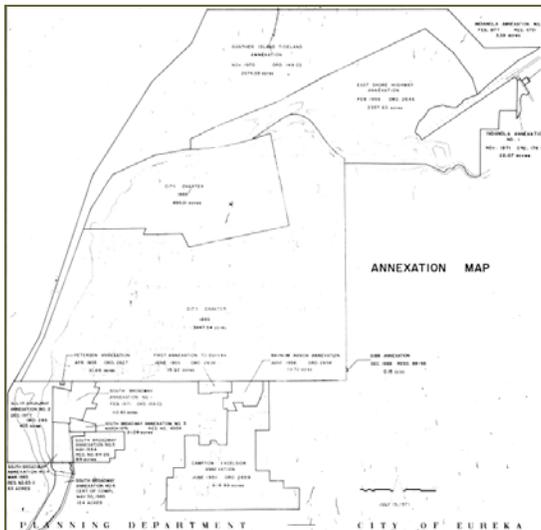
Community Development Department

Spheres Of Influence

Every county (except San Francisco) has a Local Agency Formation Commission, commonly called a “LAFCO.” LAFCO oversees the formation, dissolution, and boundary changes of all cities and special districts within the county. LAFCOs are charged with encouraging well-ordered urban development patterns, discouraging urban sprawl, and preserving open space and prime agricultural lands. The City must seek LAFCO approval before we can annex territory into our boundaries.

Most LAFCOs have seven members: two from the county board of supervisors; two from the city councils within the county; two from the legislative bodies of special districts within the county; and one member of the public selected by the other six members. Local officials serving on a LAFCO board must take a broad regional perspective and represent the interests of the general public when making decisions, not just the interests of their own agencies.

LAFCO designates a sphere of influence for the City of Eureka and updates that sphere at least once every five years. The City cannot establish its own sphere of influence; LAFCO has sole responsibility for doing this. However, the City may request that LAFCO amend our sphere. Our sphere of influence is a mapped area that represents the probable future boundaries (territory identified for future annexation) and service area of the City. Bringing territory into the City’s sphere of influence may be considered a precursor to annexation and could be controversial. LAFCO’s determination to extend our sphere of influence usually depends on whether the extension reflects the logical development of the region. LAFCO will also consider the extent to which an extension would threaten agricultural and open space lands and require additional or improved public facilities. Annexation cannot occur unless the area proposed to be annexed is within our adopted sphere of influence.



Annexations

Annexations are initiated by resolution (from the City) or by a petition signed by five percent of the resident voters in the area to be annexed (or five percent of the landowners who own at least five percent of the assessed value of the land to be annexed). If annexation is initiated by a resolution from the City, the resolution must be accompanied by a plan for providing services within the affected territory. At a minimum, the plan must discuss the feasibility, level, and range of services (such as roads, law enforcement, fire protection, sewer, and water) to be extended and how they will be financed.

When LAFCO receives an annexation request either by resolution or petition, it will convene a hearing to determine the merits of the annexation proposal. LAFCO will deny, approve or conditionally approve annexation proposals based on its policies and state law. LAFCO members tentatively approve requests for annexation hearings, and, if necessary, an election. Annexations which have been

passed by a vote of the inhabitants or which have not been defeated by protest (in those instances where no election was required) must be certified by LAFCO and meet all its conditions before they become final. LAFCO, not the City, has final responsibility for the annexation process.

Annexation can have a significant financial effect on the City. For example, annexation of residential property would not be expected to result in substantial increases in property tax revenue, but would require substantial expenditures in the form of City services such as police and fire protection, water and sewer services, and maintenance of roads.

Community Development Department

But, is it a Good Project?

Each project deserves review and analysis on a “case-by-case” basis; what may be appropriate for one project may be completely wrong for another project, or another location. Generally, however, the more “yes” answers to the questions in this list, the better the project.

General

- Does the project further the goals of the general plan?
- Do buildings interact with the street?
- Are there community spaces to serve as social and design focal points?
- Does the project contribute to the development of complete, integrated neighborhoods?
- Does the project add to a mix of uses in the neighborhood?
- Does the project contribute to the efficient use of existing infrastructure?

Layout

- Are buildings laid out sensibly?
- Is the site balanced, i.e. not too much paving and building with too little landscaping?
- Are buildings sited to consider shadows, climate, noise, and safety?
- Does the project protect the privacy and views of neighboring properties?
- Are loading areas and trash receptacles visible from public ways incorporated into the architecture?

Buildings & Architecture

- Are the scale and mass of new structures compatible with surrounding structures?
- Does the scale of new buildings relate to the street?
- Are the proposed facades varied and interesting?
- Are the proposed construction materials high-quality, long lasting materials like tile, stone, stucco, or wood?
- Does the roof design conceal roof-mounted equipment?

Pedestrian Scale

- Is the site and building design comfortable and convenient for pedestrians?
- Are the main pedestrian entries clearly defined?
- Is there variety and detail from the pedestrian perspective?

Housing (If Applicable)

- Are there a variety of housing types, densities, prices, and rents?
- If the project includes higher-density units, are they organized around usable common space?

Parking

- Are adequate off-street parking spaces provided?
- Are parking areas sited in the rear to minimize visual impacts?

Loading

- Does the plan provide adequate maneuvering, loading, and drop-off areas?
- Do the location of loading areas assure ease of delivery service with minimal conflicts with customers and adjacent properties?

What is Smart Growth?

Smart Growth is development that serves the economy, the community, and the environment. It changes the terms of the development debate away from the traditional growth/no growth question to “how and where should new development be accommodated.” Smart Growth answers these questions by simultaneously achieving:

❖ *Healthy communities that provide families with a clean environment. Smart growth balances development and environmental protection – accommodating growth while preserving open space and critical habitat, reusing land, and protecting water supplies and air quality.*

❖ *Economic development and jobs that create business opportunities and improve local tax base; that provide neighborhood services and amenities; and that create economically competitive communities.*

❖ *Strong neighborhoods which provide a range of housing options giving people the opportunity to choose housing that best suits them. It maintains and enhances the value of existing neighborhoods and creates a sense of community.*

❖ *Transportation choices that give people the option to walk, ride a bike, take transit, or drive.*

Circulation

- Does the project promote alternative transportation?
- Are transit stops accessible from the site?
- Are vehicular entry and exit points safe with good sight distances?
- Are the number of driveways onto adjacent streets minimized?
- Does the on-site circulation system make sense?

Landscaping

- Does the landscape plan complement the architecture?
- Are planters large enough for their intended use and plant material?
- Are elements like landscaping, pavers, stamped concrete, benches, lighting, and fountains incorporated?
- Are significant or heritage trees preserved?
- Is irrigation proposed?

Lighting

- Are night-lights aesthetically pleasing, compatible, and appropriately located?
- Are walkways properly lit for safety?
- Does the project include special lighting of signs, buildings, and landscape?
- Are proposed lights shielded and directed so they do not shine onto adjacent property?

Signage

- Do business and project signs complement the architecture?
- Are signs in proper scale to the site and buildings?
- Are the location of signs convenient and easily readable?
- Are the number of signs appropriate?

Conservation and Energy

- Does the project use Low Impact Design (LID)?
- Is the selection of materials based on recyclability and durability?
- Is the building oriented to maximize natural heating, cooling, and lighting?
- Have the potential shading effects on adjacent properties been considered?
- Do buildings follow the natural contours of the land?